

Corporate Veil Protection Checklist: 5 Steps to Keep Your Group Structure Legally Sound

A practical guide for directors, in-house counsel, and corporate advisers, drawn from the Court of Appeal's decision in Capital City Property Sdn Bhd v Teh Swee Neo & Anor.

1. Maintain genuine separate operations for each entity

A company that actively runs its own business—managing operations, organising events, dealing with suppliers—is far harder to characterise as a shell. The Court of Appeal gave weight to evidence that the tenant ran the mall's retail operations. Ensure each company in your group can demonstrate its own commercial substance.

2. Document the commercial rationale for your corporate structure

It is lawful for one entity to build and sell, and another to rent and manage. But you should be able to explain, with contemporaneous records, why the group was structured that way. If the arrangement is later challenged, the absence of a documented business purpose can be damaging.

3. Use entire-agreement clauses in your contracts—and respect them

If your contracts contain an entire-agreement clause stating that the written document is the whole agreement and cannot be varied except in writing, courts will enforce it. Do not rely on unwritten side promises or informal understandings that contradict the signed contract. If you want a parent-company guarantee, put it in the contract.

4. Plead fraud or unconscionability properly if you seek to pierce the veil

To pierce the corporate veil, a party must specifically plead actual fraud or equitable (unconscionable) conduct in its statement of claim, and adduce evidence to support it. A general argument that “justice demands” the veil be pierced will fail. The pleading is not a formality—it is the foundation of the case.

5. Do not assume that control or shared directors alone justify piercing

Control, common directors, shared offices, and similar branding are features of many legitimate corporate structures. The Court of Appeal confirmed that these factors, by themselves, are not enough to pierce the veil. The party seeking to pierce must prove dishonesty or truly unconscionable conduct.