



LAW FIRMS – PARTNERSHIP, LIMITED COMPANY OR LLP?

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HOWARD HACKNEY

Howard is a Chartered Accountant and escaped from Grant Thornton UK LLP in 2008 where he had been a partner for over 25 years to establish his own boutique practice. During his time at Grant Thornton he was head of professional practices for the North West and head of family businesses for the UK. At Grant Thornton he had a variety of roles including office Managing Partner, North West regional marketing partner and membership of the partners appointments panel. Howard specialises in advising mid market professional practices and family businesses. In 2002 he won the CBI's national award as "Best Business Adviser".



Howard's focus is providing "special projects" advice to firms with up to 20 partners. His experience extends from highly profitable sole practitioners to advising 3 of the top 100 law firms. Recent assignments have included sales of law firms, partnership disputes, fund raising, LLP and Ltd company conversion, ABS conversions, sales and acquisitions.

MARK BRIEGAL

Mark Briegal is a partner at Aaron & Partners LLP, a specialist commercial law firm with offices in Chester, Manchester and Shrewsbury. He heads up the Professional partnerships team which covers all aspects of professional partnership from formation to dissolution including disputes, mergers and acquisitions and regulatory matters.

Recently Mark has been advising solicitors' practices on the formation of alternative business structures (ABSs) and dealing with the requirements of the referral fee ban under LASPO.

By way of background, Mark studied Classics at Cambridge University and graduated into the City. Mark worked for Chase Manhattan Bank where he ran syndicated lending, agency and trade finance operations before taking an MBA from Manchester Business School and setting up his own business, providing consultancy and training from the shop floor to the boardroom in SMEs and large multinationals across a wide range of sectors.

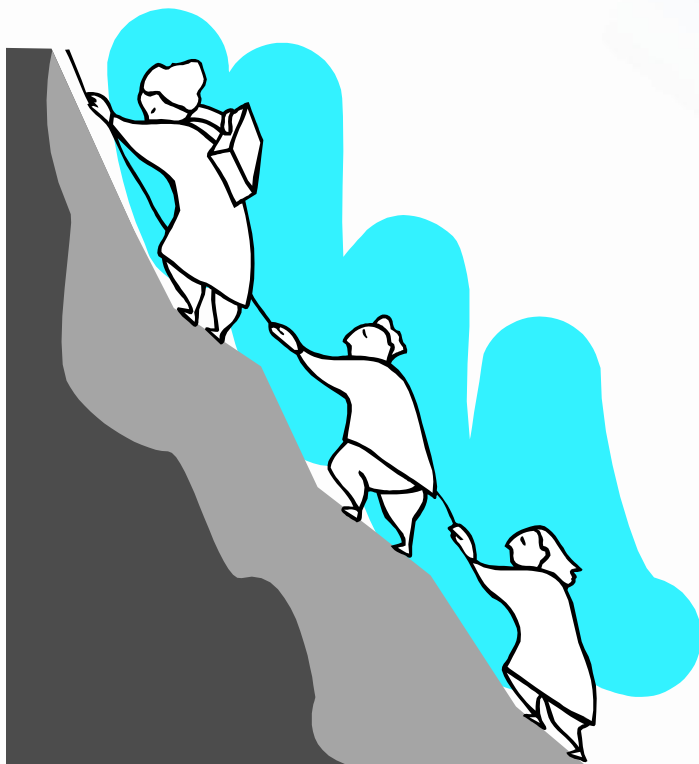
In 2001 Mark decided to change career and studied at the College of Law in Chester. He then trained at Betesh Fox (now Ralli) progressing to partner level and it was during this time he developed his specialism of Partnership law. Mark helped to establish (and currently chairs) the North West branch of the Association of Partnership Practitioners.



