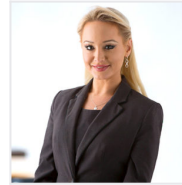




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Legal Considerations when Scaling Up your Business

Scaling is exciting, but ensuring you have all your legal requirements dealt with to reduce risk and allow you to focus on business growth is vital.

Structure

If you started as a sole trader or partnership, consider whether you should incorporate as a limited company as you scale up. Proper documentation, such as a shareholders' agreement, helps ensure you have a framework for your future development.

External Funding

There are various ways to achieve funding for business growth, and you should have discussions with your lawyers and accountants to establish the best plan tailored to your ventures. External financing may be key to bringing sufficient working capital into the business to allow growth. Funding methods include angel investors, crowdfunding, accelerator or incubator programmes, venture capital, and private equity.

Mergers and acquisitions

Mergers and acquisitions can be a central aspect of growth strategy. They can allow your business to expand quickly into new markets or sales territories, increase value for existing shareholders and reduce risk through diversification, increase the range of products and services offered, acquire new intellectual property assets, expand your customer base and increase business presence and reputation. However, in business sales and acquisitions, or even restructuring arrangements, various parties will often have conflicting interests, so it is essential to have proper legal representation to ensure the transaction is beneficial and successfully delivers the desired result in the planned growth for your business.

Workforce

Staff are essential to the growth of the business. The starting point is always to have good employment

contracts that protect their rights and any intellectual property they may produce, for example. Retaining staff and motivating them to grow together with the business is essential. Methods can involve providing incentive schemes such as EMI schemes whereby the employee will benefit from tax relief on the grant and exercise of the option. Growth shares may allow employees to benefit from the increased value of a company following an acquisition. If your business reaches certain employee thresholds, you may be required to provide certain employee benefits and meet other requirements under employment legislation.

Property

As your business expands, you may require more physical accommodation. Care should be taken when entering into commercial leases or purchases, as many factors can negatively impact business growth. Considerations should include the length of the lease, the likelihood of being able to sell the property in future, characteristics of the building itself and the amount of repair or maintenance it may require (and who pays for it), break clauses if you need to move to bigger premises in future, plans for the area in which the building is located which may impact its value, fluctuations causing the property value to decrease and specific sector risks.

Supply chain

Expanding your business frequently involves using new suppliers or manufacturers to increase business capacity, expanding distribution or territories using distributors or sales agents and exploring international growth. It is essential to ensure proper contracts with all third parties are in place to reduce the risk of legal claims and damage to the business's reputation. Companies may also be responsible for their supply chain under anti-bribery and corruption, data protection, environmental and other such legislation, so certain elements must be implemented.

Data protection

It is essential to comply with data protection legislation as the ICO can impose substantial fines based on a percentage of annual turnover and publish details about the business' default, potentially causing reputational damage. Customers will likely lose trust in a business if their data is not adequately protected so if you are scaling, ensure you comply with your data protection obligations. A business must comply with all of the data protection principles and be able to demonstrate this continuously. It is vital to have adequate policies, incorporate data protection by design and default approaches into your business plans and ensure you have correct documentation and agreements.

Cyber Security

The number of cyber-attacks is, unfortunately, rising. Properly educating and training staff and incorporating internal best practice risk management procedures should reduce the likelihood of a cyber-attack occurring.

Where it does happen, following planned protocols should help reduce the negative impact on the business and your customers and maintain trust and reputation. Proper cyber security measures will assist a company to demonstrate it is taking data protection seriously, which may lessen punitive sanctions from the ICO discussed above.

The above are just a few matters to address from a legal perspective when scaling a business. If you need assistance, we'd be happy to help, so please do not hesitate to contact our [Corporate & Commercial](#) team by emailing online.enquiries@la-law.com or calling 01202 786188.