



**Continuing Professional Development**

**Approved CPD Activity**  
**Seminar Paper**

**Business Management**

**34140**

## About this activity

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### Scope

This seminar paper looks at how to analyse, review and improve your business plan, marketing approach and office administration systems. Without the sound practice structures and systems in place, you simply cannot operate effectively as a migration agent.

### Currency of program content

The content of this program is accurate as at February 2010. It refers to the Code of Conduct published on 1 October 2006.

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## 1.0 Introduction

### 1.1 Overview

In this paper, we will show you how to analyze, review and improve your business plan, marketing approach and office administration systems. If you have selected this activity simply because it is a mandatory one, we challenge you not to waste this opportunity to improve your business. Without the sound practice structures and systems in place, you simply cannot operate effectively as a migration agent.

So while this paper does not focus specifically on migration law matters you should be aware that there are provisions in the Code of Conduct to assist, guide and protect you. Even if you concentrate on the laws that enthrall, challenge, beguile and frustrate you and your clients, you cannot ignore the obligation to monitor and review your business processes.

## 1.2 Occupational outcomes

On completion of this activity you should know how to comply with the following key criteria.

### Compliance with the Code of Conduct

You are aware of the requirements of confidentiality as required by the circumstances and good practice

You know how to identify Code of Conduct obligations for marketing and promotional activities

You recognise the requirement to have clients instructions confirmed in writing

You know how to identify duties or obligation to clients such as the release of documentation to which their clients are entitled

You can identify and employ effective strategies to ensure document security, including the need for a contingency plan

### Business practices

You know how to identify factors contributing to the operation of a successful business

You know how to identify reasons for business failure

You know how to identify types of business structures

You understand the options for leasing, subletting or ownership of business premises, and the contractual arrangements necessary for each of these options

## 2.0 Business planning & setup decisions

Before deciding to establish a migration advice business, it would have been wise to thoroughly research your business proposal and prepare a detailed business plan. *Do you have a written business plan? How long has it been since you reviewed and/or revised it?*

There are many well known business axioms. Two popular ones are:

Not planning in a business is planning to fail

You need to work on the business as well as in the business

So while it's essential to stay focused on your clients—it's also vital to put time into your underlying business operations, which enable you to service your clients.

### 2.1 The business plan

A good plan is like a map, helping you to find the best path to achieving your goals. Setting business goals helps you to use your time and resources more effectively. By planning ahead you are more likely to be able to take advantage of business opportunities and anticipate problems. You will also need a business plan to raise finance.

Your business plan involves developing business goals, a management plan, a marketing plan, an operating plan, a financial plan and an action plan. A typical business plan would contain the following headings:

Executive Summary

Business Goals

Management Plan

Market Research and Analysis

Marketing Plan

Operational Plan

Financial Plan

Action Plan

***Refer to Appendix B for a more detailed business plan.***

### 2.1.1 How to start your business plan

Before you start writing your business plan it is useful to do some background preparation. This includes:

getting advice on business planning and checking available templates and tools that can help you develop your plan

collecting and analysing information from various sources:

- small business service providers - [http://www.innovation.wa.gov.au/innovation-services-directory/innovation-services-directory-\(pdf\)](http://www.innovation.wa.gov.au/innovation-services-directory/innovation-services-directory-(pdf))
- local government agencies
- market research providers - e.g. CCH
- the federal government - e.g. DIAC and Australian Bureau of Statistics - [www.abs.gov.au](http://www.abs.gov.au)
- accountants and banks
- industry associations
- business peers
- competitors

### 2.1.2 Formulating your business goals

Your business goals should provide a clear picture of the business you will be in over the next years:

What products and services you are going to sell?

What customer groups will be targeting? What their specific requirements?

What will make customers buy from you rather than your competitors?

What business returns you are aiming to achieve? What salary do you need/expect?

Based on your market research, what business goals are realistic?

### 2.1.3 Management plan

This section covers how your business will be structured and run and what management capabilities will be developed. It should also cover any legal matters in relation to structure, intellectual property rights, licensing and contractual matters, e.g. with suppliers.

Business Structure provides more information on alternative business structures. We'll look at these later. Based on your research, it is useful to undertake a SWOT analysis.