AGENDA

- The options
- Pros and Cons
- Key features and comparisons
- Tax
- Other issues
- Questions throughout

LAW FIRMS

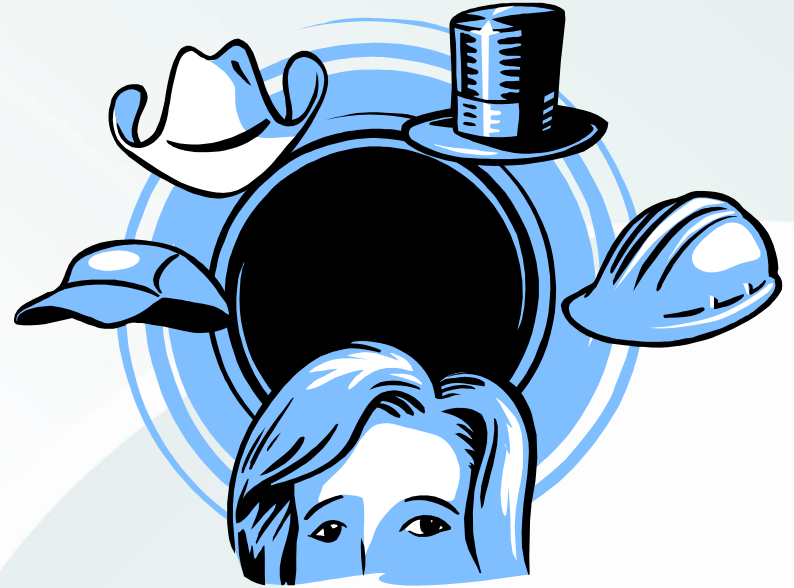


- **Law firms face commercial challenges:**
 - Succession planning
 - Generating capital internally
 - Attracting external investment
 - Providing for employee participation through tax effective remuneration
 - Building capital value
 - Retention and incentivisation of new or existing partners

THE OPTIONS

- Sole Trader
- General Partnership (GP)
- Limited Partnership (LP)

- **Limited Liability Partnership (LLP)**
- **Limited Company (Ltd)**



INCORPORATION TO LTD

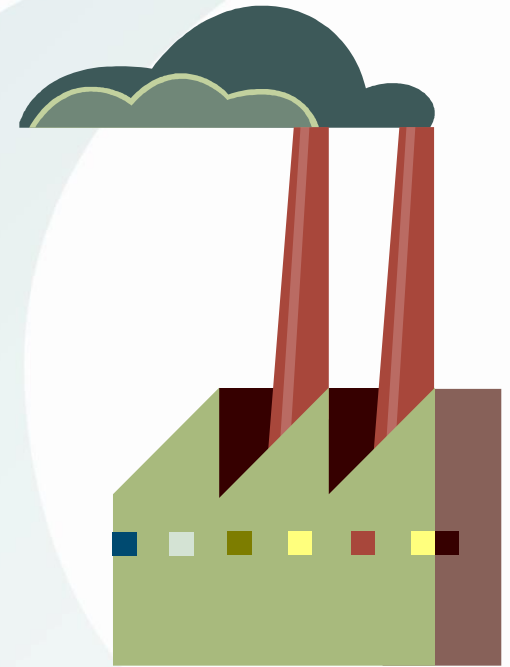
- A corporate entity – the future traditional model?
- Limited liability
- Mixture of external, internal and bank funding
- Profits belong to company – reflected in share value
- Lower tax rates on retained profits
- Separation of ownership, management and employment
- Goodwill recognised - but no longer any tax advantages on conversion from connected parties
- Public disclosure

LLP OVERVIEW

- Limited Liability Act 2000
- Limited liability
- Incorporation and registration
- Disclosures
- Tax transparent
- No capital maintenance
- Self assessment
- Audit

COMPANIES OVERVIEW

- Companies Act 2006
- Incorporation and registration
- Shareholders
- Employees and officers
- Corporation tax
- Profit extraction
- Some tax reliefs
- Incentive plans



LIMITED COMPANY PROS & CONS

Advantages

- Recognised vehicle for M&A activity
- Relatively low set up and operational costs
- Potential goodwill extraction if sale to 3rd parties
- Retained profits taxed at corporate rates – to repay borrowing
- Better structure for share incentives
- Better understood for true ABS

