



Creative, Cultural and Digital Industries Guide for the West Midlands Region

Introduction

Being a creative entrepreneur brings with it many challenges as well as rewards and there are many issues to be tackled in setting up, consolidating and growing a business in the creative sector.

Business Link are here to help you make your creative enterprise even more successful.

“To me, business isn’t about wearing suits or pleasing stockholders. It’s about being true to yourself, your ideas and focusing on the essentials.”

Sir Richard Branson
Virgin Group of Companies

As a creative person in business, you have your own unique creativity, your ambition about what you want your enterprise to become, and your own ideas about what ‘success’ means to you.

Creative entrepreneurs blend creativity with smart business thinking and that is what this guide will help you to do, by providing information and examples which are relevant to your situation as a creative person in business.

The creative sector accounts for 7.3% of the UK economy and is growing at twice the rate of the economy as a whole. Creativity is at the heart of the economy, not at the fringes, and your contribution as a creative entrepreneur plays a part in the UK’s future as the ‘world’s creative hub’.

Business Link is committed to supporting the creative industries in the West Midlands and to helping you achieve the success you are aiming for. This guide has been written especially for creative people in business and the content is tailored to the specific needs of enterprises in the creative, cultural and digital sector.

This guide highlights issues you will face and provides insights and information which will help you to deal with them successfully.

We can give you information on starting and developing your enterprise in the creative sector, providing information for your business delivered through our website, publications, bulletins and other media.

Our dedicated team will help you to plan, establish, consolidate and grow your creative business. Our people have been recruited according to their professional expertise and their suitability to the creative sector. This means that when they are working with your creative business, they understand the particular perspectives of creative entrepreneurs. We will help you find the specialist expertise you need from our list of registered suppliers.

Business Link offers various free services at the early stages of your creative enterprise, to help you to assess the feasibility of your business idea and to ensure that your enterprise is launched in the best possible circumstances.

Our network of specialist business advisers can help you at each stage as your business grows.

The West Midlands Suppliers Database is a unique database of quality assured suppliers in the public and private sectors, offering a range of goods and services relevant to the needs of your business.

Business Link and partner agencies organise a range of networking events, to help you to develop your business by making the right contacts at the right time.

Business Link can also help you with learning and training plans tailored to the needs of your enterprise.

For more information see
www.businesslinkwm.co.uk
or call
0845 113 1234

Cover images, left to right - Beestung Lips, Supersonic, Metal Symposium, Boredoms, SuperSonic, Pram Sonar, Evil, Chrome Hoof, Pram Sonar, SuperSonic.

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Overview of the West Midlands' Creative Industries Sector

Creativity is big business. The creative industries account for 7.3% of the UK economy and the West Midlands is playing its part in helping Britain to become the World's Creative Hub. In this region, creative enterprises in sub-sectors such as, design, music, computer games, the performing arts, software and advertising account for 10% of regional employment and Gross Value Added (GVA) of over £6 billion per annum.

"Man owes his success to his creativity. No one doubts the need for it. It is most useful in good times and essential in bad."

Edward de Bono
Author and authority on 'Creative Thinking'

The sector of the economy known as the 'Creative Industries', 'Cultural Industries' or the 'Creative, Cultural and Digital Industries' is increasingly becoming recognised as a major force in the economy of the West Midlands and the UK as a whole.

The 'creative industries' were originally defined by the UK Government's Department for Culture, Media and Sport (DCMS) as: 'Those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property.'

There are many sub-sectors of the 'creative industries' and these demonstrate the breadth of the sector and help to illustrate the particular kinds of businesses involved. These include: advertising; architecture; the art and antiques market; crafts; design; designer fashion; film and video; interactive leisure software; music; the performing arts; publishing; software and computer games; and television and radio.

The United Kingdom's creative economy is the largest in the European Union and as a percentage of Gross Domestic Product (GDP) probably the biggest in the world.

The creative sector accounts for 7.3% of the UK economy, around £60 billion, and is comparable in this respect to the financial services industry. The sector is growing at twice the rate of the economy as a whole.

In the new millennium, the UK faces challenges in a globalised economy and the demise of traditional manufacturing and other heavy industries is well documented. In order for the country to play to its strengths, the government recognises the growing importance of the creative sector in the UK economy and its potential impact in the international arena. Consequently the government is promoting Britain as the 'world's creative hub' and envisages creative industries at the heart of the national economy.

In the West Midlands, the creative and cultural sector generated an estimated Gross Value Added (GVA) of £6.6 billion in 2004, which represents approximately 12.5% of GVA. Employment in the cultural sector grew by 4.8% to 236,000 in the year to 2004 – just over 10% of regional employment. In 2006, around 15% of businesses in the region were in the creative sector of the economy.

Business Link is helping to develop this important sector of the economy in partnership with agencies such as Arts Council England West Midlands, Advantage West Midlands, Culture West Midlands, the Learning and Skills Council, Screen West Midlands as well as local authorities in the region and a range of Higher Education Institutions.

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Creative Britain. New Talents for the New Economy. BERR 2008.
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Making the Business Case: Baseline and Growth Study of the Creative industries in Birmingham. CURS 2007.

The creative sector accounts for 7.3% of the UK economy

383 Project



383 Project is an award winning creative design agency based in Birmingham providing websites, branding, web design, and new media.

With the support of Business Link, they devised a business plan which has provided them with a route to success and which they use as a basis for monitoring the growth of their creative enterprise.

The first year for this creative enterprise wasn't easy but they did manage to make a profit and used the cash to put some things right that had made things difficult in the early days.

Consolidation

Company Director John Newbold said "After the first year we chose to invest some of our profits to consolidate our position, especially on the legal side such as contracts and our terms and conditions." Alarm bells had rung when dealing with some clients who didn't want to sign a contract or make any kind of up-front payment. With the help of a solicitor recommended by Business Link, John and his business partner Sukhi drew up a detailed standard client contract and wrote a detailed 'Terms and Conditions' document which clarified matters such as payments schedules and ownership of intellectual property.

It was money well spent and their professional approach towards contracting helps them choose the best customers. At this stage they don't need to deal with everyone who contacts them and their terms and conditions help them to filter out potential 'nightmare customers' at an early stage.

They also took the opportunity at this stage to improve their Contracts of Employment and contracts used when engaging freelancers. They now have six full-time employees and bring in freelance associates when needed for larger jobs.

Intellectual Property (IP)

This business creates intellectual property every day: brands, logos, designs, videos etc and recognises that intellectual property is at the core of the company's business strategy. As creators of the IP, they own what they create and their contracts with clients clarify this. Although the law is perfectly clear on the matter, clients often don't understand the legal position and assume that the IP will be theirs. 383 Project's standard terms specify that the company owns the IP created and they then license it to their clients as part of the deal. In some cases they have negotiated different arrangements according to clients' needs and bargaining power. However in all cases the position is clear so there is no potential for confusion or misunderstandings.

This professional approach to contracting and IP enhances their credibility with clients and is therefore a part of their professional image and corporate brand.

Strategic Success

The company's attention to strategic and financial planning, supported by Business Link and guided by their business plan, has helped them focus in the right direction. As a consequence they are proud to be working on highly-creative projects with clients such as Crowne Plaza, Holiday Inn and the BBC.



Developing your Creative Business - Introduction

Successful creative enterprises integrate creativity and business.

The art of creative enterprise is to select from a palette of infinite choices in order to draw together specific products and services with the needs of selected customers, in a way that adds up financially and is consistent with your values.

The resulting picture is a unique business formula for a successful enterprise.

“Successful creative entrepreneurs embrace both creativity and business.”

David Parrish
T-Shirts and Suits: A Guide to the Business of Creativity

Success for your creative enterprise may include a range of factors in addition to financial reward, such as fulfilling creative ambitions, staying true to personal values, and gaining recognition for your work.

Each enterprise will combine these and other ingredients differently to create their own particular definition of success.

The challenge for you as a creative person when planning and developing a business is to combine creativity with the best business ideas, so as to turn creative talent into income streams.

Crucially, this is not a matter of making a ‘compromise’ between creativity and business – it’s a matter of getting the best of both worlds.

This guide will help you to devise a unique business formula which combines your creative talents with smart business thinking, to help you achieve your own version of success as a creative entrepreneur.

It’s not a matter of making a ‘compromise’
between creativity and business – it’s a
matter of getting the best of both worlds

Strategic Planning

‘Success’ means different things to different people, so as a creative entrepreneur you need to be clear about your own definition of success. In other words, you must be clear about where you are planning to go.

“If one does not know to which port one is sailing, no wind is favourable.”

Lucius Annaeus Seneca
Philosopher (c.3 BC- 65 AD)

Having a vision of the future is important, especially if you are working with a business partner or partners, otherwise it’s possible that you will all be working hard, but towards slightly different goals. Actually writing down the objectives of the enterprise and what the future will look like, helps to keep everyone inspired and focused.

Success should be defined as exactly as possible, including the future size and structure of the enterprise, the types of projects to be undertaken, its ideal customers, the degree of creative freedom, the level of personal autonomy and the financial reward for the business itself and individuals involved.

Once you are clear where you want to go, then you can begin to plan your Route to Success – or Business Strategy – which will become your master plan for the journey.

One of the biggest problems facing creative people is actually the bewildering array of choices available, both in terms of the creative products or services you can offer and also in terms of the vast number of potential customers you could approach.

