

# CHAPTER EIGHT



*Keeping on Top of  
Legal Stuff*

*“Complying with the law  
is an important aspect of  
growing a business.”*



**R**ed tape, along with tax, is consistently one of the top-ranking gripes for business owners everywhere. Form filling is time-consuming and distracting; most business owners see it as an unwanted interference with the more exciting job of making sales and completing projects.

But complying with the law is an important aspect of growing a business and the forms are there to ensure that employees and management are both safe, paying what they owe and operating in a fashion that's above board.

Rules apply in varying ways to different types of business and it's important to look into these factors as early as the start-up phase when you're thinking about the type of business you want to be. Business formats include sole trader, limited company, partnership, invested business (having shareholders brings with it more responsibilities) and public limited company (businesses listed on the stock market).

Assuming you're not quite ready for the FTSE 100 just yet, the most likely format for your business will be one of three options. So let's start at the beginning.

## SOLE TRADER

Sole trader, limited company and partnership are the three simplest forms of business and each comes with its own regulatory environment, tax treatment, challenges and opportunities. Most tradespeople are sole traders, mainly because it is a simple route into business that requires little formal paperwork and has straightforward tax obligations.

In broad terms, becoming a sole trader involves telling the tax authorities (HMRC again) that you are self-employed. In return you

will receive a tax self-assessment form each year, in which you have to declare your business's revenue and work-related expenditure.

Your income, the difference between revenue and expenditure, will be taxed. How much tax you pay depends on how much money you clear after all costs are taken into consideration.

As a sole trader, you are the business. That means you are personally liable for financial losses, so if you somehow incur a £20,000 debt then it is your sole responsibility to pay it back. You will also need all the necessary insurance – for example, public liability – in order to work in homes and business premises.

Aside from these details you are free to operate as you wish. It is this level of freedom that has attracted around 4m people to become sole traders. You can even employ people in this format – as long as you fulfill all of the legal and moral obligations that comes with (see chapter 6) – and you can register for VAT.

But the system has a few drawbacks. One, as mentioned, is your complete personal exposure if the business suffers a loss. Sole traders have unlimited liability for debts or fines if they are unlucky enough to face legal action.

It can be harder to raise finance as a sole trader, because institutions like banks prefer the comparative safety of more formal business structures. And although sole traders enjoy simpler tax structures to other forms of business, that doesn't mean they pay less tax overall.

A further downside is the fact that business and personal finance often gets mixed up, which makes filling in an annual tax return more complicated – although admittedly this is easily fixed by setting up a separate business bank account.

Another downside is reputational. When people think of sole traders they conjure a different picture to that of an incorporated business. Generally speaking, the image of a limited company is professional, established, regulated and therefore perhaps a safer bet.

This isn't always the case in reality, and it's true that some customers prefer to work with sole traders because of the perceived informal, familiar approach, but this reputational element is worth some thought. How do you want to come across?

## LIMITED COMPANY

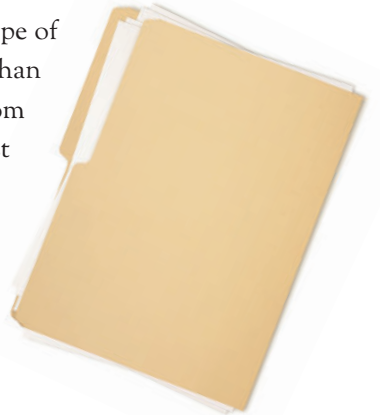
Unlike a sole trader, a limited company is an independent legal entity. 'Limited' is short for limited liability, which means the structure of the business is legally separated from the individual or individuals who run it.

Crucially, personal assets are not at risk if a limited company suffers losses, except in special circumstances (such as an owner arranging a bank loan secured against their home). The money you invest in growing your business is vulnerable if things go wrong, but nothing else.

Limited companies are taxed differently to sole traders, which in some cases can be beneficial. A non-VAT registered business only has to pay corporation tax, the rate of which varies but on the whole is lower than that of income tax.

On top of this, you can enjoy a greater level of copyright protection. Once a company name is registered with Companies House (the official database of all UK businesses), it can't be used again, so your brand is safer.

As you would expect, setting up this type of business is a more detailed process than becoming a sole trader, but it is far from onerous. The UK has one of the lightest regulatory regimes in the world and this is typified by the time and money it takes to set up a firm, neither of which is significant.



Once you have a business name and you know how many directors are involved (it could be just yourself), you can incorporate your business on the Companies House website for an admin fee of just £15.

