



Partnership Agreement

If you are carrying on a business with another person or some other people with a view to profit then you are in partnership.

The importance of having a Partnership Agreement

If you do not currently have a formally documented Partnership Agreement to regulate how you as partners interact, then you are not alone. Many businesses, particularly family run businesses, do not bother with Partnership Agreements. This can lead to difficulties and can often be a costly mistake. Having a formal Partnership Agreement can benefit you in so many ways:

1. It provides **certainty** in respect of many issues, from how profits are distributed to how decisions are made.
 2. It can help you **avoid costly court cases** in future if things go wrong as it provides written evidence of what was agreed between the partners.
 3. It **formalises** any unwritten rules that are currently in place in respect of the business, thereby reducing the potential for misunderstanding between partners.
 4. A Partnership Agreement will **override the default provisions** of the Partnership Act 1890.
- The acts and decisions of all partners are binding on the firm.
 - All partners are jointly liable for the debts or wrongful acts of another partner acting in the course of business.
 - Outgoing partners may still be liable for partnership debts or obligations even after they have left the partnership.
 - All parties are entitled to share equally the capital and profits of the business and contribute equally to the losses.
 - Every partner may take part in the management of the business.
 - All partners may have an equal say in the business which can lead to lengthy unresolved disputes.
 - Any partner can bring a partnership to an end by giving notice at any time.
 - The partnership automatically dissolves if any partner dies.

The default position

If you do not have a Partnership Agreement in place, your business will be governed by the general provisions of the Partnership Act 1890. More often than not, these default provisions will not be desirable for you or your business.

Some examples of provisions contained in the Act are listed below:

- It is not possible to expel a partner from the partnership, the only option being to end the partnership.

If these default provisions are unsuitable for you (which in most cases they will be) it is vital that you have a written Partnership Agreement setting out the terms that have been agreed between you and the other partners.

Your Partnership Agreement

Your Partnership Agreement can be drafted at any time - it does not matter if you have already been in business for some time.

We will be able to help tailor your Partnership Agreement to meet the needs of you and your business.

Some of the most common issues addressed are:

- The amount of capital contributed by each partner.
- What to do if a further capital contribution is required.
- How profits and losses are distributed between the partners.
- The duties and powers of each partner - who can make decisions? What is expected of each partner? Do they have to devote a certain amount of time to the business? Are there any restrictions on what they can do outside the partnership?
- How often are meetings held and who can vote at meetings.
- Employment issues such as holiday, benefits, maternity leave and so on.
- Whether somebody new can join the partnership and if so, how they go about doing so.
- What happens if one of the partners wants to leave the partnership or if one of the partners dies?
- What happens if the partners disagree on an issue?
- Are there any restrictions imposed on the parties in respect of confidentiality?

Do you need a Partnership Agreement even if your partners are family members?

Yes. Many family run businesses consider it unnecessary to have a Partnership Agreement when they know and trust the people they are in partnership with so well. In fact, it is on these such occasions when it really is crucial that a Partnership Agreement is in place.

The last thing a family wants is discord between family members caused by disagreements regarding work or money. A Partnership Agreement can minimise the potential for conflict and the resentment and family problems it may create.

If you require a Partnership Agreement or have any further questions to ask about partnerships, please contact Marina Maclennan or Ciaran Keane on 0117 929 2811.

For more information on Partner Agreements please follow the link wards.uk.com/service/commercial-services

December
2020