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

Name: ____

Address: ____

____

Email: ____

Employer: ____

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:

____
____
____
____
____

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	*Usually inexpensive to registar* *Except from directors, members can be aged 18 or under* *All members have equal votes regardless of their involvement in the cooperative* Lower debt risk: so for example shareholders, directors or employees have no debts of the cooperatie unless debts are caused recklessly or fraudulently	*Must be a minimum of five members* Members within the cooperative only get one vote Difficult to attract members as a cooperative is designed to provide a service to its members rather than a return on investment
Trust	A trust provides more privacy than a company Income taxed within a trust is generally taxed as income of an individual A trust provides asset protection and limits liability to the business	*The cost with setting up a trust is significantly higher than that of a company or sole trader structure* There are extensive regulations a trust must adhere to The set up structure of a trust is complex and must be set up by a solicitor or an accountant

Association or not-for-profit legal structure	*Exempt from corporate income tax*	*Limited funding*

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.** *Trading as a sole trader, I am required by law to register the business and pay tax contributions. I am also required to submit annual tax returns including quarterly BAS statements and if I earn over $75,000 gross a year, I must register for GST.* *As a sole trader, I am legally responsible for all runnings of my business.*

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.** As a sole trader, I am required by law to provide annual tax statements which include businesses expenses and losses. I am also required to provide a quarterly BAS statement and if registered for GST I am required to make the correct payments. I must also keep records of receipts from expenses within my business.

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.** **WHS:** - Making sure all tools are tagged and tested - Using PPE and safety equipment when working at heights or in confined spaces - Display signage when explosive power tools are in use - Limit dust from hazardous materials or materials in general using correct dust extraction systems in accordance with AS/NZS 60335.2.69:2017 (Class M or H HEPA vacuum) - Cordon off work zone to protect safety of client/s and/or the public **Business registration:** - Obtain ABN by registering business (sole trader) through tax office - Establish business name by applying to ASIC -

	Environmental requirements: - Correct recycling of materials and waste - Using sustainable materials - Comply with environmental legislations, codes and guidelines (Environmental Protection Act 1994) - Identify and manage environmental risks

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 proprietorship that is owned by one person. A sole trader is legally responsible for all aspects of the business and uses his/her own TFN to lodge tax returns. Sole traders can also apply for an ABN and use this for a number of business dealings. A sole trader pays tax at the same income tax rates as individual taxpayers and it is possible that one might be eligible for the small business tax offset.* *If a sole trader earns over $75,000 gross a year, he/she has to register for GST.* *For a sole trader to be compliant, he/she must provide an annual tax return and a quarterly BAS statement. The sole trader must also keep records of receipts if the ATO requires them in the future.* ***Incorporated company:*** *is a distinct legal entity that pays its own income tax separate to that of an individual. Companies need to apply for a TFN and use it when lodging tax returns annually. Companies that are registered under the Corporations Act 2001 are entitled to an ABN.* *Ways for incorporated companies to be compliant is to keep up-to-date financial records that correctly record and explain transactions and the financial position of the company. Companies must also notify changes with ASIC whether they change address, directors or business names within 28 days.* ***Trust:*** *is a legal entity that acts as a trustee on behalf of a person or business for a trust. A trust has an obligation to hold property for the benefit of beneficiaries and are treated as tax payer entities.* *A trust must have its own TFN when lodging annual tax returns. If the trust is carrying on an enterprise and its turnover is $75,000 or more, it must register for GST. A trust must also apply for an ABN if it is carrying on as an enterprise.*

2. **What legal documents may you have to maintain?**

Sole trader:

- BAS statements

- Copy of receipts

- Bank statements

- Quotes and Invoices received and paid

Incorporated Company:

- Financial records such as invoices received and paid, receipts, cheque's, working papers and other financial documents

- Certificate of incorporation

- Appropriate software for financial records

-Registers or minutes

Trust:

- Financial records

- Records of deeds

	- Taxation records

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.** *- If financial documents are not lodge on time* *- If employees are unaware of the legal implications affecting their work* *- If documents such as licences aren't in place* *Ways to eliminate future occurrences would be to implement and develop procedures to ensure full compliance.*

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.** *Rights to purchase a particular product or service* *Obligation to deliver good and services* *Obligation to receive payment for service provided* *Rights to refund or repairs* *Rights to delivery payments on time*

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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.** • *Any form of licencing that is related to the business and its structure* • *Agencies such as tax agents* • *Copyrights* • *Patents* • *Business Insurances* •

