It's the law: Joint Ventures

When two* become one

*or more

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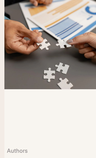

"The best Joint Ventures are where both parties still want to be in the same room with one another three years in and they are talking about new ways of working together."

Jonathan Cionis
Partner | Head of Real Estate & Projects

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Authors

Jonathan Cionis
Partner | Head of Real Estate & Projects

Joanna Bouloux
Partner

Ben Halsey
Knowledge Development Lawyer

Where we are now

Not so long ago, Joint Ventures were seen as somewhat exotic. Something only the largest players might consider, and even then, only in limited situations. Nowadays, they're an integral part of the property development landscape. They are a tried and tested mechanism for increasing housing supply - and, with the growth and devolution agendas gathering pace and institutional capital looking for long-term routes into the living sectors, we are seeing even more of them, and fewer.

There's no precise, 'one size fits all' definition of 'Joint Venture'. The Oxford English Dictionary defines Joint as 'sharing in a position, achievement or activity' and Venture as 'a risky or daring journey or undertaking'. A more helpful description might be an arrangement between two or more participants who agree to cooperate and work together in order to achieve a common objective.

We have worked on large-scale regeneration joint ventures for over eight years, partnering with a range of parties to develop new homes, with lots more to come. We also work on smaller pilot joint ventures that deliver new technologies and share best practices to improve the quality of existing housing. As above, there is no fixed size or shape, but the sector and government are clear that collaboration is a key part of future delivery.

Why do it

There are many different reasons why you might seek to establish a Joint Venture. In our experience the most common are...

- **It's a risky world and things are only likely to get riskier.** A Joint Venture enables the risk of a project to be shared. So, if things don't pan out as you hope, at least you are not the only one carrying the can.
- **Size matters.** All businesses have finite capacity, and that restricts the size of projects that they can be involved in. Joining forces with someone else enables capacity to be pooled and gives access to larger projects. That means that relatively smaller organisations can see the benefits of economies of scale and gives them the opportunity to operate on a bigger stage.
- **With our compliments.** We've seen that quite different businesses coming together can often produce the most successful Joint Ventures. The secret is that they each bring different, but complementary, skills, resources and contacts to the table. In a mixed-use project, for example, one venture may be a whiz at operating commercial property but have little or no experience in building, renting and selling homes. The other venture might be a Registered Provider who knows the Living sector inside out. On their own they are missing vital ingredients - but, together, they can fully participate in all the opportunities that a mixed-use development might have.
- **Status is everything.** Similarly, specific corporate designations (including 'charitable', 'non-profit' and/or 'for profit') may help one party join forces with another. This is witnessed in the current movement, being explored by some parties within the sector, which sees traditional not for profit RPs joining up contractually with for profit SP-style players – and, in some cases, looking at ways of more formally introducing capital into entity within their existing group structures.
- **Watch and learn.** Working with your Joint Venture partners will give you an insight into how they operate. Particularly if they are bringing to the table expertise in an area you are unfamiliar with, you will get to see how that expertise is deployed, and you will learn from it. You will be able to deploy that knowledge throughout your business going forward.

Getting it right

Whilst the reasons to establish a Joint Venture may vary project by project, there are some fairly universal 'golden rules' to follow from the outset. Abiding by these rules won't guarantee success – but ignoring them will greatly increase the risk of heartache down the line.

