

Partnership Agreement

When entering into your co-childminding partnership there are a number of important factors you will need to take into account and discuss at the beginning in order to avoid conflict in the longer term.

Having frank conversations at the start of the partnership, while preparing this document, will be a good indicator if the partnership is going to work.

We have prepared a number of points for consideration; however this list is not exhaustive and each partnership will have their own personal considerations which you should be sure to include.

We would always strongly advise obtaining legal advice when drawing up your Partnership Agreement.

You should be clear to state the following;

- Co-Childminders' Names
- Business Name (if different)
- Date agreement entered into
- Where the business will be operating from
- The nature of the business

Points for Consideration

Business

1. Business Model

You will need to decide which business structure your co-childminding partnership will be formed under.

Will you be sole traders, form an informal partnership or register with Companies House and establish a Limited Liability Partnership or Limited Company?

More detailed information around these business structures can be found in *Resource 2*.

You will need to state whether responsibility for submitting documents to HMRC is with each individual childminder. Alternatively, if registering with Companies House, whether one childminder will take responsibility for all submissions.

2. Financial Management

You should consider if you will be appointing a bookkeeper or accountant to manage your finances - this is strongly recommended. If so, will one childminder take the lead for liaising with them and collating the financial information they will need?

If forming a Limited Liability Partnership or Limited Company you will need to decide when your financial year end will be.

If you are sole traders or in an informal partnership you will comply with the tax year end for submissions to HMRC, which is 31st March.

Where will your bank accounts be held? Will you open a joint account and if so will you both need to authorise any significant transactions? At what level is a 'significant transaction'?

Will all fees be paid into a joint account along with all business expenditure, or will fee income to be paid into each individual childminder's account based on key worker children? If this is done on an individual childminder basis you will need to set out your process of allocating new starters so that income is fairly divided.

How will you be paid a salary? At what level will this be set and what is the process for reviewing this?

How will all overheads and general expenditure be paid for? Will this come out of a joint account or will each co-childminder contribute a certain amount?

If one co-childminder is paying rent to the homeowner how will this be set and when will it be due to be paid? How will this be reviewed?

If one co-childminder is invoicing the homeowner for their time, at what rate will this be paid? How will it be paid and when?

3. Dividend Apportionment (profit shares)

It is very important that you set out how any profits from the business will be divided. Will it be shared with a 50/50 split? Could the homeowner be allocated a larger share to make up for the wear and tear to their home? Do experience, skills and qualifications carry more weight when allocating earnings and profits?

When will profits be shared? Will this be monthly, termly or annually?

4. Assets

What physical assets, resources and financial investment are both partners contributing to the business? What is the financial value of all investments?

5. Setting fees and charges

How will you review income needs and market forces (other providers) to set your fees and charges? Will this be a shared task, or will one childminder take responsibility for this? Will you charge a set cost to parents as a business, or will each co-childminder set their own fees and account for all income individually? How and when will you decide to increase fees?

6. Early Education Funding

Will you offer Early Education Funding for eligible 2 year olds, universal offer for all 3 & 4 year olds and the 30 hour offer for eligible working parents?

Will both co-childminders enter into the Provider Agreement (contract) with Calderdale Council under their own Ofsted registration?

How will you manage data submissions to the Early Years Portal? Will one take responsibility for submitting all Headcount and Actual tasks and reconciling claims or will each childminder complete this for their own key children?

7. Insurance

Will each individual childminder be responsible for ensuring their insurance is valid and appropriately displayed, or will one take responsibility for this?

There may be savings to be made from PACEY's family package where co-childminders live under the same roof.

You should also give serious consideration to business financial protection arrangements to ensure financial stability in the event of death or serious / long term illness of either partner, especially where co-habiting family members are co-childminding together. You may need to talk to an Independent Financial Advisor about this.

8. Employing Staff

If you choose to employ an assistant or apprentice who will be responsible for registering as an employer with HMRC and all PAYE responsibilities? Will this be delegated to the bookkeeper / accountant?

Points for Consideration

Operational

9. Opening hours, weeks and holidays

Will you provide care all year round, term time only, holidays only or over a set number of weeks, i.e. 48 weeks? You should set out your opening weeks clearly and state the expected working weeks for each childminder.

Will the business still operate if the homeowner is on holiday? If this happens, subject to ratios, how would the homeowner feel if their home is still operating as a business? Do any special arrangements need to be put in place to support this?

You may need to consider different term dates between schools or local authorities when deciding which weeks you are operating.

What times are each co-childminder expected to work to ensure business continuity?

What process will you have if either co-childminder needs to take additional leave or change their hours either temporarily or permanently?

10. Sickness reporting arrangements

What will your process be when one childminder is ill? What will your reporting arrangement be and what is your process for reallocating children or closing part, or all, of the provision?

11. Emergency back-up cover

Will you have registered and approved emergency back-up cover in place? If so, will each individual co-childminder be responsible for finding their own cover or will this be shared? What are the implications of the business continuing to operate if the homeowner is ill and what needs to be put in place to support this?

12. Operational Plan / Business Plan

Will you develop an operational plan to support your business? Will this be completed together? How will this be reviewed, will this be done jointly or will one childminder lead on this? Will this set out any plans for expansion or opportunities to re-evaluate parental demand and changes to government initiatives?

