

# JACKSONS LAW FIRM

## Business Solutions for SMEs and Start-up Businesses



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# 1. Introduction to Jacksons Law Firm

Jacksons Law Firm is one of the region's most established law firms and boasts a proud history of advising businesses in North East England and beyond. We have been practising in the Tees Valley for over 140 years and now operate from two full-service offices – our head office in Stockton on Tees and an office in Newcastle upon Tyne. In addition, we have office facilities at the North East Business and Innovation Centres (BIC) in Sunderland and in Business Central Darlington.

Our firm employs around 75 people and has 11 partners. Jacksons' client base ranges from heavy industry to agriculture; from digital business to logistics, and across both public and private sectors. We have a long-standing specialism acting for businesses in the healthcare sector and also regularly advise clients in the education and engineering/construction sectors.

Our mission is to deliver a first-class, specialist legal service, tailored to the needs of each client in a professional yet personal manner, and which reflects excellent value for money. We pride ourselves on developing enduring relationships with our clients and on taking the time to understand their business and their needs and aspirations.

We appreciate that start-up businesses and SMEs require differing levels of support over a range of subjects as they grow, and that speed and cost are key factors when it comes to legal advice. Our personally tailored service ensures that your business will always receive the swiftest expert advice from the most appropriate team member, whilst our "no surprises" commitment to competitive fees and regular estimates allows you to have confidence that you will never be overcharged. We genuinely value all of our clients and want to be there for the journey.

Our core areas of commercial expertise are as follows:

- Corporate and Commercial matters
- Commercial Property transactions
- Employment Law
- Corporate Recovery and Insolvency proceedings
- Debt Recovery services
- Health & Safety and Regulatory work
- Dispute Resolution
- Construction

The firm also provides service to individuals within its business client base in residential conveyancing, wills, probate and matrimonial law.

## 2. Setting up a Business

### **What structure will the business take?**

There are various structures to choose from:

- Sole trader
- Partnership
- Limited Liability Partnership
- Limited Company

### **Sole trader**

Commonly referred to as “one man bands” and are often used by those offering services e.g. hairdressers, photographers, plumbers and market traders to name but a few.

It is a very straightforward way, and the cheapest option, to run a business. There are no formalities (although there are Inland Revenue and VAT considerations to take into account) and your business can start trading straightaway in most cases.

Sole traders however, need to be aware of their liability position, which is unlimited. If the business accumulates debts and subsequently fails, the sole trader is responsible for paying those debts and the sole trader’s personal assets such as their home can be put at risk.

Sole traders are classed as self-employed and so profits made by the business will be taxed as income by HMRC and tax will be self-assessed. Many of the sole trader’s business expenses will be tax-deductible. A sole trader could face issues if the business starts to expand and become more profitable due to the income tax element.

### **Partnership**

There must have at least two partners in order for your business to take this structure. A partner can also be a limited company. The partners will personally share responsibility for the business including the losses made and the debts incurred.

There are very few formalities in setting up a partnership and no registration requirements. It is a popular structure for family farmers and building/domestic services firms e.g. painters and decorators.

Each partner is required to register as self-employed and submit separate tax returns.

### **Limited Liability Partnership (LLP)**

A ‘hybrid’ of the partnership and limited company structures. An LLP is owned and run by its members - similar to the partners in a partnership. But an LLP needs to be registered with Companies House.

This structure is a popular choice for professionals who normally operate as a partnership e.g. solicitors, accountants, surveyors, architects and doctors. An LLP allows its members to limit their personal liability. A normal partnership can convert to an LLP.

An LLP must designate at least two members to be “designated members” who shall take greater responsibility than the other members.

There is no limit to the amount of members, and no requirement that a member is a UK resident or a natural person- a company can be a member.

### **Limited Company**

The popular choice for most businesses. A limited company means the creation of a separate legal entity, distinct from the business owner. Typically, the company will be limited by shares, which means the company is owned by shareholders, who have reduced liability. Shareholder liability is the amount paid for the shares in the company- which in most cases is nominal.

The company will need to appoint at least one director (which can be a shareholder) to take legal responsibility for the day-to-day running of the business.

It is the company that contracts with suppliers and customers, so the company has the liability for any debts and obligations arising out of contracts made in the course of business.

Limited companies are regulated by the Companies Act 2006, therefore there is a lot more formality and administration in setting up and running a limited company. A limited company must be registered with Companies House, which means key information about the company is publicly accessible e.g. annual accounts, shareholders, directors, share capital and constitutional documents.

The company will pay corporation tax on any profit made.