Internally	Externally
Strengths you should build on	Opportunities you should exploit
Weaknesses you need to overcome	Threats you need to manage

**List dot points under each heading which realistically and honestly reflect your research and self-assessment.**

Your business plan needs to develop strategies to deal with identified issues.

### 2.1.4 Marketing plan

Your marketing plan needs to identify:

**Your product/service offering**—What are you offering your customers? Will your particular mix meet your customers' needs?

**Your market**—Its size, geographic location, demographics and trends?

**Your customers**—Who are they? What, why, where and how often do (will) they buy?

**Your competitors**—Who are they? How do they compete on price, services, quality?

Your marketing plan needs to cover the strategies you will put in place to capture and keep customers. This includes how you will make your product/service available, how you will promote them and build your business image (including networking) and your pricing policies.

### 2.1.5 Operational plan

You will need to make decisions on a range of operational issues, including:

**People**—Will you employ or use contract staff? If so, how will you manage them? What other expertise will you need?

**Processes**—What systems and procedures should you put in place? What production output and methods will you use? R&D initiatives.

**Suppliers**—Who should they be? Cost and quantity of suppliers?

**Equipment/technology**—What equipment and IT requirements do you have? What skills will you need to maintain or upgrade these?

**Premises**—Will you purchase or lease property or work from home? *See section later.*

**Reporting**—What is the most suitable reporting system to put in place to allow you to monitor your performance?

### 2.1.6 Financial plan

Your financial plan needs to cover:

**Funding**—How much money you need to start the business?

**Budget**—What are your projected profit and loss over the next one to two years?

**Cash flow analysis**—What is your projected cash in and out on a monthly basis? Will you be able to pay your bills?

**Balance sheet**

**Sources of finance**—Who will lend you money? How much will you need?

**Survival**—What is your business break-even point? What revenue is needed to cover all your costs?

### 2.1.7 Action plan

This section should set out specific tasks that need to be undertaken to implement your business plan, with clear priorities, timeframes and who will be responsible.

### 2.1.8 Business plan: Do's and Don'ts

Do:	Don't:
Keep updating your plan to meet changing situations.	Be unrealistic about what you can achieve or base your projections on wishful thinking.
Use business planning templates and tools to be sure you cover everything.	Underestimate the challenges in growing a business.
Refer to your action plan as a living guide.	Be afraid to ask for help.

Don't spend too long creating the 'perfect' marketing or business plan. Many businesses get bogged down writing huge documents that never get implemented. Remember a short plan that gets carried out completely is going to do your business a lot more good than a long plan that doesn't even make a practical start.

## 2.2 Types of business structures

The decision to operate under a particular business structure is one of the most important decisions you will make when starting or buying a business.

There are many implications including tax obligations and compliance issues that flow from your choice of a particular business structure. For this reason, it is crucial to carefully consider the options and to seek advice from an accountant or other professional adviser. The most appropriate structure to use when you start your business may not be the best in the medium and long term. Therefore it is sensible to review your choice periodically.

1. **Sole trader**—A single person operating a business personally under their own name or a registered business name. This is the most common business structure and is a good way to start out, because it is the easiest and cheapest way of structuring a business. A sole trader controls and manages the business.

According to the 2008 MARA Annual Report, the number of registered migration agents that practise as sole traders or in a business that has only one migration agent was 76%. 29% of agents work in a business that has two to five agents and 12% of agents work in a business that has 6 or more agents.

2. **Partnership**—Two or more persons in business together under their own names or a registered business name. It is important to have a partnership agreement to govern the rights of the partnership. In the absence of a formal written partnership agreement, State/Territory partnership law will prevail. Joint liability exists, which means that one partner can bind all the other partners to a contract entered into on behalf of the partnership.
3. **Company**—A registered legal entity with the right to do business in its own right; the proprietors are the shareholders and usually its directors and employees. It can be useful to think of a company as being like a person as it has similar rights such as the right to hold property, enter into contracts, the right to sue and be sued - all in its own name.
4. **Trading Trust**—Usually a company that operates a business for the benefit of certain beneficiaries.

## 2.3 Tax rates

The Federal Government frequently changes the rates of tax and tax thresholds. The following rates apply to individuals who are residents of Australia for tax purposes for the whole financial year for 2009-10. Compare them with the corporate tax rate of a flat 30%.