One of the toughest challenges and most important decisions you will make as a creative person in business is to answer two big questions which lie at the heart of any business strategy:

1. Which specific goods or services should we offer (from all the creative things we could do)?
2. Which particular customers should we target (out of all those potential customers out there)?

If you don’t answer these questions, there is a danger that you can try selling ‘everything to everybody’ - and end up selling ‘nothing to nobody’.

Many entrepreneurs have eventually found the answers to these questions through trial and error and have eventually found their successful niche in the marketplace. Many others, though, have fallen along the way, having failed to find a viable formula which connects creative integrity with financial success.

Strategic planning involves using your head as well as your heart, using left-brain logic as well as right-brain intuition, to steer your creative passion in the direction of business success.

Creative talent does not automatically ‘deserve’ business success, so you need to assess all your creative options to decide which are likely to be the most feasible in business terms.

To be creative as an amateur with no requirement to make money provides opportunities for infinite artistic freedom.

However, once you take your creative talent into the commercial arena, you will have to deal with two major factors – competitors and customers.



Strategic planning
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You need to find
which creative
things you can
excel at in relation
to the competition

There are many creative people out there in business and some of them are better than you at some particular creative activities. On the other hand, you will be better at some particular things than most of your competitors out there. This special thing gives you a 'competitive advantage' in the market place and is one of the essential foundations of a successful enterprise. So you need to find which creative things you can excel at in relation to the competition.

Next, you must find the answer to the question: "which particular customers out there want the very thing at which we excel?" The answer to this question will help you navigate in the direction of the most suitable customers – the people who want your excellent creativity and are prepared to pay for it.

Unique Business Formula

The answers to these two questions about competitive advantage and target customers lead to a 'unique business formula' for your enterprise which links together your creative excellence and lucrative customers.

By focusing on this formula, and being prepared to say no to opportunities that are not in line with this business strategy, you can achieve your business goals.

SWOT Analysis

To help your strategic planning, you will need to analyse your enterprise's internal strengths and weaknesses and the external opportunities and threats in the world in which you operate.

'SWOT Analysis' is a technique widely used to help devise a workable business strategy by combining the strengths of your business with opportunities in the marketplace, whilst avoiding threats and making your weaknesses irrelevant.

Strengths and Weaknesses – or Characteristics

Depending on the challenges you face, different strengths and weaknesses of your enterprise will emerge, so a creative approach to this 'internal analysis' of strengths and weaknesses is to use more neutral terms and list your enterprise's characteristics. You can then ask in which creative fields, in which arenas, and with which customers, do these characteristics become strengths.

PRIMEFACTS

A useful checklist to identify characteristics that are potential strengths and weaknesses is the PRIMEFACTS checklist [Reference 1]. This is an acronym for ten factors which provide headings for your analysis of your enterprises: People, Reputation, Intellectual property, Market information, Ethos, Finances, Agility, Collaborators, Talents, and Structure.

ICEDRIPS

External factors should be evaluated too, and a similar checklist for identifying potential opportunities and threats is provided by the ICEDRIPS checklist [reference 2]: Innovation, Competitors, Economics, Demographics, Regulations, Infrastructure, Partners and Social Trends.

Ideally you should be looking ahead rather than just at present circumstances. For example, Gas Street Works (see case study, page 22) is developing new web applications to take advantage of faster broadband speeds which are likely to be available in the UK in the near future.

Business Growth

A major strategic issue for creative enterprises is the question of business growth.

Some enterprises increase sales and profits by employing more and more people over time. On the other hand, many creative entrepreneurs choose not to grow their business in this way, preferring to remain a sole trader or small team with a 'lifestyle business'.

Growth does not necessarily provide greater profits – increased sales can be matched by increased costs, leaving the net result unchanged.

Before growing your business, it's crucial to get the business model right. Obviously, a loss-making formula, when expanded, will make even greater losses!

The challenges for growth include achieving 'scalability', in other words, how do you create and sell more goods or services profitably, without increasing the resources applied and the costs incurred by the same degree?

Intellectual Property (IP)

In the creative sector, intellectual property can be the key to business growth of a different kind. By using your creative talents to produce intellectual property, which you can retain and then license, you can increase your income without adding employees or other costs. J.K.Rowling didn't grow her writing business by employing people, but through her own writing talent, which produced intellectual property, which she then licensed to publishers, film-makers etc to make her a creative millionaire.

For more information on Intellectual Property, see Section 7 on page 17.

Organisational Structure

Your organisational structure is another factor, mentioned in the PRIMEFACTS checklist earlier, which can have an important bearing on your business strategy.

Creative enterprises are constituted in all kinds of ways: sole traders, partnerships, private companies limited by shares, companies limited by guarantee without share capital, limited liability partnerships and even PLCs.

Each of these structures offers advantages and drawbacks in different ways and therefore need to be considered in relation to your goals and business strategy. For example, the organisation structure you choose can have major implications for ownership and control of the enterprise, attracting investment and funding, and personal financial liability for the people involved.

For more information on Organisational Structures, see Section 8 on page 23.

Pricing

Pricing is an ingredient in your business strategy. Pricing policy is not just a matter of economics, making sure you fully cover all your costs and more, it's also intimately connected with your market positioning and brand.

(See Section 6 on page 12 for more information.)

Pricing is also connected to the sale and/or licensing of the intellectual property in your good or services.

(See Section 7 on page 17 for more information.)



Pricing is not just a matter of economics;
it's also intimately connected with your
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“The paradigm in the music business has shifted and as an artist and a businesswoman, I have to move with that shift.”

Madonna
Recording artist and entertainer

Business Plans

The most important thing about devising a feasible business strategy is getting the fundamental formula right, in other words, choosing which creative goods/services to produce and finding a ‘strategic fit’ with carefully selected customers. These assumptions about customers, competitors and your core competencies must fit reality.

Too often, business plans are written based on unrealistic assessments of the reality of the marketplace.

Once these crucial pieces of the jigsaw fit together to create your unique business formula, then you should write a detailed business plan.

The best business plans are useful documents which become a ‘route map’ or ‘pocket guide’ to help you on your journey to success.

383 Project (see case study, page 5) devised a business plan which set out the key stages for the development of their creative business. They regard it as an organic document which grows and adapts to changing circumstances and is the main reference point for the owners when managing their enterprise.

The best business plans provide milestones and measures of success, so that progress can be tracked as the business develops. These ‘key performance indicators’ (KPIs) measure the most important aspects of the company’s performance and are the business equivalent of a car’s dashboard, providing the driver with essential real-time information.

Business Link can provide expert assistance to help you devise a feasible business formula and help write a business plan for your creative enterprise.

In conclusion, planning your business strategy is crucial and much needs to be done, both at the initial drawing-board stage and as the enterprise develops and grows. Get the formula right first by dealing with the major strategic issues. Then write it up into a more detailed business plan to guide you on your journey to success.

Before growing your business it’s crucial to get the business model right

References

- 1. T-Shirts and Suits: A Guide to the Business of Creativity. David Parrish. 2005
- 2. T-Shirts and Suits: A Guide to the Business of Creativity. David Parrish. 2005

Understanding your Customers

Marketing isn’t just a posh word for selling. It’s much more important than that. It’s about knowing your values, identifying your creative advantage, choosing a position in the market place, selecting customers that fit your strategy, and then working in partnership with them.

Strategic and Operational Marketing

The word ‘marketing’ encompasses both science and art as well as a wide range of skills, but essentially it can be separated into ‘strategic marketing’ and ‘operational marketing’ (also called ‘marketing communications’).

Operational marketing is the more visible side which we see every day as consumers: advertising, PR and selling that is about communicating towards customers, telling them about products and services.

Strategic marketing is less visible and takes place behind closed doors before any advertisements are commissioned. It concerns itself with key decisions about which products and services to produce in the first place, based on competition and market conditions, and on which customers to target. It is responsible for aligning the whole organisation around the needs of particular customers. It’s crucial that strategic marketing comes before operational marketing because unless your initial ‘business formula’ is right – matching particular products and services with selected customers profitably – then operational marketing will fail, no matter how clever (or creative) the advertising.

The strategic marketing formula includes decisions about which customers to serve – and by implication, which ones not to deal with. Finding the right customers should not be a matter of opportunism but a carefully considered choice at the heart of your business formula.

Selecting the right customers in the first place is an essential element of any successful business formula

Customer Focus

Successful creative enterprises are truly customer-focused, not in the sense of putting customers in their sights (as if firing products at them), but putting the customer at the centre of their universe so that their entire business revolves around them. It’s a fundamentally different philosophy.

It’s a shift of thinking, from ‘How can we sell what we want to create?’ to ‘How can we use our creativity to provide what customers want to buy?’

Selecting the right customers in the first place is an essential element of any successful business formula. Then organising your enterprise around the changing needs of these selected clients is what marketing really means. In other words, marketing is about putting targeted customers first, at the beginning of the business process, not at the end. Your strategic customers’ needs have to be the whole point of the business, from beginning to end. That’s why David Packard co-founder of Hewlett Packard famously said: “Marketing is too important to be left just to the marketing department”. Marketing is the responsibility of the whole business, not just the sales people at the end of the line.

Marketing is definitely not a matter of trying to ‘please all the customers all the time’, but selecting the customers you can partner with most effectively and profitably, matching their needs with your creative skills. Just as business strategy includes deciding what not to do, strategic marketing includes deciding which customers not to deal with. Trying to focus on every possible customer is a recipe for failure.



“Marketing is so basic that it cannot be considered a separate function. It is the whole business seen from the customer’s point of view.”

