

52 TIPS

TO MAKE YOUR BUSINESS SAFER



1. DOCUMENT/DIARISE EVERYTHING

The overwhelming majority of disputes in business arise through poor communication and misunderstanding. Document and diarise meetings, telephone calls or keep an email trail so that they can be referred back to later as an accurate record of what happened.



2. EMPLOYMENT PROCESSES

Many employee issues can be linked back to poor recruitment and or induction processes. Have clear job descriptions, know exactly what you need from employees on all levels and ensure they're properly trained in your systems and procedures.

3. SYSTEMS

Make sure diary and meeting notes, emails, letters and documents are catalogued by reference to a system. Clients, customers, creditors, suppliers – evidence is only any good if you can find it when you need it.



4. HR MANAGEMENT

Keep staff files accurate and secure. Ensure all records of recruitment, induction, reporting and management issues concerning individual staff are kept on their files and that such files can only be accessed by suitably authorised personnel.

5. WH&S

Have a documented Workplace Health and Safety policy, suitably qualified WH&S officer and ensure all of your team are aware of, and understand, the policy as part of their induction and through annual reviews.



6. DISCRIMINATION POLICIES

Be aware of the various types of prohibited discrimination (race, gender, religion etc.) and the mandated exclusions. Document your policies and complaints procedures and ensure staff are educated on, and understand, them.

7. CONFIDENTIALITY

Identify your confidential information, ensure you have systems in place for keeping it confidential and that all your team are aware of the protocols for accessing and sharing both your own, and customer, confidentiality.



8. EMPLOYMENT CONTRACTS

Have them in writing, regardless of whether there is an award in place or not. They can protect your trade secrets and restrain employees from competing with you after they've left your employ.

9. AWARDS

Are strict, and hard to modify, but they aren't the be all and end all of the employment relationship. If you're staff are covered by an award, make sure you meet the requirements. If in doubt, contact Fair Work Australia, the Industrial Inspector or your lawyer.



10. TRADE SECRETS

Won't stay secret very long if they're not protected. Keep a paper trail of their use, lock them in a safe if necessary, keep electronic data secure with the appropriate protocols and make sure your entire team has signed a confidentiality agreement.

11. TRADE MARKS

Require registration, nationally and internationally. A business, company or domain name is not a trade mark and none of them afford any protection to what can be one of the most valuable assets of your business.



12. CLIENT LISTS

Don't let your team keep them on their phones without some sort of means of recovering them in the event the employee leaves. And install tracking software that will let you know if it's been copied or transferred.

13. EMAIL AND INTERNET POLICY

Just because you have a policy that says you can read your team's emails doesn't mean you can, or that you should. If you could read everyone's mind, would you? If you're going to read your team's emails, let them know in advance, and make sure they're made well aware their emails can be monitored as part of the induction process.



14. INSURANCE

Do not under insure. Accidents happen and to err is human. That's why we have insurance. See a reputable broker, who's on your side, to make sure you have that cover when all else fails.

15. TAX

The Tax Commissioner has the most effective recovery arsenal in the country. Not paying your taxes is a fundamental indicator of insolvency and can trigger all manner of collateral liabilities to 3rd parties. Plan for it and pay it, on time. Negotiate a payment plan if cash is tight, but don't wait for the ATO to chase you to do so, and stick to the plan in case you need future largesse.



16. DEBTORS

Some say it's good to be owed. It's better to have cash in the bank. Good customers pay, bad ones use you as their bank. Have clear terms of payment, and enforce them. You'd be surprised how little offence is actually caused by requesting payment for your products or services.

17. SECURITY

The term covers a multitude of sins. How secure is your information management, your data and your intellectual property? An alarm system might tell you if someone is trying to break into your office, but it won't tell you when you're client list is being pilfered. Ensure document management and data retention systems protect the unseen and valuable parts of your business.



18. CREDIT TERMS

Clear terms of trade are vital to ensuring the recoverability, and value, of debts. If you're advancing credit, do your credit checks and avoid ambiguity in terms by having them drafted specifically for your business. Don't just cut and paste someone else's terms – you don't know how they'll operate in your industry.

19. REDUNDANCY

Needs to be very carefully managed. Don't make staff redundant only to replace them the next week with someone else in the same or similar role. You'll be asking for an unfair dismissal claim.



20. HARSH OR UNFAIR DISMISSAL

Even if a dismissal is warranted, it can still be harsh, unfair or unjust and leave you exposed if not dealt with properly. The '3 warnings' is a myth, but due process and natural justice still needs to be applied even in the most extreme situations warranting a summary dismissal.

