



# **Information for Solicitors On Buying into a Partnership**

How to Handle a Partnership Offer, What to Look  
For, Supports You Can Access



# 1. INTRODUCTION

This leaflet was drafted by Support Services at Law Society of Ireland to provide solicitors with outline information about buying into a Partnership. It does not deal authoritatively with legal and regulatory matters and it should not be relied upon in this regard.

For authoritative guidance, please consult with Law Society of Ireland Committee and Regulation Department publications and with the book '*A Guide to Good Professional Conduct for Solicitors*'.

Many solicitors progress their careers by either buying into a partnership or by buying a practice outright. Also, legal practices themselves merge and/or purchase other practices for a wide range of reasons.

This leaflet outlines the personal development and commercial aspects that tend to take place in the lead-up to buying into a partnership. Buying a practice is not covered in this leaflet but is dealt with in a separately dedicated one.

This leaflet is more focused on buying into small and medium-sized partnerships than larger and corporate ones. The process of progressing into partnership in large and corporate firms tends to be uncomplicated. This is because a well-established structure usually exists, there is little room for negotiation and a framework of support is often in place for prospective partners. In small partnerships, everything tends to be more dynamic.

## 1.1 Important Warning

While most solicitors become a partner by express agreement with existing partners it is important to understand that you can end up with partner responsibilities and liabilities as a result of being “held out” as such. This happens when the solicitor has been presented to the outside world as a partner. This may, or may not, have been intended by the parties involved. If this happens, clients can insist that you take responsibility for the liabilities of the firm to them. (If you are a partner by holding out, you do not have responsibility as a partner to the other partners in the firm.)

## **2. IS PARTNERSHIP LIKELY TO SUIT YOU?**

The first thing a solicitor needs to be clear about is whether she or he is suited to self-employment. That's what partnership is. If security and certainty are critically important to you, then this way of working may not be right for you.

The next matter that needs to be considered is how well suited you are to a shared ownership way of working. A good way of exploring these two matters is to go and talk to solicitors who have relevant experience but who are not involved in the partnership that you are considering joining.

### **2.1 Practicalities of Partnership**

Being a partner means that you'll probably need to share responsibility for managing the firm with fellow partners; this may involve matters such as mapping out the firm's strategic direction, devising a marketing strategy and business development.

Being self-employed will change a whole raft of personal matters. One important one is remuneration. It is not guaranteed that you will receive an amount equivalent to your former salary. The partners, being the owners of the firm, will always be the last to be paid. In a bad year, your earnings may be tiny.

As a partner, you are outside the protection of employment legislation. If you find yourself having to leave the partnership, issues of minimum notice, redundancy or other employment issues are not relevant. You have no statutory employment rights. You are simply ceasing to be in a business with your former partners and your only rights are those contained in your partnership agreement.

As a partner, your tax will no longer be deducted under the PAYE system. It will be your own responsibility to make returns to Revenue and to manage your finances so that you have funds available to pay your tax when it becomes due.

Most importantly, if the business ceases to operate, you can be held jointly and severally liable, along with your partners, for any outstanding debts and liabilities. □

### **3. WHAT ARE YOU BEING OFFERED?**

There are many different models of partnership and it is critical to be clear about the nature of the partnership being offered. If you are offered a full partnership, this is usually referred to as an equity partnership and you become a full partner of the firm.

You may be asked to contribute a capital sum to pay for your share of the assets of the partnership. This is usually called 'buying into the partnership'.

You may have to borrow funds to invest the relevant sum in the firm immediately. Alternatively, you may be permitted to build up your capital over a period. You do this by not drawing your full share of the annual profits over several years and transferring these amounts to your capital account in the firm.

Your cash contribution may go towards balancing the books of the firm. This is often necessary taking into account that some of the firm's assets, such as debtors and the value of work-in-progress. Alternatively, it may be used as a cash windfall for existing partners, allowing them to draw down more money from the firm than would otherwise have been possible.