Alternatively, you could go through a company formations platform (search online for names) that will register your business and combine this service with some essential business offers, like creating a basic website and designing business cards. These offers vary according to your budget and the service you choose, so scout around.

A third option is going through an accountancy company, some of which offer incorporation services as part of their introductory offer. You will probably need to sign up to a contract of 12 months or longer; it's up to your own calculations whether this is worth it or not.

All pretty straightforward so far, but becoming a limited business has its drawbacks too. The first is added paperwork. Directors have a duty to report on the business several times a year, in the form of an annual return and accounts, as well as yearly corporation tax statements and quarterly VAT statements if they are registered.

This adds up to more time working on the machinery of the business, which obviously robs precious hours winning contracts and completing projects. It's possible to mitigate this impact by outsourcing tax handling to an accountant, but this comes at a cost (see chapter 7).

Another key difference between sole traders and limited businesses is transparency. A sole trader can keep his or her earnings secret and doesn't have to declare anything publicly. Information about limited companies is public record, however. Anyone can find out who the shareholders are and how much of the business they own; they can access sales figures and other potentially sensitive bits of financial information.

You must be prepared, then, for new customers to access this information and use it in their decision to commission you or go with someone else.

# PARTNERSHIP

By far the least popular business structure of the three basic options is called a partnership. This combines elements of sole tradership and limited business. The business structure allows for multiple founders, but without some of the legal and tax obligations.

In some ways a partnership is the best of both worlds. Popular in the law and accountancy professions, it blends the simplicity and flexibility of sole trader status with the potential for growth of an incorporated business.

In a partnership, the founders are all self-employed. They come together to run the business, but they are personally and equally liable for all debts and legal action. Each partner must register with HMRC as self-employed and usually signs a partnership agreement with the other founders. Confusingly, a limited company can be one of the partners.

Partners manage the business and can recruit staff in the normal way. They can raise finance, for example a bank loan, but this must be secured against personal assets. All partners must complete annual returns as well as a group return for the partnership as a whole.

Any profits are distributed between the partners equally and those profits are subject to income tax and national insurance contributions.

A partnership is a less formal business structure than a limited business, but potentially more professional than sole trader status on its own. It's easy to get started and, as long as everyone is pulling in the same direction, it allows for fast and uncomplicated growth.

Working as a 'team of freelancers' means sharing the burden of business equally (owner managers often cite loneliness as a top downside to running a business) and you'll benefit from shared knowledge, experience, contacts and skills.

A partnership is also a closed loop, meaning you don't have to publish financial



information or details of ownership, which is good news for those who value privacy.

But, as you might expect, there are negatives as well as positives. The first, shared with sole trader status, is that partners have liability for the business. This liability is shared (so in theory the more partners there are, the less exposure to each individual), but each individual must shoulder some of the risk.

As with sole traders, this liability has no limit and in extreme circumstances partners could find personal savings, assets and even their homes at risk of being seized by debtors' legal teams.

Public perceptions of partnerships vary. Their association with law and accountancy firms lends them weight, but the lack of reporting transparency might convince some potential customers to look elsewhere. A partnership is a fragile structure, dependent on all parties rowing together. Disagreements can be seriously damaging and, again, customers could be sensitive to this weakness in the company structure.

Lastly, there is the old adage that a camel is a horse made by a committee. Although partnerships benefit from shared knowledge and experience, it's possible they can be hamstrung by the requirement of all directors to agree. This can lead to outcomes that are diluted by compromise and, in extreme cases, inability to fulfil contracts.

## WHICH STRUCTURE IS RIGHT FOR YOU?

The business structure you choose is a personal choice influenced by many different factors. Usually these are fairly clear (for example, if you want to go into business with a friend then you can't be a sole trader without being in a partnership), so in most cases one format or other will jump out at you.

In very simple terms, sole trader status is good for people who want to stay small (although still potentially earn good money) and be free



of complications from tax and red tape. Limited companies are for people who want to professionalise their business and factor in easy scope to grow. Partnerships are for those who want a bit of both and who share a vision for the future with a close friend or associate.

## BUSINESS LAW

"I am always very conscientious about health and safety for myself and others. I have a lot of subcontractors that help with my bathrooms, including tiling and plastering. I always make sure everyone's insurance and equipment is correct and up to date."



– **Simon Baker, Simon Baker Plumbing & Heating Ltd**

A company structure is a fundamental bedrock of the law as it affects business. But it's just the tip of the iceberg when it comes to the rules and regulations that influence how UK companies function, interact with each other and grow.

