

Brabners
we make the difference

Family Business:
**Inceptions
and Start-Ups**

Establishing a Family Business

Setting up a family business can be a daunting and overwhelming task. You might have a great idea, or even already have a product or service in a niche market achieving healthy profits.

However, if you do not lay the correct foundations when establishing your business, the business could find itself in potential difficulties later down the line, resulting in wasted time and costs and a big emotional impact on the family. This is why it is important to ensure that you have a robust and adaptable business plan that takes into consideration all aspects of your business, putting you and your family in a stronger position to succeed and grow your business together.

At Brabners, we provide family business start-ups with the right advice and support from inception and throughout the business life cycle. Our team of trusted family business lawyers have extensive experience in advising and supporting all types of family businesses. We partner with you and your family to build and execute your business plan effectively, advising and supporting your business as it grows.

Choosing the right structure for your business

There are a number of different trading vehicles that can be used for carrying on a family business in the UK. The most common are sole traders, partnerships, and companies.

Selecting the right trading vehicle for your business will depend on a number of factors, but before choosing which structure is most appropriate, you will need a basic understanding of each.

- If you have just set up your business and have begun trading on your own, it is most likely that you are a sole trader. There are a number of advantages to running a sole trader business, including low administration costs, less paperwork and less administration. However, if you do trade as a sole trader, you run the risk of being personally liable if things go wrong.
- If you are running your family business with another person, it is likely that your business is a partnership. Under law, a partnership can be formed simply by “persons carrying on a business in common with a view to profit” – i.e. you are working together to make a profit. Therefore, some partnerships are formed without

an agreement being entered into. However, if you do decide to trade your family business via a partnership, it is advisable to enter into a formal partnership agreement to govern the business and set out the terms in which you do business. Again, this will help you if there are any partnership disagreements or if anything were to go wrong.

- You may wish to establish a limited company which is a separate legal entity and, as such, any liability will be held by the company and not you personally, as the individuals behind it. Although there is more administration involved in running a limited company, there are a number of tax advantages, and your personal assets would be protected.

There are many more benefits and aspects to consider for each of these common structures. We can advise you on these options and help you understand the right structure for your family business and what this means for you moving forwards.

Securing the right funding

As a new family business, you might need some funding to help grow your business and protect your interests.

Securing funding can be challenging for a new, start-up family business but there are a number of options available which our family business lawyers can help you to understand. These include:

- Bank / Start-up loans. Whilst an obvious option, you may find it difficult to use a bank or start-up loan as the sole method of funding in the early stages.
- Private Equity/Angel Investment. We work with a range of angel, venture capital and private equity funders and have an extensive network of funders. We ensure you have the right options

available to you and can support you with your funding arrangements.

- Public or semi-public funding. We understand that the processes and applications for grants and government schemes can be overwhelming, and we can guide you through the process and advise on your applications and all commercial considerations you need to understand.

We will guide you through the complex world of funding, advising on the options available to you and helping you deal with complex finance issues without losing sight of your commercial objectives. Our team also have an extensive network of investors and, whatever type of funding you seek, we can help guide you through the process.

Putting the right contracts in place

Your commercial contracts govern your relationship between your new family business and the relevant third party (be it a supplier, customer, sub-contractor, agent etc.). Having the right contracts in place is vital to your business success. These agreements will set out the key commercial and legal terms which regulate and underpin that relationship.

There are a number of standard commercial documents which should be in place from the outset. The right ones will depend on your business model, but it could include terms and conditions for the sale and supply of goods and/or services or, if disclosing any confidential information (including intellectual property rights), a confidentiality agreement to help protect commercially sensitive proprietary information and discussions.

With the support of our family business experts, you can protect your business through robust commercial contracts that are suitable for the activities you are undertaking.



Protecting your business ideas

Intellectual Property (or “IP”) can be the most important and valuable asset for many businesses. You should therefore not overlook this and evaluate your family business’ IP assets from the outset.

The most relevant IP rights in the UK are trademarks, copyright, patents, design rights and confidential information/trade secrets. To ensure that such rights are properly protected, an effective IP strategy and management system should be put in place early on, identifying those key IP rights and seeking to formally protect them wherever you operate (including abroad). Then, as your business develops and new business opportunities arise, there are likely to be changes to your IP portfolio and rights, e.g., new brand names, inventions or designs.

Our family business lawyers can work with you through the lifecycle of your family business providing advice and assistance on mechanisms that you can put in place to help safeguard your family business’ IP rights from the outset, as well as putting in place the relevant commercial agreements and providing advice around IP protection, audits and strategies that can help identify and safeguard new and existing IP for the future.



Employing the right people

As a start-up family business, you may not have experience in formally “employing” an individual to work for you, with many start-up family businesses having family members getting stuck in and wearing a number of different hats simultaneously. As the business develops, it becomes inevitable that you and your family will need to bring the right individuals on board, to support and help grow the business.

It is more important than ever in a family run business to ensure that the right people are recruited, since they are being entrusted to work alongside your family and ensure the business succeeds.

How you bring the right people into your business is important, giving careful consideration as to how you anticipate the relationship working in practice and ensuring that the individual is engaged in the

most effective way. This does not always mean that “employing” someone is the best option.

An individual can be engaged on a number of different basis: self-employed consultants, casual workers or employees. The latter will provide the individual with the most protection and employment rights, with which comes additional risks and costs to the business - this is where an early investment in comprehensive contracts is crucial, together with the policies and procedures that the business intends to grow into.

Our family business lawyers are well versed in ensuring that family businesses have the right HR foundations in place to enable a successful relationship with those engaged by the business. They will also be right by your side to advise and support the business through any people challenges you unfortunately encounter.



How we can help

Starting a family business doesn't have to be daunting, and our expert family business team bring together expertise in corporate law, funding, commercial contracts, intellectual property, employment and more, to ensure that you have the right advice at the outset and that your business gets off to the strongest start that it can.

To find out more about how we can support your family business, whatever stage you are at, contact our team to have a free conversation about the support you need.

The Team



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