



BACKHOUSE SOLICITORS

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Your Expert Guide to Starting a Business

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WHAT HAPPENS NEXT?

So, you have a brilliant idea, the brains and money to make it happen and can see your millions on the horizon, but you're not sure what happens next. Look no further! Backhouse Solicitors are here to help you every step of the way. In our handy Business Start-up Guide, we explain the main steps involved in setting up your business and outline the key factors of which you should be aware.

Researching your idea

You're probably bursting at the seams wanting to tell everyone about your new idea – stop right there! You need to be cautious about who you discuss your business idea with until you are sure it won't land you in hot water. For example:

- ✔ Restrictive covenants in your current employment or consultancy contract could prevent you from working in a particular industry or geographical area for a certain time, possibly up to a year.
- ✔ Is your idea already owned by someone else? Copyrights, trademarks and patents could all potentially affect you.

Do your research and review all of your paperwork – it's better to be safe than sorry.

Preparing a Business Plan

If your idea is good to go, then the next step is to do your homework, carry out some market research and draft a business plan. Too many businesses jump straight in without looking at whether the numbers will actually work to make a profit. If you need to raise external finance, any bank/investor will want to see a solid business plan before giving you money.

Get a firm of Accountants on your side in the early stages, as they can help you decide whether your business will be economically viable. They will be able to help you decide how to finance your company and may even be able to put you in touch with potential investors. Most importantly, they will provide you with important tax advice and help register your business with HMRC.

Choosing the right Business Structure

The type of business you should set up will vary depending upon who is involved, and the service you wish to provide. The most common business models adopted are:

- ✔ **Sole Trader** – you are the business, and the legal contracts, assets, liabilities, profits and losses are yours. This is the simplest structure with the least paperwork, but you have none of the protections afforded by limited liability.
- ✔ **Partnership** – like a sole trader but you and your partners are the business.
- ✔ **Limited Company** – the business is an entity itself and the contracts, assets, liabilities, profits and losses sit within the business. The legal paperwork and reporting obligations are more complicated, but you have a greater degree of protection from the limited liability if things should go wrong.
- ✔ **Limited Liability Partnership** – combines some of the benefits of partnership with the greater protection of limited liability.

We offer a free 30-minute consultation to review these options with you, help you decide which model best suits your business, and discuss the next stages.

Setting up your Company (or other structure)

The process of setting up your business will depend on which option you chose in step 3. When setting up a Company you must comply with the strict regulations set out by Companies House. These include requirements for the Company's name, the appointment of Directors, recording the shareholders and registered address to name but a few. To help ensure that the incorporation process runs as smoothly as possible, we would be happy to assist you in gathering the necessary information to submit to Companies House.

If you are starting a business with other people who will be shareholders, then you should have a Shareholders Agreement from day one. This ensures all parties are clear about their roles and obligations and puts in place important processes such as how to resolve shareholder disputes and what happens if one party wants to sell their shares.

Backhouse Solicitors can provide a basic Shareholders Agreement from just £850.00 plus VAT, including an explanatory letter summarising the agreement and advising of the key terms. If you need a more complex agreement with bespoke terms, we can tailor it to your specific circumstances – please ask for details of costs.

If you decide to set up a Partnership, it is essential that you have a Partnership Agreement in place. Like a Shareholder Agreement, it will lay down the roles and responsibilities together with vitally important information such as how profits and losses are to be shared out and how the partnership should be dissolved if the worst should happen.

If you are going into business with a Friend/Sibling/Parent/Spouse, you might think this isn't necessary, however all too often relationships between business partners break down and they wish to extract themselves from the arrangement. Partner entitlements and obligations are common causes for disputes, so it is always best to have these written in black and white.

A simple Partnership Agreement starts at only £850.00 plus VAT and includes an explanatory letter explaining the operation of the agreement and the key terms. If a more complex agreement with bespoke terms is needed, we can tailor it to your specific requirements, just ask our friendly team for details of costs.

Opening a Bank Account

All of the main high street banks provide business bank accounts for new businesses. The time taken to open an account can vary from a few days to a month or more, so it is best to start the process as early as possible because you won't be able to make or receive payments until you have one.

When you have only used personal bank accounts, business banking may come as a bit of a shock as there are a number of fees you may not have dealt with before, such as monthly fees and transaction fees. Some banks offer an initial period of free banking (sometimes up to 2 years), which can help soften the initial blow, so ask the question when researching which bank to choose. You should also consider the accessibility of a branch. Depending on the location of your business, some branches may be harder to reach than others, so choose a bank that is easily accessible to you.

