

You and Your Business

Congratulations!

Leaping into your own business is exciting, challenging, even terrifying but potentially very rewarding, and not just in the financial sense.

A Carne Reidy Herd Lawyer will work with you to ensure your business is set up for success from the start.

We focus on strong partnerships with our clients, ensuring our legal advice reflects your unique business situation & commercial objectives.

**Call us on
07 3236 2900**

Whether you are planning to start a business or to purchase an existing business, there is simply no substitute for proper planning. Your plan should encompass not only the establishment of your business but also its future direction.

Think about the following issues.

Your Business Plan

Your business has probably come about from ideas that have been swimming around in your head for some time. Ideas are the seeds of your business.

To germinate and harvest it successfully, it is important to translate those ideas into a written business plan. It focuses your mind and energies on the "How, What, Where and Why" of your business path, in the short and long term.

A business plan is an essential tool for success as it has the sobering but enlightening effect of transferring your enthusiasm into reality and enables you to "touch" the potential.

Your Structure & Name

What you call your business is not only a matter of marketing and taste but also a matter of law.

There are two specific legal issues to address namely:

1. What entity will operate and own your business?
2. Will your business have a name which is required to be registered?

What Entity?

The choices of vehicles for ownership of your business are varied and include:

1. A company.
2. A Trust.
3. A sole trader.
4. A partnership.

Which entity you choose depends very much on a combination of factors including your current financial situation, tax considerations, protection of your personal assets against creditors and succession planning.

We strongly advise that you obtain the advice of your accountant in terms of the vehicle to be used for the ownership of your business, especially if he or she has a thorough knowledge of your current financial circumstances.

It is important to make an informed judgment at the outset of your business. If you choose the wrong entity from the beginning, it can be very expensive to change it at a later date.

Business Name

If you use a business name which is not your own name, you must register it with the Office of Fair Trading.

It is important to do this, in any event, as it protects your name against use by other people.

Carne | Reidy | Herd Lawyers 

You and Your Business

If you choose a company as your entity to own the business, you may register a business name different to that company name. In this situation you would register the business name as being owned by the company. Alternatively, if your company name is the name under which you will trade as your business name, there is no need to register a business name.

Your Lease

After wages, the costs associated with a lease of premises usually represent one of the biggest costs to your business.

It is important that you understand the fundamentals of both the art of negotiating a lease and the terms and conditions of the lease which best suit you.

It is particularly important that you understand your obligations pursuant to your lease.

Your Employees

You are important to your business and so are your employees.

Being in business gives you an opportunity to be creative in your arrangements with employees. It is both beneficial and professional for you to engage employees using a written employment agreement. This agreement not only records the statutory requirements for employees but gives you the opportunity to incorporate intelligent incentives to get the best out of your employees. Ultimately, you might even consider an enterprise agreement.

You should also think about how you will protect your business against ex-employees. This not only involves carefully worded employment agreements but also well crafted confidentiality agreements. The biggest threat to your successful business can be ex-employees but there are ways to protect yourself.

Your legal obligations

Much is made of the extensive “red tape” that small business must contend with in the form of government regulations. These unfortunately, are a necessary drain both on your finances and your time.

While they may be seen as an annoying and tedious burden, you are well advised to make sure that you comply with them.

Your Finances

Creative accounting has been with us for many years but the traditional banks have now discovered creative financing. This is no doubt in response to the increased competition in the financial market.

The financing of your business is not only a process of discussions with your accountant but also of shopping around and identifying the numerous and competitive financial packages now available in the market place.

Your Customers and Suppliers

Without them, your business will be a mere shell.

Loving your customers to death is an adage that is often used to signify the importance of them to your business.

Being professional both in the way you approach your customers and contract with your customers is a hallmark of repeat business. A friendly but tightly worded agreement with your customers is the first step in this professional relationship. This agreement should cover the essential ingredients of your relationship or what is known as “your terms of trade”.

Your agreement should be able to stand the test of time, be comprehensive but should not intimidate your customers. We are great believers in simplicity and brevity and your customers will benefit from an agreement that reflects these principles.

Your Will and Succession

Establishing a business especially using an entity like a company or trust can have a significant effect on your Will.

While it is always a good practice to review your Will regularly, it is particularly important to do so when you go into business. It is also an integral part of succession planning.

Believe it or not, you should be planning now to retire and to put in place appropriate succession arrangements.

Putting in place other powerful protective mechanisms, such as an Enduring Power of Attorney, can also ensure that your business does not suffer a crisis even if you do.

Carne | Reidy | Herd Lawyers



You and Your Business

Managing Risk

While you can insure against a lot of risks that may impact on your business you should never be satisfied that your risk management extends only to taking out the necessary insurance. There is no substitute for a proper risk management policy to be implemented at the outset of your business.

Part of this policy extends to both identifying risks and then seeking to insure those risks as comprehensively and effectively as possible.

You should consider the following insurances either for you or your business:

1. Public Liability.
2. Damage and destruction to your equipment and premises.
3. Professional indemnity.
4. Business interruption.
5. Director and office holder liability.
6. Employment Practices liability.
7. Life, Trauma and Total and Permanent Disability.

Your Intellectual Property

If you think the only assets of your business are you, your employees, your goodwill and your tangible assets, think again. One intangible and important asset of your business is its intellectual property.

Intellectual property describes a whole raft of esoteric but valuable components of your business from your name, to trademarks, to copyright, patents and trade designs. Now, there is another element – your Internet Domain Name – an essential element in the burgeoning cyber economy.

Protecting these can be as important as any other part of your business. The first task is to identify these intangibles and then to take steps to protect them against competitors. You should not see this, however, as a one step process. Intellectual property is an evolving thing and you should constantly review whether you are adequately protecting these assets.

With such rights, of course, come responsibilities. You should be careful of laws which restrict how you present your business, how you advertise it and how you deal with your customers.

Breaches of laws can be substantial and totally destructive to your business. You should ensure that all material to be used by you in advertising, complies with the law.

Your Professional Advisers

Accountants and lawyers have been around since time immemorial. There must be a good reason for that. The reason is, that good ones are an integral part of the success of your business.

Not only do they give you the technical advice that you often need but they can be a good sounding board for your own ideas on business.

It can be important for you to ensure also that your accountant and your solicitor know each other and can work as a team for you.

As solicitors, we encourage you to contact us as soon as you have any query or concern about what you are about to do. Advising you before you do it, as opposed to advising you after you've done it, can save you a lot of money.

To encourage you to do this, we do not charge you for providing you with quick telephone advice on any issue or point that may concern you. You should feel total confidence in your ability to contact us for prompt, cost effective and beneficial advice.

Your Checklist

We can consult with you on the specific terms of your new business and come up with a checklist for you to tick off to ensure you have all the legal pieces in place as you launch your new business.

Contact us on 07 3236 2900 to find out how we can assist you.

Note: This document provides general information only and does not constitute legal advice. For comprehensive advice please contact us.

Carne | Reidy | Herd Lawyers 

Level 10 193 North Quay Brisbane QLD 4000 | PO Box 13067 George Street Post Shop QLD 4003
Telephone 07 3236 2900 | Fax 07 3236 2907 | Email enquiry@crhlaw.com.au | Web www.crhlaw.com.au