## 3. Other Commercial Considerations

### **Business Name**

This is an important consideration and it is advised that you check your proposed name is not in use by anyone else. It is also recommended that you check that your proposed name doesn't infringe a third party's existing trade mark either. If you decide to run your business through a limited company structure, there are additional requirements you will need to take into account, such as:

- The use of 'limited' or 'ltd' at the end of the company name
- Could the name be seen as offensive
- Could the name be misleading and apply an association
- Include sensitive words or expressions
- Include characters, signs, symbols and punctuation which are not permitted
- Be the 'same as' an existing name

### **Private Company – Articles of Association**

As already mentioned, a business has a choice of structures. Should you decide to operate your business in the form of a private company, you will be required to adopt articles of association which are basically the regulations for the management of the company. It is quite common that businesses will adopt standard 'model' articles when setting up however, given the articles determine the proceedings of the directors and shareholders of the company, the allotment of shares, distribution of dividends etc. you may consider a bespoke set of articles would be better for your business. Articles can be changed throughout the life of the company, so if you decide to set up using the model articles, don't worry you can later amend those articles.

### **Private Company limited by Shares – Shareholder Agreement**

A shareholder agreement is supplementary to the articles of association but is a private contract between the shareholders. Where your company has two or more shareholders it is highly recommended that the shareholders discuss and agree how the business of the company will operate. This agreement can then be relied upon should the shareholders disagree or run into conflict between themselves. Other potential key provisions include:

- Share proportions
- Minority shareholder – special protections
- Rights to be held by stakeholders
- Unanimous consent of the shareholders
- Selling of shares – restrictions/conditions
- New shareholders and existing shareholders
- Future funds
- Diversifying the business and the role of the directors

- Appointment and removal of directors
- Other business activities of the shareholders – restrictions/conditions

Please see Appendix 1, Shareholder Agreement checklist

### **Partnerships and Limited Liability Partnerships – Partnership Agreement**

If a partnership doesn't have a partnership agreement, then the partnership is referred to as a 'Partnership at Will' and is governed by the Partnership Act 1890. There are issues associated with the 1890 Act – it is vague and contains strict and potentially prejudicial rules relating to the control, management and dissolution of the partnership. For example:

- All partners shall share equal in the profits and losses of the business regardless of the amount of time and effort each partner has put into the business
- A partner cannot retire and if a partner dies, then the partnership has to be dissolved. Surviving partners have no rights to continue the partnership. Therefore, the assets of the partnership would be divided up and the surviving partners would then need to form a new partnership or business.
- There are no rules relating to expulsion of a partner. Therefore, the partnership would either have to continue as it is or be dissolved in order to remove the 'misbehaving' partner.

It is strongly recommended that should you decide to run your business as a partnership, you enter into a bespoke partnership agreement and avoid having to rely on the 1890 Act.

If your business will be an LLP, then it is recommended to have an LLP agreement in place between the members. The LLP agreement can set out further rights, duties and responsibilities between the members and the designated members. The members do not have to have equal rights, responsibilities or share of the profits.

### **Commercial contracts**

Commercial contracts are highly beneficial in formalising the relationship with your suppliers and customers. These contracts help to manage the risk that your business will encounter on a day to day basis, for example:

- Payment terms and interest on late payment provisions
- Delivery and time of the essence
- Quantity and quality of the goods and services
- Limiting and excluding liability
- Breach of contract and remedies
- Termination rights
- Dispute resolution

Having a formal contract in place provides certainty to the parties involved and reduces the likelihood of expensive litigation.

Jacksons can offer a range of standard agreements:

- Supply of goods
- Services Agreement
- Supply of Goods and Services

These can be adapted to your business offering and can be drafted for business to business transactions e.g. buying of goods from your supplier, or business to consumer transactions e.g. the sale of services to your customer.

### **Intellectual Property (IP)**

The importance of intellectual property to businesses cannot be stressed enough and can potentially be a valuable commercial asset.

IP considerations are not just for those businesses that manufacture and market products, all businesses will have some form of intellectual property, for example:

- Names, logos and brands
- Ideas, know-how and inventions
- Written and artistic work e.g. website/app contents, advertisements
- Computer software

It is therefore recommended that businesses look to protect their IP. Whilst the law does provide automatic protection in this area, it is always recommended that your business go further and register your IP with the Intellectual Property Office (IPO), or if your business is intended to have an international element to its trading, you may wish to register your IP with the European Union Intellectual Property Office (EUIPO) and/or the World Intellectual Property Office (WIPO).