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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* • *Consider the needs of all parties involved* • *Manage the impact of your negotiation style* • *Generate greater value through creativity* • *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?** *My choice would be to lease a premises. There are benefits to leasing which include being able to leave the tenancy after a set time frame. This is good if a business is struggling or if the business owner wants to relocate to a better location.* *Landlords also require an income so there is room for negotiation which can benefit the business owner (future tenant).*

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 risks:* *Theft from employees or trades* *Issues with trades or employees* *Supply chain failures* ***External risks:*** *Robberies* *Union strikes* *Natural disasters* *Injury*

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.** ***Theft from trades or others:*** *- Probability: Possible*

	- Impact: Slow down production of work and cost financially in replacing stolen items/materials etc (sole trader/carpenter) ***Issues with trades or clients:*** *Probability: Possible* *Impact: Slow down production of work* ***Supply chain failures:*** *Probability: Unlikely* *Impact: Affect financial performance and cause delays to jobs* ***Robberies:*** *Probability: Possible* *Impact: Damage to site, equipment. Cause delays to jobs and be a financial expenses* ***Natural disaster:*** *Probability: Highly unlikely* *Impact: Loss of work and emotional harm* ***Union strikes:*** *Probability: Unlikely* *Impact: Loss of work and income*

	Injury: *Probability: Highly likely* *Impact: Loss of work and income*

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.**

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.**

When researching the type of insurance policy for my business, my approach would be to ask myself a list of questions. Questions I would ask are:

- What to insure for and for how much?

- How much cover do I need?

- What insurances by law am I required to have?

Next would be to talk to multiple insurance companies or brokers to find out what policies they offer and which one suits my business structure and budget.

Below is a list of insurance covers based on my business structure and risks identified:

Public and product liability

Commercial motor insurance

Contract works

Professional indemnity

Tool 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?** To obtain the correct information regarding legal and risk management requirements for my business I would gather information from the Business Queensland website which provides information on the legalities and risk when setting up a business in the state i reside. 2. **What reports and workplace documentation may you have to write?** Documents may include, preparing financial statements, WHS documents, Contracts. 3. **What skills are needed to communicate effectively during communications?** Skills needed are, listening, understanding the needs and interests of all parties, confidence, written 4. **What information might you need to determine insurance costs?** Determining the possible risks involved with the business will identify what insurance policy to get and in return determine the insurance costs related to the business. 5. **What are organisational policies which may apply to your ethical behaviour?** Within my organisation I would apply behaviours such as, taking responsibility for any issues that might have gone wrong, keeping client information private and confidential, being honest with clients and other trades 6. **Why may you need to seek legal advice?** There are many reasons one may need to seek legal advice. These can include but not limited to, legal advice for setting up the correct business structure, setting up accounts/tax etc, legal advice relating to contracts or disputes. 7. **What sort of information may you need to store securely?** Information may include, receipts/proof of purchases, financial records (banks statements, invoices, deposits), BAS statements

8. **What are the benefits of being on the Australian Business Register (ABR)?** Benefits include, identifying your business to others when ordering and invoicing, avoid PAYG tax, claim GST credits, claim energy grant credits
9. **What local, state/territory, commonwealth and international legislation, regulations and codes of practice may affect business operations?** Relevant acts and regulations, Industry and WHS codes of practise, business registrations and licenses, environmental legislation, Australian taxation office.
10. **What elements must be present for a legally enforceable contract?** Elements must include, and offer by one or more parties and its acceptance by another, valuable consideration, parties must intend to create a legal relationship with enforceable terms. The contract can be formed in a number of ways such as formal written agreement signed by both parties, an exchange of letters and documents.
11. **How can you manage diversity and cultural differences within a workplace?** Ways can include, creating awareness of culturally competent practices within the workplace/organisation and assisting the level of knowledge of understanding of mixed cultures. Puting systems in place to measure the level of cultural competency. These will help with managing diversity and culture within the workplace.
12. **What alternative ownership structures exist?** Incorporated associations, cooperatives and charities
13. **What records will you need to keep in order to meet taxation regulation?** Copies of receipts (must keep records for five years), bank statements, records of invoices paid, BAS statements, GST payments.
14. **What is the purpose of the Australian Competition and Consumer Commission?** They (ACCC) proved competition and fair trade to benefit businesses, consumers and the community. The main responsibility of the ACCC is to ensure that business and individuals comply with Australian competition, fair trading and consumer laws including the Competition and consumer ACT 2010.
15. **How would you assess risks within an organisation?** Ways of identifying risks can include, previous company records, risk assessment, identifying hazards, risk evaluation.
16. **What insurance requirements may your organisation have?** Insurance requirements will be based on the risks identified within the business/organisation. Insurance requirements for my structure would include public and probability insurance, commercial motor insurance, contract works, professional indemnity, tool insurance.