Peter Drucker
Writer and Management Guru

Bad Customers

Not all customers are good customers. Sometimes alarm bells will ring when a customer doesn't want to sign a contract, or is not prepared to make a payment up-front in line with your terms and conditions. Sometimes you will instinctively know that you are somehow not 'on the same wavelength' as a potential customer. Perhaps you don't share the same values. For one reason or another, some customers are simply more trouble than they are worth. The sooner you can get yourself into a position where you can pick and choose your customers, the better!

Listening to Customers

So if customers are the whole point of the business, from beginning to end, it's clearly not enough simply to talk at them at the end, but to listen to them from the beginning. Marketing is a dialogue, not a monologue. Listening to customers has many dimensions but it is primarily an attitude towards customers as active partners, rather than passive targets. This involves looking at things from the customers' point of view. Marketing can be described as 'being close to the customer' and it includes researching the market but not necessarily the stereotypical 'market research' which can be too expensive for many creative enterprises, especially in the early stages of business. There are many ways of listening to customers and looking at things from the customers' point of view if you want to. If you really want to know about markets and customers, you can find out through various means, indirect and direct. As well as direct ('primary') research, market research also includes secondary ('desk') research using published data from industry analyses, government statistics and trade journals, much of which is available in libraries or on the Internet. More directly you can visit customers, invite them to focus groups, and watch them use your product (or a competitor's). Visit them to see how they work. Get customers involved in new product development. Explore how you can help their businesses develop. Last but not least, listen to them and establish a dialogue through feedback mechanisms, focus groups, suggestions boxes, or over a lunch. Buy them a drink and get to know them. In return you'll get their good ideas and loyalty.

Marketing is a dialogue,
not a monologue

"Your company does not belong in any market where it cannot be the best."

Philip Kotler
Professor of International Marketing

Marketing is definitely not a
matter of trying to 'please all
the customers all the time'

Customers' Perspectives

Sometimes insights emerge about what customers are really buying, which may not be what you think you are selling them. For example the apocryphal tales of the beer that was bought only because the empty can made an excellent oil lamp in Africa; the bookstore that found nobody returned the voucher placed deep inside the Booker Prize-winning novel because in reality people bought it to leave on their coffee table to impress their friends. Such unsettling observations help you to see things from the customer's point of view. What do you know about your current customers, lost customers and target customers? What would you ideally like to know? Using your creativity you can devise a way of finding out.

Strategic, then Operational Marketing

If you have devised a business formula around a natural fit between selected customers and the products they want, at the right price, then advertising and promotion becomes more a matter of informing them rather than coercing them. There's no need for cold calling or hard selling if you've listened to customers all along and they've been included in the project from the start. On the other hand, even the most persuasive (or 'creative') advertising will not sell a product if it's not what the customers want and at the right price.

In other words, if you get your strategic marketing right, then operational marketing becomes much easier.

See Section 10, page 29 for more on operational marketing,

Not all customers
are good customers



Stan's Café

Stan's Cafe Theatre Company tours internationally from its base in Birmingham, and with support from Business Link on strategic marketing and other matters, the company has built a world-class reputation for innovative theatre productions. They also recognise new business opportunities to sell their expertise in different arenas.

Stan's Cafe is well established and with the help of Business Link has developed strategic plans to achieve even greater success in the future. The company's core competencies are theatre skills and creative thinking; they use these to provoke and entertain audiences through their stage productions.

Market Research

Thinking strategically about business development, they also recognise that the skills at the heart of their enterprise can add value in different settings. Charlotte Martin said: "We carried out a feasibility study to explore our options and market research indicated that businesses outside the arts and creative sector would be willing to pay us to use our skills for corporate training purposes. This new business venture we hope will generate revenue to support the company's core work."

A new trading company

Stan's Cafe has set up a separate company specifically to undertake this corporate training and entertainment work. Business Link helped by providing a specialist adviser on company structures. Charities often set up companies as 'trading subsidiaries' for non-charitable purposes and this is a similar move. But Stan's Cafe isn't a charity, it's a Company Limited by Guarantee without Share Capital and the new company, Stan's Cafe Enterprises Ltd is constituted as a private company limited by shares and Stan's Cafe Ltd is the sole shareholder in the new company. They have the same Directors serving on both company Boards. Having these two separate corporate 'vehicles' will allow them to keep both aspects of their business clearly distinct.

Marketing Communications

The company's marketing communications are focused on three key market segments: (1) promoters, venues and festivals; (2) audiences; and (3) 'VIPs' – sponsors, funders and opinion formers. Their marketing messages concentrate on the benefits the company delivers to each of these different kinds of customers. The media they use to deliver those messages is chosen according to what's most appropriate to the target market.

Keep Overheads Low

One of the company's stated business principles is to keep overheads low, avoiding expenditure on unnecessary costs so they can focus every penny on the essentials. Full-time staff are complemented by a team of associates who are engaged on a freelance basis depending on the needs of the company's projects from time to time. This means they can choose the right people for each job and it also keeps fixed costs down. Stan's Cafe is a creative enterprise, thinking creatively about business and no doubt will continue to be successful both artistically and commercially.

www.stanscafe.co.uk

stan'scafe

Ideas themselves cannot be protected legally

Profiting from your Ideas

Intellectual property is at the heart of the creative industries, so all creative businesses need to know how to protect their intellectual property rights – and then use them to generate income streams.

“Ideas don’t make you rich. The correct execution of ideas does.”

Felix Dennis
Dennis Publishing. Publisher, poet and multi-millionaire.

As a creative entrepreneur, whether you are a designer, photographer, artist, musician, performer, jeweller, architect, writer or in one of the other subsectors, you share one thing in common with other creatives – you are in the ‘ideas business’.

Intangible Assets

The assets of traditional businesses in the West Midlands were tangible ones and could be seen throughout the region: factories, vehicles, equipment, machinery, etc.

In contrast, most of the value in your creative enterprise will be in its ‘intangible assets’, such as your know-how, brands, and intellectual property of different kinds. The value of these intangible assets is likely to outweigh the tangible ones on your balance sheet.

Protecting Creativity

Despite the title of this section, it’s important to note that ideas themselves cannot be protected legally – only the expression of those ideas in some recorded form. In other words, a tune in a composer’s head cannot be protected until it is recorded in some way, in a musical script or captured on tape or disc. The idea for a novel cannot be protected but the actual writing can.

So intellectual property (IP) can be defined as “the product of creative ideas expressed in works”. [Reference 1]

Intellectual property rights (IPR) have been described as “the legal powers associated with the ownership, protection and commercial exploitation of creative ideas expressed in works”. [Reference 2]

In practice, most intellectual property rights are protected through copyright, designs, trade marks or patents.

As a creative entrepreneur, you are in the ‘ideas business’

Copyright

Copyright automatically arises as soon as an original work is created; it does not need to be registered. So as soon as a piece of writing is written, a photo taken or a painting painted, a copyright work has come into existence.

Copyright applies to writing, music, films, artwork, designs, photos, computer programs, broadcasts, etc.

Normally, the first owner of a copyright work is its creator, the main exception being an employee creating something in the course of their employment. Of course copyright can be sold or given away, by agreement in writing. It is important to note, though, that until there is an agreement in writing to the contrary, copyright remains with the creator. This has implications for your terms of trade with clients as we will see later in this section.

Although registration of copyright is not necessary to achieve legal rights, it is nevertheless useful to keep records in case of any disputes in the future. For example, copies signed and dated by an independent person should be kept, along with notebooks, sketches, drafts and other evidence.

Ideas don’t make you rich

Poet and publisher Felix Dennis wrote “ideas don’t make you rich, the correct execution of ideas does.” [Reference 3]

In some ways, having the ideas is the easiest part. Getting those ideas down on paper, film, canvas or a hard drive is the next part. And then using those creative works to make money for the creator is the real challenge for you as a creative entrepreneur.

Designs

Designs are protected automatically by copyright but designs can also be registered, giving stronger legal protection in the event of a dispute over ownership.

Registering a design is one of the simplest, cheapest and quickest ways of registering intellectual property.

A design could be a logo, illustration, dress, book cover, wallpaper or other form of design. Registered Designs apply only to the appearance and form of things, not their functionality, which is the realm of Patents.

Trade Marks

Trade marks distinguish the goods and services of one trader as distinct from another and so can be described as a ‘badge of origin’ to inform customers about the source of those goods or services. Trade marks are usually words or symbols, but can also be jingles, smells or colours. Cadbury’s have registered the colour purple as a trade mark – no other chocolate manufacturer can use this colour for their packaging.

The purpose of trade marks is to inform consumers and to avoid deceit by unscrupulous traders. Using the reputation of another trader to sell your goods is known in legal terms as ‘passing off’ – for example adding a Nike ‘swoosh’ to cheap trainers to pass them off as the genuine article.

Having invested creativity, time energy and money in making your goods and services, and having built a reputation for your work, you should consider protecting your brand through a trade mark.

Trade marks can be registered or unregistered. An unregistered trade mark can be denoted using the TM symbol, which simply indicates that a word, phrase or logo is being used as a trade mark. However this gives little legal protection and any dispute about its use would need to be settled using a civil action of ‘passing off’. This is complex and potentially costly as it involves proving that you do have a reputation, someone else profited from that reputation, and you suffered financial losses as a result. In contrast, if the trade mark is registered, it is much more straightforward legally to challenge any infringement.