There are four types of IP:

- Trade Marks cover names, logos and signs that are used to identify particular products of a trader to the general public
- Patents cover new inventions and the internal workings of the product
- Copyright covers original works including literary works, dramatic works, musical works, artistic works, sound recordings, films and broadcasts
- Design rights cover the external appearance of a product, including its shape, configurations, pattern or decoration

Before your business proceeds to registration, it is recommended that you consult the Commercial team at Jacksons who will be able to advise you on:

- Registration requirements
- Registration fees
- Checking for third party IP and IP infringement
- Rights of the IP author



- Use of the different IP symbols which you can potentially mark your work with <sup>TM</sup>  
® ©

### **Data protection**

Did you know that the UK's data protection law is changing? Do you know what our obligations are in relation to data protection? Do you know the key terminology?

Your business will hold and process information about employees, suppliers and customers, this will mean you have a legal obligation to protect this information. Under data protection law, you must:

- Only collect information that is needed for a specific purpose by the business
- Keep the information safe and secure
- Keep the information up to date and correct
- Not hold more information than is necessary and no longer than is needed
- Respond to requests from the subject of the information to see what information you are holding.

In May 2018, the General Data Protection Regulation will come into force, replacing the Data Protection Act 1998. Whilst most areas relating to data protection will remain unchanged by the new regulation, there are areas which will change and businesses will need to comply with these changes.

If you require assistance with any of the commercial areas covered in section 2 & 3, please contact:



Charlotte Alexander

T: 01642 356504

Email: [calexander@jacksons-law.com](mailto:calexander@jacksons-law.com)

## 4. Employment Law

Whether you already have people working for you or are planning to take on staff, it is important to understand the basic principles of Employment Law. A considered approach combined with the right contracts, policies and procedures for your business will help you to navigate this progressive area of law; for those unexpected or more complex issues you need specialist advice from an expert you can trust who understands your business and appreciates your concerns.

### Employment status

Currently a hot issue in Employment Law, in recent years the courts and tribunals have considered a number of high profile claims where individuals have sought to argue that they were an employee or a worker in order to qualify for rights or protections which would not otherwise be available to them. There are, at present, three statuses: Employee, Worker and Self-Employed. The principles by which status is determined are laid down in case law but open to interpretation, largely because of the importance attached to focusing on the reality of the relationship rather than solely the contractual terms between the parties.

The employment status of an individual is important, primarily because certain legal rights are limited to employees and, to a lesser extent, workers. For example:

| Statutory right  | Employee | Worker      | Self-employed contractor |
|--|----------|-------------|--------------------------|
| Written particulars of employment  | ✓        | ✗           | ✗                        |
| Statutory sick pay (SSP)   | ✓        | Potentially | ✗                        |
| National minimum wage and protection against unlawful deduction from wages | ✓        | ✓           | ✗                        |
| Itemised pay statement   | ✓        | ✗           | ✗                        |
| Paid annual leave  | ✓        | ✓           | ✗                        |
| Rest breaks and the maximum working week                                   | ✓        | ✓           | ✗                        |
| Protection on the transfer of undertakings (TUPE)                          | ✓        | Potentially | ✗                        |
| Right to be accompanied at a disciplinary or grievance hearing             | ✓        | ✓           | Potentially              |
| Protection for making a protected disclosure (whistleblowing)              | ✓        | ✓           | ✗                        |
| Protection against discrimination  | ✓        | ✓           | ✓                        |

|   |   |   |   |
|---|---|---|---|
| Protection against unfair dismissal (subject to qualifying service where necessary) | ✓ | ✗ | ✗ |
| Right to pension contribution from employer under the auto-enrolment scheme         | ✓ | ✓ | ✗ |

An individual's status may change over time whilst atypical working arrangements, such as zero hour contracts and agency workers, can create further confusion. Whether you are taking on an employee, worker or self-employed contractor, a properly drafted agreement is essential, as is keeping the relationship under review.

### Contracts

The contract of employment is at the heart of the employment relationship. Although the general principles of contract law apply, employment contracts differ from commercial contracts because of their personal nature and the parties' unequal bargaining positions. Employment contracts are also more constrictive – even if it is their joint intention, the parties cannot contract out of the vast majority of employment rules and regulations.

An employment contract does not need to be in writing to create legally enforceable rights and obligations – an employment relationship can exist in the absence of any documents. However, under section one of the Employment Rights Act 1996, employees who are employed for at least one month are entitled to a written statement of particulars of employment within two months of starting work. The written statement may stand as the employment contract, or be evidence of certain terms of the employment contract, but must include the following:

- Full name and address of both the employer and the employee;
- Commencement date and continuity of employment;
- Principle place of work;
- Job title;
- Hours of work (whether fulltime, part time, fixed or variable);
- Salary (including provisions for review, pay intervals, overtime rate, bonus or commission);
- Holiday entitlement;
- Sickness absence and sick pay provisions;
- Disciplinary and grievance rules or details of where or how to access such procedures;
- Pension provisions;
- Details of any collective agreements with trade unions;
- Length of employment where it is for a fixed-term or notice period.