Disadvantages

- Inflexible succession planning
- Benefits in Kind regime – particularly cars
- Potentially expensive expensive:
 - NIC costs
 - PAYE
 - NIC
 - Cash flow
- BUT New dividend tax rules

THINGS TO CONSIDER

- The business
- Assets held
- Profit retention
- The owners
- Management
- Tax position
(losses/other income)
- Family position
- The employees
- Key talent
- Incentive plans
- Retention strategies
- The future
- Growth, succession and/or exit strategy



LLP v COMPANY

Key differences

	LLP	Company
Separate Legal Personality	Y	Y
Tax Transparent	Y	N
Limited Liability	Y	Y
Audit	Y	Y
Publicly Available Accounts	Y	Y
Loss Relief Personal Income	Y	N
Employment Legislation	N/?	Y
Written Constitution	N/?	Y

	LLP	Company
Entity Owns Assets	Y	Y
Separate Ownership / Management	N	Y
Tax Efficient Incentives	N	Y
Floating Charge over Assets	Y	Y
Transferable Shares	N	Y
Capital Repayment Restrictions	N	Y
Tax on Retained profits	Y	N

TAX DRIVERS – 2016/17

- Highest rate of income tax 45%
- Dividend Rate 0/7.5/32.5/38.1%
- Employer's National Insurance 13.8%
- Corporation tax 20%
- Capital gains tax 10/20%
- Employee's NI 12%
- Personal Allowance £11,000
- Dividend Allowance £5,000

TAX POSITION – TOUGH CALL

	Remuneration		Dividend	Interest or rent	LLP	
	40% full NI	40% lower NI			40% full NI	40% lower NI
Profits	1,000	1,000	1,000	1,000	1,000	1,000
Remuneration	(879)	(879)				
Employers NI at 13.8%	(121)	(121)				
Interest on directors loan				(1,000)		
Subject to corporation tax	0	0	1,000	0		
Corporation tax at 20%	0	0	(200)	0		
Dividend paid	0	0	(800)	0		
Profits retained	0	0	0	0		
Personal income	879	879	800	1,000	1,000	1,000
Income tax	(351)	(351)	(260)	(400)	(400)	(400)
NI	(105)	(18)	0	0	(90)	(2)
Net proceeds	422	510	540	600	510	598
Effective tax rate	57.8	49.0	46.0	40.0	49.0	40.2

Ignores - £5,000 dividend allowance and Class 2 NI

TAX ON PROFITS RETAINED ON EXIT

	CGT	
	20%	10%
Retained profits	1,000	1,000
Corporation tax at 20%	(200)	(200)
	800	800
Less CGT	(160)	(80)
Net proceeds	640	720
Effective tax rate	36	28

TAX ON INCORPORATION

- Capital Gains Tax
 - Shares for assets is CGT disposal
 - Various reliefs
- Stamp Duty – relief if same before & after
- Income Tax
 - May get back overlap relief
- Goodwill
 - Previously for post 2002 firms possible to bank at 10% AND get tax relief on write off.
 - BUT no longer possible
 - But still taxed at 10% on exit or sale to 3rd party – LLP or Ltd

OTHER TAX ISSUES

- Will dividend extraction be attacked?
- Potentially no employer NICs for fixed share partners
- Pensions
 - in Ltd ability to control income for restriction of £40k relief if > £150k
 - BUT justifiability of contribution by Ltd with no salary
- No Employment Related Securities for new partners in LLP
- Difficult to go back tax efficiently



LLP FLEXIBILITY

- No separation of ownership and management
- BUT – can separate through LLP Agreement
- Easy to change profit shares
- Easy to change capital
- Easy to repay capital
- Easy to remove partners
- Easy to retire



LLP CATEGORIES OF MEMBERS

Equity

1. Designated Members
2. Equity Members
3. Fixed Share Members
4. Restricted Members



Non-Equity

1. Designated Members
2. Non-equity Members
3. Fixed Share Members
4. Restricted Members
5. Salaried Partners
6. Associates
7. Directors

