

Joint and Several Liability

Responsibilities of business parties



**If you are going into
business, you need to
know about Joint and
Several Liability.**

**This brochure highlights
the main things
to consider.**



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1 Why do we need to know about this?

'Joint and Several Liability' is a legal phrase that refers to two or more people taking on responsibility for an obligation. It may come into play:

- if you have a not-for-profit organisation Business Current Account;
- if you have a partnership Business Current Account; or
- if two or more people sign a guarantee or a mortgage for a joint liability.

To keep things simple, throughout this document we will use "Business Party" or "Business Parties". This can mean partners, members, trustees or any other signatories as the context requires.

2 What does 'Joint and Several Liability' mean?

Joint and Several Liability arises when two or more people agree to pay a debt (or similar obligation). It is a joint promise that, if and when the need arises, you and any other Business Parties agree to pay off the debt together.

At the same time, each person makes a separate promise to pay the whole debt on his or her own. This means each Business Party is liable to pay the full amount of the debt, not just his or her own share. We can't collect the same debt twice. So, if one Business Party pays off the debt in full, we can't collect the same debt from another business party. He or she might then have a claim against you, depending on what's been agreed between you. Any credit balance is owned jointly by you, unless you have previously agreed otherwise.

3 How do we open an account?

You and your fellow Business Parties will be asked to sign an account authority. This is your contract with us and includes your instruction on how you want to run the account and your promise to pay any debts.

Although all Business Parties have to provide a specimen signature, it is up to you to decide how to sign each cheque (or other instruction). An arrangement where two people have to sign everything can be inconvenient, so you may prefer to have an 'either to sign' authority.

With Joint and Several Liability, you will personally be responsible for any overdraft even if any other Business Party has signed all cheques and payment instructions. If the account is in credit, one Business Party could withdraw the whole balance. Each of you can borrow money individually, but you will all be responsible for the repayment, together and individually, unless you tell us otherwise in advance.

If more than one person signs on your account authority, please be aware that for a Business Debit Card and Business Credit Card, or to use Internet or Telephone Banking, you will be authorising the user to act on your behalf.

4 How does the account work?

All payment instructions need to be signed in the way you have agreed in your account authority. Usually, however, anyone can pay into your account. Statements will be sent to your business address and all of you need to check them for errors. Ask us for additional copies if you need them, although there will be an extra cost for this – for details, see 'Your account charges explained' brochure available in your local branch.

5 What if a new Business Party joins?

Your new Business Party may not want to become jointly and severally liable for any loans or overdrafts outstanding on the existing account. In that case, we can open a new account but we will need to agree with you and your current Business Parties about paying off any outstanding debts or sharing out any credit balance on the old account.

On the other hand, if old and new Business Parties agree to use the same account regardless, your new Business Party will have to sign a new authority form to ensure you are all jointly and severally liable.

6 Can another person sign for me?

You can arrange for someone to sign on your behalf (your bookkeeper, for instance). Bear in mind, if they do not own any of the money in the account, they are not liable for any debt on it. You and your Business Parties are still responsible for any transactions created by your 'authorised signatory.' Remember, it should be someone you know and trust and it is sensible to limit the amount that he or she can sign for.

7 What if a Business Party gets into financial difficulties?

Even if the business is successful, a Business Party may have personal financial difficulties that could affect you and the business. If a Business Party becomes bankrupt, we will have to freeze the account immediately.

In the case of bankruptcy of one of your fellow Business Parties, a receiver (usually the Official Receiver or a Trustee in Bankruptcy in England and Wales or a Trustee in Sequestration in Scotland) may seek control of that Business Party's assets, potentially including the money in your business account.

If there is a credit balance on the account due to joint ownership, some or all of it may belong to the bankrupt. Until you have reached an agreement with the receiver, we can't allow you access to any credit balance. Meanwhile, we will try to help by opening a new account for you. If the old account is overdrawn, we may want to claim the whole balance from you.

Bankruptcy can be a complicated subject and you should take advice from a solicitor or professional advisor in the event that a Business Party becomes bankrupt. If your own business is in financial difficulty, tell us as soon as possible and we will see what we can do to help.

8

Can another Business Party's credit rating affect me?

Yes, it can. If you open an account with other Business Parties, you could be linked together by credit reference agencies. So if he or she has a poor credit record, becomes bankrupt, or enters into an Individual Voluntary Arrangement (or similar arrangement in Scotland), it might affect your chances of getting a loan or other credit, both as a Business Party and as an individual.

However, if you contact the credit reference agency, they may agree to break the link for you.

Disclaimer

The contents of this leaflet are general in nature and cannot cover every situation which may arise. We hope that it will draw attention to issues which you may need to consider with your Business Parties and legal or financial advisors. You may want to consider obtaining your own legal advice on Joint and Several Liability.

Any property given as security, which may include your home, may be repossessed if you do not keep up repayments on your mortgage or other debts secured on it.

All lending is subject to a satisfactory credit assessment and we will need your permission to carry out a credit check on you and your business. You should not apply for an amount that you cannot comfortably afford to repay now and in the future to avoid the possibility of legal action.

Our service promise

We aim to provide the highest level of customer service possible. However, if you experience a problem we will always seek to resolve this as quickly and efficiently as possible. If something has gone wrong, please bring this to the attention of any member of staff. The complaint procedures are also published on our website

[tsb.co.uk/business-complaints](https://www.tsb.co.uk/business-complaints)

If you'd like this in another format such as large print, Braille or audio please ask in branch.

If you have a hearing or speech impairment you can contact us using Text Relay or Textphone on **0345 835 3852** (lines are open 7am – 8pm Monday to Friday, 9am – 2pm Saturdays).

[tsb.co.uk/business](https://www.tsb.co.uk/business)

If you need to call us from abroad, or prefer not to use our **0345** number, you can also call us on **0203 284 1576**.

Not all Telephone Banking services are available 24 hours a day, seven days a week. Please speak to an adviser for more information.

Calls may be monitored or recorded.

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