Running a business is a major responsibility, especially one that deals with the public regularly. There is also a major duty of care owed by company directors to staff members, who must be paid properly, cared for and managed sympathetically without overstepping the mark.

Business law changes every year in a process that tends to add new clauses and protections. In the last few years major new laws covering data protection (GDPR) and pensions (automatic enrolment) have fundamentally changed the way businesses operate in these fields.

There will be plenty more updates in future impacting areas of business as diverse as pay, harassment, contracts, information, equal opportunities, health and safety, property, copyright, libel and many more besides. Because the law changes constantly, it's a bad idea to try and cover it comprehensively in a book, but there are nevertheless some key areas that business owners should be aware of.

## ***Health and safety***

For tradespeople, health and safety is one of the most relevant areas of law, much more so than in the case of industries where people work at desks (although these have to comply with stringent rules too). Trades men and women are mobile, they work with tools, often at height and in bad weather.

This increases the level of risk to business owners and their staff. In response, the authorities have sought to reduce the risk of injury and death in work accidents across the sector.

It's important work: research of 100,000 businesses conducted by insurance broker Simply Business found that tree surgery was the most dangerous trade in the UK, followed by roof tiling and scaffolding. Builders, landscape gardeners, plasterers and electricians all made the top ten.

Meanwhile, IronmongeryDirect, a supplier of ironmongery products, conducted research revealing that one in five tradespeople has had an accident at work, 70% of whom ended up in hospital (A&E) as a result.

The research also revealed that while 91% of tradespeople think health and safety courses are important, one in six have never attended a course and a whopping 41% don't use safety equipment. Meanwhile, a third admitted they weren't insured – more on that later in this chapter.

The Health and Safety at Work Act, signed in 1974, compels employers to look after the wellbeing of staff members. In essence this means taking all reasonable steps to identify

obvious risks and counteract them with training, standard practices and safety equipment.

This means different things to different trades and while a hard hat and sturdy footwear is absolutely essential on a building



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site, thick gloves and eye protection are the go-to safety accessories when it comes to tree surgery. Safety harnesses and high visibility vests are relevant to both in different scenarios.

"It's incredibly difficult for small businesses and start-ups with no funds to use on this sort of thing. I was fortunate to come from a background of plumbing where I worked my way up into management so had a good understanding of most areas.

"We invested in health and safety kit for employees such as gloves, knee pads, goggles, ear defenders and first aid boxes, but also all the other things such as insurance. The list is endless.

"We discovered the Federation of Small Businesses (FSB) and its annual fee is nothing compared to the benefits of every legal document you could possibly think of being ready to download and modify to suit your business. It is a no brainer if you are ready to expand as it takes all that worry, pressure and cost away."



**– Jordan Williams, JR Williams Plumbing Services Ltd**

"Health and safety is very important. I use a third-party system to produce risk assessments and method statements, which is not only sensible to ensure you are considering or mitigating all risks, but also helps you secure some of the bigger contractors.

"Mr and Mrs Jones won't want to see all the paperwork, they just need to know that you work safely and are covered by relevant insurance should things go wrong, but Jones Incorporated will be more than impressed if you provide a full risk assessment and method statement pack with your tenders on the larger projects. We have the systems to do this quickly."



**– Chris Fairbairn, Cribbit Installations Ltd**

Companies must carry out and document a risk assessment under the guidelines of the Health and Safety Executive and prove that they have met the resulting obligations. Failure to do so could result in serious penalties, especially if negligence results in injury to an employee or member of the public.

## ***SUCCESS STORIES***



**Name:** Chris Fairbairn

**Business name:** Cribbit Installations

**Type of business:** Kitchen, bedroom and bathroom supply and installation

**Number of employees:** 1

### **How did you get started in your trade?**

“After buying a house to renovate and sell on, I decided to leave the security of a job in DIY retail management to become a tradesman. Initially I completed an electrical course and became an NICEIC-approved domestic installer.”

### **Has the business changed since you started?**

“After watching and learning from other trades while completing electrical work for them, I moved into kitchen and bathroom fitting. Since then I have expanded the business to where it is now – manufacturing our own range of kitchens and fitted bedrooms, retailing bathroom products and flooring, with teams of fitters installing for me.”

### **Describe your typical customer and project.**

“Our typical customer is a homeowner looking to improve their property. With kitchens and bathrooms being such fundamental rooms, these are often the larger projects people don’t want to take on themselves. They also don’t usually want to arrange each trade themselves, so being experts in product and installation we can now take care of it all with one quote to supply and fit and transform these fundamental rooms.”