In addition to the express terms of the contract (those terms explicitly agreed), implied terms exist which operate to define or limit the employment relationship, the most commonly-known being the implied term of mutual trust and confidence.

Terms can be incorporated into an employment contract via a statutory provision or a collective agreement. Similarly, staff handbooks, policies and procedures may be a source of terms of an employment contract depending on whether they have contractual effect.

There are three essential requirements for employment: there must be a mutual obligation to provide and perform work, the employee must provide personal service to the employer, and the employer must exercise control over the employee. Where these conditions are not satisfied, an employment relationship will not exist. Nevertheless, it is advisable for a business to put in place written agreements to record working arrangements with workers and self-employed contractors.

### **Policies and procedures**

Staff handbooks along with individual policies and procedures are usually “non-contractual” to enable employers to change them without seeking the agreement of their staff. Even so, an employer risks breaching trust and confidence if they remove a benefit or significantly adapt a policy to the detriment of their employees, whilst a non-contractual policy or procedure can become contractual, usually as the result of custom and practice.

Common policies and procedures found in a staff handbook include disciplinary and grievance procedures, equal opportunities, communications, anti-bribery and whistleblowing policies, as well as sickness absence, holiday and other leave provisions (including policies and procedures relating to maternity, paternity, adoption and shared parental leave, plus the right to request flexible working). Employers in certain sectors will require enhanced provisions relating to health and safety and substance misuse (particularly drug and alcohol testing).

Not every business requires an exhaustive staff handbook or set of policies and procedures from the outset. It is more important that staff understand how a few key policies and procedures operate than it is to have a staff handbook providing for every conceivable eventuality. It is also vital that policies and procedures are compatible and kept under regular review (at least annually) to avoid conflicting provisions or rules which are not enforced undermining the intended purpose.

### **The Employment Start-up Business Package**

We developed our Employment Start-up Business Package to support new businesses and SMEs who are taking on their first member staff or need to put in place the essential employment documents. Competitively priced at **£250 (inclusive of VAT)**, the package includes a template employment contract plus a staff handbook comprising disciplinary and grievance procedures, an equal opportunity policy and a communications policy, all titled and with **your** business’s logo.

In addition, our Employment Start-up Business Package clients also benefit from our expert advice and personal service on non-contentious employment law matters at a **fixed hourly rate of £100** plus VAT for **six** months after they receive the handbook.

We appreciate the balance between taking reliable advice and not incurring unnecessary costs. The Employment Start-up Business Package offers an alternative to other subscription services which seek to tie you in to an annual or multiple-year contract before you need it, providing dedicated support as and when you do.

*Your business will be eligible for our Employment Start-up Business Package for two years following incorporation or starting trading (whichever is sooner), and you employ no more than five employees.*

### **Employment Documents Audit**

If you have existing employment documents it is important to keep these under review as your business grows, in response to changes in the law, and whenever you decide to add or amend policies and procedures. Employment contracts, in particular, require regular attention, especially when jobs change or employees are promoted.

We are happy to review your employment documents without charge, and suggest improvements, where necessary, or recommend additional policies and procedures which would benefit **your** business. We will also provide you with a quote for our comprehensive Employment Law Subscription Service.

Applying an unlawful policy or following an improper procedure may not only cause you to lose a claim, since 6 April 2014 the employment tribunal has held the power to order a respondent to pay a financial penalty of up to £5,000 where there are “aggravating features”. A penalty may even be ordered where no financial award has been made to the claimant.

If you have an adequate set of policies and procedures we will not suggest amendments for the sake of it – but at least you will have peace of mind that you are protected. Alternatively, if it has been a while since you reviewed your contracts or staff handbook, particularly if your business has grown or expanded its operations, our **Employment Documents Audit** provides the ideal opportunity to start addressing these important matters.

### **Engage with Jacksons**

In addition to our Employment Start-up Business Package and Employment Documents Audit, we offer a bespoke service which provides comprehensive employment law support for an annual subscription fee. The Employment Law Subscription Service includes:

- an extensive audit of your employment documents to ensure that you have an appropriate range of up to date policies and procedures;
- unlimited access to a solicitor in our Employment Law department for prompt advice on any employment matter;

- ongoing training and support through our monthly newsletters and periodic seminars;
- Employment Tribunal representation at discounted hourly rates or, for ultimate peace of mind, insurance to cover the cost of employment tribunal proceedings, including settlements and awards.

