

A guide to incorporation

From Surrey Early Years and Childcare Service

Whether you run your childcare business as a sole trader, partnership, voluntary management committee or charity, the liability, both legal and financial, stays with the individual, committee member or trustee and this could put your personal assets at risk.

It is possible to limit your liability and protect your personal interests by changing the legal status of your business to a Limited Company. This is called incorporation.

Contact details for the companies and organisations mentioned here are listed on page 3.

What does incorporation mean?

This means that the business has its own legal identity and is separate from the individuals who own and run it. Any contract, agreement or lease is made with the company rather than the individual.

What are the benefits of incorporation?

By incorporating you limit your personal liability both financially and legally. This means that your personal assets are not put at risk if the business has problems. Please note that limited liability does not protect you in the event of misconduct, negligence or dishonesty.

How do I know if I should incorporate?

You should base your decision to incorporate on the level of risk that you are exposed to. Reasons to incorporate might include:

- responsibility for premises whether leased or owned
- having employees
- raising finance
- entering into contracts
- risk (childcare is high risk because it involves young children).

How do I know which business model I should choose?

There are lots of business models to choose from. The National Council for Voluntary Organisations (NCVO), in collaboration with Bates Wells & Braithwaite, charity law experts, has developed a free online reference and decision tool to help you decide the most suitable legal structure for your business. **Get Legal** (www.getlegal.org.uk) also has all the forms you will need to register and step-by-step instructions.

What should I do next?

Your childcare business adviser from Surrey Early Years and Childcare Service can help you to go through the steps on the Get Legal website to decide which business model is right for you. Call us on 01372 833833 or email childcarebusinessadvice@surreycc.gov.uk

Will I need legal advice?

Yes. The Get Legal website is comprehensive but as no two businesses are the same, it is essential that you get legal advice before you make a final decision on your business model.

Private organisations – where to get legal advice

To become incorporated, private organisations need to register with Companies House.

The Law Society has a list of solicitor firms in England and Wales who specialise in advising small businesses. They will be able to give you a list of solicitors in your area that can prepare your documents for registration. This will include giving you advice on what you need to include in your governing document (Articles of Association), which are the rules that the company will operate under.

The first consultation is free but it is important at this stage to clarify what your legal costs are likely to be. Depending on what you need the costs can range from £250 to £1500. If you fill in the registration forms yourself you will help to keep your legal costs down.

Voluntary organisations – where to get legal advice

Voluntary or community organisations that want to be incorporated and be a charity need to register with Companies House and the Charity Commission.

The Get Legal website has template registration forms and advice on how to fill them in. The National Council for Voluntary Organisations (NCVO) can give you a list of solicitors who will work for free.

The Pre-school Learning Alliance has a pack called A Guide to Incorporation you can buy for £11.95. It includes all the forms and documents you need and has examples of Articles of Association. They also have a contracts manager who can help you through the process. This is only available to Pre-school Learning Alliance members.

Surrey Community Action gives free support and advice on incorporation to voluntary and community groups.

How long will it take?

Companies House usually processes applications in eight to 10 days from when they get your application. It costs £20 or for a same day service it's £50.

The Charity Commission will also usually process your application within 10 days if all the paperwork is correct. There is no fee for this.

You can call them directly for forms or go online.

What other paperwork will be involved?

An incorporated company is different to a private individual or partnership, so you also need to think about the following:

- changing bank accounts
- informing or re-registering with Ofsted
- updating insurances
- giving staff new contracts of employment
- changing tenancy agreements or leases
- replacing any outside signs, web pages, headed paper and so on
- re-registering with the Early Years Free Entitlement Team.

Contact us

If you need any advice our childcare business advisers are happy to help.

Tel: 01372 833833

Email: childcarebusinessadvice@surreycc.gov.uk

www.surreycc.gov.uk/eycpractitioners

Useful numbers and websites

Charity Commission

www.charity-commission.gov.uk

Tel: 084 5300 0218

Companies House

www.companieshouse.gov.uk

Tel: 030 3123 4500

Early Years Free Entitlement Team, Surrey Early Years and Childcare Service

www.surreycc.gov.uk/eycpractitioners

Tel: 01372 833811

National Council for Voluntary Organisations

www.ncvo-vol.org.uk and www.getlegal.org.uk

Tel: 080 0279 8798

Pre-school Learning Alliance

www.pre-school.org.uk

Tel: 020 7697 2595

Surrey Community Action

www.surreyca.org.uk

Tel: 01483 447104

The Law Society

www.lawsociety.org.uk

Tel: 020 7242 1222