

# MARITAL BREAKDOWN & BUSINESS FAILURE – THE UNSPOKEN PITFALLS OF SEPARATION

Restructuring businesses is something that frequently hits the headlines when a business is sold or bought, or when a new investor comes forward, but it is not something that is often considered when there is a marital breakdown.

A family enterprise can be established in many different ways and this will have a direct impact on how the business is dealt with during a marital breakdown. The family business is not shielded from the proceedings, even if one partner has nothing to do with the actual business, in practice.



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## Consider the following situations:

- Wife or husband is added as a director, so they can take a salary, even though they don't actually ever attend the business;
- Partner is given some shares, so that they can take dividends; or
- A partnership exists, but with no formal arrangement, meaning that it is automatically governed by the Partnership Act 1890.

Each of these scenarios could present a real headache when looking to split a family business.

Continued...

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## Prevention is Better than Cure!

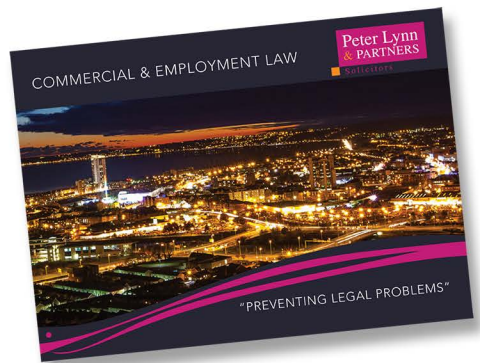
For a limited company where husband and wife or civil partners are involved in the business, having the positions documented correctly allows not only for the business to be managed through successful times, but also to deal with any future splits.

### What can we do to limit our exposure?

- Shareholder agreements: stating who owns what and how these shares can then be transferred, in the event of a dispute or the need for a split for any other reason. Crucially, such agreements will also deal with how the shares are valued.
- Service contracts: providing a mechanism to deal with a director leaving voluntarily or otherwise and managing any post-termination restrictions.
- Partnership agreements: crucial to determining who owns what and precisely what is contained within the partnership and what is not. Failure to document partnership agreements can lead to lengthy battles, in the event of dissolution or statutory rules being applied that you never knew existed!

A family business can bring many rewards; however, if matters take an unexpected turn, this could prove the hardest aspect of any matrimonial breakdown.

Take time to get it right from the start and prevent any unnecessary difficulties later on down the line!



More information on the services we provide can be found within our brochure however we always recommend an initial discussion with one of our team.

**CONTACT OUR OFFICE TO  
ARRANGE A MEETING**

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