Limited Liability Partnership

This guide sets out the main legislative and regulatory information to be aware of when setting up a limited liability partnership.

For a comprehensive guide to the range of legal structures available to those setting up a co-operative, please consult our Simply Legal publication.

LLP are subject to the Limited Liability Partnership Act 2000 and subsequent secondary legislation predominately to update the legislation in line with developments in company law. The LLP form provides limited liability for its members with the flexible structure and tax advantages associated with a partnership (- see chapter 4.1 of this guide for details). LLPs must be engaged in profit-making activities.

Registration is fairly straightforward and relatively inexpensive. The partners fill in a form and send it to Companies House. The governing document of an LLP is called a members' agreement or LLP agreement. There is no legal requirement for an LLP to have a governing document (although it would always be recommended) and, as a result, there is no requirement to file it at Companies House. If an LLP does have a governing document it can be a private document that is confidential to its members.

Membership of a LLP can be made up of individuals and/or corporate bodies. Whilst there is no maximum number required there must, at all times, be at least two members. If numbers fall below two for a period of six months or more then the LLP will lose its limited liability and the sole member will become responsible for any debts incurred. A LLP must have at least two designated members - a member who has additional administrative responsibilities (such as the signing and delivery of the accounts and the appointing of an auditor). Designated members must be at least 16 years of age.

The LLP owns the business and is liable for its own debts. Each member acts as an agent for the LLP which will be responsible for all its members' actions. As agents, members will not be liable beyond the amount they have contributed to the LLP, except for debts arising from their own negligence.

The main advantages of forming a LLP are:

- the creation of a corporate body;
- limited liability for the members;
- similar accounting and filing requirements to private companies; and
- provided that it is evident that a member is not in fact a 'salaried member' it is taxed as a partnership - individual income tax, rather than corporation tax, applies to profits and tax is only payable when profits are distributed.

The LLP has many of the advantages of a private company limited by shares without the restrictions of share capital. The LLP should be considered as an alternative to a private company, particularly where there may be stakeholders who may need to withdraw a capital contribution. In recent years the LLP has become a more popular legal form for use by worker co-operatives and also as a vehicle for a number of organisations working together to further a common aim eg tendering together for a contract, but is not suitable for many third sector organisations due to its requirement to undertake profit making activity.