**What do you enjoy about your career?**

“I love creating a design to match what the customer is looking for, then manufacturing and sourcing product and overseeing installations to create the new rooms. There is a real sense of achievement looking at a quality finished room, knowing that I’m helping to support the fitters in their work.”

**What’s the hardest thing about it, or the biggest challenge you face?**

“Time and work-life balance are the biggest challenges by far. There is so much more I could be doing, that I want to be doing to drive the business forward. But I’m just one person and sometimes I like to go home too. The phone is always on, work is always there.”

**What are your plans for the future?**

“To market the business better, showcase my own products and services, ultimately leading more confirmed projects to keep the fitters busy. Then hopefully reaching a point where I can employ help and the business can stretch its legs.”

**What’s your best tip for other tradespeople in your sector?**

“Find what you are good at, concentrate on doing that and do it well. There’s no point working hard to create quality work and then keeping quiet about it. Customer service is key too; keep people informed, give them a great customer journey. They will then tell their story and generate more leads, which is where Checktrade fits in to help support that process.”



# EMPLOYMENT LAW

Employment law is a vast, sprawling set of regulations governing the way employers and their staff work together. It sets a base-level standard for the treatment of workers and sets out the circumstances under which people can be disciplined, made redundant or fired.

A fine balance is needed to give adequate protections to individuals while also allowing businesses the freedom to make money and grow, so it's no surprise that employment law is subject to regular revisions. What follows is the basic areas you must focus on as an employer.

## *The recruitment process*

If you interview candidates for a job then your final decision to hire must be based on the individual's credentials and how they fit the requirements of the role. You can't discriminate on the basis of age, gender, race or disability unless you can give a clear and obvious reason for doing so (only men can apply for jobs as male models, for example).

Candidates, including those who don't get a job, can request to view any notes relevant to their application. It's important, therefore, to document the reasons they weren't hired and to keep this evidence safe.

As covered in chapter 6, you must provide written terms and conditions to your new employee. This should include the terms of work, holiday, hours and in general what is expected of them. But an employee is protected by basic employment laws as soon as they accept a job offer, regardless of whether it's verbal or in writing.

Once agreed and signed, a written contract cannot be changed without consent of both employer and employee.

## *Working conditions, pay and holidays*

The UK has a number of hard-and-fast rules that employers can't ignore. For example, workers can't be forced to work more than 48

hours a week and you have to consider flexible working requests from people who've worked for you more than 26 weeks.

Part-timers have the same rights as full-time employees and everyone has the right to parental leave when they have children. They must be paid at least the national minimum wage, around £8 an hour for people over the age of 25, and employers are responsible for deducting the right level of income tax and national insurance from wages.

If a worker falls ill or is injured, you must cover their time off for up to 28 weeks at a statutory rate of currently just under £100 per week.

## ***Rights and protections***

Much of this is common sense, but employees have rights that prevent exploitation and ill-treatment. They should be free to join a trade union and after a month's work are entitled to a notice period if made redundant.

The working relationship has to be undertaken with due care and trust – this cuts both ways – and you can't infringe a worker's right to a private life. Perhaps most importantly, you can't discriminate on the basis of gender, race, age, disability or religious beliefs.

If you employ people with disabilities, you must take 'reasonable' measures to ensure they can do the job effectively. In essence, that means removing any obvious barriers that impede work. The word 'reasonable' protects employers from having to spend large sums or undertake major work that would harm the business's normal operations.

When it comes to disciplinary proceedings, redundancy or firing, there is a straightforward code of practice. Essentially, this means making it clear what actions or offences would activate disciplinary proceedings and keeping employees informed of any action against them verbally and in writing.

## ***Legal representation and insurance***

As mentioned, business law is a big and complicated subject to get on top of. Employing the services of a law firm and getting adequately insured are therefore two essential steps. A legal service can ensure you tick all the boxes and provide you with all the necessary documents to operate and employ people, while insurance will protect you from the downside of unexpected events.

The best advice is to seek expert opinion on necessary measures. Search online for ‘business law help’ and ‘insurance for tradespeople’ for information on how to move forward.

## **WHERE AND HOW TO FIND A LAWYER?**

Lawyers are a bit like tradespeople: when you find a good one you should hang on to them. But how do you get a cost-effective solicitor who can cover your needs? The Law Society is a great first step; the organisation offers a searchable database of nearly 170,000 legal specialists and you can browse by location and expertise, be it dispute resolution, regulation and compliance or intellectual property. Visit **[www.lawsociety.org.uk](http://www.lawsociety.org.uk)** and, on the homepage, click the tab marked ‘Find a solicitor’.