Department for Business Innovation & Skills

MOVING TO EMPLOYEE OWNERSHIP

A brief guide for employees

EMPLOYEE OWNERSHIP

acas

John Lewis Partnership

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development
scotland

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Welsh Government
Ewrop & Chymru: Buddsoddi yn eich dyfodol
Cronfa Datblygu Rhanbarthol Ewrop
Europe & Wales: Investing in your future
European Regional Development Fund

CO-OPERATIVES UK

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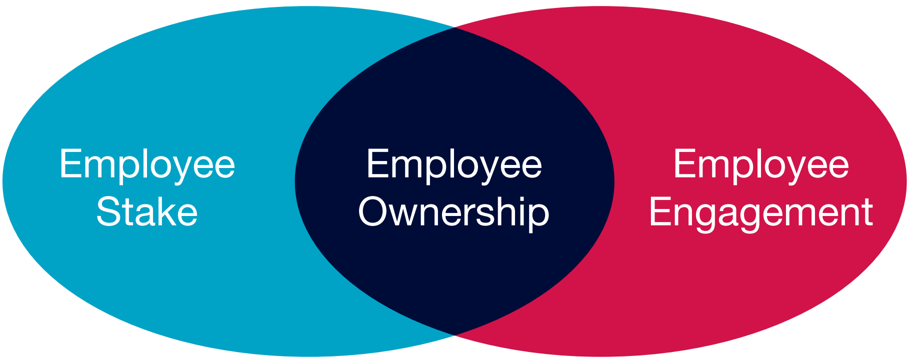
Introduction

This guidance is for employees of businesses who are considering a move to employee ownership. It is not necessarily applicable to public sector staff considering a move to provide the services they deliver through a public service mutual. Public sector staff should seek guidance from: www.mutuals.cabinetoffice.gov.uk

This good practice guide provides an introduction to what is meant by employee ownership, what benefits it offers and explains the journey through which employees can request such a move. It does not provide legal advice or attempts to provide all the answers but it indicates the key questions and stages. It also provides signposts to further sources of information.

Employee ownership is a way of running a business that can work for different sized businesses in sectors as diverse as manufacturing, retail, transport and professional services.

The Department for Business, Innovation and Skills considers employee ownership to be where employees have both a voice in how the business is run through employee engagement and a stake in the success of the business.



Research suggests that employee ownership, when underpinned by strong mechanisms for employee engagement, can offer many benefits to employees, businesses and the wider economy.[1] For example, it can:

- Provide a catalyst **for greater employee commitment, engagement and well-being**.
- **Reduce absenteeism, staff turnover and accidents** in the workplace.
- **Produce substantially faster employment and sales growth**, compared to businesses that do not have employee ownership.
- Lead to **higher productivity and profitability**, compared to businesses that do not have employee ownership.
- Display **less variability** over the economic cycle, giving a business **greater resilience** through times of economic difficulties.

How is employee ownership defined?

Employee ownership means a significant and meaningful stake in a business for all its employees. If this is achieved then a business has employee ownership: it has employee owners.

What is meaningful is not confined to financial participation. Irrespective of any financial participation, employees must have access to organisational structures that ensure employee engagement. Where financial participation takes place there is no set rule on what percentage of issued share capital is a significant and meaningful stake.

1. Full references to this research can be found in the 2012 Nuttall Review – see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31706/12-933-sharing-success-nuttall-review-employee-ownership.pdf

It is important that all of the employees of the business (subject to reasonable qualifying conditions) receive an offer to participate on the same or similar terms. The offer should be accessible to all employees regardless of their ability to make a financial contribution.