Registered trade marks are denoted by the ® symbol and it is a criminal offence to use this symbol if the trade mark is not actually registered. Trade marks are registered for particular classes of goods, which is why Penguin can be used as a trade mark for both books and biscuits by different companies.

Trade marks cannot be descriptive, eg ‘Cool Shoes’ or ‘Fast Computers’ since one trader cannot have a monopoly on describing shoes or computers as cool or fast. Trade marks must be ‘distinctive’, in other words clearly signal a distinction between one trader’s good and another’s. Invented words, or words out of context, work well in this respect.

It is useful to keep records in case of any disputes in the future



Not only can you stop people stealing your work, you can actually ‘rent’ it to them

Patents

Patents cover inventions of various kinds and are most commonly associated with mechanical devices, but also cover pharmaceuticals, electronics and many other fields of innovation. This is a complex area of intellectual property law and potentially the most lucrative, so you should obtain expert advice at an early stage, before the innovation is made public.

Intellectual property rights can ‘overlap’ so for example you could protect a logo through a registered design and a registered trade mark.

Commercialising your IP

You can use intellectual property rights defensively to avoid being ‘ripped off’ by others, but there are also more positive aspects to your intellectual property rights.

Once you have intellectual property rights, you can then actually allow others to use your works, in exchange for financial income, through the process of licensing. In other words, not only can you stop people stealing your work, you can actually ‘rent’ it to them. So an artist or photographer can license others to make copies of their works, for commercial purposes, in exchange for cash. A clothing designer can license their designs to manufacturers, a computer games developer can license their game for others’ use and a songwriter or playwright can allow others to perform their work – in all cases in exchange for a share of the profits or a fixed payment.

You will need to clarify the position of intellectual property in relation to your clients. As a designer, for example, do you assign IP rights to the client or keep them and license the client to use them. This is an area for potential misunderstandings and confusion so you will need to have clear terms of trade and contracts to ensure both you and your client are clear about the legal position.

Business Link can help you find specialist advice about contracts and your terms and conditions of trade.

“I believe in IP. I believe in its value, both economic and social. I believe it should be protected, as any other property, as a means of fostering independence, investment and autonomy.”

Jonathan I Schwartz.
President of Sun Microsystems

Confidentiality Agreements

‘Confidentiality Agreements’ or ‘Non-disclosure agreements’ are legally binding documents which ensure the confidentiality of business information. You may be required to sign one by a client if you need to know aspects of their business which they need to remain confidential. You can use confidentiality agreements yourself when discussing your creative projects with potential business partners, clients or subcontractors.

Profiting from your Ideas

Making money while you sleep

This approach to using IP to develop a creative enterprise offers you a model of business which is not solely based on your ability to continue working.

In this way, intellectual property rights can be used to generate income for yourself ‘while you sleep’, to transform you from being a ‘creative labourer’ to a ‘creative entrepreneur’. [Reference 4]

This model is also scalable in that further income can be generated without being limited by your personal capacity and availability. For example, a theatre company or singer can only work in one place at a time, but through recordings or videos they can entertain many audiences simultaneously and generate multiple income streams.

To some extent, this type of business can be delegated or automated so that as a creative entrepreneur you need not be directly involved in distribution, retail or licensing. You are then free to concentrate on your more creative endeavours.

By ‘condensing’ creative talent into works protected by intellectual property rights, you can grow your business income without necessarily having to grow it in terms of employees, premises or other overheads.

Creative Commons

Sometimes, for artistic or commercial reasons, you may want to allow clients and others to copy your works, perhaps for publicity purposes, provided your name stays attached, the work is not changed and it is not used for commercial purposes without your permission. In this case you may want to use a legal contract which sits somewhere between giving away your work into the public domain and a strict ‘all rights reserved’ policy. The Creative Commons movement has worked with creative people and lawyers to provide a variety of legally-binding contracts for use in these situations.

For more information about Creative Commons, see their website at www.creativecommons.org

Intellectual property rights can be used to generate income for yourself ‘while you sleep’

Conclusion

Since intellectual property is so central to all creative businesses and provides significant opportunities for wealth creation, as an entrepreneur you will no doubt find ways to strengthen and develop your creative business by integrating intellectual property rights into your business strategies.

To paraphrase David Packard’s comment about marketing – ‘intellectual property is too important to be left to the legal department’. In other words it should play a central part in your strategy.

This section is intended to provide general information only and you will of course need specialist legal advice. Business Link can help you source the right legal advice.

You can register a design, trade mark or patent with the UK IPO yourself but it is wise to seek professional advice from Business Link or a lawyer since intellectual property is a specialist area of the law.

Registration of Designs, Trade Marks and Patents in the UK takes place at the UK Intellectual Property Office (UK IPO), formerly known as the Patent Office.

www.ipo.gov.uk

Intellectual property should play a central part in your strategy

References

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2. T-Shirts and Suits: A Guide to the Business of Creativity. David Parrish. 2005
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Gas Street Works

Gas Street Works is a multi award-winning digital media production company serving a large number of high-profile clients. As well as using their creativity to help clients directly, with the help of Business Link they are also developing innovative products which will generate extra income streams through the licensing of this new intellectual property.

Based in Birmingham's Jewellery Quarter and established in 2000, this creative enterprise specialises in making high-quality web and video communications for clients such as the Home Office, the NHS and Anglian Water.

Strategic Planning

Director Stuart Udale said: "We operated without a business plan for the first two years and nearly went under, so we decided to strategically look towards the future and develop plans based around emerging opportunities. Within the last business plan produced last year, we are now developing new products to strengthen the company's profitability and sustainability."

The company is positioning itself to take advantage of changes in technology and customer requirements. The 'Web 2.0' phenomenon means that internet users no longer want or need to be passive viewers; instead they are increasingly actively participating in the Web, for example through websites such as Wikipedia, Facebook, Flickr and YouTube. Also, faster broadband speeds are already available in the USA and Far East and will arrive in the UK in the next few years.

Using their creativity and technical expertise in web video, this creative enterprise is preparing to seize this opportunity and are developing web applications relating to the distribution of video and user interaction with video.

Intellectual Property

With the help of Business Link, Gas Street Works has developed a new approach to business growth based on the creation and licensing of intellectual property.

These products will remain the intellectual property of the company which will then license the applications to users for an annual fee. This strategy will generate additional income in a way which complements their core business. Furthermore, in contrast to their existing operations, this new business development is scalable - extra licensing income is not directly dependent on employing more people with associated extra costs.

Company Structure

Gas Street Works Ltd is owned by two founding partners who are equal shareholders and both are Directors of the company. There are currently nineteen employees and the business also regularly uses freelancers from time to time as required by the needs of particular projects. As the number of people grows, new tiers of management are being put into place and staff are being trained how to become even more proficient in leading and managing their teams.

With specialist advice from Business Link, the company is planning ahead and considering some possible new developments, including the appointment of non-executive directors to the Board, an employee share ownership scheme, and incorporating a separate company to hold the IP in their new products.

www.gasstreetworks.com



Organisational Structures

Your creative enterprise can be set up using a variety of different legal structures, for example as a self-employed sole trader, a partnership, a limited company, or community interest company etc. Selecting the most appropriate legal structure to support your business objectives is an integral part of your business strategy.

There are advantages and disadvantages to all possible legal structures, so choosing the right one for your enterprise depends on the kind of business you want and what kind of success you want to achieve.

Options include: self-employed 'sole trader'; partnership; private company limited by shares; limited liability partnership; company limited by guarantee without share capital; and a community interest company (CIC).

Options and Consequences

Choosing a particular structure may have short term benefits but long term drawbacks, so it's important to think ahead and take professional advice.

There is rarely a simple 'right or wrong' answer. It's more a case of understanding all the options and consequences of each legal structure. You will need to assess the extent to which each structure could potentially support or hinder the development of your enterprise in line with your chosen business strategy.

Some of the questions you will need to ask when selecting a structure are:

- To what extent do the founders want to retain, or share, ownership and control?
- What types of financial investments, grants or loans will the business need?
- What are the personal financial risks to the people involved and how can we minimise those risks?

"A group of people get together and exist as an institution that we call a company so they are able to accomplish something collectively that they could not accomplish separately."

David Packard
Co-founder, Hewlett Packard

There are advantages and disadvantages to all possible legal structures

There are consequences for ownership and control, depending on which structure you select

Structure and Finance

If you are seeking financial investment from a 'business angel' or venture capital institution, then they will want to have shares in your business, so the conventional 'private company limited by shares' option will enable you to issue and sell shares in your business.

On the other hand, some public sector agencies will only award grants to organisations which are 'non-profit-distributing', which means that they do not distribute their profits to shareholders. Many creative enterprises in the arts and cultural sector are constituted as 'companies limited by guarantee without share capital' and since they do not have shares, they cannot distribute profits to shareholders. They are therefore 'non-profit-distributing' and eligible for some grants not available to other companies. These companies are often referred to as 'not-for-profit' though this term can be confusing as they are allowed to make profits, though often their primary motivations are non-commercial.

Bank loans are often secured on the assets of the business receiving the loan, but since most creative enterprises have relatively few tangible assets which can easily be repossessed and sold, banks may require personal guarantees from the key people involved. This shifts financial responsibility from the company to the individuals and increases those individuals' personal risks. In turn this can have consequences for decision making within the company since those with most to lose may demand the greatest influence on business decisions.

Ownership and Control

There are consequences for ownership and control, depending on which structure you select. In a company without shares, there can be no 'majority shareholder'. As a result, all members of the company are equal and this can have advantages and disadvantages in terms of decision making and the status of founder members.