Taxable income	Tax on this income	Corporate tax rates
\$0 - \$6,000	Nil	A flat rate of 30%
\$6,001 - \$34,000	15c for each \$1 over \$6,000	
\$34,001 - \$80,000	\$4,200 plus 30c for each \$1 over \$34,000	
\$80,001 - \$180,000	\$18,000 plus 40c for each \$1 over \$80,000	
\$180,001 and over	\$58,000 plus 45c for each \$1 over \$180,000	

## 2.4 Business name

Having now chosen a business structure, you need to ensure you have a business name and that it is registered under the relevant legislation. Registration of a business name must be done in accordance with the law of your State or Territory (if outside Australia in accordance with statute or common law).

When you choose a name think about what messages it gives your clients.

Does it sound big or small?

Does it sound expensive or cheap?

Does it sound reliable?

Remember that if you use your name in the business name, it will forever be associated with that business. This may have implications if you ever decide to sell the business.

Registration or use of a business name by itself does not create a legal entity and therefore does not allow the use of privileges to which a company is entitled, such as a corporate tax rate or limited liability.

**Activity:** Go to the ASIC website at [www.search.asic.gov.au/gns001.html](http://www.search.asic.gov.au/gns001.html) to check your business name. Follow link to 'Business and State Names' or conduct a search on 'Registered And Reserved Company and Business Names, Schemes, Trusts and Non-Registered Entities'.

## 2.5 Business premises

Having decided on your business structure, you will need to carefully consider where you will operate your business from. All for-profit migration agents need to operate their business from a business location.

Whether to lease or purchase is a major decision. As it is a fixed expense, your business plan will need to address this cost as it is a continuing obligation.

Your accountant can advise you whether it is in your best interests to purchase or lease your business premises and equipment. Unless there is some independent basis as to why you would buy premises, it is wise to lease premises so as to order your circumstances and contain your liability to a leasehold interest.

### 2.5.1 Leasing

A lease provides you with the legal right to occupy premises. It protects you and the landlord by setting out all the agreed terms of occupancy.

A lease, or tenancy agreement, is a level of interest in a property, set about in the form of a written contract, usually for a fixed period of time, which allows exclusive possession. Whilst it is not the ownership of the property, the person, enjoys the usage of the property on certain terms and conditions, in exchange for payment.

The owner of the property grants the leasehold interest, and is known as the lessor, or landlord. After a lease is granted, their interest remains as the owner, and is known as a 'leasehold reversion', because their interests remain with the exception of the lease rights accorded to the tenant. The person taking up the lease is the lessee, or tenant, and acquires a leasehold interest, also known as a non freehold interest, in the property for the period of the lease.

When taking out a commercial lease you first have to decide on what premises and lease will be right for your business, then you have to clarify with the landlord in writing all issues about the lease and the premises before signing the document. These issues include: the rent, outgoings, other obligations, permitted use and access, location, building design and insurance.

#### Advice:

- Check with your accountant the most tax effective way to structure the payment of rent, fit-out costs and GST

- Inspect the property and take notes and photographs prior to moving in

- Talk to any other tenants - see how they get along with the landlord

- Ask for audited statements about outgoings such as gardening, maintenance and advertising

- File a copy of the lease in a safe place and consider registering it with the Land Titles Office if it is for three years or more

Further information is available at:

[www.smallbiz.nsw.gov.au/smallbusiness/Starting+in+Business/Legal+Issues/Commercial+Leases/index.htm](http://www.smallbiz.nsw.gov.au/smallbusiness/Starting+in+Business/Legal+Issues/Commercial+Leases/index.htm)

The Department of Employment, Workplace Relations and Small Business booklet 'Look before you lease. Avoiding the pitfalls in retail leasing', which is available at:

<http://www.innovation.gov.au/General/OSB-MarketsSection/Pages/LookbeforeyouleaseAvoidingthepitfallsinretailleasing.aspx>

### 2.5.2 Operating from home

This is a good way to start out and a common option taken by new migration agents. It allows greater flexibility and capital management. By minimising recurrent payments at the beginning of the business, you are better able to use your funds for other activities such as marketing, office costs, etc.

#### Advice:

- Check with your local council and State Government as to whether you are legally allowed to run your business from home—there may be restrictions.

- If you own your home, check with your financial institution or your mortgage contract to see whether you are allowed to use a part of your dwelling for business purposes—there may be limitations on the usages of the home.

- If you are renting, check the lease agreement as to what conditions may be imposed, or processes required to seek approval.

