

	<b>TITLE:</b> <b>TPP122 -Company Legal Status</b>	<b>OWNER:</b> <b>Purchasing Manager</b>	<b>LAST MODIFIED:</b> <b>2<sup>nd</sup> October 2007</b>	<b>PAGE:</b> <b>1 of 2</b>
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## 1. The legal entity

- 1.1. Before Translink enters into a contract the legal contracting entity of the other party needs to be accurately established at the outset.

## 2. Types of entity; some of the frequent entities include:

- 2.1. Limited Liability Companies: Private Limited Companies (Ltd) & Public Limited Companies (plc).

A company formed under the various Companies Acts is a separate legal entity, contracts are made with the company not its members or management.

- 2.2. Partnerships & Sole Traders

The business name itself is not usually a separate legal entity and as such contracts should be made with the owner(s) or partners:

E.g. Mike Smith as (or t/as) M&M Building Services.

E.g. Mike Smith and Mark Morris trading as M&M Building Partnership.

E.g. 3 Partners or more: Mike Smith and partners as (or t/as) M&M Building Partnership.

## 3. Checking the company name and registration number:

- 3.1. It is important to be assured that the company we wish to contract with has stated both the company name and registration number; it is a basic check that should be made to cross reference the two items. This check helps to ensure that we are referencing the accurate company name and details on all contractual documentation. Sites such as those shown below can be useful here.

UK - <http://www.companieshouse.gov.uk/>

NI - <https://www.secure.detini.gov.uk/crni/companysearch.aspx>

ROI - <http://www.cro.ie/en/homepage.aspx>

## 4. Action to take first steps when asked or informed of a company change in name or legal entity:

- 4.1. If Translink are made aware of a change the following information should be requested and the Translink Sponsors/Project Managers should then immediately be consulted.

- A written statement from the company on the circumstances,
- If a change of legal entity has/will be made and the precise names and registration numbers concerned.
- A list of all the contracts held with Translink.

## 5. Change of company name or form:

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5.1. There are 3 main types of change in relation to companies.

5.1.1. **Novation** - Transfer of Contracts; The benefits and obligations of the contracts are transferred from one legal entity to a completely different one. Requests for Novation may arise because of a company reorganisation or the company being made into a separate independent company, acquisition by a new company or the sale of part of the company and the new company wanting to take over Translink contracts. Translink must treat these situations with care. The contractual relationship is between Translink and the original company and therefore Translink are not obliged to Novate the contract.

5.1.1.1. The options must then be examined on how to move forward for example if a Novation Agreement is considered it may be necessary make an evaluation similar to that done at Prequalification (PQQ) Stage e.g. The basic details of the organisation address and Legal Status; Financial information with a check on the Financial Status; Banking details; Business activity details; Professional and Business standing; Quality Assurance; Health, Safety and Environment details; Equal Opportunities; Insurance details; Capacity and Capability details. It may also be necessary to seek advice on ownership of Intellectual Property Rights (IPR) and investigate order points that have been reached and so on.

5.1.2. **Change of Company Name** – Companies may change their names at any time as often as they like by Special Resolution. A change under this procedure does not usually affect the company’s legal entity and the company registration number does not change so no formal transfer of contracts is needed via Novation instead a formal amendment to the contract should be made to reflect the current company name and to ensure correspondence is addressed correctly.

5.1.3. **Change of Company Ownership** – A change of ownership can arise when the controlling interest in a company passes from one party to another. These changes by themselves do not always mean the company legal entity changes too it may be just the shareholding position has changed. The Contract Sponsor/Project Manager should be informed as the new ownership may cause future issues.