Employee ownership is not a legal form in itself. It can be used successfully by a wide variety of businesses of various sizes including typical commercial businesses and social enterprises. A transition to employee ownership is more straightforward for companies limited by shares; other businesses may have to change legal form to move to employee ownership, e.g. charities or sole traders. A list of members of the Employee Ownership Association can be found at: www.employeeownership.co.uk

A business in which a controlling stake is held by or on behalf of all employees is called an employee owned business. Where there is some form of representative or democratic voice for employees, in line with international co-operative principles, an employee owned business can be classified as a co-operative. There is also a special class of co-operative, worker co-operatives, which operate with a commitment to an additional set of democratic practices for employees. These include the right for all employees who are eligible to become members of the co-operative and take part in its governance on a one member one vote basis. For more information on these forms of enterprise, see the Co-operatives UK website at: www.uk.coop

> "The precise model a business will use to adopt employee ownership will differ according to the objectives of the business and its circumstances. This diversity of the precise model used is a strength and reflects the dynamism of the sector."
> *Graeme Nuttall, 2012*

What does employee ownership mean in practice?

In businesses with employee ownership, employees generally either hold shares in their business directly (perhaps through a tax advantaged share plan) or shares are held collectively on behalf of employees, normally through an employee benefit trust – this is known as indirect share ownership or the Trust Model. Some businesses combine the benefits of both direct and indirect ownership.

Having indirect employee ownership through an Employee Benefit Trust (EBT) – the Trust Model – can:

- Make financing the transition to employee ownership easier as it enables financing over a longer period of time by contributions from the business itself – for example, by a loan that is paid back over time by the business.

- Provide a more stable and long-term structure for employee ownership including a vehicle, the Trust, that facilitates giving employees a "voice".

- Make it easier to facilitate the buying-back of shares when an employee leaves, although recent changes to Company Law have also simplified this process under direct share ownership – see https://www.gov.uk/government/consultations/employee-ownership-and-share-buy-backs-consultation-on-implementation-of-nuttall-review-recommendations

- Make the tax position more straightforward.

Having direct employee ownership through a share plan can:

- Allow the company and employees to enjoy the significant tax incentives on offer through tax advantaged employee share schemes: Share Incentive Plan; Save as You Earn; Company Share Option Plan; Enterprise Management Incentives. Using a Share Incentive Plan companies can gift a certain amount of free shares to employees each year with no tax to pay, provided the shares are held temporarily in trust for a certain period.

- Give the employees the chance to share directly in the capital growth of the company.

- Mean employees can sell their shares at a time when they want to realise the proceeds for an important life event or to transfer the shares into an ISA or a pension to continue the tax advantages.

- Bestow voting rights to the employees as any other shareholder.

- Allow ex-employees to continue to hold shares in retirement.

Alongside employees having a stake in the business there also has to be effective employee engagement
More information on effective employee engagement can be found on the Engage for Success website at:
www.engageforsuccess.org

Examples of structures that can be used to enable employee engagement are:

- The role of **trade unions** in collective bargaining over pay, conditions and other issues.
- One or more **communication** or **consultation groups** through which employees views are channelled.
- An **Employees' Council** made up of employee and management representatives.
- **Employee representatives** on the business's Board of Directors.
- **Employee representatives** who are Directors of the Trust or Trustee Company, if the Trust Model is used.

"Developing employee ownership within our business and sustaining this culture, continues to be a rewarding and challenging experience. Ultimately, it allows us to reach out and empower our employees, to bring their ideas to life and solve their problems. It will mean that our employees will truly be at the heart of everything we do as they add value to and drive the business forward. We want to make sure our company is a place where our employees love to work."
An employee of Gripple Ltd

"I wanted to find a form of ownership that was anti short-termism and would keep the business in Scotland. Employee ownership will allow us to focus on a the long-term, develop an increasing range of technically difficult products and build the business in a highly competitive market."

Dick Philbrick, Managing Director of Clansman Dynamics Ltd

The Engage for Success website at: www.engageforsuccess.org summarises the four enablers of employee engagement to be:

- Visible, empowering leadership providing a **strong strategic narrative** about the organisation, where it's come from and where it's going.
- **Engaging managers** who focus their people and give them scope, treat their people as individuals and coach and stretch their people.
- There is **employee voice** throughout the organisations, for reinforcing and challenging views, between functions and externally, employees are seen as central to the solution.
- There is organisational **integrity** – the values on the wall are reflected in day to day behaviours. There is no 'say-do' gap.