- Check with your insurance company to establish what insurance policies will be required, as the usage of the home is changing to include commercial usages. You may require public liability insurance for any visiting suppliers, clients or staff, and in all likelihood a business contents policy. You may void any existing policy by failing to notify your existing insurer.

Consider whether your clients and prospective clients are going to be visiting your home? If they are— then you will need a place to see them. This may be different to your office working space.

Work out how you will ensure the security and confidentiality of important documents in your office.

Taxation - your business can legitimately claim various outgoings such as phone, electricity, rent, mortgage interest, rent, travel expenses etc. However there may be capital gains consequences, given some of your home is being used for commercial purposes. Check with your accountant.

Have you spoken to family or other persons with whom you live? This may be necessary to set expectations and mutual understanding for one another's needs.

Evidence - Make a Photograph or Diagram to show how your home office is structured and keep evidence of the various items that form part of the office, including the percentage of your home that comprises your office. Keep all receipts relating to purchases. With an inventory your accountant may then be able to calculate depreciation of any assets, and various deductions.

### 2.5.3 Serviced office

A serviced office attempts to consolidate all the various costs of running an office in one simple monthly payment. It can include: rent, phone, fax, receptionist, additional rooms such as a boardroom, courier, postage, electricity, security, additional staff, etc. This is another good way to start out.

Some advantages of serviced offices & executive suites include:

- Quick, easy possession, often within 24 hours of viewing

- Short periods of commitment - generally a three months minimum

- Flexible scale variation possible - from a smaller to a larger office or reduction in offices

- Limited need for rental deposits or bank guarantees

- Pay for what you want and when you want it - e.g. you can have temporary staff just when you need them

- No capital outlay

- Access to a network of other professionals

In some cases there is access to a network of offices throughout Australia and globally. This may be of great benefit in providing you with a wider network of addresses, particularly if your clients are located overseas

### 2.5.4 Virtual office

A variation on the serviced office is the virtual office. It has most of the qualities of a serviced office, but without the actual office space. This is similar to a 'Door Tenancy' where you get your name on the door, but you don't get a desk. You can use the address on your business cards and for receiving mail (usually a prestigious inner city address), reception, mail, photocopying and meeting rooms, or whatever package of services you require. There is a small monthly charge (which might be as little as \$150/month), to cover the basics. Then you pay for all other services (such as meeting rooms and photocopying) on top of that. Obviously when you use a lot of services, costs can climb quickly.

However this arrangement is extremely flexible and can be complementary to a home office. It is usually easy to upgrade to a serviced office, and you can usually access a network of offices in other cities in Australia or around the world.

When looking at the competing offerings (national firms such as Servcorp and Christies are two examples) look carefully at what is included in the base monthly cost, what extras cost, what is the term etc.

### 2.5.4 Sublease - subletting space

Another form of interest in a property is brought about where the lessee decides to sublet some or all of the space to another party. Note: there is usually an express or implied covenant against sub-letting unless the tenant has first obtained the consent of the landlord.

### 2.5.5 Purchasing premises

As mentioned previously, this should be approached with caution. Purchasing premises is a very long-term decision, which should not be considered until the other components of your business strategy are put into place.

## 2.6 ICT (Information & communications technology)

The following office tools have an important role to play in the administration of a migration practice:

- Computer
- Internet access
- E-mail
- Website
- Telephone
- Photocopier
- Fax machine

The development of technology over the past few years has been spectacular and has transformed the way in which migration professionals operate. The internet was a relatively minor thing in 1996, but now it is crucial, given that DIAC's LEGENDcom is internet-based, visa applications are increasingly electronically lodged and many clients prefer contact by email.

With the increased focus on electronic lodgement of applications, most agents will need to be able to scan documents for attachment to an application. When choosing a scanner look for one which can produce digital files that meet Immigration's specifications. A scanner that can produce scans in PDF format is usually best.

Having a reliable IT system is not only good practice, but is essential for client communications and records management. Interaction with DIAC is frequently by email, and a breakdown in your computer system is no reason or excuse that you or your client did not receive what could be a vital communication, such as a decision!

