Collas Crill explains ... Types of company in Guernsey

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This is part of a series of guides in which we examine areas of Guernsey law that frequently arise in practice. Further guides will be released weekly; click here to subscribe to receive these by email.

This guide looks at the different types of companies you will find in Guernsey. Guernsey companies can be either 'cellular' companies (either a protected cell company or an incorporated cell company) or 'non-cellular' companies. Most companies in Guernsey are non-cellular (including most holding companies and trading companies), though cellular companies are increasingly popular in the Guernsey investment funds space.

The financial liability of members of Guernsey companies is limited, either by shares or by guarantee, unlimited or mixed, depending on the type of company.

Guernsey company law draws no distinction between 'public' and 'private' companies.

Words in bold text are defined at the end of this guide.

Company incorporation in Guernsey

The following types of company can be incorporated in Guernsey:

- Companies limited by shares
- Companies limited by guarantee
- Unlimited liability companies
- Mixed liability companies
- Protected cell companies
- Incorporated cell companies

Tax and regulatory treatment of a Guernsey company will often determine the selection and use of a particular type of company.

Companies limited by shares

Companies limited by shares are the most commonly incorporated company in Guernsey. Trading companies and simple asset-holding vehicles will typically be incorporated as companies limited by shares.

The main benefit of companies limited by shares is that the liability of its members for the company's debts is limited to the amount (if any) unpaid on the shares held by them. The effect of this is that once the subscription price for the shares has been paid (for example, a member may pay £5 in return for 5 shares of £1 each), then the member, having paid the £5, will have no further liability for the company's debts.

Companies limited by shares can have one or more members, and must have at least one director.

Companies limited by guarantee

Companies limited by guarantee tend to be used where the members do not intend to receive any payment for their interest, and as such are often used to incorporate charities and sports and/or social clubs.

Members of a company limited by guarantee do not generally hold shares (although there is the option under Guernsey company law for companies limited by guarantee to issue shares and have shareholders as well as guarantee members). Instead, each member's liability is limited to a guaranteed amount (for example, £1) which the member undertakes to contribute to the assets of the company if the company is wound up.

Members are only liable to pay their guaranteed amounts if the company is wound up while they are a member or within a period of one year after they cease to be a member.

Companies limited by guarantee can have one or more members (and the guaranteed amount may be different for different members), and must have at least one director.

Unlimited liability companies

Unlimited liability companies may issue limited and unlimited shares. For members holding unlimited shares, their liability for the company's debts will be unlimited. In other words, they are effectively underwriting the company's liabilities to the extent of their own personal assets.

Members holding unlimited shares only have unlimited liability for the company's debts while they are a member or within a period of one year after they cease to be a member.

Due to their nature, use of unlimited liability companies is narrow. They may be used where it is necessary to hold assets or contracts though a body corporate in circumstances where creditors require the members to stand behind the company's obligations.

Mixed liability companies

Mixed liability companies are essentially hybrid companies which may have a combination of limited members (i.e. members holding limited shares), unlimited members and guarantee members.

While their uses are not immediately obvious, they can provide flexibility in complex structuring arrangements.

Protected cell companies

Protected cell companies or **PCC**s are a popular choice in the investment fund and insurance industries, as well as for property / asset holding structures (including intellectual property) and family offices.

A **PCC** is a single legal entity. The key feature of a **PCC** is its ability to have separate and distinct protected cells or **PCs**. A **PC** is a separate and distinct pool of assets and liabilities that are attributed to that particular **PC**. The assets and liabilities of a PC are legally segregated from the assets and liabilities of both (i) the **PCC** itself (known as the **core**) and (ii) any other **PC**s but the **PCC** is the legal person who will always contract on behalf of each **PC**. This means that the creditors of a **PC** are unable to seek recourse from the assets of the core or any of the other **PC**s of the **PCC**.

A **PC** does not have its own legal personality and so the **PCC** must contract in respect of each PC formed by it. As a **PCC** is a single legal entity, it has a single registered office and one board of directors. The directors can pass a board resolution of the **PCC** to establish a **PC** and there is no restriction on the number of **PC**s that a **PCC** can have.

Shares may be issued in respect of the core but members may have shares issued to them in respect of a particular **PC**, meaning they have certain rights and entitlements in respect of the assets and profits of that particular **PC**.

Only certain categories of body corporate can be established as **PCC**s (for example, investment funds). The written consent of the Guernsey Financial Services Commission must also be obtained before a **PCC** can be incorporated.

Incorporated cell companies

Like **PCC**s, incorporated cell companies or **ICCs** are also a popular choice in the investment fund and insurance industries, as well as for property / asset holding structures (including intellectual property) and family offices.

An **ICC** is a single legal entity which can establish other separate legal entities within it. The key distinction between an **ICC** and a **PCC** is that for **ICC**s, each incorporated cell or **IC** is its own separate legal entity that can hold assets and incur liabilities in its own name. An **IC** within an **ICC** is essentially 'a company within a company'.

An **ICC** operates on the same basis as a **PCC** in that the assets and liabilities of each **IC** are legally segregated from the assets of (i) the **ICC** itself (known as the core) and (ii) any other **IC** of the **ICC**; however each **IC** also has its own legal personality. As a single legal entity, an IC can contract in its own name and does not have to contract through the **ICC** itself.

Like a **PCC** and its **PC**s, an **ICC** and each **IC** must have the same board of directors and registered office; however, unlike a **PCC** and its **PC**s, the **ICC** and each **IC** may have different members. Members holding shares in an **IC** will have rights in respect of the shares in that **IC** only. An **ICC** must pass a special resolution authorising an application for an **IC** to be incorporated and there is no restriction on the number of **IC**s that an **ICC** can have.

Like **PCC**s, only certain types of company can be established as **ICC**s (for example, investment funds) and the written consent of the Guernsey Financial Services Commission must also be obtained before an **ICC** can be incorporated.

As with **PC**s, Guernsey company law allows for **IC**s to be spun out of the **ICC** and converted to a standalone company.

Conversions between company types

Guernsey company law permits most types of companies to convert into each other by following a statutory process. With cellular companies, it is also in certain circumstances possible to 'spin out' a cell into a separate company.

Terms used

PCC are protected cell companies and a single legal entity

PC a separate and distinct pool of assets and liabilities that are attributed to that particular **PC**

ICC incorporated cell companies

IC within an **ICC** is essentially 'a company within a company'

About Collas Crill

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About this guide

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