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.** Having spoken to my accountant, I believe a sole trader business structure is the most appropriate legal structure for my needs. The advantages of a sole trader are: inexpensive, simple to set up and easy to set up and maintain, own all profits and assets from the business, simple to run tax wise, minimal government regulations, less paperwork than other business structures. Disadvantages are: I am fully liable for my business debts, pay more tax on profits at my marginal tax rate, few tax concessions are available, the business structure limits opportunities for expansion. **2. What kind of permissions do you need to secure and maintain for your business?** Permissions include, registering a business name, applying for an abn and registering for GST if the gross profits are $75,000 or more a year. I must also keep records of receipts, BAS statements, bank and financial statements, invoices. I must maintain information such as, ABN details, postal address, personal details, financial institution information. **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.** KEEP PROPER FINANCIAL RECORDS: With a sole trader business structure I must keep records of receipts, bank statements/business account records. This is done so I can show proof of earnings or losses when lodging my tax returns. PREPARE AND HAVE AUDITED AND LODGE FINANCIAL STATEMENTS AND REPORTS: I must lodge a yearly tax return which will show proof of my business earnings and the amount of tax I owe to the ATO. Every quarter I must submit my BAS which reports and pays GST, PAYG and other taxes. SEND A COPY OF THE FINANCIAL STATEMENTS AND REPORTS: As a sole trader, copies of financial statements and reports are sent to my accountant for further review which help when it comes to lodging tax returns and BAS statements. **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.** WHS measures I would need to implement within my industry would be, identifying hazards, testing and tagging tools/equipment, adhering to WH&S regulations regarding construction dust, maintaining a safe worksite. Having these implemented in my business will protect myself and others around me. **5. Which description in section 2.2 of the Learner Guide applies to your business? Explain how this works in relation to your business.** A sole trader best suits my description. Initially wanting to start out as an independent contractor (carpenter), the size of work that I will be taking on will be manageable for myself, therefore I won't require others such as employees for my business to operate. Initially from a tax point of view the structure of a

	sole trader suits me best. If my business becomes more successful over time I might want to look at setting up a company structure as this will provide better tax incentives. 6. **What kind of records do you keep in relation to finance? Explain why each system you use is appropriate for your needs.** Records I keep are, receipts, invoices, bank statements proof of purchases for the business. Keeping each of these records is important to my business as it provides proof of incomes, losses which in return are sent to my accountant when lodging tax returns including BAS statements. Doing this ensures the financial side of my business is working within the law and is running properly. 7. **What legislation may affect any contracts associated with the running of your business?** Competition and Consumer Act 2010 and the Fair Trading Act 1989 (QLD) 8. **What measures could you put in place to detect incidences of non-compliance?** Within my business structure I would maintain financial records and keep records of receipts and invoices. 9. **What can you do to ensure legal co-operation with contractual rights and obligations?** It is advisable to seek legal advice. 10. **What systems can you implement to ensure you are sourcing the right item, from the right supplier at the right time?** Understand exactly what it is you are wanting to source. Research suppliers. This can be done by searching online for wholesalers, joining industry groups or forums or talking to others businesses to get personal recommendations. Next I would compare suppliers that I have researched, comparing things like, price, size of supplier, location, stability and supplier background. 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?** I would expect to have contracts with owners, companies, suppliers, and agents. In my line of work owners are the ones who may need my service. For example renovations on their property. In order to do work on their house I need to be insured by an insurance company to do the work in case something goes wrong. Having contracts with suppliers is important for my business structure to get materials and product to the client. Having a tax agent is also essential to my business structures financial side. 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.** For my business needs neither is ideal for a few reasons. I always work on site so have no need for a premises as I have no staff or stock. 13. **What is the difference between internal and external threats?** An external threat is something that imposes on the organisation from without. This can be a natural disaster, robberies or political instability. Internal risks arise due to the organisation's normal process. This can include, theft, loss of computer data or problems with leadership/management. 14. **What are likely or certain risks within your business?** Robberies, issues with trades or clients, theft from trades or others. 15. **How can you prioritise risks?** Identify the severity of the risks and create systems such as, risk assessment forms, impact categories eg: dividing risk probabilities into categories such as, highly unlikely, unlikely, possible, likely and certain. One method in particular is to create a probability impact matrix which allows you to calculate which risks need insurance and prevention methods.

	16. **What compulsory insurance must you obtain in order to run your business? What extra or voluntary insurance could you also get, and why?** Public and products liability insurance is compulsory for my business structure and the type of business I am in. Extra insurances I could also get are, contract works, professional indemnity, tool insurance and compulsory motor vehicle insurance. These extra insurances are based on the types of risks involved with the way my business is structured.