24th January 2019

Task 1: Types of Architectural Practice

A. Sole Practioner

Architects can practice as sole traders, either completely on their own or with staff.

Many architects choose this form of practice attracted by the freedom of conducting their own business, on their own account.

Its is generally considered one of the hardest forms of practice, in that they can feel very isolated from fellow professionals.

A sole trader is a legal entity consisting of one liable individual, the individual 'owns' the business, and in effect, this individual holds all of the equity and all of the liability for the business. Since this individual owns the entire business, the only financial reporting that is required is to satisfy Government requirements for taxation purposes.

As the sole trader holds all of the equity in the business, there is no practical distinction between the business and the owner. The owner is responsible for all liability, including damages awarded for breach of contract, or tort. The sole trader is liable for debts incurred, regardless of how much has been invested in the business. This means that the owner has unlimited liability for any debts of the business, and if the owner cannot repay outstanding debts, then all of the personal assets of that individual may be used to repay the debts. In the event that personal assets do not cover the debt then the owner may be declared personally bankrupt.

Advantages:

- Autonomy at work.
- There are few formalities to setting up and operating as a sole trader. This can keep costs down and increase profits.
- The sole trader can make immediate decisions, as there is no need to consult with other parties.
- The business belongs to one individual thus all profits belong to that person.

Disadvantages:

- High risk.
- Difficult to keep up with changes in practice.

- If the business fails, all debts would have to be met by the trader's personal assets.

As a small business, sources of finance may be difficult to obtain compared with larger businesses.

B. Parrtnership

A partnership is defined as '...the relationship, which subsists between two or more persons carrying on business in common with a view to profit'.

A partnership is therefore a collection of individuals and not a corporate body.

There is no legal requirement for a written agreement but it is highly recommended that a partnership is formalised by a formal deed of partnership in which rights and responsibilities of the partners are set out.

A partnership is effectively the same as sole trader businesses except that the equity is owned by two or more individuals who are jointly and separately liable for all of the debts of the business. Each partner is liable jointly with the others for all the debts and obligations incurred. The Partnership is liable for all negligent acts committed by any one of its partners, even though the others may have taken no part in such negligent action. This also applies to people who were partners at the time of the negligent action, but who have subsequently retired from the practice. A partner's liability can extend to all of their business and personal assets.

A partnership is normally extinguished upon the death of a partner, or by notice of termination of the partnership agreement by one of the partners.

Partnerships can have a standing agreement, which avoids this necessity for re-organising.
Partners can distribute any profits from the business in any way that they wish.

Advantages:

- There are few formalities to setting up and trading as a partnership.
- The financial resource of more than one person is likely to be better than those of a sole proprietorship.
- Responsibility can be shared
- There are good opportunities of expansion due to the ability of collective resources from all the partners
- Employees may share profits via bonuses.

Disadvantages:

- Partnerships have unlimited liability
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One troublesome partner could cause difficulties for the other partners , as the action of one partner makes the others liable.

C..Public Limited Liability Company

A private limited liability company is the traditional alternative to working as a sole practitioner or partnership,

A limited liability company (LTD) is a legal entity separate from all its members (shareholders). There is no limit on the number of members that form a LTD company, and a board of directors, who carry no personal liability, run the company. The liability of each shareholder is therefore limited to the nominal value of his or her shareholding. A limited liability company is governed by the Companies Act and must register with the Registrar of Companies.

In terms of company organisation a LTD company must have at least one director and may also have a company secretary, but must have a clearly identified management structured administered by a board of directors. The senior level of management may include equity and non-equity directors. This structure can allow for young and talented staff to reach the top of the firm by allowing them to buy themselves into the company.

LTD companies have a number of **advantages** over partnerships:

- Protection of personal assets. The directors are not personally liable for the debt of the company.
- It is easier for a LTD company than a partnership to raise funds from outside sources of finance.
- Tax advantages. The taxation position is relatively simple and overall taxation can be lower than a partnership
- All employees, including directors are subject to PAYE, this can be favorable as it avoids sudden large tax payments.
- It is easier to remove an unsatisfactory director than an unsatisfactory partner.

- The company does not dissolve when a director leaves or shares change hands and there are no complex legal procedures involved.

- Companies are internationally recognised and so it may be easier to develop business relationships overseas than it would otherwise be with a partnership.

Disadvantages:
- The companies finances are in the public domain as annual accounts have to be filed at companies House.

There can be an administrative burden.
In Ireland the types of Company are described as follows (Registered at www.cro.ie)

Limited company

The shares in a company are owned by its shareholders. If the company is a limited liability company, the shareholders' liability, should the company fail, is limited to the amount, if any, remaining unpaid on the shares held by them. A company is a separate legal entity and, therefore, is separate and distinct from those who run it. Only the company can be sued for its obligations and can sue to enforce its rights.