21. GROSS MISCONDUCT

Depending on the terms of your employment contracts, can permit a summary dismissal. But even so, what amounts to gross misconduct should be defined clearly in the employment contract and a dismissal should still follow due process to minimise the risk of claims.



22. SHAREHOLDERS

Are not directors and cannot bind the company. But they can, in certain cases remove the board of directors so ultimately they do control a company's operations. A shareholders agreement is vital to maintain value in the company in case of dispute or deadlock; and it must define dispute resolution, buy out and exit processes.

23. DISPUTE RESOLUTION PROCESS

Litigation through the courts is the ultimate in dispute resolution processes – for lawyers. If you're keen to avoid lining lawyers' pockets, all your contractual relationships should be documented and include provisions mandating alternative dispute resolution from an early stage.



24. CORPORATE GOVERNANCE

Is like a personal diary for a company. Keeping accurate minutes and a company register might not seem important in the cut and thrust of daily business but failure to properly record the company's records, strategies and accounts can have devastating consequences, and sometimes even lead to personal liability for directors.

25. EMPLOYEE REVIEW

Everyone hates them. Staff hate being reviewed, and employers hate doing them. However, common wisdom accepts they're a necessary evil. They also provide, if documented properly, a good historical record of staff performance, goals and achievements which can be used later to provide objective benchmarks and encouragement.



26. CASH FLOW

The life blood of any business. We're all in business to make a profit, but if the cash doesn't follow and you can't pay bills as a result, the business will be insolvent very quickly, with devastating consequences. Clear terms of trade and credit, with a solid commitment to debtor recovery is vital to maintain cash flow.

27. RISK MANAGEMENT

Business is a risk. By definition profits are a return on capital risked. No Risk = No Return. But not all risks are equal and they need to be managed. Conduct a thorough risk analysis annually, prioritise and act to minimise high and potentially damaging risks accordingly.



28. EVIDENCE OF CONTRACT

A contract need not be in writing to be enforceable. But without written evidence, proving just what was agreed is problematic at best. Clear written terms of a transaction are vital in case the deal goes sour. If you can't agree on terms up front, imagine the prospect of agreement when it's all pear-shaped?

29. DATA PROTECTION

The Privacy Act and other related legislation place heavy burdens on the holders of third party data (names and addresses, usernames and passwords, credit card details etc.) to keep that information safe. What protocols do you have in place against internal and external theft of information?



30. SECURITY – INTERNAL AND EXTERNAL

Cameras and Alarms are common tools used to prevent break and enter, crimes of opportunity. But what internal checks and protocols do you have in place against an intentional and targeted theft? Are you protected from an inside job? A security and information audit must be done annually, and the necessary permissions granted by employment contracts and policies to truly protect your business.

31. REGULATORY COMPLIANCE

Red tape is everywhere and is not going away. Failure to comply with regulations, for consumer protection, environmental protection or even professional responsibility can be fatal to your business. Have your business systems designed and built to ensure compliance.



32. RECORD KEEPING AND ARCHIVING

Whether electronic or paper or both, aside from taxation compliance obligations, a solid system of keeping old files and documents can be infinitely useful in the event of a dispute. Documents are inherently more reliable evidence than a person's memory, and a combination of both can be the killer blow in any dispute.

33. LIQUIDATION

Is the death of a company. A liquidator's job is to divide up what's left of the 'deceased estate'. So make sure your business is the favourite son or daughter of all your debtors to ensure you get the lion's share of what's left.



34. CONTRACT ADMINISTRATION

Even if parties to a transaction have written terms, unless someone in your business is managing the performance, and ensuring compliance with the agreement, those written terms can be useless. A contract manager or administrator, someone who knows what you, and the other party is obliged to do, is insurance for the enforceability of your contract.

35. IP LICENSING

If you have a web of distributors or agents selling your wares, add value to the relationship and protect your valuable intellectual property through a licence agreement. It can limit the damage from rogue operators and at the same time provide a real incentive to your best.



36. CONFESSION

Confession may be good for the soul but is never good for business. The old saying, 'nobody talks, everybody walks' has never been more true. Don't volunteer for interviews with government agencies, ever. Despite assurances, they're not your friends and everything you say will be used against you. And it might just void your insurance.

37. LOOSE LIPS SINK SHIPS

It's more than just the walls that have ears. Electronic communication is all pervasive and far more accessible than ever before. Protect your trade secrets, and those of your customers and clients by an email, social media, internet and confidentiality policy. Then make sure your staff know and understand the policy, annually.