We offer fixed fees for certain pieces of work, such as:

- Defending an unfair dismissal claim which has been listed for a one-day hearing under the Employment Tribunal short-track process from responding to the claim up to and including the hearing - **£7,000 plus VAT**
- Advising on ACAS Early Conciliation - **£350 plus VAT**
- Representation at a one-day Judicial Mediation or other conciliation hearing - **£900 plus VAT**

We are also able to provide specialist Employment Law advice on niche subjects, for example:

- Business Immigration
- Drug and alcohol testing
- Trade unions and industrial action
- Data protection (including the forthcoming General Data Protection Regulation, GDPR)
- Equal pay
- Commercial agency and the Commercial Agents Regulations 1993
- Director and shareholder disputes

If you require assistance with employment law issues, please contact:



Paul Clark, Associate Solicitor Employment

T: 0191 2069626

Email: [pclark@jacksons-law.com](mailto:pclark@jacksons-law.com)

## 5. Business Premises

Premises are vital to any business whether this be a new business or pre-existing business. In the case of a new business it will be necessary, at an early stage, to identify suitable business premises and establish the method by which the business will occupy such premises. Where a pre-existing business is being bought or sold there is often less flexibility as to the method by which the business will occupy; the business will usually be bought or sold with the benefit of any property already held by the selling entity.

There are a number of ways in which a business can occupy a property:

- The business can purchase the freehold of the property and trade from this; or
- The business can take a new lease of the property from a third party landlord; or
- One of the directors of the business may purchase the freehold of the premises and grant a lease to the business (assuming this is a third party and not a sole trader scenario); or
- In the case of a purchase of an existing business by a new entity, an existing lease may be assigned

Regardless of which method is chosen, where a business acquires premises there are a number of important points to consider:

1. **Funding.** Where premises are being purchased will funding be via cash or mortgage finance? Are any personal guarantees required by the lender?
2. **Term.** How long will the business wish to retain the premises? Will the business wish to have flexibility to expand or allow others to occupy space?
3. **Use.** Does planning permission exist for the proposed use? Will planning be required to change the use?
4. **Taxation.** Stamp duty land tax (SDLT) or Value Added Tax (VAT) may be applicable to the transaction depending upon the terms of the purchase and whether the seller/landlord has opted to tax.
5. **Services.** Does the property benefit from all services required such as electricity, gas, water? Will consent be required for the installation of new or additional supplies?
6. **Environmental factors.** Is the property likely to be affected by subsidence, flooding or contamination? Can these risks be mitigated?
7. **Signage.** Will the consent of a landlord be required to erect signage? Can consent be refused? Will planning permission be required?
8. **Access.** Is access to the property available from a public highway or is access over land owned by a third party? Does the property have exclusive parking?
9. **Maintenance charges.** Where the property is on an estate it is common for a service charge to be levied. How much is this? Is it subject to a cap? What does it cover?
10. **Repair.** Is the property currently in a good state of repair? Who is responsible for repair and maintenance. What is the standard of repair required at the end of the lease?

Ultimately there are a number of factors to consider where a business acquires premises. Expert advice from both an agent and a solicitor should always be obtained at the outset of negotiations.

If you require assistance with the purchase of premises or an existing or new lease then please contact:



Erica Turner, Partner, Commercial Property

T: 01642 356544

Email: [eturner@jacksons-law.com](mailto:eturner@jacksons-law.com)



## 6. Collecting Debts

A good cash flow is essential for running a successful business. Many businesses fail due to poor cash flow arising from late payment of debts. This note is aimed at helping you maximising cash flow by operating a resilient credit control department.

### **Know Your Customer**

Have you dealt with this customer before and does the customer have a track record of paying on time, or, has the customer persistently failed to pay on time. Customers who have persistently failed to pay on time are not worth having as customers. Experience tells us that late paying customers will routinely pay late, sometimes even waiting until they receive the County Court claim form.

When taking on a new customer, you should make some background checks, especially if you are dealing with a business, information about businesses is readily available online. If you discover the customer has a poor credit history, for instance CCJ's, then you should avoid at all cost. Sometimes, it is worth asking a new customer for a payment on account. Also make sure that you know the set up at the new customer, the address to which goods should be delivered, invoices sent and who to contact when a payment needs to be chased.

### **Terms and Conditions of Business**

Do you use a set of standard terms and conditions? If so, you must make sure that these are brought to the attention of the customer at a suitable point to ensure they incorporated into your contract with the customer. Be careful not to receive from the customer a conflicting set of terms and conditions, sometimes a customer will issue you with "conditions of purchase" by which the opponent is trying to gazump your terms and conditions of sale with terms and conditions more preferable to the customer. If the new customer is a business, consider asking for a director's personal guarantee. Ensure that the terms and conditions that you want to rely on have been properly looked at by a lawyer, and, are not just a set of terms and conditions which have been chopped and changed internally over many years. The best terms and conditions are one which are applicable having regard to legislation at the point the contractors made.

