

Business checklist for admitting a new partner

DANIELLE AUSTIN | AUG 2021

If you have decided that the time has come to admit a new member to your partnership, then there are a number of important steps that you will need to take in preparation.

To help you plan, Danielle Austin who is a Corporate and Commercial Solicitor has prepared a checklist of some of the most important things that you will need to consider.

1. Is the proposed candidate partnership material?

To run a successful business, it is important that your partnership is made up of people who trust and respect each other, who have a shared vision as to where the business is heading, strong commercial skills and something of value to contribute. The existing partners need to carefully consider whether the new member is a good fit for your business and what it is that they will be able to bring to the table.

It is also important that your proposed candidate is ready to assume the responsibilities that come with being a partner and to withstand the pressures that they will face.

2. Is your existing partnership agreement still fit for purpose?

If you have not looked at your partnership agreement since the original partnership was formed, then the proposed admission of a new member should act as a catalyst for a review. Your business will have evolved since it was first established, and it is important that your agreement keeps pace with developments. This is particularly true where you have made tweaks to the way in which your business is managed; if you have acquired or moved to new premises; or if there have been changes to your profit-sharing arrangements.

There may also have been legal and regulatory changes introduced since the agreement was first drafted, and a thorough review carried out by a solicitor will flag these up and allow for any necessary updating to be undertaken.

3. Will the new partner be making a capital contribution?

If the new partner will be expected to introduce capital into the business, then you need to think about how and when that capital is going to be paid. For example, do you expect to receive a one-off payment upon the new partner's admission? Or are you happy to receive several payments over a fixed period, either paid from private funds or introduced via the new partner's agreement to take reduced drawings for a set number of years?

You also need to ask the new partner about where the money for their capital contribution is going to come from. This is because, where it is envisaged that a loan will be taken, discussions will need to be had as to whether the partnership will be expected to provide any sort of security or indeed to enter into a guaranteed agreement. The terms of the loan will also need to be scrutinised to make sure that any provisions which impact the partnership are acceptable and can be complied with.

4. Profit sharing arrangements

If the new partner will be entitled to share in any profits of the business, then an agreement will need to be reached about how this will work. For example, is the practice in your business to pay all partners a base salary first and then treat whatever funds are left over as the profit available for distribution, or do you take an altogether different approach? Also, are available profits split equally between the partners or allocated based on an agreed ratio? If so, is this ratio fixed or subject to variation?

5. Rights and responsibilities

There needs to be clarity about the duties that the new partner will assume and about the rights and responsibilities that go with their role. Agreeing at the outset what you expect from the new partner, and what they in turn can expect from you, will save a lot of time and trouble further down the line, especially if a disagreement arises.

In our experience, it is particularly important that you address the degree of authority that the new partner will have, the management functions that they will be expected to assume, the extent to which they will be managed and have their performance reviewed, and the mechanisms in place to pull them up should they be found to be falling short.

6. Control

It is vital that the issue of control is expressly addressed as part of the negotiations around the admission of the new partner. You all need to be clear about the extent of control that they will be able to exercise, and about how voting rights will be organised with regards to day-to-day operational matters and more importantly for key business decisions.

Many of the partnership disputes we see centre on disagreements about control and on the ability of individual partners to flex their muscle when important or critical issues need to be decided.

7. Documentation of the new partner's appointment

You will need to document the appointment of the new partner, either in a newly drawn partnership agreement or via a deed of adherence where the existing partnership agreement will remain in place.

All documentation should be prepared by a solicitor to ensure accuracy and that the agreements you have reached are legally enforceable.

8. Notify relevant parties and organisations

It is important that people are made aware that a new partner has been appointed. Among the many organisations that should be given formal notification are your bank, HMRC, your professional advisors and the partnership's insurers as well as the Registrar of Companies if your partnership is a limited liability partnership. It is also sensible and courteous to let key customers, suppliers and service providers know.

Contact us

For advice and support in dealing with the admission of a new partner, please contact Danielle Austin on 01908 689399 or daustin@geoffreyleaver.com.

This article is for general information only and does not constitute legal or professional advice. Please note that the law may have changed since this article was published.

STAY CONNECTED

If you would like to receive automatic notifications of our latest news you can sign up to receive our newsletters or follow us on LinkedIn, Twitter, or Facebook.



Danielle Austin | Solicitor