

Palmerslaw

Legal issues for small and medium-sized businesses

Moving forward
together >



Nobody knows your business better than you do but there will always be times when independent professional advice can add real value by helping you to make informed decisions that can save time, money and resources.

Having access to expert legal advice can make your business life much easier, whether you just need a quick chat, to clarify something you are unsure about, or you are dealing with an issue so serious that it requires more focused involvement from specialists in a specific area of the law.

At Palmers Law, our commercial team is experienced in working with Small and Medium-sized Enterprises (SMEs) and family businesses, delivering timely, constructive advice tailored to your needs and designed to help you achieve the best outcomes.

We've put together this short guide to some of the key legal issues that face SME and family businesses. The guide is designed as a general overview, and if you would like more specific advice on any of the topics covered – or any other legal issues – please contact one of our team.



Employment

Employing people means that you need to stay compliant with a complex and regularly changing regime of employment legislation, whether you employ a dozen people or hundreds.

Ensuring that you keep up-to-date with regular changes in the rules, so that your business always stays on the right side of the law, can be a real distraction from the day-to-day running of your business. Key issues that you need to be aware of, and where Palmers Law's employment law solicitors can assist, include those listed below.

- **Employment documentation:** having the right paperwork in place helps to avoid employment disputes and will put you in a stronger position should a workplace issue or dispute arise. We can review, update and/or prepare new contracts or policies and procedures, including grievance and disciplinary procedures.
- **Redundancy:** employers and managers need to understand the law relating to redundancy or they may face future claims for unfair dismissal, resulting in potentially costly compensation payments. We can advise on all stages of the redundancy process, including consultation requirements and selection processes.
- **Discrimination:** employment tribunals can award uncapped compensation in discrimination cases and so compliance with the Equality Act 2010 is crucial. We can identify problem areas for employers in relation to discrimination and provide guidance to help employers ensure that they treat all workers fairly. If necessary, we can also defend employers faced with allegations of discrimination.
- **Business sales, purchases and mergers:** research has shown that one in eight workplaces in Britain has gone through some kind of business transfer, with such transfers affecting up to two million employees each year. We can advise on employment issues arising from the sale, merger or purchase of a business and on the implications of the Transfer of Undertakings (Protection of Employment) Regulations, or TUPE.

- **Settlement agreements:** settlement agreements typically include a severance payment made by the employer to the employee, in return for the employee agreeing not to pursue claims against the employer, as a way to avoid employment tribunal cases. We can prepare tailored settlement agreements to ensure that these comply with the relevant regulations and leave the employer with no hidden liability.
- **Representation at employment tribunals:** employment disputes can often be resolved at an early stage with the right legal advice and intervention. However, if matters escalate to an employment tribunal, we can provide expert representation.

We also offer a bespoke HR website as an efficient, cost-effective way for you and your team to stay up-to-date on HR issues. We will design and build your website, using your branding, giving you and your workforce easy access to an online employee handbook, including:

- Employment policies and procedures, such as disciplinary and internet use;
- Family friendly policies and procedures, such as parental leave;
- Electronic forms, such as holiday booking forms;
- Information on ending employment, such as retirement, redundancy; and
- Workplace standards and rules, such as dress code.

We can provide a separate area for specified managers, including guidance on employment law, information on statutory payment rates, such as the national minimum wage, and your master contracts.



Health and safety

Making the workplace a safe place is essential, to comply with the law, protect the health and well-being of workers and visitors, your commercial reputation and save time and money in the long term.

Whatever the size of your business, as an employer you are legally responsible for the health and safety of your workers and other people, including customers, suppliers and members of the public, both at your usual premises or when they are involved in activities elsewhere, for example, on a construction site.

This process includes assessing risks of injury or damage to health that could occur in the workplace and taking steps to reduce and control the potential for accidents or injury, in order to provide a safe environment for people to work and do business in.

Investing in health and safety also acts as an insurance policy against the time and cost involved in putting right a breach of health and safety – including paying for associated Health and Safety Executive investigations and action – or the expense of a possible prosecution and associated reputational damage.

At Palmers Law, our specialists can advise on the very latest health and safety regulations and assist you in putting in place practical measures to ensure that your business always complies with the law.

With workplace incidents having potentially far-reaching consequences for both businesses and individuals, we also provide expert legal advice and representation at health and safety-related interviews and prosecutions.



Commercial agreements

Properly drafted, legally compliant business agreements are crucial to avoiding commercial disputes, which can take up valuable time, money and resources.

These agreements ensure that you and your contracting parties, be they suppliers, distributors or customers, each know where they stand at the outset of the relationship. This gives the parties confidence and a solid platform on which to work together, while protecting each others commercial interests.

Contracts that clearly set out the rights and responsibilities of the participants provide you significant protection should disputes arise.