If you need to borrow money via a loan or overdraft, you will almost certainly need to produce a business plan and give personal guarantees to secure the borrowing, which can include a charge over your personal property.

Choosing a Location

If you plan to start by running your business from home, you should check that this is not in breach of any restrictions affecting your property. There may be covenants in your freehold, lease or tenancy preventing the operation of a business from the premises. Start by checking the paperwork provided when you first purchased/rented the property or come in and see us for help. If business use is permitted, then make sure your home insurance won't be invalidated – speak to your insurers if you aren't sure.

If you plan to run your business from commercial premises, you will be making a much bigger financial commitment and you should think very carefully about the right location. How much office/retail/warehouse/workshop space will you need? Do you need a high street presence (expensive) or will a cheaper location work? How quickly will you grow and how much space will you need?

For your first premises, it is best to consider the needs of the Company in the short to mid term, rather than thinking about long-term expansion just yet. You don't want to sign up for a large and expensive property until you are sure the business will work. If you view properties through an agent, remember that however helpful they may be, they act for and represent the interests of the seller or landlord - they are not your agent and won't try and get you the best deal.

Before arranging any viewings speak to your accountant to discuss your upper limit for the purchase price or rental payments. Remember you will also be liable for Business Rates, light, heat, power, water, insurance and likely Insurance Rent in addition to the basic rental payments.

If you are considering buying premises, you should check on the current permitted use for the property.

Leasing or buying your premises

Once you have chosen your new premises you will start the legal process of purchase or taking out a lease. Given the amounts of money at stake you should always instruct an experienced commercial property solicitor to act on your behalf. Sellers and landlords are required to supply various reports relating to commercial property prior to completing a transaction which will give valuable additional information.

These will include Energy Performance Certificates, Fire Risk Assessments and Asbestos Surveys. Your solicitor will review these together with the proposed lease or purchase documentation, carry out searches and make sure that you are aware of what you are signing up to.

On the regulatory side, you have to provide details of a "Registered Office" when applying to register a new company. This is the address to which all formal notices regarding the Company are sent but does not necessarily need to be the address where the Company operates from. Many businesses use their accountant's address as their Registered Office.

Backhouse Solicitors have an experienced Commercial Property team who are happy to assist you with your property transaction and can arrange a fixed-fee quote.

Registering with HMRC and other Regulatory Bodies

When your new business starts trading you will need to register with HMRC for taxes such as Corporation Tax, PAYE and VAT. Your accountant will be able to take care of this and register as your agent to help you deal with any HMRC paperwork. Most aspects of business taxation can be taken care of online these days which is a simple matter of setting up an HMRC online account and adding the taxes to it.

With the introduction of Auto Enrolment, nearly all businesses will need to register with the Pension Regulator and choose and set up a pension provider for their staff. Your accountant will be able to help with this.

You may also need to register with other bodies depending on your business – for example the Financial Conduct Authority or Prudential Regulation Authority for finance businesses or important trade bodies in other industries. All of these will require a setup fee and usually an ongoing annual fee.

Preparing your Terms and Conditions

If you're providing a service or goods as part of your business, it is very important that you have written Contracts with all of your customers. These could be anything from standard Terms and Conditions ("T&Cs") for the customer to sign to confirm the agreement, right up to complex, bespoke contractual agreements between your Company and the customer.

Whatever the nature of the transaction, your T&Cs will clearly define your obligations to your customer but also what is expected in return. Without T&Cs it is very difficult to enforce payment if there is a dispute which can be a very costly mistake. Many first-time business owners "borrow" T&Cs from their previous employer without knowing whether they are up to date or accurate. We have seen borrowed T&Cs where the company name hasn't been changed making them impossible to enforce!

Backhouse Solicitors can prepare Terms and Conditions for you or review any existing T&Cs to ensure that they are up to date and consumer compliant.

Employing your first member of staff

Employing the right people is essential for the growth of a business. It may take a while but there will come a point when you can't do everything yourself in the time you have available. That's when you will need to take the big step of employing your first member of staff.

Firstly, decide what kind of job you need to offer. Will it be full-time or part-time? Employed or self-employed? You will then need to recruit the right person for that role which will involve advertising, interviewing and selecting the right candidate.

