

SETTING UP IN BUSINESS

INTRODUCTION:

Businesses are set up to make a profit.

A business generates income by selling products and/or services.

To be able to sell products/services, the business must **incur expenses**. If the income exceeds the costs of the business, the business makes profit.

Companies House = the Registrar of Companies in the UK.

Considerations that determine the most suitable business media:

- Cost considerations:**
 - A proportion of the company's profit may be **given** to the business owners. The rest is **retained** by that business for growth.
 - The company will need to raise finance to pay for set-up costs, develop and expand.
 - Businesses raise finance in four ways:
 - Investment by the company's owners
 - Investment by outside investors
 - Borrowing money – e.g. **issuing of a loan**
 - Retaining a proportion of the profits (instead of distributing it to investors/owners (dividend))
- Mitigating or minimising risk:**

Does the owner have personal liabilities for all debt?
- Structural considerations:**

Business media should provide a clear organisational structure.

CHOICE OF BUSINESS MEDIA:

Sole trader:

An individual running a business on their own as an entrepreneur.

PROS	CONS
<ul style="list-style-type: none"> Sole trader has complete control over how the business is run. No formalities when setting up and no setting up costs for ongoing expenses. No publicity requirements, may be maintain privacy. 	<ul style="list-style-type: none"> Unlimited personal liability. No quick finance options. Sole trader can get a bank loan but cannot create floating charges nor raise finance by share issue. Owner pays tax as an individual (income tax and CGT) – may pay higher rates

Partnerships:

Two or more people running a business for profit together without incorporating a company. – **s.1(1) Partnership Act, 1890**

PROS	CONS
<ul style="list-style-type: none"> Partners may sell out how the partnership is run in the Partnership Agreement, if no PA, the default provisions in the PA 1890 step in. No setting up costs nor ongoing expenses, however it is advisable to have a PA signed. Easy to maintain privacy. 	<ul style="list-style-type: none"> Unlimited personal liability. No separate legal identity. Partners own property and enter into contracts jointly. No quick finance options. Partners can borrow but cannot create floating charges nor issue shares. Partners pay tax as an individual (income tax and CGT) – may pay higher rates

Limited Liability Partnerships (LLPs):

Two or more people running a business with the benefit of **limited liability** but without becoming a company.

PROS	CONS
<ul style="list-style-type: none"> Limited liability. Different types of partners – General partners (unlimited liability) and limited partners. Partners may sell out how the LLP is run in the Partnership Agreement, if no PA, the LLPA 2000 default provisions step in. Low setting up costs. However it is advisable to have a PA signed but must incorporate the business at Companies House. Good finance options. Partners can borrow and create floating charges but cannot issue shares. 	<ul style="list-style-type: none"> Ongoing expenses as accounts must be prepared and a confirmation statement must be filed. Partners pay tax as an individual (income tax and CGT) – may pay higher rates Privacy is lost when the LLP is registered but to the disclosure requirements. If a loan is underwritten by a lender, unlimited liability is removed.

Private companies limited by shares:

One or more people running a business under the **separate legal personality** of a company with the benefit of limited liability.

PROS	CONS
<ul style="list-style-type: none"> Limited liability. Separate legal personality – The company may claim property and enter into contracts in its own name. The company can sell out its own procedures (specified in the articles). Cheap to register online. Good finance options. Companies can borrow, create floating charges and issue shares. The company pays corporation tax – may pay lower rates. 	<ul style="list-style-type: none"> Higher ongoing expenses due to the filing requirements and other regulations. The company must follow the CA 2006 decision-making procedures. Privacy is lost when the LLP is registered due to the disclosure requirements. Cannot offer its shares to the public so harder to find investors.

Public companies:

A company that is able to offer its shares to the public and must comply with higher reporting requirements as a result.

s.755 CA 2006 Only public companies can offer shares to the public.

s.15(2) The name of public companies must end in "Public Limited Company" or "plc".

Public companies must have:

- At least **1 Annual General Meeting** each year. – **s.336**
- At least **1 shareholder** – **ss.75(1) and s.8(1)**
- At least **2 directors** – **s.154(2)**
- At least **1 company secretary** – **s.271**
s.271(2) The company secretary must have the requisite knowledge and experience and hold a relevant qualification.
- Share capital with a nominal value of at least **£50,000**. – **s.763**
s.763(2) Public companies cannot commence business until a **trading certificate** is issued by Registrar showing that the company's allotted share capital is not less than the minimum.

Listed companies:

The company's shares will be **listed on the London Stock Exchange** to market the shares. The company may raise large amounts in funds this way. The company must be a plc before listing, so private companies must be converted. All the **listings regulations** must be complied with before making an application.

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