There are some great free resources available for those starting out on a tight budget:

the ATO distributes a simple bookkeeping product called eRecord that can help you track your income and expenses and do your BAS. See [www.ato.gov.au](http://www.ato.gov.au)

the OpenOffice suite of wordprocessing, spreadsheet and presentation software is extremely capable and completely free! See [www.openoffice.org](http://www.openoffice.org). Alternatively you may like to test out online portals such as Google docs at: [docs.google.com/](https://docs.google.com/) or Zoho at: <http://zoho.com/>

Google has a great online calendar available that can be very useful in organising your business life. You will need to set up an account. For more info go to [Google Calendar](https://calendar.google.com/)

### Discussion topic: Business type & office premises



*What business type did you select? Why?*

*What was your preferred office location? Why?*

*Which ICT tools do you rely on most?*

## 2.7 Small business assistance

State governments recognize the importance of small business to their economies and provide a wide range of support and getting started assistance.

New South Wales—The [Small Business](#) website provides information about support and assistance for home-based businesses, including the [HomeBiz Kit](#).

Northern Territory—Advice for [home-based businesses](#) in the NT from the Department of Business, Economic & Regional Development.

Queensland—See [home-based business information](#) for Queensland including a [fact sheet](#) and access to [Smart Skills](#), an online learning tool.

South Australia—[Using your home as a business premise](#) - fact sheet from the SA Department of Trade and Economic Development.

Tasmania—The [Stay home and mind your own business](#) guide on the [Department of Economic Development](#) website can help you start a home-based business in Tasmania. Contact your nearest [Enterprise Centre](#) for free advice and support.

Victoria—Business in Victoria’s [how to start a business guide](#) and [home based business](#) information sheet.

Western Australia—Small Business Development Corporation’s [Home based business network](#)

Further information is available at: [www.business.gov.au/Business+Entry+Point/Business+Topics/Home-based+business/Advice+and+support+in+your+state+or+territory.htm](http://www.business.gov.au/Business+Entry+Point/Business+Topics/Home-based+business/Advice+and+support+in+your+state+or+territory.htm)

### 3.0 Business marketing

You will need to develop a marketing plan for your business. Do not forget the 4 Ps:

- Product (your service)
- Price (your fees)
- Place (your location)
- Promotion (how potential clients hear about you)

#### Product

It is important to review your practice on a regular basis. Stand back and review the types of clients that you have and the services you offer. Monitor the quality of your services and take action to continually improve it. Consider your services from a client's perspective, and seek client feedback - monitor and manage each personal interaction as well as the physical surroundings and processes of your business activities to ensure that your level of client service is meeting the changing needs and expectations of your clients.

#### Pricing

How should you price your services? From a business manager's perspective, you should charge in such a way as to maximize your after-tax profit. Clearly if you charge too much, you will have few clients; charge too little and you are in danger of not operating in a profitable fashion at all. You need to charge in such a way that you offer value for money. Clients will not be happy with your overall service if you are charging too much relative to the service they have received. As your business develops and the word gets out that you offer fabulous value for money - good service at a fair price, you will start getting more and more clients through word of mouth. Thus fair pricing is an important way to improve the chances of future success for your practice.

#### *Review the pricing as disclosed by agents to the MARA.*

The following information represents the range of fees charged by 70% of registered migration agents.

#### MARA Agent Fee Data: January 2009 - June 2009

Service type	Application type	Range
Permanent Residency Services	Employer Sponsored Migration	\$2,200 - \$5,000
	General Skilled Migration	\$1,500 - \$4,000
	Business Skills Entry	\$3,000 - \$10,000
	Partner Migration	\$1,500 - \$3,500
	Child Migration	\$1,300 - \$3,500
	Parent Migration	\$1,500 - \$4,000
	Other Family Migration	\$1,500 - \$3,850
	Special Migration	\$1,500 - \$4,400
	Humanitarian Offshore	\$1,000 - \$3,300
	Onshore Protection	\$1000 - \$3,500
Temporary Residency Services	Students	\$500 - \$2,000
	Temporary Business	\$1,500 - \$4,000
	Temporary Non-business	\$500 - \$2,500
Other	Review	\$1,300 - \$4,000
	Other	\$250 - \$2,500

The fees quoted are in Australian Dollars and include GST

The data above is updated regularly on the MARA website at:

<http://www.mara.com.au/Consumer-Information/What-does-it-cost-to-use-an-Agent-/What-does-it-cost-to-use-an-Agent-/default.aspx>

#### Place & promotion

We've already discussed place in relation to physical premises. However, where is the best location for your business if it is to attract your target market? Who are you expecting and who do you want to

encourage to be your clients? Your office should be accessible, and frequently you may benefit from the physical visibility of your office. On the other hand, a great location may come at a high price. Your own situation is unique, and you will need to take this into account when choosing the location of your office.

