



BUSINESS LAW

Many Law Firms who claim that they are specialised in this field and understand what you, running your own business, require from your lawyers, do so without any real understanding of the practical problems which you face on a day to day basis. They only have an academic understanding since they have never, actually, been involved in the running of a business.

You will know, once you have any experience of day to day difficulties that the theory and the practice can be very different.

At Hawkridge, we have started our business, survived partnership break-up, experienced cash flow problems and we did not expect to survive the big crash of the nineties. We have now survived for thirty-four years and understand what is needed to survive. This experience gives our academic knowledge of the law a hard practical edge. Very often the best advice that a Lawyer can give a business is do not sue, walk away and put the problem down to experience.

To give that sort of advice we would need to know a great deal about your business and what you are seeking to achieve. We will spend time with you, which we will give free of charge, to establish this and if you will permit us, we would like to visit your business to gain, first hand, knowledge of the way you work. We would then hope that you will be able to look at us as someone who has the same interest in your success as you have and we will tailor our advice to you in the light of that knowledge and as our relationship builds.

If we see areas where you are at risk legally - then we can tell you so that you can head off potential problems. We will respond to any urgent enquiries so that you can eliminate a problem over, say, the terms of the contract that a customer wishes you to sign.

In modern terms - we think you need a "pro-active" relationship with your lawyer if you are to get good practical advice. However, we know that you know your business far better than we do and whilst we will put the alternatives and the risks that come with them, before you - you will decide which of those alternatives you consider most appropriate.

Is this expensive? This is always relative to your perception. If we develop a relationship where you feel free to phone us if you suspect that you are walking into legal difficulties, these can often be avoided. Otherwise, you may get involved in avoidable proceedings. Any form of involvement with the Courts is now becoming almost prohibitively expensive for SME's (Small to Medium Enterprises). Should this be unavoidable we will give you as firm a figure as possible of the likely cost.

We have always tried to be fully transparent in our financial dealings with our clients. We operate a "state of the art" computer system which records all the time we have spent on your case. This is recorded against an agreed hourly rate. Whilst in the future you will be able to access this information on our web-site, for the time being you can ask us at any time how much is recorded on "the clock". You can also build in a figure which we are not to exceed without your written permission.

We are conscious that the majority of misunderstandings between you and your lawyer, statistically, relate to the cost of the lawyer's service. In the words of Mark McCormack "Lawyers can seriously damage your wealth". We do not want this to happen as we would then lose you as a client - no one can afford to lose good clients!

Specifically we can help in the following areas :

STARTING A NEW BUSINESS

The majority of new businesses fail within the first two years - we do not like to fail! Many people start their new business - not because they have a talent for business - that remains to be seen, but because they have a talent at selling or making things or providing services.

That is only half of what is needed to run a business - the other half is tight financial control. We think that it is essential, no matter how unattractive the task may be, that you (You should not delegate this vital source of information to anyone who is not as involved in the success of the business as you are) prepare a running bank reconciliation and a weekly profit and loss account. If you are successful you will soon hit a cash flow problem because the costs of providing your product or service have to be paid for before you can get the money from your customer. The best way of overcoming this is to personally chase payment and to limit your exposure to risky or slow payers. We can introduce you to Accountants who will provide you with the books to monitor these positions effectively. **DO NOT EXPECT THAT YOUR ACCOUNTANT OR BANK MANAGER WILL SUPPORT YOU.** Many Accountants are really only auditors despite what they claim and the Banks are "fair weather friends".



We hope that you will let us join with you in your fight to make your business a success.

