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Are you thinking of converting?

If you're thinking of converting to a Limited Liability Partnership, **EMMA CAMERON** discusses its benefits, provides practical advice on how to go about it, and how best to avoid any pitfalls...

ALIMITED liability partnership (LLP) is a business model that is becoming increasingly popular for businesses that were traditionally run as partnerships, such as law or accountancy firms or dental practices. This is because the structure of an LLP is a hybrid, drawing on characteristics of both an incorporated company and a traditional partnership.

The advantages

One of the biggest attractions of converting a partnership to an LLP is the limited liability protection that it can give its members.

With a traditional partnership model, the partners are personally liable for the partnership's losses. An LLP is a legal entity separate from its members and so it is the LLP itself which assumes liability for the LLP's losses. It should be noted that there is no protection from liability for fraudulent activity under any circumstances.

A third party is more likely to wish to be involved with your practice if they have the protection of limited liability. An LLP will therefore make it easier for your practice to merge with, or acquire, other businesses, whether they are dental practices or other complementary businesses. Bear in mind, however, the LLP must comply with the requirement under the Dentists Act 1984 for a majority of its members to be registered dentists or dental care professionals.

Another key advantage is tax. An LLP is taxed in the same way as a traditional partnership; its members are liable to pay income tax on their profits rather than, as in the case of a company, the company paying corporation tax on its profits, in addition to the shareholders paying tax on any dividends which they receive. Whether or not the tax

structure of an LLP is beneficial for you will depend on your own particular circumstances and specific tax advice should always be obtained before making the final decision to convert.

The disadvantages

LLPs are regulated more stringently than a traditional partnership and they are required to file accounts and other documents at Companies House. Whilst this may help keep the business more organised, it does result in extra work for LLP members. Once filed, these documents are freely available to the general public. This can be disadvantageous – particularly in allowing the LLP's competitors or customers to download a copy of the accounts.

Some banks may still require personal guarantees from the members but, dependent on the capitalisation of the LLP, banks increasingly realise that a charge over the LLP's assets may be worth more than covenants from the individual partners of a partnership.

Continuing obligations

Members of the LLP who are dentists or dental care professionals must continue to uphold the high professional standards in respect of their professional services as required by the GDC. The need for each member who is a dentist or dental care professional to have professional indemnity insurance in place remains. The LLP itself should also put in place appropriate professional indemnity insurance.

The conversion process

• **Choosing a company name:** This must be a name that is available at Companies



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House. If it is to include the words "dentist" or "dentistry", you will need to obtain consent from the GDC and the Secretary of State.

- **Notifications:** Important contracts, for example, pharmaceutical supply contracts, may require the consent of the counter-party before the conversion can take place.

- **Employment issues:** You should seek employment advice on the transfer of the employees from the old partnership to the new LLP as The Transfer of Undertakings (Protection of Employment Regulations) 2006 (known as TUPE) will apply.

- **Updating practice documents:** You will need to amend your website, terms of business, fax headers, invoices, signage, email footers and business cards to comply with the legal requirements relating to the disclosure to the public of certain information about the LLP, such as its limited liability status, name and registered number.

- **Property:** The partnership's property documents should be reviewed at an early stage to ascertain whether an assignment of any leasehold property is possible and, if so, whether the landlord's consent is needed for such assignment.

- **Titles:** Consider whether you will still wish to use the term "partner" (rather than "member"). If so, your terms of business should state that the use of the term "partner" is only to continue the traditional title and does not create any personal liability.

Time well spent

As with all fundamental changes to a business, the conversion will be demanding upon the time of the practice owners and managers. However, it may be time well spent as it will allow the practice to adopt a structure more suited to the modern business environment. ■

Reader enquiry: 231

About the author

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