If you are being asked for capital, you need to ask yourself whether your stake in the firm will lead to a level of earnings which justifies your capital outlay.

#### **3.1 Distribution of Profits**

How will the profits be distributed? If joining an existing firm, it is unlikely that you will be offered a share in the partnership equal to the more senior partners. If you are to have the smallest percentage, will this change over time?

In partnerships of only two or a few partners, it is more likely to find a fairly even distribution of profits. In larger firms, the environment is more likely to be competitive with the division of profits being based, at least to some extent, on performance, mainly measured by fees earned for the firm.

## **4. HOW TO HANDLE A PARTNERSHIP OFFER**

If you are offered a partnership, best advice is to take your time. Even if you are made an offer with detailed terms provided, you should give yourself a reasonable period, probably a minimum of a few weeks, during which you can consider the matter in general as well as considering the specific terms.

Don't allow yourself be rushed and approach everything cautiously. It is unlikely that one meeting will be enough to finalise all the issues. This is a big decision.

Firstly, you must consider your own personal situation. Are you ready to make the necessary commitment? Are you ready to settle down? Would taking a partnership tie in with your plans for the next five years? Are you prepared to commit to the partnership for an indefinite period?

You will need all information available in order to make an informed decision. You will need information about the firm from the partners. You will also need information in relation to firms in general for comparison purposes. You can obtain the latter from talking to friends and colleagues who have already been through the process.

You need to know the current financial state of the partnership. Request final accounts for the last three years and have an accountant review them. The accounts are confidential to the partnership, therefore, you will need specific permission from the partners to show the accounts to your accountant.

Does the firm carry an overdraft? If you want to leave the partnership at a later stage, you may find that the bank will not release you unless the overdraft is cleared.

Does the partnership have potential to be a good business into the future? What is the profile of the clients? What areas of practice are likely to continue to be profitable and what new areas can be developed? What is the competition like?

Do existing partners get on well? Also, consider your own personality up against those of the people you are considering joining. This applies whether you are joining an existing partnership or setting up a new firm.

It will not be necessary to become bosom friends with all the partners but it's important that you believe you can get along and work with everyone involved.

Will some partners, whether formally or informally, tend to be 'lead' partners. If you are joining the firm in which you were employed as an assistant solicitor there will be a change of status for you within the firm. This will come about to a large extent from your own response to the new situation.

If you are joining a solicitor who founded the firm as a sole practitioner, will it be possible to carve out your own space in the firm? Or, will the person always be of the view, that they are entitled to greater status than other partners and to extra reward?

## **4.1 Critical Matters to Clarify**

There are several matters that require clarity and be must be resolved to your satisfaction.

- How will you be remunerated relative to the other partners?
- Where does the firm's business come from and what are its future prospects with regard to firm development?
- Does the firm appear to have good future direction?
- Do material problems or risks exist or are ones likely to surface in the future?
- If there is a 'buy-in', how much is it relative to your expected increase in earnings?
- Is the firm's income derived from the clients of one or two partners and how would that affect you if they left?
- Even if your remuneration does not get a big bump from being a partner, is it worth it, for some other reason, to take on partnership?
- Do you like the current partners and get along with them?
- Are there "deferred compensation" type arrangements where partners retiring continue to receive pay despite not performing much work? If so, how will this affect cash flow and remuneration for other partners?
- If partners retire, is there a plan for business and client succession?
- How many partners are there? Will the firm be top-heavy? Does this matter?
- Are existing partners likely to let you develop in your work as you want to?

## **5. CONSIDERING A PARTNERSHIP OFFER**

Each partnership is different, and the offers to become a partner are made in all sorts of ways - some formal, some very informal. Indeed, the Law Society Regulation Department has warned about half-made partnership agreements and the perils of solicitors not knowing or, worse, misunderstanding their status.