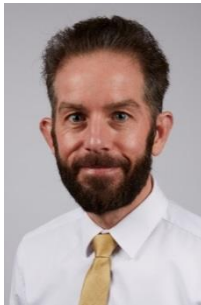
### **Credit Control**

Consider posing a credit limit and sticking rigidly to that limit. Operate a tight credit control department, ensuring the department chases invoices as and when the invoice falls due. If an invoice is not paid, consider ceasing all future work with this customer until the debt is paid. Remind the credit control team to keep detailed notes of any telephone calls which they might have with the debtor, especially if the debtor is making promises to pay. If a debtor makes a promise to pay, send an email back to the debtor referring to his promise to pay. These documents will prove invaluable if you have to outsource the debt to the lawyers to recover.

## Instructing the Lawyers

If the debt has not been paid despite the best efforts of your credit control department, do not delay. Instruct the lawyers as quickly as possible. If you have kept a good set of documents including the terms and conditions, invoice, delivery notes and any email exchanges/telephone notes with the customer, then the lawyer can act quickly to maximise recovery. A good set of documents is essential because as the lawyer will tell you, if the debtor having received the lawyer's letter raises a spurious defence, then the lawyer can make an application for an early Judgment based on admissions made by the debtor.

If you require assistance on any debt recovery issues, please contact:



Toby Joel, Partner and head of Debt Recovery

T: 01642 873765

Email: [tjoel@jacksons-law.com](mailto:tjoel@jacksons-law.com)

## 7. Regulatory Services

Providing a safe environment in which to work is a key responsibility for the management of any business organisation as well as a legal requirement. Here at Jacksons we understand the complex legislative provisions which businesses must adhere to when assessing and managing health, safety and environmental risks in their operations. Our consultants have a wealth of experience supporting clients in a number of sectors including education, manufacturing, construction, energy, waste management, healthcare, transport and local government. We can provide advice and support in the following areas;

**Annual Support Package** – Our annual package provides telephone access to our consultants for support on any matters relating to health, safety and environmental issues. It provides reassurance that you can get practical advice from one of our experts whenever required. The service also provides an optional insurance indemnity which funds the cost of legal fees subject to advice being taken and followed. Regular updates on health, safety and environmental legislation and commentary by our experts is also included in the service.

**Health, Safety & Environmental Management Systems** – whether you are implementing a new system or reviewing existing arrangements our consultants can provide support and expert advice. We can also support clients introducing the international safety standard, OHSAS 18001, and environmental standard, ISO 14001, into the workplace. As well as these systems providing a structure for managing health, safety and environmental risks within your business they are often a pre-requisite in tender procurement processes for new business.

**Policies & Procedures** – we can provide a critical review of your existing policies and procedures and help in developing new documents to meet current and future legal requirements. If you employ 5 or more staff then you must have a written health and safety policy.

**Audit & Inspection** – We have experienced auditors who can inspect your current health and safety practices and premises providing advice on improvements where required. Undertaking regular audits and inspections ensures that your existing safety controls are effective.

**Accident & Incident Investigation** – when things go wrong we can provide expert assistance dealing with regulators such as the Health and Safety Executive (HSE) and the Environment Agency (EA). Our consultants can guide you through the investigation process providing practical advice at every stage and assist in any internal investigation.

**Risk Assessment** – We can provide support developing risk assessments for all your business activities and advice on the best assessment systems for your organisation and industry. Written risk assessments are required for health and safety where your business employs five or more staff.

## **Environmental Compliance**

Some types of business require specific permits to operate including activities involving end of life vehicles, landfill, waste management and water abstraction or discharges. All businesses must comply with the duty of care legislation in respect of waste which requires records to be maintained detailing who you pass your business waste onto. If your waste is illegally disposed of you could be held liable if you do not have adequate controls in place. Our consultants can provide advice on the type of permit required, if any, as well as the application process and documentation required. We can also undertake environmental compliance audits to identify any potential weaknesses in your procedures and recommend improvements.

## **Training**

In addition to the above services we can also provide bespoke training for your organisation either at your workplace or other locations delivered by experienced trainers.