13. Framework of offer to parents

What is the framework of your offer to parents? How will this be clearly set out for them to understand? Will you have a parent pack? What will be included in the service you provide? When will Early Education Funding sessions be available, if applicable?

14. Roles and Responsibilities

How will you share tasks? Will you have a rota to share jobs, or will you allocate individual roles and responsibilities? Do you have different specialisations; is one better at cooking while one better at paperwork, or is one childminder better qualified around monitoring child development for example? Clear allocation of tasks such as: paperwork, learning journeys, marketing, accounting, cooking, food shopping, cleaning etc. will ease conflict in the longer term.

15. Policies, procedures and paperwork

Will each co-childminder have their own set of policies or will you amalgamate them for business consistency? How will you decide to implement any new policies? How will policies be reviewed? Will one childminder take responsibility for this or will this task be shared?

Will you have shared procedures and paperwork in place; there is a need for a consistency around your formal processes to ensure you capture all necessary child and parental information, i.e. admissions process and medication forms.

Will you use a software system to manage any part of the business, i.e. financial management, child tracking etc. If so, how you decide which systems to use and will one childminder take the lead role on this?

16. Ofsted registration, DBS and Disqualification by Association

You should be clear about each individual childminder's responsibility to ensure they continue to pay their Ofsted registration fee, as failure to do so will severely impact on the business. The same also applies to ensuring their DBS is up to date.

You should also be clear around the responsibility on each childminder to inform the other around any 'Disqualification by Association'.

You should state what would happen if one co-childminder obtained an 'Inadequate' or 'Requires Improvement' rating during an Ofsted inspection.

17. Key worker children

How will you allocate key worker children? Will it be apportioned if one works more hours than the other?

18. Training and Development

Will each co-childminder take responsibility for their own training or will one childminder take the lead for this? You need to be clear around responsibility for monitoring the expiration dates of mandatory training due to the serious implications of this.

Will you agree a minimum target attendance at training? How will you feedback from any training attended? Will you attend training based on individual interests or will you have specialisations?

You should also consider whether both childminders would want to join Calderdale's Quality Assurance Scheme (QIC). What would you do if only one childminder wanted to join?

19. Moderation and Communication

How will you moderate each other's practice? Will you set aside time to discuss any issues? How often will you set aside this time and will it be formal or informal? Will it be minuted as evidence for Ofsted?

20. Decision making

Will each co-childminder be able to make decisions when the other is not present or will they need to consult? What issues will they need to consult on?

21. Conflict resolution

You should share a clear commitment to resolve any conflict as it arises. Where this can't easily be resolved who has the final decision? Does the homeowner have the final say, or does the most experienced and skilled childminder have the final say?

22. Confidentiality

You should be clear around expectations of confidentiality and the personal boundaries of the homeowner and their family.

23. Allegations

You will need a clear process for, and responding to, any allegations. Steps will need to put in place and these should be discussed at the outset, as the implications for the business are serious.

24. Breaks and lunches

Will you have formal arrangements for breaks and lunches? If you employ an assistant you will need to consider how these will be managed.

25. Driving

You will need to set out clearly the implications of any points or charges being applied to either co-childminder's driving licence. You should have a clear responsibility to inform each other formally. You should also be clear, where children are being transported in either co-childminder's vehicle, that these are maintained to the expected standards in a timely manner and that all appropriate insurances are in place.

You should also set out how you will be reimbursed for petrol and wear and tear to your vehicle.

26. Homeowner considerations

You should state the boundaries of the business premises and what is the homeowner's private property.

You will also need to state the responsibility of the homeowner to ensure they keep up to date with any rent or mortgage payments.

Where the co-childminder is provided with a key to property you may need to inform your domestic insurance provider.

Points for Consideration

General

27. Notice periods

You will need to consider what the minimum notice periods are for either co-childminder to change their working hours or days, request additional leave, or give notice to leave the business. These should be clearly stated to ensure you can meet your statutory requirements.

28. Expulsion (where there are 3 co-childminders in the partnership)

You will need to consider what will constitute a serious breach which may result in one co-childminder being dismissed from the business.

These could include;

- breaching the Partnership Agreement or otherwise failing to carry out the partner's obligations under the agreement
- being charged with, or convicted of, a crime
- professional misconduct
- filing for bankruptcy – an individual cannot be a company director while they remain an undischarged bankrupt.

In an informal partnership you will need to be clear in your agreement that nothing in relation to a person's bankruptcy will relate to the business.

You should also consider, where the homeowner is declared bankrupt, this may affect the premises from which the business operates, as premises may form part of any attempts to recover funds.

29. Dissolution

If the partnership dissolves how will the assets, both physical and financial, be shared?

You will also need to be aware that partners are jointly liable for the debts of the firm. Even on withdrawing from the partnership they remain liable for already incurred debts, and for future debts, unless a proper notice of retirement completed. The responsibility and format of the notice of retirement should therefore be formally set out in your partnership agreement. The link below has a template which you may choose to use.

https://simply-docs.co.uk/Partnership_Agreements_LL_P_Documents_and_Joint_Venture_Agreement_Templates/Partnership_Retirement_Letter