

Shareholder Agreements

Frequently asked questions



A shareholders' agreement regulates the relationship between the shareholders, the management of the company, ownership of the shares and the protection of the shareholders. They also govern the way in which the company is run.

A shareholder agreement should not contradict the Articles of Association (which are governed by Company Law), rather it complements statutory law and provide more bespoke and tailored terms between the shareholders. It is common to provide that the shareholders' agreement will prevail over the articles of association and this will be enforceable.

Shareholders' agreements are often used as a safeguard and to give protection to shareholders, because (amongst other things) they can provide for what happens if 'things go wrong'.

Main Provisions of the Agreement

An agreement can provide for many eventualities including the financing of the company, the management of the company, the dividend policy, the procedure to be followed on a transfer of shares, deadlock situations and valuation of the shares.

It is usual to agree who the auditors and bankers are, where the registered office is and what the accounting reference date of the company is and that these matters should not be changed unless unanimous agreement is reached.

Provision in the agreement can require certain matters to be approved by all the shareholders before being acted upon, for example, varying the salary of any directors, entering substantial business contracts or starting legal proceedings.

It is common to have clauses to allow the company to bring an action against, for example, a misbehaving director and restrictive covenants on the shareholders which prevents them from competing with the business of the company.

The dividend policy of the company can be agreed (you can consider what percentage of the profits should be paid to the shareholders each year and provide for when the company doesn't have to pay a dividend).

If there is a stalemate between shareholders or directors in any respect, then the shareholders' agreement can provide for what happens if there is a 'deadlock'. Deadlock provisions are important to all agreements but can be even more important when there are only two shareholders holding 50% of the shares each, as in this instance deadlocks may occur more frequently.

Shareholder Agreements

Protection

Protection of both majority and minority shareholders on sale of the business can be secured by including 'tag along' or 'drag along' rights. Under such provisions the majority shareholders (when selling the company to a third party) are required to ensure that the minority shareholdings are bought on the same terms and price as the majority shareholdings. The minority shareholder may also have to accept the third party offer.

You may wish to have an obligation upon shareholders to provide further funds to the company.

One of the main issues to consider is what should happen if one shareholder wants to leave the Company. Without any such clause in a shareholder agreement a shareholder who leaves may be able to sell his shares to anyone. A practical option would be to include a provision whereby shares are offered to the remaining shareholders first. This way, if one of the shareholders wishes to leave the company then the other(s) will have the option to purchase the shares from them.

If the shareholders do not buy the shares, there can always be a provision that the shares are then offered to the company who must buy them back if there is sufficient cash.

You may also wish to consider whether the shares could be sold to a third party, though this could bring about its own problems. However, this may not be as onerous as having an unhappy shareholder 'locked in' to the company. The shareholders' agreement helps iron out such issues before they arise by setting out a clear structure to the sale or transfer of shares.

Another extremely important consideration is, what should happen if one of the shareholders dies, although we normally recommend a separate share protection arrangement for these circumstances.

Your Shareholder Agreement

Your shareholder agreement will be bespoke and reflect your company structure, requirements and considerations.

Ask about our article regarding **Shareholder Protection Insurance**.

Why Jarrovian Wealth?

Ascend Executive work in partnership with the award winning Jarrovian Wealth.

Jarrovian were listed as one of the top 100 financial planning businesses in the UK for 2018 by New Model Adviser magazine. Jarrovian help our clients plan and achieve their desired lifestyle.

Once achieved, they help maintain and protect your lifestyle through life's trials and tribulations. Contact us today to arrange a free consultation.

To arrange a free consultation please contact your Ascend customer manager or contact:

Frank Oxberry
Managing Director
Jarrovian Wealth



T: 0203 747 9242
F: 0203 070 0203 M: 07884 002007
frank@jarrovian.co.uk





Ascend Executive

Personal High Net Worth Insurance Solutions

Our Awards

Since our inception in 2017 we have sought to provide an innovative, local and personal service to our clients.

Our goal is to be the best, not the biggest, and our unique approach has recently been recognised in the insurance industry in the following highly respected awards:



Ascend Executive

Personal High Net Worth Insurance Solutions

Ascend Executive

21 Springfield Lyons Approach, Chelmsford Business Park, Chelmsford, Essex CM2 5LB

Tel 01245 449 060 | Email info@ascendbroking.co.uk | Web www.ascendexecutive.co.uk