There are several types of limited company:

- A Private Company Limited by Shares (LTD company): The members' liability, if the company is wound up, is limited to the amount, if any, unpaid on the shares they hold. The maximum number of members is 149. An LTD company can have only one director if it chooses. An LTD company does not have stated objects and can undertake any activity. Part 2 of the Companies Act 2014 refers.

- A Designated Activity Company (DAC) – (limited by shares). The members' liability, if the company is wound up, is limited to the amount, if any, unpaid on the shares they hold. The maximum number of members is 149. A DAC company must have at least 2 directors. Constitution includes a memorandum and articles of association. The memorandum will include stated objects. Part 16 of the Companies Act 2014 refers.

- A Designated Activity Company Limited by Guarantee (DAC) – (limited by guarantee). The members have liability under two headings; firstly, the amount, if any, that is unpaid on the shares they hold, and secondly, the amount they have undertaken to contribute to the assets of the company, in the event that it is wound up. The maximum number of members is 149. A DAC company must have at least 2 directors. Constitution includes a memorandum and articles of association. The memorandum will include stated objects. Part 16 of the Companies Act 2014 refers.

- A Company Limited by Guarantee (CLG) (limited by guarantee not having a share capital): The members' liability is limited to the amount they have undertaken to contribute to the assets of the company, in the event it is wound up, not exceeding the amount specified in the memorandum. As a guarantee company does not have a share capital, the members are not required to buy any shares in the company. Many charitable and professional bodies find this form of company to be a suitable vehicle as they wish to secure the benefits of separate legal personality and of limited liability but do not require to raise funds from the members. Part 18 of the Companies Act 2014 refers.

- A Public Limited Company (PLC): The liability of members is limited to the amount, if any, unpaid on shares held by them. It should be noted that it is unlawful to issue any form of prospectus except in compliance with the Companies Act 2014. The nominal value of the company's allotted share capital must not be less than €25,000, at least 25% of which must be fully paid up before the company commences business or exercises any borrowing powers. (s.1010) Part 17 of the Companies Act 2014 refers.

B. Limited Liability Partnership

Limited liability partnerships (LLP) are most commonly found in the accountancy and legal professions, however they are now more frequently found as a form of practice in the architecture profession.

Limited liability partnership is a relatively recent business structure, and combines elements of the traditional partnership with those of limited liability companies.

Limited Partnerships (LP's) are available in **Ireland** however they are quite rarely used, and only a handful are registered in **Ireland** each year. An LP must consist of at least one general **partner** and one **limited partner**. ... The general **partner**(s) is/are **liable** for all the debts and obligations of the firm.

Created and governed by the Limited Liability Partnership Act 2000 (UK) & Limited Partnership Act 1907 (Ireland), this hybrid structure seeks to retain the best from best worlds (traditional partnership and limited liability companies), this means an LLP can absorb the Partnership ethos and structure with complete freedom of internal organisation, with the only exception that two of its personnel must be designated to perform duties similar to those of a company secretary and director.

The creation of LLP's were a response to representations from the professions that, in an increasingly litigious world, the traditional unlimited personal liability implicit in a traditional Partnership should be replaced by a structure offering some limitation of liability when carrying out normal business activities. Members of an LLP therefore carry joint, but not several, liability for the actions of the LLP. This all-important protection of limited liability is an aspect absorbed from a Limited liability company.

From a tax perspective LLPs are treated in the same way as Traditional partnerships (and for the purpose of UK income tax and capital gains). This means that income is taxed in the year that it is apportioned to the members. Members are therefore effectively treated as self-employed. However, unlike traditional Partnerships, an LLP is obliged to file accounts and other documents at Companies House, meaning that to a certain extent, elements of their affairs are visible on the public record.

LLPs are highly flexible entities and, depending upon the terms of agreement drawn up to govern such them, facilitate the addition and removal of members in a way which does not apply so readily to the traditional partnership structure. Usually a LLP is governed according to a LLP agreement. This agreement is similar to a company's Memorandum and Articles but the key point is that, like in a company a member cannot lose more than they have invested, unless fraud or some other form of wrongdoing is proven.

Advantages:

- A limited liability partnership is liable for its debts and other obligations but its members are not liable for the debts of the partnership.
- There are no restrictions on the number of members.
- Registration with Companies House protects the company's name by law, and prevents anyone from trading with the same name.
- The death or resignation of a director does not affect the structure of the company which can continue to trade as before.

Disadvantages:

- There can be complex and costly start-up procedure.
- Accounts must be prepared in accordance with accounting standards and must be audited.
  If the turnover of the company is over a certain threshold then company accounts must be submitted every year. This can incur additional cost as accountants and auditors are required.