Hopefully, you have already or will be provided with a documented proposal and/or a copy of the partnership agreement that is proposed. You can then establish where you will stand, if you decide to go ahead, regarding matters laid out below.

### **5.1 Type of Partnership Offered**

Irish solicitor partnerships are obliged to operate as an unlimited partnership. In a general partnership, the partners are jointly and severally liable for the debts and obligations of the firm. In addition, each partner is personally responsible for the liabilities of all other partners and is potentially on the hook for the full amount of all partnership liabilities.

There are many models of partnership but, the big distinction for solicitors who are partners in legal firms in Ireland tends to be between equity and non-equity partners.

Equity partners can vote and participate in the sharing of profits. Non-equity partners, also known as salaried or junior partners, usually cannot vote (although they often attend partnership meetings) and they don't share in the profits.

Non-equity partners are also excused from contributing capital to the firm. Often a non-equity partnership position is for a trial or probationary period of two to three years before an offer of full partnership is made.

The main downside to being a salaried partner is that, to the outside world, you're held out as a partner. In a general partnership, that means you're still potentially liable for the firm's debts and obligations.

So while a salaried partner, you should ensure that you have obtained full indemnity from the profit-sharing partners for any liabilities of the partners or the firm. The partnership agreement will ordinarily set out the basis upon which partners are liable to indemnify other partners or the partnership for liabilities.

## **5.2 How Profits Will Be Distributed**

How will the profits be distributed? If joining an existing firm, it is unlikely that you will be offered a share in the partnership equal to the more senior partners. If you are to have the smallest percentage, will this change over time?

In partnerships of only two or a few partners, it is more likely to find a fairly even distribution of profits. In larger firms, the environment is more likely to be competitive with the division of profits being based, at least to some extent, on performance, mainly measured by fees earned for the firm.

There are many possible profit-sharing schemes, including:

- Equal profit-sharing among all partners
- A lock-step system – all partners at a particular level of seniority are recognised and paid equally
- An “eat-what-you-kill” system based solely on individual billings and collections
- A formula scheme based on billings and seniority
- Merit-based on billable and non-billable performance
- Any combination of the above

Consider how non-billable activities are recognised. How will you be remunerated if you look after something like risk management in the firm?

## **5.3 Firm Governance and Decision Making**

The partnership agreement should cover the decision-making process for important issues. Otherwise, the firm runs the risk of stagnating if partners can simply sidestep decision-making.



In many smaller firms, all partners generally participate in the management of the firm through regular monthly meetings. In larger firms, decisions about the firm's day-to-day operations may be delegated to a management committee. However, a partnership vote is required for fundamental changes and major decisions like changing the firm name, merging with another firm, etc.

## **5.4 Capital Contribution**

Some partnerships require new partners to make a capital contribution to the firm. However, the provisions in the partnership agreement are likely to be quite general and state only that each partner must pay a capital contribution in an amount and at such a time as shall be decided.

## **5.5 Break Clause**

Committing to a partnership for an indefinite period is quite a daunting prospect. You may feel you can only make a decision in the medium term. For instance, you may not yet have decided that the geographic location of the firm is necessarily where you want to live in the medium to long-term. □

One option is to have a break clause after a few years when the terms of the partnership can be re-examined and when there will be an option to review the matter at that point or even to exit from the partnership. □

## **5.6 Exiting Arrangements**

Is there clarity about exiting arrangements - whether a partner leaves because of a decision on his/her own part to move on, retirement on age grounds or because of expulsion?

Is expulsion to be limited to situations where there has been serious misconduct on the part of one partner or might it also come into play because the other partners

agree for strategic or practice development reasons that one or more partners should leave?

Are all the partners required to take out permanent health and other insurances so that, for instance, if a partner becomes seriously ill, arrangements are in place to ensure an income for that partner at a time when he/she is not contributing to fees?