If disagreements do escalate, the courts will look very closely at the terms of your contract, so it is essential that they are drafted in the right way, setting out clearly the obligations of each party to one another.

Palmers Law can provide comprehensive advice on a complete range of commercial agreements, including:

- Joint venture agreements
- Standard terms of business
- Supply agreements
- Terms of business for online trading
- Agency and distribution agreements
- Tender documentation
- Copyright, licences and other intellectual property agreements



Shareholder and Partnership Agreements

Nobody goes into business with their partners expecting at the outset for things to go wrong. Nevertheless, at the beginning of your business relationship, it is imperative to document the expectations you have of one another towards the business to avoid complications arising later on.

When a problem arises between partners or shareholders – for instance a dispute over the way the enterprise is managed or if a partner or shareholder wishes to leave – there can be serious repercussions if no partnership or shareholders' agreement is in place to set out the mechanism for dealing with the issue.

The result can involve costly disputes over how the business is run, funded or valued and what rights each partner or shareholder has to leave the business and take up work elsewhere.

Partnership and shareholders' agreements will provide clarity and peace of mind to those involved concerning what can and cannot be done and what the processes are when things go wrong.

Typically, such agreements will set out rules designed to support the smooth running of the business, covering issues such as financing, matters requiring unanimous consent, dispute resolution, exit strategies and procedures to follow on the death of a partner or shareholder.

Palmers Law can provide expert advice on updating existing partnership or shareholder agreements or putting in place new ones, tailored to the specific circumstances of the business and its participants.

Dispute resolution

When a commercial dispute arises, resolving the issue in a way that avoids court proceedings is likely to be the best way forward.

Increasingly, people involved in commercial disagreements are turning to Alternative Dispute Resolution (ADR), including mediation, as a more cost and time-effective way of resolving the problem. As well as offering savings both in terms of time and money when compared with litigation, ADR makes it possible to achieve a wider range of solutions than going through the courts. This approach is also likely to be more effective in maintaining business relationships once the issue has been resolved.

At Palmers Law, our dispute resolution experts offer commercially-minded advice designed to achieve constructive outcomes. We advocate the use of mediation and other ADR procedures wherever possible but if the dispute cannot be resolved using these methods, we will provide robust representation in litigation.



Commercial property

If you run a business, you will almost certainly be involved in a property transaction at some point, whether you are buying or leasing the premises from which you trade or selling up, perhaps on retirement or as part of a larger business restructure.

With deals often involving tight deadlines and substantial sums of money, delays or over-looked details can have far-reaching consequences, so it makes sound commercial sense to work with legal advisors experienced in the issues that you are likely to face.

Palmers Law provides a wide range of commercial property services, including:

- Negotiating and agreeing heads of terms on new business leases
- Advising commercial tenants on their rights under the Landlord and Tenant Act 1954, which provides security of tenure
- Renewing leases, including negotiating and agreeing terms
- Resolving issues and disputes with landlords or tenants
- Surrendering leases and minimising exit costs when ending a lease early or when it expires
- Buying and selling commercial property when expanding, relocating, downsizing or retiring
- Rent reviews
- Property financing
- Site assembly for developers



Intellectual Property

Your bright ideas are crucial to the success of your business so it is imperative that you take steps to protect your Intellectual Property (IP), to prevent others unfairly benefiting from your creativity and innovations.

By patenting products and processes, documenting ownership of copyright material and protecting your businesses marks and logos, you can help to maximise returns generated from these assets through licensing or 'selling' these to third parties.

The UK's Patent Box tax scheme gives IP protection even greater significance. This regime allows eligible companies to pay corporation tax at a reduced rate of ten cent on profits arising from qualifying patents and other IP rights, so it is even more important than ever for you to ensure your assets are protected.

As well as advising on all aspects of IP protection, including registering your trademark or licensing your copyrighted material, Palmers Law can assist where disputes arise over issues such as copyright, trade mark or design rights infringement, patent disputes, breaches of confidentiality and passing off.



Ownership and succession

Planning for the future of a family or SME business – for a smooth transition to a new generation of owners, either within the family or through a sale to an existing management team or external buyer – is a process that needs to start at an early stage. This can be a challenging issue and independent advice from legal professionals experienced in this field can help interested parties to take a more objective view of the situation and to provide clarity on the best way forward.

In these types of businesses, the finances are often closely allied with the personal finances of the owner and his family, which could have significant implications if the owner or a major shareholder goes through some form of personal upheaval, from a divorce to a severe injury or illness.

To protect the business as far as possible for the benefit of the other participants, it makes commercial sense to consider what can be done to protect or ring fence the assets in the event of a relationship breakdown or other change in personal circumstance. We can advise on the options available and help guide you on the best way forward.



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