

Thinking about leaving an LLP? Read on.

If you are thinking of leaving a Limited Liability Partnership (LLP) you will be disposing of your interests and assets in the LLP for good. Having advised many partners over the years, we know how vital it is for departing partners to have a clear understanding of their entitlements and obligations before, during and after their departure.

Departing partners should satisfy themselves that they understand the financials, process and long-term implications of an exit before taking any decisive steps.

This article signposts the key considerations LLP members should have in mind when planning an exit and what to expect during the process.

Understand the financial implications and plan accordingly

Ordinarily, the financial and non-financial terms of your exit will be set out in a retirement deed. This provides certainty and avoids any unwelcome surprises. Reaching an amicable agreement is not always feasible. Either way, you should get ahead and make sure you understand your financial obligations to the LLP and its obligations to you. A good starting point is the LLP's management and profit and loss accounts.

Once you have reviewed the LLP's accounting documents, you

should aim to address the following financial points with your fellow members at an early stage:

1. The level of earnings you will receive during your notice period. This is likely to be made up of a fixed draw, together with some variable pay or profit.
2. Your profit share distribution. You may already have an idea of what your share of the LLP profits may be. However, if the LLP's profit share distribution will be decided after your proposed departure date, you should prepare your estimates and the reasons and evidence which support your calculations behind the same.
3. The capital you hold in your account and what drawings you expect to make.
4. Whether you need to make any repayment of capital or satisfy any loans.
5. The level of any relevant tax reserve account.

You may also be asked to sign a settlement agreement which requires you to waive claims against the LLP. Given you are waiving important and potentially valuable rights, you must take advice on the terms and effect of a settlement agreement before entering into the agreement.

How do you leave?

Your first port of call is your governing document. The LLP's governing document (usually known as a Partnership Deed or Membership Agreement) will deal with exit arrangements and will usually cover:

- the different ways a member may leave the LLP;
- the period of notice a member must give, or is entitled to receive, when leaving the LLP; and
- the process to be followed when a member leaves the LLP.

Type of exit

Subject to the terms of the governing document, a member may retire at their own election or they be compulsorily retired or expelled by the other members of the LLP.

LLP members are not employees and, therefore, do not have protection from unfair dismissal. If you are being exited against your will by expulsion or compulsory retirement, you should seek legal advice on other legal protections you may have as worker, such as protection from discrimination or whistle blowing detriment.

Notice, garden leave and suspension

LLP members are usually subject to a notice period set out in the LLP's governing document.

Subject to the reasons for your exit, and any agreement you enter into with the LLP regarding the same, you may be required to continue to carry out your duties as normal until the end of your notice period. Alternatively, the LLP may place you on garden leave or suspend you (which usually involves a member's exclusion from the workplace and management of the LLP) for all or part of your notice period.

Process

The process by which notice of your exit needs to be given should also be set out in the governing document.

If you have elected to retire, it is likely you will need to provide written notice of this to the LLP.

If the LLP is compulsorily retiring or expelling you, the governing document will set out a procedure the LLP members must follow for taking such a decision. This is usually by way of a vote of the members at a members' meeting, or by passing a written members' resolution.

Announcements

An internal announcement is typically made by the LLP after notice of the exit is given by either party. Subject to the

terms on which you are leaving the membership, you may wish to agree the wording of the announcement in advance, and agree who will be told and when. Our clients often consider this to be important to protect their reputation.

Non-financial obligations following your exit

It's not all about the money and you should make sure you understand the nature and duration of any post-termination restrictions that apply following the termination of your membership. Why? They may impact your future plans and could stop you earning in future.

Information on your post-termination restrictions and obligations will normally be set out in the governing document and may include:

- non-compete and non-poaching or soliciting of clients and/or staff for a set period. These restrictions could lead to issues if your future plans are to work for a competitor or take clients or staff with you to your new venture (including those you brought to the LLP you are leaving);
- restrictions on your future use of the LLP's property, for example its intellectual property; and/or
- confidentiality obligations.

These terms may be negotiable. We are often called upon to provide legal advice on the above and to negotiate adjustments to post-termination restrictions.

If you need advice on any of the considerations set out in this article, including on strategy and negotiating the terms of your exit, we can help. You can read more about our expertise in this area [here](#).

BDBF is a leading law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please contact Paula Chan (PaulaChan@bdbf.co.uk) and Melvyna Mumunie (MelvynaMumunie@bdbf.co.uk) or your usual BDBF contact.