## **5.7 Performance Measurement Criteria**

You will want to know what the performance requirements are once you become a partner, and if they're enforced. While the agreement is likely to cover a partner's general duties, it's unlikely to deal with any performance criteria, normally found in other paperwork relating to the compensation system. Some firms have a professional development plan for each partner, agreed to by the partner and the management or compensation committee. Each partner's compensation is then pegged to meeting the goals set out in their professional development plan.

## **5.8 Expenses and Liabilities**

The partnership agreement may say that the management committee or managing partner is responsible for the day to day management and control of overhead expenses. Expenses may be allocated equally among partners or shared differentially according to a pre-determined arrangement. If shared unequally, you'll want to know who decides what your portion will be and how that decision is made.□

## **5.9 Other Terms**

Other matters you may want to consider are likely to include the following:

- Whether one partner will take the main burden of administrative work.
- How strategic planning for the firm will be organised.
- Whether the hiring and firing of staff will be a matter for all partners to agree on.
- Whether there are specific arrangements for dissolution / termination.
- Whether restrictive covenants will apply to former partners

## 6. SUPPORTS AVAILABLE

Law Society of Ireland provides a wide range of supports to solicitors who are considering buying into a legal partnership. Pivotal is an email and telephone helpline administered by Shane Farrell in Practitioner Support. Solicitors are welcome to email [practitionersupport@lawsociety.ie](mailto:practitionersupport@lawsociety.ie) or telephone 01 672 4937 with any queries or concerns about buying into a partnership and/or any associated matters.

Law Society of Ireland has also produced a number of booklets including 'Partnership?' as well a large number of relevant practice notes and magazine articles published in the Gazette.

### 6.1 The Buy Sell Merge Facility

The Law Society's Buy Sell Merge facility is an important resource that solicitors should be aware of and one that you can use in a wide variety of situations. It can be accessed on the Law Society website - on the 'Solicitors' drop-down menu - and in the 'Running a Practice' column. Buy Sell Merge is a free, anonymous online forum that solicitors can use to advertise their interest in a wide variety of matters - such as:

- Buying a practice
- Selling a practice
- Merging a practice
- Sharing overheads

An interesting feature of Buy Sell Merge is that solicitors who place advertisements remain anonymous. It is simply not possible for anyone to identify them. Solicitors who respond to advertisements are identifiable to advertisers and advertisers can respond to them or not - according to their preference.

### 6.2 Expert Support

Investing in any kind of business is not something that anyone should attempt to do without competent professional support. A list of brokers and consultants who work with solicitors and legal firms is provided overleaf. □

## Consultants Who Support Solicitors Buying Practices

Firm	Outsource
Type of Business	Consultants to professional service firms
People Involved	David Rowe, Donal Maher
Telephone	01 6788490
Email	info@outsource-finance.com
Web	<a href="http://www.outsource-finance.ie">http://www.outsource-finance.ie</a>
Firm	Russell Software Solutions
Type of Business	Accountants and Operating Systems Software Providers
People Involved	Charlie Russell and Barbara Russell
Telephone	01 845 6522
Email	carussellco@gmail.com
Web	<a href="http://www.russellsoftwaresolutions.ie/">http://www.russellsoftwaresolutions.ie/</a>
Firm	Anne Neary Consultants
Type of Business	Solicitors and Management Consultants
People Involved	Anne Neary
Telephone	01 4911866
Email	anne@anneneary.ie
Web	<a href="http://www.anneneary.ie">http://www.anneneary.ie</a>
Firm	Bottom Line Consultancy (UK Firm)
Type of Business	Consultants in the sale and purchase of legal firms
People Involved	Ray Fox
Telephone	0044 1494 483728
Email	raymondafox@aim.com
Web	<a href="http://bottomlineconsultancy.com">http://bottomlineconsultancy.com</a>
Firm	Haydon Chartered Accountants
Type of Business	Firm of accountants
People Involved	Hilary Haydon
Telephone	01 2051700
Email	info@haydon.ie
Web	<a href="https://haydon.ie/">https://haydon.ie/</a>