Becoming an employer means that you now have a whole new set of rules and regulations to follow. You will need documentation such as employment contracts, policies, procedures and handbooks and you will need a working knowledge of the rules on things like:

- Working hours and holidays
- Salaries and pensions
- Working parents' rights
- Health and safety
- Disputes, disciplinaries and grievances

Fortunately, help is on hand as Backhouse Solicitors provide HR and employment law advice to businesses of all types and sizes. For a small annual fee, we can help you put the right procedures and documentation in place from day one. Our team provide expert advice to solve the day to day issues so you can get on with running your business.

Data Protection

If you will hold and use personal data on individuals as part of your business then you will need to ensure that you are compliant with Data Protection regulations. You will need to register with the Information Commissioners' Office as a Data Controller, pay an annual fee and ensure that you process the data you hold in such a way as to avoid data breaches where this information is lost or stolen.

In May 2018 Data Protection laws changed dramatically with the introduction of the EU General Data Protection Regulations. The rules now require you to build data protection into all of your processes and carry out impact assessments to ensure that you are minimising the risk of data loss. In addition, there are much stricter rules for reporting data breaches to the regulator (within 72 hours) and larger fines for companies who fall foul of the rules, particularly where they have not made an effort to be compliant.

You will need to consider the security of your IT systems (including phones) and ensure that remote working is as secure as working in the office. You will also need to be able to comply with the "right to be forgotten" and remove all data about an individual from your system (subject to regulatory requirements).

At Backhouse Solicitors help is at hand and we can provide GDPR training courses on:

- Understanding the rules
- Putting in place the plans and processes to ensure that you are compliant

To find out more, get in touch with us today and speak to one of our GDPR experts.

Other things to think about

We have already outlined details regarding the main areas of setting up a business. However, there are still other things to consider:

- ✓ **Licenses** – you may need a specific type of Licence to operate, for example, Premises (to serve alcohol), PPL or PRS (to play music) or Food Premises Approval (if you handle meat, fish, or dairy products). A simple search on www.gov.uk will give you an up-to-date list.

- ✔ **Insurances** – business insurance is generally arranged through a broker who will understand exactly what is needed and find the right cover for you. At a bare minimum, you will need public liability insurance, but you should also consider office contents and buildings insurance, employers liability, professional indemnity, business interruption, employee theft, key person, cyber security and many more. A good broker will often be able to find a policy to cover all the risks you need and there are policies aimed specifically at small businesses.
- ✔ **IT and Communications** – every business will need computer systems, telephones and email. You may be able to start small with a laptop and mobile phone but as you grow you will need to consider networks, servers, printers, security and very importantly you should always have a bulletproof data backup strategy to stop you from losing your data through breakdown, theft or malware.
- ✔ **Website, Social Media and SEO services** – a golden rule is not to trust anyone who promises to “get you on the first page of Google”! Try and present a consistent message across your website and social media channels and make it easy for customers to contact you and place orders.
- ✔ **Office supplies** – from stationery to office equipment. You will find that discounts are available for larger purchases and it pays to shop around. Office equipment suppliers will try and sign you up for long-term leases on large machines such as copiers and franking machines – we suggest buying a small machine at first and upgrading only when you need to.
- ✔ **Utilities** – gas, electricity and water are now open to competition much as with your home utilities. Shop around for your suppliers or consider appointing an agent who specialises in finding you the best deals.
- ✔ **Marketing, branding and promotion** – including logos, letterhead, promotional goods, signwriting and business cards among the many marketing possibilities. Any work carried out by third parties (graphic design, branding, consultancy, website production) should have a clear agreement as to Intellectual Property ownership. It’s no good having the best graphics if your usage is restricted and ownership of the copyright remains with the creator.
- ✔ **Card payment facilities** – depending on your needs there are many options from physical PDQ machines to Smartphone-based systems and online terminals. You don’t need to purchase these from your bank – we would suggest shopping round as transaction fees can vary widely.

- ✔ **Accounting and payroll systems** – there are many systems out there with fully online options such as Xero making big inroads into the market. You should discuss the options with your accountant before making a purchase so you can be sure that all of your needs are covered.
- ✔ **Fire Risk Assessments, PAT testing and other Health and Safety issues** – Backhouse Solicitors are able to put you in touch with recommended suppliers for all aspects of Health and Safety.

LET'S MAKE IT HAPPEN!

WE ARE HERE TO HELP

When realising what is involved in starting a business, it can be overwhelming. However, the rewards for hard work and success can be great, so don't be put off by the paperwork. As the old saying goes "If it were easy then everyone would do it"!

At Backhouse Solicitors, our team are here to help businesses get off the ground. We can help you with many aspects of the process and point you in the right direction. To book a free initial consultation with one of our experts, contact us today, let's get your business off to a flying start

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