Does the internet have a role to play here? In some cases, there may be no physical contact with the client. An attractive website can bring in clients and may be as important as being on the High Street.

### Discussion topic: Online presence?



*Do you advertise on the internet?*

*If yes, how & why? If no, why not?*

**Refer to Clauses 2.10 and 2.11 to make sure you understand fully the provisions in the Code of Conduct in relation to advertising and marketing.**

A migration agent therefore does not have any open ended right to advertise. It is restricted so as not to mislead the market or irresponsibly induce prospective clients to use their services.

## 4.0 Business management

Running a business is more than just being a technically competent migration agent. If you have been operating as an employed migration agent or as an employee before becoming a self-employed migration agent, and you may have had limited exposure to the realities of business management. The transition can be significant because of the many additional tasks for which you are now responsible.

### 4.1 What makes a successful migration professional?

Many people dabble in migration, perhaps thinking they have a good source of potential clients. However most quickly learn that it is not an easy area of practice. It can be frustrating with long delays in processing or receiving client instructions and payment. There are also frequent changes in the law as well as processes, and in many cases there is no certainty that your client will get what they are seeking.

#### 4.1.1 Personal attributes

Whether a business succeeds or fails will depend largely on the level of responsibility and commitment that the management assumes in relation to the practice. The following are examples of traits that need to be maintained on a continuous basis:

**Good people skills**—such as self-confidence, an interest in people and excellent communication skills—both orally and in writing

**A can-do attitude**—with good work habits that are persistent and sustainable in the long term

**Honesty with the client**—telling the client both the good and bad news - it is important to set their expectation levels so they know the prospects of success, etc.

**Honesty with the decision-maker**—one approach is to identify the relevant negative issues and then address/present them in the best possible light

**Integrity**—as you must be able to inform clients of both the good and the bad news - it is important to set their expectations

**Commitment**—to your clients, staff and profession - to fulfil their expectations and meet timelines

**Responsibility**—remember it is you that accepts responsibility...avoid the blame game

**Reliability**—completing tasks whether you like them or not is important

**Lateral and innovative thinker**—it is not just a matter of doing the same thing all the time, so you need to keep reviewing your processes and work through ways of making the business grow

**Interest in Australia**—A keen interest helping people to migrate to Australia

#### 4.1.2 Professional capabilities

The services you choose to offer must be backed up by your ability to deliver those services in a professional manner. While you may be registered to provide migration advice, your actual capability may be stronger on some areas than others.

If you undertook a truthful SWOT analysis on yourself, you may well identify potential service areas that are not professional strengths at the moment. It is always preferable to exploit opportunities from a position of strength—not weakness. Taking on a case that you know is beyond your skill set may have serious consequences for the client and you. If you identify areas where you need to be professionally stronger to take advantage of opportunities, consider some of the following strategies:

undertake CPD in the area

consider a period of employment with another professional who practices in the area

finding someone who will mentor you in the area, or take advantage of any mentoring the MIA may run in your state

look for simple cases that will build your capability - or offer your services for free to build experience

arrange a network of referrers who will let you sit in on a case that you have referred to them on a fee sharing basis

### 4.1.3 Time management skills

Managing time to focus on the most pressing issues is without doubt one of the key success factors in a professional service business. There are only a certain number of hours in the day, and putting your and your staff's time to best use is vital to give you an appropriate return on your efforts.

Not every minute of the day is chargeable time, so when you price your services you will need to factor in the non-chargeable time. Non-chargeable business time can be spent on holidays, staff development and training workshops, travel and business development, and so on.

It may be useful for you to calculate just how many hours you can charge per annum. For many professionals, it is in the order of 1,800 hours.

### 4.1.4 Delegation skills

Having efficient, polite staff ensures that clients are well cared for and that you can concentrate on some of the other aspects of your business. It is crucial that practice leaders learn the skill of delegation. If you find yourself performing mundane tasks that require little knowledge or skill, you will not be using your own expertise to the extent that will most benefit your business.

