

# *Your guide to* Setting up a business

## Getting advice

Setting up a business should be an exciting process. But without the right advice it can also be a minefield, particularly where legal matters are concerned. Too often it is not until matters reach crisis point that people ask for a solicitor's help. But by then, if a solution is available, it can be much more costly than taking simple action that could have prevented the problem in the first place.

Clearly prevention is better than cure. Getting legal advice at the start means that you can avoid crises. A solicitor can help you identify possible problems and take steps to prevent them – protecting your business from risk and saving you money.

## Choosing a solicitor

Finding a list of solicitors is easy using our helpline or website.

Call **020 7320 5650** or visit [www.lawsociety.org.uk/findasolicitor](http://www.lawsociety.org.uk/findasolicitor) to start your search. You may want to look for a practice that has Lexcel, the Law Society's legal quality mark. Lexcel is only awarded to legal practices that meet the highest management and customer care standards. To find out more, visit [www.lawsociety.org.uk/lexcel](http://www.lawsociety.org.uk/lexcel)

## Legal advice checklist

Solicitors can offer advice on all the typical problems that a new business can face. They can also help you introduce a full range of solutions. To decide what sort of help to give you, they will need to ask you a lot of questions about your business. These questions will cover the following areas.

### Company structure

The structure of your business will be vital to its success as you start up and expand. Should you trade in your own name or through a company, for example? If you are going into business with others, you need to make sure you get a fair return for your effort, so you might need a shareholders' agreement or partnership arrangement. Your solicitor can explain all the different options and advise on the best one for your business – partnership, limited company or limited liability partnership. Your solicitor can also set up the option you choose.

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## **Your business premises**

When choosing premises for your business, it is important that you fully understand the terms of the lease. Can the landlord increase the rent? If so, by how much and how often? Will you find yourself paying ever-increasing service charges? Will you need planning permission for a change of use? If you choose to run your business from home, what are the restrictions? Your solicitor can help you with all these questions.

## **Finance**

You may also want to find out what sources of finance are available and what their legal implications are. Should you mortgage the family home? This step can have considerable legal implications. Are lenders insisting on unfair terms? Could you be getting a better deal with your bank? Your solicitor will explain these areas and can even help negotiate finance on your behalf.

## **Taxes**

Your solicitor can also give you advice on how to keep taxes to a minimum and the best time to start your financial year.

## **Insurance**

Your business may expose you to any number of risks relating to premises, employees, assets and visitors. What if your products or workers injure someone for example? What if someone is injured while working for you? What if you are legally responsible for an employee who misuses the internet? Your solicitor will give you independent advice on the risks you may need to insure against.

## **Cash flow**

Cash flow is the lifeblood of any business. Your solicitor can help protect you against bad debts by making sure you use the right terms of trading. They can also give you advice on debt collecting.

## **Goods and services**

When buying or selling goods and services, it is important to know your legal duties. What contract terms does the law lay down? What about product liability? What can you legally say in adverts and promotional materials? A solicitor can cover all these points in detail and, if necessary, refer you to a specialist.

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## **Protecting your ideas**

Your solicitor can help you protect your designs from competitors who may want to steal your ideas, whether it's copying your trading name and logo or the products themselves.

## **Franchising**

Buying a ready-made business is an appealing option, but what about any previous liabilities that may come with it or the small print in the sale agreement? All too often, people find themselves trapped in a deal with expensive products and no support from the franchiser. What if the franchise doesn't come up to expectations? Can you get your money back? Your solicitor can give you advice on all the common problems associated with running a franchise.

## **Licences**

Do you need a licence to trade? Your solicitor can tell you if you need one and can even help you apply for it.

## **Employment**

Employment law is a complicated area and is constantly changing. Most employment disagreements are caused by badly-drafted service contracts or dismissal procedures that don't meet legal requirements. Your solicitor can run a health check on your contracts and procedures to prevent these kinds of disagreements.

## **Disagreements and problems**

In business it is usually best to plan for all possibilities. What if you fall out with a partner or fellow shareholder? Can you be forced out? How do you make sure that responsibilities and profits are divided fairly? What will happen to your business if you fall sick or die? Will your husband, wife, partner or home be properly protected? Your solicitor will cover all these questions with you.

## **Costs**

Fees vary between solicitors. The overall cost will depend on:

- your individual circumstances;
- the experience and knowledge of your solicitor; and
- the type of advice you need.

For this reason, you should ask for an estimate of costs before you decide to go ahead.

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We can make the information in this leaflet available in other formats on request.

Email [accessibility@lawsociety.org.uk](mailto:accessibility@lawsociety.org.uk)

## More information

This is one of a series of free leaflets covering the most common types of legal services that solicitors provide. Other leaflets in the series are listed below.

You can get them from your solicitor or from [www.lawsociety.org.uk/commonlegalproblems](http://www.lawsociety.org.uk/commonlegalproblems)

**Your guide to finding expert legal help**

**Your guide to buying a home**

**Your guide to making a will**

**Your guide to getting a divorce**

**Your guide to problems at work**

**Your guide to making a personal injury claim**

**Your guide to financial matters for older people**

**Your guide to renting out your property**

**Your guide to renting a home**

**Your guide to using a solicitor**

**Your guide to probate**

**Your guide to claiming asylum**

**Your guide to setting up home with your partner**

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The Law Society 113 Chancery Lane London WC2A 1PL [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

While we have made every effort to provide accurate information, the law is always changing and affects each person differently. This leaflet is no substitute for specific advice about you personally and we will not be liable to you if you rely on this leaflet.