- **Be aligned.** Whilst bringing different skills to the table is a good thing, having wholly different cultures or objectives will likely end in tears. If one venturer only cares about maximising income in the first 3 years and the other is focussed on maximising the provision of low-cost rental homes for the next century, there are likely to be stresses. Everyone is different, so some differences are inevitable, and that is fine - so long as they are acknowledged and addressed at the outset.
- **Start with the objective, not the structure.** It is tempting to begin with the question 'company or contract?'. That is the wrong end of the telescope. Identify what each party actually needs from the arrangement - homes, returns, balance sheet treatment, control, speed - and the right delivery vehicle usually suggests itself. Structure follows objective, not the other way round. Understanding the key project goals is essential, since each organisation can then test how those goals fit internally.
- **It's good to share.** The most successful Joint Ventures usually see both parties sharing equally in cost, risk and reward. They may be putting in different things (from land, to money, to expertise) but if it ever feels to one venturer that they are in more than their fair share or they are getting out less than their fair share then, whatever the documents say, the Joint Venture is unlikely to thrive. Establishing a Joint Venture is not the time to 'win one over'.
- **Do your homework.** It's important to spend time and effort to get to know what your prospective partners are like. You will only be able to be sure that you are aligned if you know them inside out. And remember, this is not a 'one night stand' - you should assume that you are going to be with these people for the next 10+ years, so you need to know, looking at ways of more formally introducing such an entity within their existing group structures.
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- **Mind what you say before you say 'I do'.** Joint Ventures begin life as conversations - about land, pipeline, appetite and price - long before any document exists. Get the confidentiality arrangements in place early, make sure they cover the right people (including advisers and funders), and be realistic about what a non-disclosure agreement can and cannot achieve. It protects information; it does not, by itself, protect the deal.
- **Failing to 'plan to fail'.** A well-drafted business plan is an essential foundation for most businesses - but it is even more fundamental for a Joint Venture. Developing a business plan before the Joint Venture arrangements are formally entered into is also a great way of establishing that the venturers' interests are, in fact, aligned. Before it's too late to fall out the whole thing off. If the process seems difficult or is proving too time consuming you've got to ask yourself: are these people you want to lock yourself in with?
- **Expect the unexpected.** Many risks will be apparent from the outset. Time should be spent identifying those and planning on how to deal with them. Appropriate mitigation measures should be put in place. But all parties to a long-term Joint Venture need to acknowledge that unexpected things will almost certainly happen. You need to make sure that you are content with that and have the confidence in your other venturers, and in the structure of the Joint venture, to deal with them as they arise.
- **Agree how you will disagree.** Disagreement is not necessarily a sign that something has gone wrong; it is often a normal feature of an arrangement where two parties have equal say. Identify the reserved matters that genuinely need unanimous approval (and resist the temptation to make that list too long), and agree the mechanism for breaking deadlock - escalation, expert determination, or one of the various 'shotgun' options - at a point when everyone is still being reasonable.
- **Plan the ending at the beginning.** All good things, including Joint ventures, come to an end: this might be on completion of the project, on a sale, on a failure, or on someone's change of strategy. Exit provisions are much easier to negotiate before anyone has a reason to want to use them.

Choosing a structure

There is no 'one size fits all' type of Joint Venture structure. Essentially, however, they can be pigeonholed into two categories:

- **Joint Venture Vehicle (usually known as a 'corporate' Joint Venture):** These involve setting up a separate legal entity (or vehicle) to hold the assets and operate the joint venture business. The entity will be owned and controlled by the venturers, who will become its members and will enter into a members' agreement to govern the operation of the new entity. The entity might be a company or a Limited Liability Partnership (or, less frequently, what's known as a Limited Partnership.
- **Contractual Joint Venture:** These don't involve setting up a separate entity. Each party usually continues to hold its relevant assets. The terms governing each venturers' respective duties, what they take out and how they reach decisions between themselves is set out in a contract between the parties. These types of Joint Venture include old-fashioned unlimited partnerships.

We've talked about various types of partnership there. For the purposes of this note all you need to know is that the law is such that a Limited Liability Partnership and a Limited Partnership are treated as separate entities. In their own right, whilst a general partnership is just a group of people working together. If you want to know more, get in touch.

Which one is right for you

Which type of Joint Venture is right will depend on both the nature, scale and anticipated duration of the business to be operated, the purpose and goals and the requirements of the venturers themselves.

- **Joint Venture Vehicle:** Setting up a new entity, such as a company or LLP, whilst not overly cumbersome these days, does involve a degree of red tape. Papers will need to be prepared and filed, fees will need to be paid, annual accounts will need to be prepared, audited and sent to Companies House (meaning they will become publicly). Company books will need to be kept, and tax returns will need to be prepared. Tax may need to be paid (unless you have chosen an LLP to be the vehicle). You will need to check your existing arrangements with your banks to see if you need their consent to the setting up of the new entity.

  On the upside though, the establishment and ongoing operation of a separate entity will impose a degree of discipline and transparency. The venturers will have the benefit of limited liability. So, unless guarantees have been given by the venturers, if the joint venture business is a failure and makes a loss the worst case is that the entity becomes insolvent and is wound up and the venturers lose what they put in. If one venturer wants to exit the Joint Venture, or if both venturers want to bring in a third, that is usually, from a legal perspective, a simple process (for example the transfer of shares in a limited company, if that is the type of entity established). Similarly, if third party funding is to be made available (mezzanine/unsecured/secured) then this can be structured, and ring fenced, more easily using a separate legal vehicle.

