BSBSMB401

Establish legal and risk management requirements of small business

Learner Workbook

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Candidate Details

Assessment – BSBSMB401: Establish legal and risk management requirements of small business

Please complete the following activities and hand in to your trainer for marking. This forms part of your assessment for BSBSMB401: Establish legal and risk management requirements of small business

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Declaration

I declare that no part of this assessment has been copied from another person's work with the exception of where I have listed or referenced documents or work and that no part of this assessment has been written for me by another person.

Signed: ______________________________

Date: ______________________________

If activities have been completed as part of a small group or in pairs, details of the learners involved should be provided below;

This activity workbook has been completed by the following persons and we acknowledge that it was a fair team effort where everyone contributed equally to the work completed. We declare that no part of this assessment has been copied from another person's work with the exception of where we have listed or referenced documents or work and that no part of this assessment has been written for us by another person.

Learner 1: ______________________________

Signed: ______________________________

Learner 2: ______________________________

Signed: ______________________________

Learner 3: ______________________________

Signed: ______________________________

Competency Record to be completed by Assessor

Learner Name: ____

Date of Assessment: ____

The learner has been assessed as competent in the elements and performance criteria and the evidence has been presented as;

	Assessor Initials
Authentic	
Valid	
Reliable	
Current	
Sufficient	

Learner is deemed: COMPETENT NOT YET COMPETENT (Please circle)

If not yet competent, date for re-assessment: ____________________________

Comments from Trainer / Assessor:

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Assessor Signature: ____

Observation/Demonstration

Throughout this unit, you will be expected to show your competency of the elements through observations or demonstrations. Your instructor will have a list of demonstrations you must complete or tasks to be observed. The observations and demonstrations will be completed as well as the activities found in this workbook. An explanation of demonstrations and observations:

Demonstration is off-the-job

A demonstration will require:

- Performing a skill or task that is asked of you
- Undertaking a simulation exercise

Observation is on-the-job

The observation will usually require:

- Performing a work based skill or task
- Interaction with colleagues and/or customers

Your instructor will inform you of which one of the above they would like you to do. The demonstration/observation will cover one of the unit's elements.

The observation/demonstration will take place either in the workplace or the training environment, depending on the task to be undertaken and whether it is an observation or demonstration. Your instructor will ensure you are provided with the correct equipment and/or materials to complete the task. They will also inform you of how long you have to complete the task.

You should demonstrate that you can:

1. Identify and implement business legal requirements
2. Comply with legislation, codes and regulatory requirements
3. Negotiate and arrange contracts

You should also demonstrate the following skills:

- Reading
- Writing
- Oral Communication
- Numeracy
- Navigate the world of work
- Interact with others
- Get the work done

Activities

Activity 1A

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to identify and research possible options for the business legal structure using appropriate sources**
Activity	**1. Conduct your own research and document advantages and disadvantages in creating the types of legal structure detailed in this table.**

Type	*Advantages*	*Disadvantages*
Cooperative	*Easy Formation* *Limited Liability for members* *Tax Advantages* *Equal Voting Rights*	*Lack of Secrecy* *Lack of Business Acumen* *Lack of interest* *Corruption*
Trust	*Provides Asset Protection* *Flexibility for Taxation Purposes* *Discounts on Capital Gains* *Accumulation of Assets for Beneficiaries*	*Set up Costs either by Solicitor or Accountant* *Business is limited to the trust deed* *Pay Family Trust Distribution Tax* *Subject to Regulatory Burdens*
Association or not-for-profit legal structure	*Taxation Benefits*	*Corporate Disclosure*

Activity 1B

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to determine legislation and regulatory requirements affecting operations of the business under its chosen structure.**
Activity	**1. Report on your organisation or in accordance with directions from the instructor, the legislation and regulatory requirements affecting the operations of your business.** *Relevant Acts and Regulations* *Industry and WHS Codes of Practice* *Business Registrations and Licenses* *Planning and Other Permissions* *Environmental Legislation*

Activity 1C

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to develop and implement procedures to ensure full compliance with relevant legislation and regulatory requirements.**
Activity	**1. What methods are used to implement procedures to ensure full compliance with the relevant legislation and regulatory requirements governing your specific business operations?** **You may make reference to your answers in Question 1B.** Keep proper Financial Records Prepare and Lodge financial statements and reports as required. Record all meetings and resolutions Send to company members all financial reports. Maintain employment forms and applications

