

Private assets



**ASSIGN
BUSTER**

The downside of choosing limited company is a more complex process of setting up, legal formalities, administrative costs and lost privacy. So business in Canterbury would need to be registered with the Companies House where a copy of company's report would have to be sent there annually. That would make some financial information available to competitors. Consequently owners of the business in Canterbury would face various administrative costs like hiring an accountant to do the books. Whereas the cost of establishing partnership would be much lower, no registration would be needed and there would be no rules in respect to accounting records or publishing company's information.

However partners would not be able to sign the fixed and floating charge whereas shareholders could. This type of document would be important because it would enable owners of the business to manage their fixed assets without control of the bank unless the business goes into liquidation. Though partnership has a few advantages Mrs. Warner or Mr. Child as partners might face illness, retirement, withdrawal or death with adverse potential legal and financial consequences. Whereas limited companies would be a separate legal entity from its shareholders and would continue its existence despite death, illness or retirement of one of the owners.

A limited liability partnership (further - Llp) is one more option that customers may want to consider. It is similar to ordinary partnerships but has the following differences: Llp needs to be registered with government organization and exists as a separate legal entity from its owners. So advantage of choosing this business entity is the limited liability. The amount customers may lose is limited to the amount they invested. However for

most of people it is much less popular. Mainly it is because Llp has the same downsides as limited company has which were mentioned two paragraphs above.

Recommendations to BCFS bank

This business report has identified three major questions BCFS bank needs to consider: how much money it may lose, who will be liable and how the bank will get its money back in case the business goes into liquidation. According to information provided, the bank has approved a £1,000,000 loan for the business in Canterbury. Depending on the business entity chosen by owners, the scope of liability will be different.

In case of forming a partnership Mrs. Warner and Mr. Child will face unlimited liability for all business debts. When customers buy a planned Georgian Town House in the name of the partnership this property will be owned as a group of people. So they will be liable individually and as a group for repaying the loan. The same property brought by a limited company will be registered in the name of limited company because it exists as a separate legal entity. So if business fails Mrs. Warner's liability will be limited to potential loss of 800,000.

So how BCFS bank can minimize the risk of not being repaid in the event of business going into liquidation? There are a few ways. It is mostly presumable that a 1,000,000 loan will be borrowed in the form of a commercial mortgage. So in case the business defaults the bank will be entitled to sell the Georgian Town House as a direct security. If the value of the property will not be enough to cover the whole 1,000,000 then bank will be entitled

to sue the owners of the partnership as their liability is unlimited. Any gap will be recovered by selling customers' private assets chosen by bank as owners of partnership share joint and several liability.

If the commercial mortgage will be provided to a limited company the bank will likely ask Mrs. Warner and Mr. Child as company directors to enter into a personal guarantee. By signing such a document the directors will take personal commitment to repay the loan up to 1, 000, 000. That means Mrs. Warner and Mr. Child would put at risk their own assets which could be repossessed in case they will not be able to repay the loan. So personal guarantee as well as fixed and floating charge (the idea explained in first section of this report) will be indirect forms of security available to BCFS bank. These together with direct security - Georgian Town House will help to minimize risk BCFS may face. All the three forms of security will serve as the ways for lender to get the money back if business is to default.

However when BCFS bank is concerning the scenario of repossessing owners' private assets (if there is a need to fill the gap of money borrowed and repaid) there are some conditions to be fulfilled. It is important to note that Mrs. Warner and Mr. Child own their properties jointly with married partners. So the bank has to ensure that husband of Mrs. Warner and wife of Mr. Child understand the risk they are taking with their partners who are starting up the business. Only by making sure married partners have signed document saying they have received legal advice from independent solicitor bank will be able to repossess the properties in case of business defaults. Otherwise husband of Mrs. Warner and wife of Mr. Child will claim there was a misrepresentation.