In companies with shares, the founders could, for example, have 50% of shares each and agree to sell some of their shares to other partners who come on board later. It is advisable for shareholders to augment the company's constitution (the Memorandum and Articles of Association) with an additional 'shareholder agreement' which sets out the terms for separation, buying each other out, and what happens when one of the shareholders dies.

It is possible to have more than one legal structure for an enterprise



One major advantage of all limited companies is that the liability of the members of the company is limited

Limited Liability

One major advantage of all limited companies (and limited liability partnerships), as distinct from sole traders and normal partnerships, is that the liability of the members of the company is limited. A limited company is a legal entity which is separate from the members' individual financial affairs, so if the company becomes insolvent, the people involved lose only their investment in the company; their personal assets will not be taken to cover the company's debts.

In contrast, the personal financial liability of self-employed sole traders and partners is unlimited since the law does not make a distinction between their business and personal affairs. In the worst case scenario, the creative entrepreneur would lose all their personal assets to pay off business debts.

Two structures?

It is possible to have more than one legal structure for an enterprise and many businesses set up separate companies or trading subsidiaries for particular activities, or for other reasons.

Stan's Cafe (see case study, page 15) is a theatre company which has set up a separate company, Stan's Cafe Enterprises Ltd, to conduct training projects in the commercial sector.

Advisers and Directors

As your enterprise grows, you will require more professional advice from accountants, lawyers and consultants and in some cases it is appropriate for such individuals to become company directors or otherwise have a formal role within the enterprise.

Investors and others with expert knowledge and contacts may serve as 'non-executive directors' on your company's Board.

Business Link can help at the different stages of your enterprise's development.

"Crazy times call for crazy organisations."

Tom Peters
Author and Management Guru

People and Skills

As your creative enterprise develops, you may want to expand by employing people or engaging freelancers – or both. This involves learning to become a manager and leader as well as continuing to develop your own creative skills and those of the people around you.

"Management is efficiency in climbing the ladder of success; leadership determines whether the ladder is leaning against the right wall."

Steven Covey
Author, The 7 Habits of Highly Effective People

Appointing your first employee is a significant step for any business. It's an exciting time as new people come on board and you begin to build your team.

At the same time, you will have legal responsibilities as an employer and it's important to be fully aware of the law, and comply with regulations in terms of recruitment, employment and dealing with grievances, disputes and redundancies.

Employer's Liability Insurance is required and as an employer you will have to deal with HM Revenue and Customs (HMRC) in relation to employees' tax deductions and both employees' and employer's National Insurance contributions.

HM Revenue and Customs provide information, including a New Employer's Pack, which can be obtained by contacting your local office or the website:

www.hmrc.gov.uk

More information on other legal responsibilities is in Section 12 on page 39.

Some creative entrepreneurs choose not to employ other people, but instead have a network of associates, engaging freelance contractors from time to time as required by particular projects.


Many creative firms do both; they employ some people and also use freelancers to 'top up' their team when required by the demands of the business. The creative enterprises featured in the case studies in this Guide have employees and also take on freelance workers as needed. See 383 Project (page 6), Stan's Cafe (page 16), Gas Street Works (page 22), and Capsule (page 34).



Many creative firms employ some people and also use freelancers to 'top up' their team



You will have legal responsibilities as an employer and it's important to be fully aware of the law



As a creative entrepreneur
you must spend more time
working 'on' the business
rather than 'in' it

Whilst there are clearly many advantages to having employees constantly available in the business, there are disadvantages too, particularly the impact on the enterprise's fixed costs. Having a monthly financial commitment to employees means that you must find an equally regular and reliable source of income to guarantee being able to pay their salaries. If your business is seasonal, or work fluctuates in an unpredictable way, then high fixed costs because of employees or other overheads can have a serious impact on cash flow.

For more information on cash flow and other financial matters see Section 11 on page 35.

Management Structures

As the number of employees grows, you will need to put in place some kind of management structure and as a creative entrepreneur you will find yourself spending an increasing amount of time dealing with other people in the business.

As a creative entrepreneur you must spend more time working 'on' the business rather than 'in' it, in other words directing people and establishing systems as a manager rather than a worker. This can be likened to 'air traffic control', concentrating on directing planes and making sure they travel quickly without crashing – rather than flying a plane yourself.

As your employees become managers of other people in the business, they may require management training as it does not automatically follow that someone recruited initially for their creative skills will become a 'natural' manager. Gas Street Works (see case study on page 22) are providing management training for their employees.

As the number of employees
grows, you will need to
put in place some kind of
management structure

Leadership focuses
on inspiring and
enabling people

Becoming a leader

Soon you will find that you have become not only a manager but a leader, with employees looking to you to provide vision and direction for the team.

The word leadership often brings to mind the world's great leaders of nations and movements: Nelson Mandela, Winston Churchill, Mahatma Ghandi, Martin Luther King, etc. and so it can seem much too grand a term for the boss of a five-person design firm. However the requirements for leadership (as opposed to management) are still the same. Broadly speaking, management concentrates on telling people what to do, whereas leadership focuses on telling people where they are going, then inspiring them and enabling them to play their part in the journey.

As a leader you will learn to use different leadership styles to suit the circumstances and the people you are leading.

Learning and Training

Leadership is also about aligning the interests and motivations of each individual with the aims and direction of the whole enterprise. Each person must develop individually if they are to continue to be motivated and make an increasing contribution to the enterprise.

As a manager and leader you may want to help each employee to develop a personal plan for Continuing Professional Development (CPD). This 'learning plan' may involve training but can include many other ways to learn, for example reading, job swaps, networking and attending seminars as well as training workshops.

A culture of learning is much more important than a budget for training.

Through the Train to Gain scheme, we can identify any skills or training needs that you or your business may have and we can suggest appropriate training courses and learning opportunities relevant to you.

For more information on the Train to Gain service visit www.traintogain.gov.uk

Business Link also works closely with Skillset and the Cultural Sector Skills Council.

"A leader is best when people barely know he exists, when his work is done, his aim fulfilled, they will say: we did it ourselves."

Lao Tzu

Chinese Philosopher (604 BC - 531 BC)

A culture of learning is much
more important than a
budget for training

Promoting your Products/Services

Now that you have devised a marketing strategy, you need to communicate effectively with your target customers. Use the '3M's of Marketing': Market, Message and Medium, to select the right market segments, decide the precise message for each segment, then choose the most suitable media to transmit those messages to their target audiences.

'Operational Marketing' (also called 'Marketing Communications') follows from Strategic Marketing (see Section 6 on page 12 for more details).

'Niche marketing' rather than 'mass marketing' techniques are more appropriate to small and medium sized enterprises (SMEs) and this applies even more so to micro-businesses, including those in the creative industries.

Your creative goods or services won't appeal to everyone – and they don't need to. So you won't want to advertise to a mass market but to those particular customers who want the best you can offer – and are prepared to pay for it. It won't matter that the mass market doesn't know about you so long as you can attract enough of the right customers to make your business successful in your terms.

Lack of budget

Most creative businesses do not have a large budget for advertising. Paradoxically this can be a good thing, because a lack of budget means you have to target promotions more carefully and apply your creative thinking to your marketing communications as well as to producing and delivering your products and services.

Your unique business formula and marketing strategy will indicate which particular types of customers are most in tune with, and willing to pay for, your best creativity.

Even at this focused level, you may still have two or three different types of customer, so you will need to deal with each of them differently. For example, theatre company Stan's Cafe (see case study, page 16) recognises they have three types of customers. They need to communicate with (1) promoters, festivals and venues that connect them to audiences, (2) the audiences themselves, and (3) 'VIPs' – key people such as sponsors, funders and opinion leaders.

Your creative goods or services won't appeal to everyone – and they don't need to

Use the '3M's of Marketing': Market, Message and Medium

The '3M's of Marketing'

The '3M's of Marketing' technique will help you to be clear about what and how to communicate to each of your key customer types. The 3M's, (Market – Message – Medium) should be considered in the right order. Think first about the customer type (market), then decide what they most need to know (message), and then choose the most effective vehicle (medium) to deliver that message.

This approach will help you to be more focused and efficient in getting the right messages to the right people in the most cost-effective way.

B2B and B2C

Your creative enterprise might sell to other businesses (B2B – business to business) or to individual customers (B2C – business to consumer), or both.

B2B is often a more complex multi-stage process involving various 'gatekeepers' and budget-holders in the client organisation.

It's important to remember this distinction and understand the different perspectives of these two different types of customers so that you can tailor your marketing messages to them accordingly.

For example, a publisher might sell directly to readers and also to other businesses such as distributors and booksellers. The publisher's marketing messages to readers will emphasise the high literary merit of the books or their must-read qualities. On the other hand, to distributors and booksellers, the publisher will emphasise the expected demand and the trade discount available to make this a profitable product to stock.

Businesses may be looking for a longer-term relationship with you than individual consumers and may consequently require more evidence of your ability to supply them reliably. This is often the case for larger companies and public authorities which have 'procurement policies' which require you to pre-qualify before being able to tender by providing information about your financial track record, capacity to deliver and your adherence to relevant policies and procedures.

Features and Benefits

The most successful marketing involves looking at things from the customers' point of view. Often, creative people in business are so enthusiastic about their products or services that they fail to look at things through customers' eyes.

The customer wants to know: "What's in it for me?", so we need to emphasise customer benefits rather than product features.