Activity 2A

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to establish systems to ensure legal rights and responsibilities of the business are identified and the business is adequately protected, specifically in relation to work health and safety (WHS), business registration and environmental requirements**
Activity	**1. Detail/report your company's systems to ensure the legal rights and responsibilities of the business are identified and the business is adequately protected.** Implement Systems for Accounting Recording Data Storage and Retrieval Auditing Reporting

Activity 2B

Estimated Time	25 minutes
Objective	To provide you with an opportunity to identify taxation principles and requirements relevant to the business, and follow procedures to ensure compliance, and identify and carefully maintain legal documents and maintain and update relevant records to ensure their ongoing security and accessibility.
Activity	**1. Define a sole trader, an incorporated company and a trust.** *Sole Trader – Is a sole business owner and trades in their own name as a rule* *An Incorporated Company – Is a legal entity providing limited liability protection* *A Trust – A trust is a relationship where it carries on a business for the benefit for the Beneficiaries* **2. What legal documents may you have to maintain?** Appropriate software for financial records Certificate of Incorporation Constitution Documents Agreements (Partnership)

Activity 2C

Estimated Time	20 minutes
Objective	To provide you with an opportunity to monitor provision of products and services of the business to protect legal rights and to comply with legal responsibilities and conduct investigations to identify areas of non-compliance with legal and regulatory requirements, and take corrective action where necessary
Activity	1. Suggest three options that could likely cause an error in compliance. For the areas identified, give your recommendations on ways to eliminate future occurrences. *Contracts – Review contracts on a continual basis* *Employment – Ensure all reporting procedures are monitored and evaluated on a regular basis* *Finance – Create cash flow forecast and reduce accounts receivable collection days.*

Activity 3A

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to seek legal advice on contractual rights and obligations, if required, to clarify business liabilities, investigate and assess potential products or services to determine procurement rights and ensure protection of business interests where applicable**
Activity	**1. In pairs, groups or individually list five contractual rights and obligations that could give cause to potential business liabilities.** Misreading of a contract When parties to the contract don't do what they agreed to pay. When the contracts are written in a complex vocabulary Vicarious Liability Contract Breach

Activity 3B

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to seek legal advice on contractual rights and obligations, if required, to clarify business liabilities, Investigate and assess potential products or services to determine procurement rights and ensure protection of business interests where applicable.**
Activity	**1. List five products or services to determine procurement rights and ensure protection of the business interests where applicable.** Obtaining the right materials Obtaining the right amounts Obtaining the materials at the right price Obtaining the materials on the right date Having the materials delivered to the right place

Activity 3C

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to negotiate and secure contractual procurement rights for goods and services including contracts with relevant people, as required, in accordance with the business plan**
Activity	**1. Create a five point plan on negotiating for securing contractual procurement rights for goods and services contracts.** Prepare effectively Understand and consider the needs and interests of all parties Manage the impact of your personal negotiation style Generate greater value through creativity Successfully address all key elements of the negotiation cycle through optimal preparation, engagement and review.

Activity 3D

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to identify options for leasing/ownership of business premises and complete contractual arrangements in accordance with the business plan**
Activity	**1. What would be your choice, to either lease or purchase premises for a small business in your capital city, and why?** If I was in a start up phase of business I would LEASE the premises so I could utilise my working Capital in the business, once I have accrued enough working capital to maintain the business I would start saving to purchase the property.

Activity 4A

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to identify potential internal and external risks to the business**
Activity	**1. Give examples of internal and external risks that may affect your organisation.** *Internal :* *Theft or embezzlement by employees* *Industrial Action* *Management and Leadership problems* *External:* *Burglary* *Fire or other damages to premises* *Political Instability*

Activity 4A

Estimated Time	**20 minutes**
Objective	**To provide you with an opportunity to identify potential internal and external risks to the business**
Activity	**1. Give examples of internal and external risks that may affect your organisation.** *Internal :* *Theft or embezzlement by employees* *Industrial Action* *Management and Leadership problems* *External:* *Burglary* *Fire or other damages to premises* *Political Instability*