  The balance of pros and cons tends to mean that the 'vehicular option' is more suited to larger, more complex, longer term ventures.
- **Contractual:** Entering a contractual joint venture is simpler. It just means you are entering into a contract with the other joint venturer. The contract will cover:
  - What each party is contributing to the venture and when (e.g. land, money or services)
  - What level of control each party has over the venture and how decisions are made
  - How the outputs will be shared (e.g. profit, intellectual property or completed homes)

  The simplicity is the primary advantage of this type of Joint Venture. There is a high degree of flexibility in terms of how to structure the documents – since it's just a contract. So long as you aren't seeking to do anything unlawful, then it's pretty much up to the parties what they agree. This type of Joint Venture is said to be 'tax transparent' since there is no Joint Venture entity which must pay tax - the only type of vehicular option with that benefit is the LLP.

  However, because no separate Joint Venture entity is formed, the 'project' will not benefit from limited liability or from being ring fenced from other projects.

  Contractual Joint Ventures are generally seen to be most suitable for relatively short term, single projects where there will be little requirement to adapt over time.

> "A Joint Venture is a long-term relationship dressed up as a transaction. The paperwork matters - but so does knowing who you are getting into it with."
>
> Joanna Boulioux
> Partner

Housekeeping matters

Choosing the structure is the beginning, not the end. Two developments are worth flagging for anyone currently operating - or contemplating - an LLP Joint Venture.

- **Companies House and the transparency agenda.** The Limited Liability Partnership (Application and Modification of Company Law) Regulations 2025 are bringing in a series of changes to LLP administration, following the Economic Crime and Corporate Transparency Act 2023. The requirement to maintain local registers of Members and PSCs has gone - information must now go directly to Companies House. Identity verification requirements are being phased in, with corporate Members (which is how most LLP Joint Ventures are structured) coming into scope towards the end of 2026.

  The practical point for Joint Venture partners is a simple one: agree, in writing and early, who is responsible for making the filings and for sharing the information needed to make them. Non-compliance is an offence capable of being committed by the LLP and potentially by every Member. This is not a matter to leave to whoever happens to remember.
- Unfair prejudice claims now have no time limit. In TSG Plc v Zedra Trust Company (Jersey) Ltd (20 February 2026), the Supreme Court confirmed that unfair prejudice petitions are not subject to any statutory limitation period, restoring the long-understood position and reversing the Court of Appeal. Those provisions (sections 994-996 of the Companies Act 2006) apply to LLPs, with modifications, under the LLP Regulations 2009 – so LLP Members, not just company shareholders, can bring these claims.

  The consequence is a materially longer tail of exposure. It is common for Joint Venture agreements to exclude the right to bring an unfair prejudice claim (Regulation 48 of the LLP Regulations 2009 permits contracting out). If yours doesn't, a member could now petition based on events many years in the past. Three things follow:
  - Review your Joint Venture and LLP agreements to check whether unfair prejudice rights have been excluded - and properly.
  - Keep governance and member interaction processes well documented. Contemporaneous records are your friend.
  - Manage legacy issues actively. Historic conduct is now open to challenge for longer than you may have assumed.

And finally, if a public body is at the table...

A great many Joint Ventures in this sector involve a local authority or other public body as one of the venturers. That brings a further layer: the scheme of delegation and who can actually bind the authority; the best consideration duty under section 123 of the Local Government Act 1972 where land is being disposed of; procurement triggers under the Procurement Act 2023 (which can be engaged even where nothing that looks like a conventional contract award is happening); subsidy control under the Subsidy Control Act 2022; and the political and financial calendar, which is not negotiable. Map the procurement route and timeline at the outset, rather than discovering it later.

Note also that a local authority cannot become insolvent in the conventional sense. The equivalent marker of financial distress is a section 114 report issued by the authority's chief finance officer. That does not relieve the authority of its commitments, but it does mean a conventional insolvency clause will not do the work you think it is doing. Draft for the actual framework.

Find out more

Get in touch - we would be happy to talk you through the practicalities of your next Joint Venture.

This document is part of Devonshires' 'It's the law' series, tailored for people working in development and regeneration. All reasonable precautions have been taken to ensure that the information contained is materially accurate. However, this document is not intended to be legally comprehensive, and no action should be taken on the matters covered without seeking specific legal advice.

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Devonshires Solicitors LLP
30 Finsbury Circus
London EC2M 7DT
020 7628 7576
info@devonshires.co.uk