Promotion and Demotion

OTHER ISSUES

PII Cover:

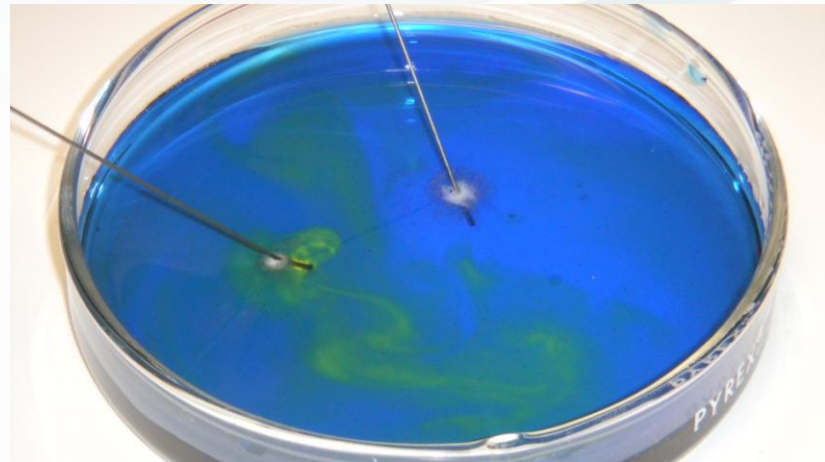
- LLP/Company £3m
- Partnership/Sole Trader £2m
- ABS £3m

Market perception

- Limited company understood by most clients
- LLPs understood by some clients
- Limited company understood by investors
- LLPs understood by professionals

CULTURE

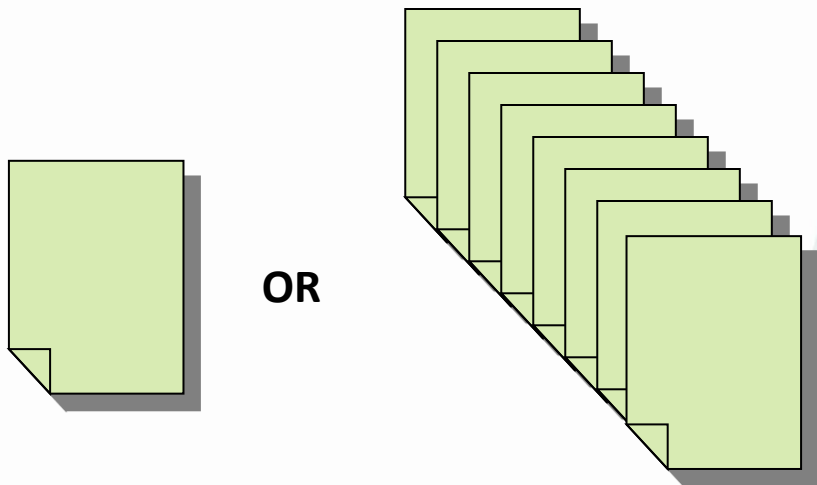
1. Corporate?
2. Collegial?
3. Big Firm?
4. Small Firm?
5. Niche Firm?
6. Professional Management?



RETIREMENT

LLP

- Terms in LLP Agreement
- Simple Deed of Retirement



Company

- HMRC clearance (buy back)
- Share sale agreement
- Value subject to HMRC agreement
- Board meeting
- Resolutions
- Companies House Forms
- Stamp Duty
- Maintain percentage shares

HOW TO REMOVE?



- Directors are employees with full employment rights
- Partners and members are self-employed with only discrimination rights
- Good employment contracts
- Good partnership and members' agreements
- De-equitisation
- Expulsion
- Exclude CA s994 for LLPs

SUMMARY

- LLP or Ltd no brainer v unlimited partnership
- No simple answer
- What is important? Flexibility v. Incentivisation
- Tax marginal
- Rule of thumb
 - LLP if draw out all profits
 - Ltd if significant borrowings to repay



THANK YOU

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