For example, a business customer will rightly be more concerned about whether a packaging design will increase their sales than whether it will win you an award. An individual consumer will want to know whether your product will make them look good, more than about how you made it.

The acid-test is this: if the customer is still asking "So what?", then you've been talking features, not benefits!



"If you don't listen, you don't sell anything."

Caroline Marland
Managing Director, Guardian Media Group

The customer wants to know:
"What's in it for me?"

The most successful marketing involves looking at things from the customers' point of view





Listening will provide insights about the different ways your customers value your business

Listening to customers

To understand the customers' point of view, you will need to listen to them. Any kind of dialogue with the customer will help – face to face or telephone conversations, online feedback, postal questionnaires etc. Listening rather than talking will provide insights about the different ways your customers value your business. It will also provide opportunities for them to suggest improvements, enhancements or additional products.

Once you discover that they also value your after sales service, your packaging or premises, or some 'feel-good factor' you bring to them, then you can build these extra benefits into your marketing messages.

Pricing

Pricing is central to marketing. At a strategic level, your pricing policy defines your position amongst the competition, makes a statement about the value you add, and defines the type of customer you need to achieve your business goals.

At a more operational level, you will obviously need to calculate prices correctly to cover the direct and indirect costs of your enterprise, including depreciation to make a profit. The right price will ensure you are making enough money to serve your customers well, listen to them, and then develop new creative products in line with their needs and wants.

The price your customers are prepared to pay is more closely related to the benefits they enjoy rather than your production costs. 'Value based pricing' encourages you to look towards customer benefits such as status or convenience, rather than to product features or production costs in order to calculate the optimal price to charge.

In fact, a high price might be a benefit in itself, giving the customer the benefit of 'conspicuous consumption' – a kind of 'show-off factor' commonly associated with the most expensive fashion goods and sports cars.

"That which costs little is less valued"

Miguel Cervantes
Spanish novelist, dramatist and poet

A high price might be a benefit in itself

Consumers want to play a more active role than simply reading online advertisements

Marketing Media

Marketing media should always be chosen after deciding who you want to communicate with and the message you want to convey.

There is an abundance of different means of delivering your message: direct mail, leaflets, emails, newspaper articles and adverts, videos, online social networks and word of mouth.

A well-positioned article in a relevant trade magazine, online newsletter or specialist website could be worth thousands of pounds in paid advertising.

The internet and associated electronic media offer a growing range of opportunities to communicate with your target customers. Websites and email are now well-established, but as the internet becomes more user-driven (the 'Web 2.0' phenomenon), then consumers want to play a more active role than simply reading online advertisements.

Online social networking is a powerful medium (eg Facebook, Bebo, Friends Reunited) and blogging allows everyone to easily and cheaply publish their opinions. Micro-blogging from mobile phones is now a cheap and easy way to communicate too (eg Twitter). Mobile phones with digital cameras make it possible for millions of people to participate online by publishing photos and videos through sites such as Flickr, YouTube and MySpace.

In short, we are in the age of mass electronic communications and everyone can be involved, not just traditional broadcasters and wealthy advertisers.

These new media open up innovative possibilities for you to communicate with customers – and significantly, for them to communicate with each other.

Word of Mouth

Customers have always talked with each other about products and services and now 'word of mouth' has gone electronic and global. This provides opportunities for 'buzz marketing' ie super-charged 'word of mouth' using electronic media with messages about products and service carried through 'stories' from customer to customer.

However the new electronic media will not suit all customer types, so remember the 3M's of marketing to communicate with your customers by using the media that suit them, not you.

'Word of mouth' has gone electronic and global



Capsule

Based in Birmingham’s Custard Factory complex, Capsule is a creative business which presents live music, events, exhibitions and the highly-acclaimed annual ‘Supersonic’ festival. Amongst other achievements they received Best Brand and Best International Business awards from the Creative City Awards in 2005.

Capsule has brought art and interesting non-mainstream music to Birmingham since 1999, and the company continues to attract large audiences to their events which mix music and art. They were voted Best Music Festival by Plan B magazine in 2007 and their Supersonic festival has been called “the best organised and most wisely curated festival” by the magazine.

Business Link has helped Capsule develop partnerships with key agencies to improve the strategic positioning of the company.

‘DIY’ Branding

Creative entrepreneurs Jenny Moore and Lisa Meyer have built their business from scratch, learning a great deal along the way by doing it themselves. Jenny explained: “this DIY approach is part of our company ethos and reflected in our aesthetic. Our corporate visual identity has a deliberate ‘cut and paste’ feel about it, which differentiates us from other organisations in the sector.”

In addition, Business Link has supported Capsule with specialist advice on branding and marketing communications.

International Scope

Capsule works internationally and through the ‘Passport to Export’ Scheme, UK Trade and Investment (UKTI) helped them to make an impact at festivals overseas and make crucial international contacts in foreign markets. In recent years, Capsule has been commissioned to organise the showcasing of British bands at Sonar, a leading alternative music festival held annually in Barcelona.

Business Link has assisted Capsule in a number of ways, including financial management. “The people at Business Link have been really helpful. They understood what we are about and have given us exactly the support we needed, just when we needed it”, said Jenny.

They have also had support from Arts Council England.



Flexible workforce

Company directors and shareholders Jenny and Lisa work full-time for Capsule and they engage freelancers as required, for example when promoting the annual Supersonic festival or other events when they need extra people or specialist skills. This flexibility in their workforce means that they can build teams tailored to each event and bring in the most appropriate skills for any particular project. It also helps to keep costs to a minimum between projects.

Training and Learning

Attending some specific training workshops has been part of Jenny and Lisa’s continuing professional development but mainly they have enhanced their expertise through practical experience and informal learning from a network of other people in the creative sector.

€-commerce

Capsule’s website and online shop sells bags, t-shirts, posters and CDs from their ‘boutique’ record label Capsule Recordings. This online trading provides the company with additional income to help profitability.

www.capsule.org.uk

capsule

Financial Management

You will need to plan and manage the financial affairs of your creative business. Even if profitability is not the only or primary objective of your enterprise, good financial management will strengthen your business, help you build reserves for a 'rainy day', build funds to invest in new projects and provide a sound financial base for your creative endeavours.

Your forecasts

The financial forecasts included in your business plan will show the journey and the destination expressed in financial terms. The credibility of your business plan will depend on your forecasts of income and expenditure (profit and loss), cash flow, and balance sheets, backed up with supporting information to justify the figures. It's easy to be too hopeful about achieving high sales income and at the same time keeping costs down, so it's important to be realistic – deliberately adding a dose of pessimism (perhaps somebody else's) to temper your optimism. Bank managers and other potential funders will apply a 'sensitivity analysis' to your forecasts, so you should anticipate this and do it yourself first. This involves asking 'what if' questions, such as 'What if sales are 15% less than anticipated?' or 'What if costs rise by 10%?' If the answers to these questions indicate complete disaster, then they will be worried and so should you. On the other hand, if your forecasts are robust enough to withstand the storms of reality and the inevitable setbacks along the journey, it will reassure outsiders and help you sleep at night. Many people in business focus on sales (turnover) but surely profit is a better measure. What's the point of winning a £50,000 contract if it costs £60,000 to deliver?! "Turnover is vanity, profit is sanity" as the old saying goes.

The financial affairs of any business or organisation can be observed from three different standpoints

The credibility of your business plan will depend on your financial forecasts

Three windows

The financial affairs of any business or organisation can be observed from three different standpoints, each giving a different view to make up the total financial picture. Your Profit and Loss account (also known as the Income and Expenditure account) shows the financial performance over a period of time, adjusted to take account of debtors and creditors, to give a true picture of the degree to which your business is making or losing money. Your Balance Sheet provides a 'snapshot' of the total value of your enterprise at a particular point in time, eg the financial year end. It shows all assets and liabilities and the 'balance' is the net worth of the business.

Conventional businesses have assets in buildings, equipment, stock etc, though this is much less likely to be the case for your creative enterprises. Probably, the assets of your creative business will be mainly in 'intangible' assets such as intellectual property, the value of your brand and reputation, and the know-how of you and your team. However it can be difficult to value these accurately and you will need to take professional advice from an accountant about valuing these intangibles.

"The principal purpose of a company is not to make a profit, full stop. It is to make a profit in order to continue to do things or make things, and to do so even better and more abundantly."

Charles Handy
Writer, Philosopher and Management Guru.

"Turnover is vanity, profit is sanity, and cash is reality."

Adage

Your cash flow forecast will probably be one of the most useful tools you will use to guide your business

Cash Flow

The third perspective on your accounts is your Cash Flow. This can be reported retrospectively it is the cash flow forecast which is the most important and useful. Your cash flow forecast will show anticipated receipts and payments, ie actual 'cash in' and 'cash out' of your bank account and exactly when these cash movements are predicted to occur. "Cash is Reality", as they say, and it's the lifeblood of your business. Problems with cash flow have been responsible for closing down many businesses, both in the early years and when they are going through periods of expansion. Clearly, being unable to pay your bills as they fall due can prove fatal. So your cash flow forecast will probably be one of the most useful tools you will use to guide your business safely towards success. Updated frequently, as new information becomes available, it will enable you to anticipate problems in time to avoid them, for example by chasing in cash owed to you or by arranging longer credit terms with suppliers in advance. Your contracts with clients and your terms and conditions of trade are very important for cash flow as well as for other reasons, explained in other sections. If your terms require customers to pay at least a percentage of the contract value up-front and agree to a clear payment schedule, it will help to keep your cash flow healthy.

