

Companies House Sole Trader/Partnership conversions to Limited Company

There are a series of key differences when changing operations from a sole trader or partnership to a limited Company.

The key to understanding the implications is that a limited Company is seen in law as a separate LEGAL entity, and as such is separate from its shareholders and directors.

When a company is formed it is given a Company Registration number, which is unique, and is its official "Birth Certificate".

On the formation of a company a certificate is issued along with shares.

Shareholders own the company and have paid for the shares at their face value (generally £1 for new companies formed in the last few years by companies bought "off shelf")

Directors are appointed by the shareholders, and run and control the company on their behalf.

Employees are engaged by the Directors to work for the company

The Company Secretary is the shareholder's representative and deals with all the statutory requirements of the company.

A company must have

- One shareholder
- One Director
- A Company Secretary (who must be a different person from the Director) from 6th April 2008 a private company will have the option whether or not they maintain their company secretary.

Companies in the form detailed above with 1-2 shareholders and 1-2 Directors are known as [Closed Companies](#) and there are certain tax implications on dividends.

Responsibilities:

- The **shareholders** declare dividends from profits earned and may declare monthly/quarterly/yearly dividends. A 10% deemed tax is payable, and shareholders only receive 90% of the dividend. A meeting must be held to declare a dividend, and a [Dividend Voucher](#) must be issued.
- The **Directors** manage the affairs of the company by controlling the work and finance of operations. They sign cheques, legal contracts, agreements and deal with Customers, Suppliers, and Auditors etc. They are responsible for staff and employment and health and safety requirements. They have a fiduciary duty to the company, as they are its guardians and they are not allowed to let it trade insolvently.
- The **Employees** are hired to work hard and carry out the instructions of the directors.

There is a risk that when a company is owned, controlled and operated by the same people, that the distinction between these responsibilities are blurred. It is essential that they are not.

As the director, the company cannot be allowed to trade insolvently, as the shareholder excess dividends cannot be declared.

In law the money held in the Company's bank account, belongs to the company and its creditors.

Unlike a sole trader or partnership, money withdrawn must be done so formally, and not ad hoc.

The company has a separate legal entity, and as such can sue directors for miss-management and miss-appropriation of funds.

If a sole trader or partnership is unable to grasp this basic principle, running a limited company, for all its potential benefits, may not be the best route.