## 4.2 Benefits of strong client service focus

Improving service to your clients involves managing their expectations, and remaining in communication with them to ensure all parties understand what is happening with their matter.

Some of the reasons why excellent customer service can improve your business include:

1. Loss of Revenue - if you do not keep your clients satisfied, they may not pay your account!
2. Time - you will save yourself and your staff a lot of time by not having to deal with complaints arising from poor customer service and your insurance premiums won't rise through complaints.
3. A disgruntled client may defame your practice.
4. Loss of marketing opportunity - it is unlikely that a client who is dissatisfied will recommend you to others who may otherwise have used your services. On the other hand, a satisfied client may spread the word of their positive experiences, improving your reputation. Word of mouth (WOM) marketing can be a key success factor for professional services firms.
5. Try to handle complaints in such a way that a potentially negative experience can be transformed into a positive one.
6. Learn from your actions - resolving and acting on problems should help you avoid making the same mistakes again. It will also identify areas of your business that require improvement.
7. Providing good customer service will make you and your staff feel good!

## 4.3 Practice administration

### 4.3.1 Records management and obligations to clients

We will only briefly address the duties imposed on an agent in accordance with the Code of Conduct as these obligations are discussed fully in the CPD activity, *File Management*.

**Clause 3.2A - IRMAP booklet**

Not only must agents provide the booklet to all their clients—they must also keep a record of the fact that you have provided it. Such records must be stored in such a way that they are easily accessible for you to be able to produce a report to the MARA in the event that your practice is audited. You should be able to produce a report in such a way that you will not have to produce the file itself, but have a report mechanism that collates the details from every file.

#### **Clause 6.1 - Maintain proper records that can be inspected by MARA**

These clauses impose a duty to retain these records even in the event that you return the file to the client. Part of the reason for this is to safeguard you from a negligence perspective - in case an action to sue you for alleged negligent advice is raised. Your file will serve as a means of defence.

Note there has been some litigation on this matter and there are limits to what MARA can request, particularly if the agent is a lawyer and the clients are receiving immigration legal assistance. See *Joel v Migration Agents Registration Authority* [2001] FCA 186 (6 March 2001).

#### **Clauses 6.2 - Securely store documents for 7 years**

While there is no definition of 'securely', it is certain that having back-up and contingency plans that are well-drafted and regularly reviewed are part of any strategy to address any concerns MARA may raise in the event of an audit or investigation.

On the completion or termination of services, all documents to which a client is entitled are to be dealt with in accordance with Part 10. When closing a file you may wish to seek to return such documents to the client. Bear in mind clause 10.3, which states that 'Australian passports, and most foreign passports, are the property of the issuing Government and must not be withheld'. In some circumstances, you have no choice but to deliver documents to the client.

### **4.3.2 Information to be kept on file**

The following information should at least form part of your file:

- Personal particulars including name, address, date of birth, contact number of client, and if more than 1 client the name visa applicant, sponsor, etc.
- Date of opening
- How the IRMAP document was given to the client (date and method) - this could be stored both on the file and in a separate book or electronic record - as it has to be available for inspection by the authority
- Letter of confirmation of instructions
- File notes of meetings, both in person and over the phone
- Financial records including fee agreement, client account and any transfers
- File reference of your file, as well as DIAC and other agency file references
- Record of communications, both hardcopy and electronic, to decision-makers and client, and any other parties such as sponsor, police, etc.
- Copies of supporting documentation and any submissions
- Decisions and copies of how this was advised to the client
- Date file closed - this is particularly important for determining when the date the file can be destroyed
- Criteria - some agents print out a copy of the relevant regulations and how the client meets the requirements.

### **4.3.3 Electronic records**

Electronic records include information stored on your or other computers about your clients or your business. It is important that you understand how you can access and retain such records on a long term basis. Electronic records may be a more cost effective method of storing your client records. While few practices are completely electronic, there may be some very important communications and records that may need to be kept digitally, such as:

- Client addresses
- Financial records
- Emails from and to clients
- Scans of documents

Electronic notification of decisions from DIAC, or other government bodies with whom you liaise.

Having records electronically available, such as through a database of some kind, will allow you to analyse your client information in ways that may not be possible in hardcopy format. For example, you may wish to analyse your clients by age, occupation, location, language spoken, referral source, visa category, fees paid and received, as debtors, etc. Electronic storage of your client records is an investment that not only ensures you meet your statutory obligations but is likely to assist the profitability of your business.