When to consider a move to employee ownership?

A move to employee ownership may be most relevant at the following key points in the business lifecycle: start-up; expansion and growth; succession; and business rescue.

The most common trigger is business succession – typically family owners who want to sell the business and choose to sell to their own workforce and management.

An idea to move to employee ownership may arise from:

- **Current owners** who are looking to sell.
- **Employees** who want to be more involved in the running of the business and to have a stake in its future.
- **Employee representatives** who may be aware of difficulties facing the business which could be addressed by an employee buy-out.

What can a move to employee ownership offer to:

Existing business owners?	Future employee owners?
A fair price for your business.	A stake in the business.
Considerable control over the sale.	A say in how the business is run.
The ability to leave the business in the hands of those who know it best.	The ability to maintain existing consumer/supplier relationships.
A means to recognise the contribution employees have made.	The chance to safeguard and develop their own jobs and keep them local.

It doesn’t matter who has the idea first. What matters is that there is a structure in place for the idea to be discussed. If employee engagement is already effective in the business then these structures may already exist. In workplaces where trade unions are recognised, the trade union will have a role to play. While it may not always be necessary to talk to all employees before raising an initial proposal, it is worth getting a feeling for levels of interest amongst the wider workforce.

How can employees take forward a proposal?

In order to develop, ideas often need the help of:

- More detailed information or guidance: contact details for organisations that can help are given at the end of this guidance.
- Access to case studies – to see how other people have used employee ownership. Some case studies can be found at: www.employeeownership.co.uk/employee-ownership/about-employee-ownership/case-studies
- Opportunity to discuss ideas with colleagues. Employers might consider allowing employees time and facilities to come up with proposals.

Initial discussions surrounding a proposal are likely to be relatively informal. Genuine expressions of interest are best put down in writing. The level of knowledge of what the process of employee ownership involves will vary, but employees should not be deterred from putting forward a proposal due to a lack of specialist expertise.

It may be enough to engage in discussions with employers based upon:

- An enthusiasm for the idea of ownership – some employees may have friends or family members in other businesses where it has worked well.
- A perception that it might work well for the business – for example, if the current owners are looking to retire and the business needs a new impetus.

- The desire to get more involved in planning the business going forward.

Issues employees might want to address in their formal expression of interest to an employer:

- How many employees are in favour of the idea?
- What overall stake is it envisaged that employees will have in the business? Will this stake be gained over a period of time or on a specific date?
- How to ensure all employees, regardless of ability to pay, are genuinely able to participate?
- How would employee ownership benefit the business?
- What happens now – is it worth setting up a joint working group?
- What, if anything, would be a reasonable qualifying criteria for employees? For example, should they have been an employee for a minimum period of time?
- If the proposal is rejected by either party, are there still lessons the business might learn from employee ownership?

How should employers consider a proposal?

Ideally, an employee request should not come as a complete surprise to an employer. Existing communication groups – set up to discuss company policies or problem-solve – may well have flagged up employee interest at an early stage.

Employers will need to share this request with the current owner(s) of the business. The owner(s) will need time to consider the proposal and to engage professional advisors. Business owners and advisors can find detailed information and advice in Simply Buyout, Co-operatives UK's technical guide to employee buyouts – see www.uk.coop/simplybuyout

Business owner(s) may decide that they are not in favour of the proposal. In this situation, they should still try and give the idea some thought and explain to employees the reasons they might have for turning it down.

If owner(s) do wish to consider the proposal, this is best done using an existing communication group. If they don't exist or the remit of these groups is geared towards a different agenda, a new group could be set up to look at employee ownership. This could consist of a representative cross-section of:

- Current owner(s) and senior management
- Employees with knowledge of or interest in the subject who are actively interested in pursuing the idea
- Union or employee representatives

A joint working group might agree to consider the proposal over a set period of time. Individual group members could be allocated specific tasks – such as finding sources of information and advice, making presentations to the group, or getting other companies who have successfully adopted employee ownership to come and talk to staff and managers. The contact details of some useful organisations are given at the end of this guidance.