Activity 4B

Estimated Time	**30 minutes**
Objective	**To provide you with an opportunity to assess the probability and impact of identified risks**
Activity	**1. For each risk you identified in Activity 4A, assess its probability and impact.** *Internal :* *Theft or embezzlement by employees - Unlikely* *Industrial Action - Likely* *Management and Leadership problems-Possible* *External:* *Burglary - Possible* *Fire or other damages to premises - Unlikely* *Political Instability - Possible*

Activity 4C

Estimated Time	**25 minutes**
Objective	**To provide you with an opportunity to prioritise risks for treatment**
Activity	**1. Create probability-impact matrix and determine which risk has the highest priority.** Internal : Theft or embezzlement by employees – Unlikely = .14 Industrial Action – Likely =.18 Management and Leadership problems-Possible = .02 External: Burglary – Possible = .14 Fire or other damages to premises – Unlikely = .28 Political Instability - Possible = .1

	Minor (0.2)	Moderate (0.4)	Major (0.6)	Catastrophic (0.8)
Highly likely (0.9)	0.18	0.36	0.54	0.72
Unlikely (0.7)	0.14	0.28	0.42	0.56
Possible (0.5)	0.1	0.2	0.3	0.4
Likely (0.3)	0.6	0.12	0.18	0.24
Certainly (0.1)	0.2	0.4	0.6	0.8

Activity 4D

Estimated Time	25 minutes
Objective	**To provide you with an opportunity to develop actions to mitigate risks including identifying insurance requirements and adequate cover**
Activity	**1. You are about to take out an insurance policy. Thinking about the likely risks to your business, suggest the approach and cover you would likely use to insure against the following risks.** The insurance policies I would have is for my: Tools and equipment to be covered for fire and theft Workers Compensation. Motor Vehicle policy Contractors Insurance.

Skills and Knowledge Activity

Estimated Time	**60 Minutes**
Objective	**To provide you with an opportunity to demonstrate your knowledge of the foundation skills, knowledge evidence and performance evidence.**
Activity	**Complete the following individually and attach your completed work to your workbook.** The answers to the following questions will enable you to demonstrate your knowledge of: ➢ Reading ➢ Writing ➢ Oral Communication ➢ Numeracy ➢ Navigate the world of work ➢ Interact with others ➢ Get the work done ➢ Outline business registration and licensing requirements ➢ Identify commonwealth, state/territory and local government legislative requirements relating to business operation ➢ Explain creation and termination of relevant legal contracts ➢ Summarise relevant cultural differences and legal implications ➢ Describe legal rights and obligations of alternative ownership structures ➢ Outline necessary record keeping to meet minimum legal and taxation requirements ➢ Summarise relevant consumer legislation and industry codes of practice ➢ Outline the key steps in the risk management process ➢ Explain relevant insurance requirements and products **1. What texts may you have to read to assess the legal and risk management requirements of the business?** **2. What reports and workplace documentation may you have to write?** **3. What skills are needed to communicate effectively during communications?** **4. What information might you need to determine insurance costs?** **5. What are organisational policies which may apply to your ethical behaviour?** **6. Why may you need to seek legal advice?** **7. What sort of information may you need to store securely?** **8. What are the benefits of being on the Australian Business Register (ABR)?** **9. What local, state/territory, commonwealth and international legislation, regulations and codes of practice may affect business operations?** **10. What elements must be present for a legally enforceable contract?** **11. How can you manage diversity and cultural differences within a workplace?** **12. What alternative ownership structures exist?** **13. What records will you need to keep in order to meet taxation regulation?** **14. What is the purpose of the Australian Competition and Consumer Commission?** **15. How would you assess risks within an organisation?** **16. What insurance requirements may your organisation have?**

ANSWERS

Skill and Knowledge Activity

1. Establish Legal and Risk Management of Small Business (Learner Guide) ATO Website, Workplace Health and Safety Act
2. Safe Work Method Statements, Job Safety Analysis, Operating Procedures, Diary Entries
3. Speak Clearly and Concisely, Listen, Use empathy
4. What you are insuring, Value of item you are insuring, What is the excess to the policy.
5. Anti-Bribary Policy, Health and Safety Policy, Privacy Policy, Employment Policy, Quality Policy
6. Legal advice will be used for Contractual understanding, Leasing or Purchasing premises.
7. All employment documents are to be securely stored with Workcover Claims and Financial information.
8. The ABR allows all companies to trade with other companies on the register.
9. The Workplace Health and Safety Act, The Corporations Act, The Environmental Act, The Taxation Act
10. Offer, Acceptance , Consideration, Mutually of obligation and Competency and Capacity.
11. Teamwork, Model the right behaviour, Awareness and Communication
12. Sole Trader, Partnership, Company, Trust
13. Employment Records, PAYG records, GST records, Management Accounts (Profit & Loss)
14. ACCC's purpose is to Promote Competition and Fair Trading and Regulate National Infrastructure to make Markets work for everyone.
15. I would use a risk MATRIX from Not likely to Certain
16. Public Liabilty, Product Liability, Workers Compensation, Motor Vehicle and Tools & Equipment.