38. SOCIAL MEDIA

Employers can be liable for the actions of their staff, whether physical or "virtual". Trolling, defamation, breaches of confidentiality and harassment or bullying could all be sheeted home to your business by staff in the event their profile indicates they represent your business. Ensure procedures are in place to quarantine personal accounts from business accounts and that the opinions of individuals are not authorised or representative of your business.

39. ALCOHOL AND DRUGS

Without a clearly defined, and utilised, drug and alcohol policy staff may well find it difficult to know when they can, and cannot, imbibe. Drug testing is not a right of employers unless granted through contract terms. Make sure your team knows the guidelines and that they're applied consistently.



40. OFFICE RELATIONSHIPS

Can be a source of great joy or great grief. They are undoubtedly a potential for conflict without clear rules. It is nigh on impossible to prevent them so have policies all the team has agreed upon and respect. People should not have to hide their feelings for one another but equally they should respect the potential harm that perceptions of office relationships can cause.

41. PUBLIC LIABILITY

If you deal with the public, you're at risk. The best protection, after risk management becoming part of your culture, is a solid insurance policy. Combined with a well thought out business structure that provides asset protection that can protect not only your business but also those who do fall victim to accidents caused by negligence.



42. EMPLOYEE FRAUD

It can't happen to me! It can, and does. Simple accounting systems, like not allowing the person who does the banking to reconcile the accounts, can go a long way to preventing employee theft.

Sticking by your banker's guidelines for the use of internet banking will also serve you well, no matter how impractical they may seem.

43. PPSR

If you part with possession of your property in the ordinary business (e.g. leaving tools on site during a job) then you could potentially lose ownership of those goods if your interest is not registered on the Personal Property Security Register. Maintain a full inventory of stock and plant (by serial number if relevant) and register ownership on the PPSR.



44. TRADE PRACTICES/COMPETITION

Misleading and deceptive conduct in the course of business leaves you wide open to claims for damages. This is regardless of whether there was any intent to mislead. If you're making statements or representations as to your product or services that induce people to buy from you, make sure you have reasonable grounds to make your claims. Have an independent person fact check or test them for you in advance. Disclaimers can help but they're not bulletproof.

45. FINANCIAL REGULATION

Is messy and complex and the ramifications of breaches of the spiders web of regulation are serious, sometimes fatal. Good IT, business systems, record keeping and knowledge management with regular risk management checks serve to minimise exposure.



46. CONSUMER CREDIT

The rules and regulations become more complex every day. Get written authority to make credit checks if you're going to advance credit, and make sure you do the checks. Ask yourself, 'would I lend my last \$100 to this person'? If there's reasonable doubt, don't advance credit. Unless you're a bank, the money is always better in your pocket. Even the most creditworthy people fall victim to circumstances.

47. LEASES/TENURE

A business with no tenure (be it a lease, ownership or even just a licence) has no future. That includes websites, trademarks and business names. Make sure the foundation of your business is solid and can't be whipped out from under you at a moment's notice . Diarise your option dates. If you fail to exercise your option within the relevant period you usually have very little recourse.



48. DEFAMATION

Publishing or saying something that does, or is likely to, damage someone's reputation among their family, friends, clients or peers whether directly or by imputation is defamation. It does not need to cause damage to leave you open to court action. A simple rule to avoid liability for defamation is if you've got nothing nice to say, say nothing. Resist the temptation to vent your spleen, it rarely helps and often hinders.

49. BUSINESS NAMES

Or domain names are not trademarks and not subject to the protection afforded to registered trademarks.

Without a registered trademark it's much harder to protect your domain and business names. It's an inexpensive and easy process so register your trademark now.



50. RIGHT TO INFORMATION

Government departments, agencies and corporations are all bound to provide information to members of the public pursuant to "right to know" information. Similarly, businesses that store information about customers are obliged to provide those customers with that detail on request.

51. ASIC

Is the corporate watchdog and takes a dim view of breaches of the myriad of corporate and investment regulations. If you're dealing in company affairs, investment or finance, good corporate governance policies can help.



52. KEEP THE GOAL IN VIEW

A plan for success will take you far. It must be plainly articulated, and shared with all your stakeholders. When things go wrong on the path to your success, and they will, keeping the end game in mind helps you back on course. Your grand plan, your business' reason for existence becomes your guiding light, which in turn helps you navigate and orient yourself through the darkness.

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