Contact either John Hawkridge or Malcolm McLean on Freephone: 0800 019 3967
Or e-mail: john@hawklaw.co.uk or malcolm@hawklaw.co.uk

LEASES

Unless your business is small enough to operate from home you must have premises. This, for most businesses, particularly new businesses means taking a Lease. Very few believe that they need legal advice before signing a Lease. Signing a formal Lease may be TANTAMOUNT TO FINANCIAL SUICIDE. You should bear in mind the following points :

1. The Lease is a commitment to pay the rent for the number of years specified in it. If you take a Lease for £10,000 a year for ten years you have just made an enforceable commitment to pay your Landlord £100,000 over that ten years whether you still want the premises or not. Can anyone say, for certain, that they will need premises for ten years or even five?
2. The Landlords Agent is not like an Estate Agent on domestic property, who now try and provide a service to both Buyer and Seller even though they are paid by the Seller - A COMMERCIAL AGENT IS THE LANDLORDS MAN/WOMAN. It is in the agents interest to maximise the rent, the term and to place on you all the obligations for repair and maintenance of the building. If he/she does he gets more commission from his client. We think that it would help most Tenants understand the Agents position if he had a large triangular fin sewn to the back of his/her smart suit! The Agent will encourage you to tell him/her about your business, it's likely turnover etc - some of this is to satisfy the Landlord that you are a suitable Tenant but most of it just increases the rent that, indirectly, you have told him you can afford to pay!
3. You may be asked to sign an Agreement limiting your lease term to two or three years - sometimes longer. Two or three years may seem a long time but when you are running a business it just flies by - indeed it will probably take at least 18 months to establish whether your move has worked. The agreement you signed means that you are not entitled to any extension of the original Lease term. Either you move to new premises before the term ends - in which case you will normally be presented with a large bill for repairs (dilapidations) or the Landlord has you over a barrel as to the rent you will pay and the restricted terms you must sign if you find it impossible to move before the Lease ends.
4. If you do not look carefully at the building and agree with the Landlord in the lease that you will not be responsible for some obvious defects - you will normally be responsible for putting the building into perfect repair. This is unfair and unreasonable in a short Lease of five years or under. This could well mean that you are faced with the cost of a new roof - thousands of pounds more than your rental liability.
5. The Lease may restrict assignment. This means that if you want to move you cannot transfer the Lease to anyone else. You either agree terms with the Landlord for surrender or continue to pay the rent until the lease has ended - even though you may have had to move to bigger premises.
6. They will seek a very early rent review, perhaps two or three years after the Lease starts. According to the British Property Federation, Reviews are now averaging five years. Review are nearly always upward only - but it is recommended that they should be linked to open market rental.
7. You will be required to pay the Landlords Legal costs on the grant of the Lease. Very often these will exceed your own. It is recommended by the Law Society that each party pay their own costs.

These are a few of the major pitfalls. We think you will agree that it is well worth ensuring that these traps are avoided. You should involve us in agreeing the terms with your Landlords agent and in checking the existing Lease or agreeing the terms of a new Lease. This could cost £2,000 - we will give you a realistic estimate when we know the proposed terms and have seen the Lease - but it will ensure that you do not have any unexpected events or bills and you will know what to expect for those which are inevitable. We can often save you the amount of our fee in the initial negotiations or by changing the terms of the lease.

Contact either John Hawkridge or Malcolm McLean on Freephone 0800 019 3967 or e-mail: john@hawklaw.co.uk or malcolm@hawklaw.co.uk



SELLING OR BUYING A BUSINESS

This can be a very complicated process particularly if the Buyer insists on a full due diligence investigation. There can be tax implications in the timing of the transaction or in the way that the parts of the price are split between the premises, goodwill, fixtures and stock. VAT may be chargeable on the stock transferred.

You may need or be asked to give covenants to protect the Buyer from competition from the Seller - who without such safeguards could set up another business round the corner as soon as the sale completed and take all the customers.

The existing staff may need to be made redundant or transferred to the new owner; difficult negotiations as the staff cannot be told, until the contract has been finalised.

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COMPANY OR BUSINESS TAKE-OVERS

These are very similar to a normal business transfer but in the case of Company Take-overs involve the sale of the company's shares rather than one payment of the price. The amount of due diligence enquiries normally increase in proportion to the price paid, but can vary from none at all to hundreds of questions taking weeks of research for both the Buyer and Seller and their Accountants and Lawyers. Obviously the costs, both legal and accountancy, increase in relation to the work done and in our recent experience can vary from just over £1,000 to tens of thousands of pounds. It pays, if possible, to keep matters simple.

For help on take-overs contact Malcolm McLean on Freephone: 0800 019 3967 or by e-mail: malcolm@hawklaw.co.uk