

# FINAL DESTINATION

A solicitor's role is not just to keep their client within the law, but to act as a business adviser too. Choosing the right legal advice is often vital to the success of a business.

**W**HATEVER your business, there's a law for it – in fact, there are probably many more than just one. Contract law, trading standards, health and safety and the Companies Acts may all affect you. Some contracts have implied terms you might be unaware of. Some statutory rights cannot be altered by contracts.

Even before you start your business, though, there are legal pitfalls. If the name of your business is too close to the name of another, you could breach its intellectual property rights, such as its trade mark or registered designs. At the same time, you want to protect your own company name, brand and logo.

So whatever your business, there's a lawyer for it – in fact, probably more than one, for the chances are, one lawyer will not be able to advise you on every area that affects you.

Some contracts, for example, are more complex than others, such as employment contracts or commercial property leases. Employment law, especially, is far-reaching, ranging from hiring and firing, minimum

wage and working time regulations, to maternity and parental leave, and discrimination.

The solicitor who handled your last house purchase might not be able to help with your employment law requirements, however they may work for a firm which has that expertise, or have an associate relationship with another firm able to offer the advice you need.

A solicitor's role is not just to keep their clients within the law but to act as a business adviser, giving advice every step of the way. If a dispute arises between an employee and employer, for example, a solicitor can advise on the options, from mediation to an employment tribunal.

To be effective, you and your solicitor need a good personal and business relationship. Before entering that relationship, arrange a meeting to set out what you are looking for. Be specific. Ask questions. Talk about fees. Who will be doing the work for you: a partner, an associate or an assistant?

The law firm should have a range of expertise that covers the needs of





the business, not just as it is now, but as it is likely to be. From the start, the structure of the business is important. Should it be run as a sole trader, a partnership or a limited company?

If it's a partnership, it needs an agreement drafted by a solicitor and signed by all the partners. Things might start well but if the partners fall out, the agreement will set out what happens if the business has to be dissolved.

At some point - perhaps at several points - the business may need refinancing and possibly restructuring. What worked well in the early years may become a constraint.

In the beginning the senior managers may be the owners or close colleagues of the owner. They start with their own funds backed by borrowing from the bank. As the business grows, however, it takes on larger contracts and its purchasing power needs to increase.

Its potential liabilities increase too,

so the sole trader or partnership needs to limit their liability, by becoming a limited company or a Limited Liability Partnership (LLP).

It will need additional resources: employees, expertise, space, funding and perhaps investors. Bank borrowing may no longer suffice and investors, in return for their funds, will want a stake in the business to share in its growth.

That usually requires a share structure and you may need to restrict the selling on of shares to avoid losing control, requiring a shareholders' agreement or amended Articles of Association.

It's a good idea to start out with lawyers who can keep up with your ambitions for your business and, whatever your business, there's a law firm for it.

To find a solicitor to meet your business needs contact the Law Society of Scotland on 0131 226 7411 or click onto the website [www.lawscot.org.uk](http://www.lawscot.org.uk)