Barriers to Entry

Start-up costs for most creative enterprises tend to be relatively low, in contrast with industrial businesses which often require substantial investments in premises, equipment and stock. So it can be relatively inexpensive to set up in business. The other side of this same coin is that it is equally inexpensive for other people to set up in business themselves and become your competitors. Put another way, the 'barriers to entry' are as low for them as they were for you! Your defence against competitors is therefore unlikely to be huge set-up costs; your competitive strategy will more likely be based on your special creative skills and ownership of intellectual property. (See Section 5 on page 8 and Section 7 on page 10.)

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It can be relatively inexpensive to set up in business

Raising Funds

Nevertheless, you may still need to raise funds to start up your creative enterprise. Finance could come from loans, banks or individuals, shareholders investing funds, or grants from public sector agencies or trusts. If you are approaching any of these organisations or people for funds, you will need to understand the point of view of the investors, their hopes and concerns, and what they expect to get out of it. A 'return on investment' is always required, in one way or another. It's more business like to regard their money as an investment for some return than to think of it as 'support'. This clearly applies to venture capitalist investment but in other ways applies equally to public sector grants and 'soft loans', where some kind of 'public benefit' is the payback required. Availability of funding will depend on many factors, including your organisational structure. If investors require an equity stake, then you will have to be constituted as a company with shares. On the other hand, some public sector investors will only give grants to 'non-profit-distributing' organisations, which means you will have to be constituted as a company without shares. Your own personal financial risk will also depend to some degree on the organisational structure you choose. Limited personal financial liability is provided by 'limited company' structures, though sole traders and partners do not have this protection and can be held personally liable for business debts if things go wrong. The organisational structure you choose will have some impact on funding opportunities, financial risk and other issues. (See Section 8 on page 23.)

Business Link's Access to Finance scheme can provide information on relevant support for business and eligibility criteria, and can help you look at funding options for your enterprise.

www.westmidlandsfinance.com

You will need to understand the point of view of the investors

Consider carefully how to get the balance right between employees and freelance contractors

You can choose to register voluntarily for VAT

Fixed Costs

As your business grows, so too can your fixed costs or 'overheads'. Office or studio premises, rental of equipment and especially employees add to your overheads, which you will need to pay for monthly from some reliable monthly income. If your business is seasonal or income is irregular, then high fixed costs can present problems and cash flow needs to be managed very carefully. A good way to defend against fluctuating income is to arrange matching fluctuating expenditure, by organising your enterprise so it can 'grow and shrink' according to the volume of work available and cash coming in. Many creative enterprises bring in additional flexible resources temporarily during busy times. One of the biggest overheads is employees so you will need to consider carefully how to get the balance right between employees and freelance contractors. (See Section 9 on page 26).

Red Tape

You will need to deal with HM Revenue and Customs (HMRC) on matters of taxation for personal income tax, and possibly also corporation tax and VAT. As an employer you will have to set up a PAYE system to deduct employees' tax and National Insurance contributions as well as your employer's NI contributions. Registration for VAT is compulsory when your annual turnover reaches the £64,000 threshold, but you can choose to register voluntarily before you reach this figure. There are advantages and disadvantages to doing this, so you will want to take advice from an accountant or other professional adviser. HM Revenue and Customs will supply information about all tax and customs matters. Contact your local office or visit www.hmrc.gov.uk. A good accountant will provide professional advice about all financial matters facing your business.

Business Link can help you understand the financial aspects of your business.

Legal and other Issues

Taking your creativity into the commercial arena means that you have to deal with an array of legal issues to ensure you comply with all relevant legislation. Paying full attention to legal matters not only protects your enterprise from legal risks, but can also give you a competitive advantage.

Business Structure

Whichever business structure you choose will require you to comply with an assortment of regulations. As a sole trader your business and personal affairs are combined so you will be personally liable for financial and other risks. This applies also to a partnership (except a Limited Liability Partnership). Partnerships need to have a clear Partnership Agreement to govern the relationship between the business partners. If you set up a company, the company itself will need to comply with relevant legislation on tax, health and safety, insurance etc. The company's affairs are governed by legislation in the Companies Acts and as a company director you will have additional responsibilities. The Memorandum and Articles of Association of the company ('Mem and Arts') are the company's constitution and describe in detail what the company can and cannot do, and how it runs its affairs. As a shareholder in a business, you may also choose to have an additional Shareholder Agreement to set out with other shareholders how you will deal with different eventualities.

For more on Organisational Structures for creative enterprises, see Section 8 on page 23.

Paying full attention to legal matters can give you a competitive advantage

Employment

Employing people brings with it a range of regulations which you will need to comply with. Recruitment, contracts of employment, equal opportunities and anti-discrimination law, health and safety at work, maternity rights, and other matters apply to you as an employer. You will need to have employer's liability insurance. As an employer you are responsible for deducting employees' tax and national insurance contributions through a Pay as You Earn (PAYE) scheme on behalf of HM Revenue and Customs (HMRC).

You may use freelance contractors, associates and perhaps volunteers in addition to employees. Though these are not strictly employees you should nevertheless consider agreeing contracts with them about your working relationship. Matters of confidentiality, ownership of intellectual property and adherence to your enterprise's various policies are some of issues which could be formalised in a written contract.

For further information see Section 9 on page 26.

Taxation

HM Revenue and Customs (HMRC) deals with income tax, corporation tax and VAT as well as other taxation matters you will need to deal with as a creative entrepreneur.

HMRC are helpful and have a number of publications and information packs to help you get started. They also have telephone help-lines and may give presentations and workshops on tax matters in your local area.

At the same time, matters of taxation can become extremely complex so you will need to take the advice of a professional accountant at an early stage. You may also need to deal with a VAT specialist or tax planning professional at some point as your business grows.

For more information contact your local HMRC office or the website www.hmrc.gov.uk

Intellectual Property

Matters concerning copyright, trade marks, designs and patents can apply to all businesses, but as a creative business you are much more likely to be directly involved in intellectual property matters, so an understanding of the law on IP is vital.

You need to have a knowledge of the law on IP in order to ensure that you do not infringe other people's IP rights, protect your own IP rights, and commercially exploit your IP, perhaps through licensing agreements.

The Copyright, Designs and Patents Act 1988, is the current UK copyright law.

For more information on Intellectual Property see Section 7 on page 17.

See also the section Support for your Business at the end of this Guide which gives links to useful websites on several matters, including Intellectual Property.

You need to have a knowledge of the law on intellectual property

Matters of taxation can become extremely complex so you will need to take the advice of a professional accountant

Insurances

Some insurances are compulsory and others are wise to have. Employer's Liability Insurance is compulsory and is often bundled with Public Liability Insurance in insurance packages.

Your premises will need to be insured and other insurances to consider are various kinds of accident and sickness cover to protect your income if you cannot work. 'Key person insurance' is available to protect the business in case of the absence of its leading personnel at any time. Of course any vehicles you use in the business will need to be insured. Product Liability Insurance may be relevant to you, depending on your type of business. Professional Indemnity Insurance may be required by some clients depending on your type of creative business. Your creative profession may require you or advise you to have additional insurance protection.



"In this world, nothing is certain but death and taxes."

Benjamin Franklin
American scientist, printer, inventor and politician



Some insurances are compulsory and others are wise to have

Contracts

You will have contracts with employees and freelance contractors, clients, landlords, suppliers, licensees, business partners and other individuals and organisations in the course of your business.

You will need to take professional advice from an appropriate legal professional and Business Link will help you find the most appropriate law firm.

Data Protection Act

The Data Protection Act 1998 governs how you and your organisation can store and use personal information. If you store people's personal details, such as customer or employee records, then you must comply with this Act and its various regulations.

Under the Act you have a duty to protect the personal information you store and any personal data you collect must not be passed on to third parties without the permission of the person concerned. People have a right to know about the information held about them and you must disclose this information to them if they make a formal request.

Anti-Discrimination Laws

Various anti-discrimination laws cover race, sex, age, disability and other aspects of ensuring people are not unfairly discriminated against.

The Disability Discrimination Act 2005, the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Employment Equality (Age) Regulations 2006 could all affect the way you run your business and so you will need to be aware of the implications for your enterprise.

"A verbal contract isn't worth the paper it's printed on."

Samuel Goldwyn
Hollywood producer and movie mogul.

Equal opportunities is not only good practice, it's a matter of the law

Equal Opportunities

Equal opportunities is not only good practice, it's a matter of the law. The Equal Opportunity Act 1984 and subsequent legislation and regulations cover a range of areas including employment. You will need to be familiar with this aspect of the law and how it relates to your business.

Health and Safety

The Health and Safety at Work Act etc 1975 is the relevant legislation in this area. The 'etc' is important and covers employee welfare as well as health and safety and its wide ranging measures cover not only traditionally 'hazardous' kinds of employment but all types of workplaces and employment matters.

Environmental Sustainability

Environmental issues are becoming increasingly important and consumers are quickly becoming more demanding of businesses in terms of their environmental and sustainability policies and practices.

These are ethical as well as marketing and legal issues which you will need to deal with more and more. Some creative businesses are already at the forefront in terms of these 'green' issues and indeed they may be an essential part of your business strategy.

In any case, consumers will inevitably become even more aware of environmental sustainability issues and more demanding of the businesses they deal with.

Business Link can help you understand any potential legal issues.

Consumers will become even more aware of green issues and more demanding of businesses

Support for your Business



Business Link

The Business Link service is available locally and provides the practical advice, information that you need to start, maintain and support a business.

