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Question:

We have recently started franchising and a franchisee has asked to use a limited company franchisee. Is it advisable or inadvisable to allow this?

Élise Billy answers:

Generally, it should be neutral for you whether a franchisee is a sole trader or limited company. This assumes that you have got a version of the franchise agreement for limited companies. You would want to ensure that the person behind the business is the only shareholder and director (or at the very least has a significant controlling interest). That person should sign your company version of the agreement as a personal guarantor as well as signing on behalf of the company (and the version should contain a guarantee clause, or refer to a separate guarantee document). If your ongoing fees relate to revenue, you will probably want to insist that a new company is used, so that any old revenue and business from a previous existence is not mixed in. You may also want to insist (and set out in your legal agreement) that the company name does not refer to your trading name (this will be the franchisee's trading name, but not its corporate name) because otherwise on termination there may be problems (although you could ask for an undated written resolution to change the name on termination).