Once a proposal has been worked up in more detail, this could be presented to the whole workforce as part of a more detailed consultation exercise.

Employees and managers may need to be careful about when and how they communicate with the staff more widely. Employee ownership frequently arises during times of organisational change. Employees may feel insecure about the future or have heard things on the grapevine, so it is worth planning ahead and preparing:

- Q&A briefings so employees can be informed about the proposal and what it involves before any meetings take place
- Meetings with staff and their representatives to address any fears staff may have about proposed changes.

If a proposal is developed purely by employees and presented to their employer, an employer should, together with the business owner(s), consider the proposal and respond to employees within a reasonable period of time (what is considered reasonable will depend on the size and complexity of the proposed scheme).

What happens next?

If the proposal is accepted by the employer and owner(s) and positively received by a significant number of employees, the business may want to seek more expert external advice on legal and tax aspects.

Model legal documentation being developed by the Department for Business, Innovation and Skills for becoming a business with employee ownership is available at https://www.gov.uk/government/publications/employee-ownership-company-model-documentation company-model-documentation, and specific rules for worker co-operatives can be found at www.uk.coop/workercode

Model documentation always has to be tailored to fit the particular needs/desires of a business and this is likely to need input from professional advisors.

Some issues which will need to be considered are:

- The **principles/values** that the business will have going forward.
- How much **ownership** should be in the hands of employees.
- How to ensure **all employees** are genuinely able to participate.
- Whether to have employee representation on the **Board of Directors.**
- Whether there is **existing consultation machinery**, for example trade union channels or works council, which can be used for employee consultation and engagement.
- Whether an **Employees' Council** is appropriate and, if so, how it is elected and its exact role.
- Whether to opt for **indirect employee ownership** through the Trust Model and, if so:
  - Whether to have individual Independent Trustees or a Trustee Company.
  - Whether there should be employee representatives who are Directors of the Trust or Trustee Company.
- Whether to opt for **direct employee ownership**, usually through an employee share plan and, if so, which of the most common share plans are suitable.
- Whether to opt for **a combination** of direct and indirect employee ownership.

Whether it is taken up or not, employee ownership can provide employers and employees with some very useful insights about the way they work together. Employee ownership might not be right for your workplace now, but giving it some thought may have engendered an appetite for greater employee involvement in the business.

If a communication group has been set up to consider employee ownership, why not keep it going, or expand its remit to look at issues such as:

- Systems for improving communication and consultation.
- Training for line managers in listening to their staff and feeding issues back to senior managers.
- Managing change and the vision for the business.
- Organisational policies on key issues like equality and diversity and flexible working.

Where to get further information?

The Employee Ownership Association - EOA (www.employeeownership.co.uk) is the voice of employee owned business in the UK – most UK businesses that become employee owned are helped to do so by the EOA.

Co-operatives UK (www.uk.coop) works to grow the co-operative economy by promoting, developing and uniting co-operative businesses.

Engage for Success (www.engageforsuccess.org) provides evidence, case studies and points of view about how employee engagement drives performance and productivity.

Co-operative Development Scotland – CDS (www.cdscotland.co.uk) supports the development of co-operative and employee-owned enterprises across Scotland.

Wales Co-operative Centre (www.walescooperative.org) provides support to employee owned businesses and co-operatives in Wales.

The ESOP Centre (www.esopcentre.com) advocates all forms of broad-based employee share ownership and can provide experts in employee share plans through its wide membership base.

The Department for Business, Innovation and Skills provides further information on employee ownership at: www.gov.uk/government/policies/making-companies-more-accountable-to-shareholders-and-the-public/supporting-pages/making-employee-ownership-more-accessible

The Cabinet Office supports the creation and expansion of public service mutuals through the **Mutuals Information Service** at: www.mutuals.cabinetoffice.gov.uk and the Mutuals Hotline number (0845 5390 543)

This publication available from www.gov.uk/government/organisations/department-for-business-innovation-skills

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