Call us on 0845 113 1234

or visit us online at www.businesslinkwm.co.uk

Creative Industries

Advantage West Midlands (AWM)

Advantage West Midlands is the Regional Development Agency (RDA) for the West Midlands, established to transform the region through sustainable economic development.

W: www.advantagewm.co.uk

Arts Council England

Arts Council England is the national development agency for the arts in England, distributing public money from Government and the National Lottery.

W: www.artscouncil.org.uk

Culture West Midlands (CWM)

Culture West Midlands (CWM) is one of eight Regional Cultural Consortiums set up by the Department for Culture, Media and Sport (DCMS) to represent the arts, sports, heritage, tourism and creativity in the English regions.

W: www.culturewm.org.uk

Department for Culture Media and Sport (DCMS)

Government department responsible for the creative industries.

W: www.dcms.gov.uk

Screen West Midlands

Screen WM is the Regional Screen Agency for the West Midlands, offering support, advice and funding for film, television and digital media.

W: www.screenwm.co.uk

T-Shirts and Suits

Free eBook version of 'T-Shirts and Suits: A Guide to the Business of Creativity' and other articles, information for creative people in business.

W: www.t-shirtsandsuits.com

Data Protection

Information Commissioner

Guidance on data protection - the Information Commissioner's Office (ICO) is responsible for regulating and enforcing the access to and use of personal information.

W: www.ico.gov.uk
T: 01625 545745

Employment

ACAS

Organisation devoted to preventing and resolving employment disputes by working with employers and employees to solve problems and improve performance and provides up-to-date information, independent advice and high quality training.

W: www.acas.co.uk
T: 08457 47 47 47

Department for Business, Enterprise & Regulatory Reform

Extensive information on employment rules and regulations - lists all Department for Business, Enterprise and Regulatory Reform publications, which are free unless a price is shown.

W: www.berr.gov.uk/publications
T: 0845 015 0010

The Equality and Human Rights Commission

The three equality commissions - the Commission for Racial Equality (CRE); the Disability Rights Commission (DRC) and the Equal Opportunities Commission (EOC) merged into the new Equality and Human Rights Commission in October 2007.

The Equality and Human Rights Commission provides information and guidance on discrimination and human rights issues.

W: www.equalityhumanrights.com
T: 08457 622 633 (Disability)

T: 0845 604 6610 (Race, age, gender, sexual orientation and religion and belief)

Jobcentre Plus

A free service, specifically designed to make your recruitment process run smoothly. Wide circulation of vacancies in Job Centres and on the internet, the use of Job Centre application forms, screening of application forms, the use of facilities for interviewing and open days.

W: www.jobcentreplus.gov.uk/employers

Environment

The Carbon Trust

The Carbon Trust helps business and the public sector cut carbon emissions, and supports the development of low carbon technologies.

W: www.carbontrust.co.uk
T: 0800 085 2005

Department for Environment, Food and Rural Affairs (DEFRA)

W: www.defra.gov.uk/environment
T: 0845 933 5577 (General enquiries)
T: 0845 955 6000 (DEFRA Publications)

Environment Agency

Information on complying with rules on environmental protection.

W: www.environment-agency.gov.uk/netregs
T: 08708 506 506

Envirowise

Helps businesses reduce environmental impact.

W: www.envirowise.gov.uk
T: 0800 585794 (Advice line)

Health and Safety

Health and Safety Executive

Information on health and safety rules for small businesses, free leaflets.

W: www.hse.gov.uk
T: 0845 345 0055 (HSE Infoline)
T: 01787 881165 (HSE Publications)

Insurance

Association of British Insurers

The UK's leading financial services trade association which represents the UK insurance industry and participates in debates on public policy issues and promotes high standards of customer service.

W: www.abi.org.uk
T: 020 7600 3333

British Insurance Brokers' Association

The UK's leading general insurance organisation, representing the interests of insurance brokers, intermediaries and customers, with partner members from the leading companies in the insurance industry.

W: www.biba.org.uk
T: 0901 814 0015

Intellectual Property

UK Intellectual Property Office (IPO)

Formerly the Patent Office

Government agency responsible for the registration of patents, trade marks and registered designs. Information about copyright and other aspects of intellectual property.

W: www.ipo.gov.uk

Own-it

Free information on intellectual property for creative enterprises, including model contracts. Established in London and becoming regional.

W: www.own-it.org

Creative Commons

Creative Commons provides free tools that let authors, scientists, artists, and educators easily mark their creative work with the freedoms they want it to carry.

W: www.creativecommons.org

Legal

Lawyers for Your Business

(part of The Law Society)

Network of 1,200 solicitor firms in England and Wales offering specialist advice to small and medium-sized businesses. Gives small firms free half-hour consultations.

W: www.lawsociety.org.uk
T: 020 7242 1222 (Law Society)

Networking and Business Support

British Chambers of Commerce (BCC)

The British Chambers of Commerce is the national network of quality-accredited Chambers of Commerce, all positioned at the heart of every business community in the UK. The site provides information about the work of the British Chambers of Commerce.

W: www.chamberonline.co.uk
T: 020 7654 5800

Confederation of British Industry

The Confederation of British Industry (CBI) is the UK's leading (independent) employers' organisation, representing public and private sector companies.

W: www.cbi.org.uk
T: 020 7379 7400 (Members only)

Department for Business, Enterprise and Regulatory Reform (formerly the DTI)

The Department brings together functions from the former Department of Trade and Industry, including responsibilities for productivity, business relations, energy, competition and consumers.

W: www.berr.gov.uk
T: 020 7215 5000

Federation of Small Businesses (FSB)

The FSB is the UK's leading lobbying and benefits group for small businesses. It is the voice of small businesses at the heart of government and its On-line Directory holds comprehensive list of members throughout the UK.

W: www.fsb.org.uk
T: 01253 336000

Pensions

Department for Work and Pensions (DWP)

Government department responsible for the health, work and well-being of the working age population and offers advice to employers on the law about their pension responsibilities.

W: www.dwp.gov.uk
T: 0845 60 60 265

The Pensions Regulator

Statutory regulator for occupational pension schemes in the UK, provides contact information and details of relevant publications.

W: www.thepensionsregulator.gov.uk
T: 0870 606 3636

Premises

Planning

Free literature on planning permission covering land, property, construction and associated environmental issues.

W: www.planningportal.gov.uk

Tax & VAT

HM Revenue & Customs (HMRC)

To register for VAT and for advice and forms.

W: www.hmrc.gov.uk
T: 0845 010 9000

New Employer's Helpline

To register as a new employer and receive a New Employer's Starter Pack.

W: www.hmrc.gov.uk/employers
T: 0845 607 0143

Useful Websites

Support for your business

Business Link West Midlands
www.businesslinkwm.co.uk

Advantage West Midlands
www.advantagewm.co.uk

The Department for Work and Pensions
www.dwp.gov.uk

The Financial Services Authority
www.fsa.gov.uk

The Government's Arbitration Services (ACAS)
www.acas.co.uk

Health & Safety Executive
www.hse.gov.uk

The Information Commissioners' office
www.ico.gov.uk

Learning and Skills Council (LSC)
www.lsc.gov.uk

The West Midlands Access to Finance Scheme
www.westmidlandsfinance.com

Creative Industries

Arts and Business
www.aandb.org.uk

Arts Council England
www.artscouncil.org.uk

Creative & Cultural Skills
www.ccskills.org.uk

Creative Commons
www.creativecommons.org

Culture West Midlands (CWM)
www.culturewm.org.uk

Department for Culture Media and Sport (DCMS)
www.dcms.gov.uk

Own-it
www.own-it.org

Screen West Midlands
www.screenwm.co.uk

Skillset
www.skillset.org

UK Intellectual Property Office
www.ipo.gov.uk

Trading Standards

Trading Standards enforce a wide range of public protection legislation. They recognise that most businesses want to comply with the law and will seek to help them meet their legal obligations without unnecessary expense, but will take firm action where appropriate.

W: www.tradingstandards.gov.uk

To find your local Trading standards department type in your postcode on the website.

Office of Fair Trading

The UK's consumer and competition authority which enforces consumer protection law and competition law.

W: www.offt.gov.uk

T: 020 7211 8608 (Consumer credit licence)

Training

Creative & Cultural Skills

Creative & Cultural Skills is the Sector Skills Council for Advertising, Crafts, Cultural Heritage, Design, Music, Performing, Literary and Visual Arts.

W: www.ccskills.org.uk

Learning and Skills Council

Responsible for planning and funding high quality education and training for everyone in England other than those in universities.

W: www.lsc.gov.uk

T: 0870 900 6800

Skillset

Skillset is the industry body which supports skills and training for people and businesses to ensure the UK creative media industries maintain their world class position.

W: www.skillset.org

Train To Gain

LSC project designed to identify the training needs of your staff and direct you to the most appropriate training provider. This service is delivered by West Midlands Brokerage Service part of Business Link.

T: 08000 754557

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Easy Ways to Get in Touch

- 1. By phone:** Call 0845 113 1234 and start accessing the support you need.
We are open Monday – Friday 8am to 6pm*.
- 2. On-line:** Visit our website, www.businesslinkwm.co.uk and access a range of useful self-help guides and business tools. Register for your free on-line newsletter.
- 3. By email:** You can send us an email to info@businesslinkwm.co.uk with your query or request and we will get back to you during our opening hours.

*please note that our offices are closed on Bank Holidays.