If you would like to discuss the range of regulatory services that we offer further and your individual needs then please contact:



Mark Stouph, Consultant

T: 01642 873757

Email: [mstouph@jacksons-hs.com](mailto:mstouph@jacksons-hs.com)

## 8. Appendix - Shareholder Formation Checklist

|   |       |
|---|-------|
| General   |       |
| Company Name:   |       |
| Company Number:   |       |
| Registered Office Address:  |       |
| What is the business to be conducted by the Company:  |       |
| Shareholders and Meetings   |       |
| Shareholder Name:<br>Shareholder Address:<br><br>Number of shares already allotted:<br>Number of shares to be allotted: |       |
| All shares to have equal voting rights and dividend rights. If not what rights attach to each class of share:           |       |
| Quorum for Meetings:  |       |
| Chairman:   |       |
| Casting Vote:   | [Y/N] |
| Directors and Board Meetings  |       |
| Director Name:<br>Director Address:   |       |
| All Shareholders entitled to place on the Board:  |       |
| How often are Board Meetings to be held:  |       |
| Quorum for Meetings:  |       |
| Chairman:   |       |
| Casting Vote:   | [Y/N] |
| Shareholder majority required to remove Director from the Board/terminate his employment with the Company:              |       |

|   |  |
|---|--|
| Conduct of Business   |  |
| Day to day business to be decided by simple majority vote of Board:   |  |
| Formal business plan need to be approved by Shareholders:<br>If so:<br>at what frequency:<br>What majority of Shareholders need to approve: |  |
| How often are management accounts to be provided to Shareholders:   |  |
| Company Secretary Name:<br>Company Secretary Address:   |  |
| Auditor's Name:<br>Auditor's Address:   |  |
| Company's Bank Name:<br>Company's Bank Address:   |  |
| Who are the Signatories to the Company's bank accounts:   |  |
| Authorised expenditure levels for individual directors:   |  |
| Any special business decisions which require the special approval of the Shareholders:  | Material Change in the nature of the business conducted [Y/N]<br>Allotment of shares by the Company [Y/N]<br>Alteration of Company's Memorandum/Articles [Y/N]<br>Resolution for winding up of the Company [Y/N]<br>Capital expenditure over a specified amount [Y/N]<br>Disposal by the Company of the whole or part of the business and/or substantial assets [Y/N]<br>Payments /other benefits to Directors [Y/N]<br>Shareholder personal guarantees for the benefit of the Company [Y/N]<br>Other: |
| What level of approval is required for special business decisions:  |  |
| Financial   |  |
| How will additional capital be  | Shareholder loans [Y/N]  |

|   |   |  |
|---|---|--|
| introduced:   | Allotment of additional shares<br>Bank loans<br>Third party loans   | [Y/N]<br>[Y/N]<br>[Y/N]                            |
| If bank/third party loans are allowed are these to be secured on Company assets:  |   |  |
| If personal guarantees are required from Shareholders, are claims under the guarantees to be funded by all Shareholders in proportion to their shareholding:  |   |  |
| Company's dividend policy:<br><br>Shareholder majority required to declare dividends:   |   |  |
| New Share allotments and voluntary transfers of existing Shares   |   |  |
| If additional Shares are allotted, are existing Shareholders entitled to right of first refusal to take those Shares pro-rata to their existing holdings:   |   |  |
| If a Shareholder wishes to sell his/her Shares, are the remaining Shareholders to have the right to first refusal pro-rata to their existing shareholdings:<br>If so, on what basis is the price fixed for the seller's Shares:<br>Is any discount to apply to reflect minority shareholding: |   |  |
| Are transfer allowed between spouses/family members without the need to offer them first to existing Shareholders:  |   |  |
| Compulsory transfers of existing Shares   |   |  |
| Can remaining Shareholders force a Shareholder to sell his/her shares   | Death<br>Bankruptcy<br>Ceasing to be a director<br>Ceasing to be an employee<br>Long term illness<br>Without proper cause<br>Material breach of Shareholder Agreement | [Y/N]<br>[Y/N]<br>[Y/N]<br>[Y/N]<br>[Y/N]<br>[Y/N] |
| On what basis are Shares to be valued on a compulsory sale:<br>Any discount for minority shareholding:  |   |  |

|  |   |
|--|---|
| Will Share price differ if the leaver is a good leaver as opposed to a bad leaver:   |   |
| Any circumstances in which a Shareholder can require his shares to be bought from him/her:   |   |
| Key man insurance to be taken out:   |   |
| Take Over Offers   |   |
| If an offer is received for the sale of the Company which the majority of shareholders wish to accept, what happens:   | Can they force a dissenting shareholder to join the sale [Y/N]<br>What majority is needed to force this |
| If an offer is received by a majority of the Shareholder to sell their shares can the remaining minority shareholders insist on their shares being purchased at the same price:                |   |
| Fair Dealing   |   |
| Are the Shareholders to be prevented from competing with the Company after they have ceased to be a Shareholder<br>If so, what is the extent of the restriction:<br>For how long will it last: |   |