Major Activity

Estimated Time	**60-120 Minutes**
Objective	**To provide you with an opportunity to demonstrate your knowledge of the entire unit.**
Activity	**This is a major activity – your instructor will let you know whether you will complete it during class or in your own time.** **Attach your completed answers to the workbook.** You must individually, answer the following questions in full to show your competency of each element: 1. Identify and implement business legal requirements 2. Comply with legislation, codes and regulatory requirements 3. Negotiate and arrange contracts 4. Identify and treat business risks **1. Which business legal structure do you believe is the most appropriate? Note the positive and negative aspects of your chosen structure in relation to your business needs.** **2. What kind of permissions do you need to secure and maintain for your business?** **3. Pick three elements of general reporting on Section 1.3 of the Learner Guide and explain them in the context of your company, describing what you need to do in order to satisfy this requirement.** **4. What measures do you have in place regarding WHS policies and procedures? Explain why they are effective. If your company has not yet been opened or established, write about what you may need to implement and why.** **5. Which description in section 2.2 of the Learner Guide applies to your business? Explain how this works in relation to your business.** **6. What kind of records do you keep in relation to finance? Explain why each system you use is appropriate for your needs.** **7. What legislation may affect any contracts associated with the running of your business?** **8. What measures could you put in place to detect incidences of non-compliance?** **9. What can you do to ensure legal co-operation with contractual rights and obligations?** **10. What systems can you implement to ensure you are sourcing the right item, from the right supplier at the right time?** **11. Through the general running of your business, who can you expect to have contracts with? How does each person or company fit into your business plan?** **12. Is renting or buying more ideal for your business needs? Explain why and how you made this decision and detail the options that are available to you in this endeavour.** **13. What is the difference between internal and external threats?** **14. What are likely or certain risks within your business?** **15. How can you prioritise risks?** **16. What compulsory insurance must you obtain in order to run your business? What extra or voluntary insurance could you also get, and why?**

ANSWERS

Major Activity

1. Sole Trader – Advantages – easy to set up, inexpensive, easy to close.
   Disadvantages – unlimited liability, few tax concessions, lack of continuity

2. QBCC License, Tax file Number, Australian Business Number, Correct Permits
3. Record all meetings – take minutes, write confirming emails, take diary notes
   Keep proper financial records – Engage an Accountant or Book-keeper to produce accurate records.
   Prepare and Lodge Financial Records – Engage an Accountant to Lodge BAS, IAS, and Company Tax returns.
4. Implement Workplace Health and Safety Policies and Procedures utilising SWMS, SOPS, JSA's, and risk management through the Hierarchy of Control Matrix.
5. Sole Trader, as I trade on my own.
6. Financial Records - To observe the cash flow in the business with the debtors and creditors ledger, To gauge how the business is operating through the Profit and Loss statement.
7. Taxation Act changes the scope of profitability, Workplace Health and Safety Act puts more emphasis on the safety risk in the business
8. Ensure your Policies and Procedures are in place to mitigate the risk.
9. Obtain Legal advice by engaging a Solicitor to read over contracts.
10. Use the system in the learner's handbook Sect 3.2
11. I presume to have contracts with Builders, Concretors, Post Tension Contractors as they would be my clients to grow the business.
12. Renting would be my preferred option at present to free up working capital to ensure the business continues to run smoothly.
13. Internal threats come from within the business and External threats are from outside the business
14. People not paying on time which stagnates cash flow putting pressure on the business.
15. I can prioritise risk by using the Matrix in the learner's handbook by the greater the number the greater the risk.
16. The must have insurances are - Workers Compensation, Public and Product Liabilty Insurance, Motor Vehicle Insurance and Contractors Insurance. The other insurance I voluntary would have are Tools and Equipment for fire and theft.