## Partnership Formation Checklist

|  |  |
|--|--|
| General  |  |
| Partners:  |  |
| Business Name:   |  |
| Business Address:  |  |
| What is the business to be conducted:  |  |
| How long shall the business be conducted for:  |  |
| Financial  |  |
| Capital to be introduced by each Partner:  |  |
| If further capital is required, in what proportions are the Partners to contribute:  |  |
| Is any property to be used for the purpose of the Partnership Business to remain the personal property of individual Partners: |  |
| Will the Partnership own any premises. If so in the names of which Partners:   |  |
| What share of the profits/losses of the Partnership is each Partner to be entitled to:   |  |

|   |   |
|---|---|
| Are Partners entitled to draw fixed amount of salary on account of their profit share:                                |   |
| Are any loans to be made by any of the Partners to the business, if so what are the terms for interest and repayment: |   |
| Partnership Accountants:  |   |
| Partnership Accounting Reference Date:  |   |
| Partnership Bank:   |   |
| How many Signatories required on each cheque and who are the Signatories:   |   |
| Management  |   |
| Management decisions by majority decision or unanimous decisions of the Partners:                                     |   |
| If majority decisions any exceptions to this:   | Admission of a new partner [Y/N]<br>Change to the business of the Partnership [Y/N]<br>Acquisition of New Premises [Y/N]<br>Merger of Partnership Business [Y/N]<br>Expenditure over a certain amount [Y/N]<br>Alterations to the profit sharing entitlements of the Partners [Y/N]<br>Other: |
| How often are Partner meetings to be held:  |   |
| Will there be a Managing Partner and/or Senior Partner:   |   |

|   |   |         |       |            |       |                                    |       |                       |       |        |  |
|---|---|---------|-------|------------|-------|------------------------------------|-------|-----------------------|-------|--------|--|
| Partners' holiday entitlements and any restrictions:                                  |   |         |       |            |       |                                    |       |                       |       |        |  |
| Partners' paid illness leave entitlements:  |   |         |       |            |       |                                    |       |                       |       |        |  |
| Partners' paid maternity pay entitlements:  |   |         |       |            |       |                                    |       |                       |       |        |  |
| Partners' paternity leave entitlements:   |   |         |       |            |       |                                    |       |                       |       |        |  |
| Partnership Vehicles:   |   |         |       |            |       |                                    |       |                       |       |        |  |
| Keyman Insurance to be effected:  |   |         |       |            |       |                                    |       |                       |       |        |  |
| Are the Partners entitled to hold any other business interests:                       |   |         |       |            |       |                                    |       |                       |       |        |  |
| Retirement/Expulsion  |   |         |       |            |       |                                    |       |                       |       |        |  |
| At what age must a Partner retire from the Partnership                                |   |         |       |            |       |                                    |       |                       |       |        |  |
| If a Partner wishes to retire below the retirement age how much notice must be given: |   |         |       |            |       |                                    |       |                       |       |        |  |
| In what circumstances can the remaining Partners expel a Partner:                     | <table> <tr> <td>Illness</td> <td>[Y/N]</td> </tr> <tr> <td>Bankruptcy</td> <td>[Y/N]</td> </tr> <tr> <td>Breaching of Partnership Agreement</td> <td>[Y/N]</td> </tr> <tr> <td>Absence without cause</td> <td>[Y/N]</td> </tr> <tr> <td>Other:</td> <td></td> </tr> </table> | Illness | [Y/N] | Bankruptcy | [Y/N] | Breaching of Partnership Agreement | [Y/N] | Absence without cause | [Y/N] | Other: |  |
| Illness   | [Y/N]   |         |       |            |       |                                    |       |                       |       |        |  |
| Bankruptcy  | [Y/N]   |         |       |            |       |                                    |       |                       |       |        |  |
| Breaching of Partnership Agreement  | [Y/N]   |         |       |            |       |                                    |       |                       |       |        |  |
| Absence without cause   | [Y/N]   |         |       |            |       |                                    |       |                       |       |        |  |
| Other:  |   |         |       |            |       |                                    |       |                       |       |        |  |

|  |  |
|--|--|
| <p>If a Partner retires or is expelled from the Partnership on what basis is the price to be paid to him/her for his/her share of the Partnership business to be valued:</p> |  |
| <p>Within what period must an ongoing Partner be paid his share of the value of the Partnership business:</p>  |  |
| <p>Is an outgoing Partner to be subject to any non-compete covenants:</p>  |  |