#### 4.3.4 Privacy considerations

Your obligations exist not only under migration law but there are additional wider obligations imposed by State and Commonwealth law. The Privacy Act 1988 (Commonwealth), was modified by the Privacy Amendment (Private Sector) Act 2000 which saw the introduction of National Privacy Principles.

The National Privacy Principles are set out in Schedule 3 of the Privacy Act 1988 (Commonwealth) that legally bind many, though not all organisations. Generally speaking, the larger the organisation - the higher the duty. Many of the 10 Privacy Principles make good business sense, so whether you are obliged to abide by the Code or whether you wish to opt-in may be a matter for you and your business to review.

National Privacy Principle (NPP) 4.1 requires all organisations to take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure. Personal information must be treated as confidential, so your duty is to properly stored records in such a way as to protect that confidentiality.

You therefore need to ensure that all staff, including those who are not migration agents, are trained and reminded of their responsibilities in protecting personal information from misuse, loss, corruption or disclosure.

Further details are set out at: [www.privacy.gov.au/business/index.html](http://www.privacy.gov.au/business/index.html).

#### 4.3.5 Storing and retaining client files

It is prudent, and may even be vital to retain records both electronically as well as in hardcopy formats, as this in effect provides you with two records, so that if one fails you still have a record.

Besides the necessity under the code of conduct to retain files for 7 years from the date of the last action, there are various reasons for them.

**Precedent** - there may be some issue or solution or process that was in that file that could assist you or your staff in a present matter.

**Client needs** - there may be a need to refer to them for further advice

**Future client work** - the client may ask you to act for them again at a later stage and you may need the reference the previous file. For example a business skills provisional visa and the subsequent residence application.

**Resident return visa**

**Negligence and professional indemnity insurance** - Even if it were not a requirement under the code it is likely to have been best practice for the file to be kept for at least 7 years. This is the likely maximum time required before any negligence or statute of limitation action can be initiated. The file may be your defence against any claims.

**Activity:** *You may like to investigate different types of file storage mechanisms by an internet search. One such site is at: <http://www.filingsystems.com.au/>.*

This site shows a wide range of different solutions, including fireproof safes, filing cabinets with combination locks. Standards of file storage are many and varied, and there are Australian standards, which you may wish to consider. Some details are listed in further reading or you may wish to search [www.standards.com.au](http://www.standards.com.au) and [www.saiglobal.com](http://www.saiglobal.com).

The Privacy Commissioner suggests the following tips to help assist with compliance:

**Physical measures** could include:

- barriers such as locks
- security keys and containers such as filing cabinets, safes and compactuses
- security alarm systems to detect unauthorised access
- access control measures.

These may be complemented by **procedural measures** such as:

- recording file movements, especially if files are sent to different offices
- encouraging a clean desk policy
- storing all files after use
- a security classification system to identify information needing special protection.

#### 4.3.6 Duty of confidentiality

You have a number of competing duties as a migration agent. You have a duty of confidentiality to your clients and you should take all possible steps to ensure that this duty is discharged. For example, discussion of your client's circumstances with another client must not take place unless you have an authority from your client. Discussion of your client's circumstances with DIAC should not take place until you have a signed authority from your client. Your clients may submit form 956 (Appointment of a migration agent) to this effect.

Caution must be exercised in regard to the destruction of a file. Before making a decision to destroy a file, you should check the file for any original documents, such as a birth certificate, will or property title.

The Privacy Commissioner suggests that secure disposal of paper-based records could include:

- shredding, pulping or disintegration of paper files; or
- contracting an authorized disposal company for secure disposal.

In relation to electronic records it is essential that you do not sell or pass on old computers which have client records. Even if you delete the records from the hard disk they may still exist.

#### 4.3.7 IT systems checklist

Is your data fully protected? Can you answer YES to the following questions?

1. **General Information Security**—Is the business protected from internet hackers, spam mail, viruses and spy-ware? Are these systems up-to-date, operational and active on a continuous basis?
2. **Technical Support**—What if something goes wrong? Is there someone you can call? What are the processes and how long will it be before they can come to you or do you need to visit them?
3. **IT Infrastructure**—Have you reviewed your technology to ensure that you have suitable internet, computer workstations, laptops and servers?
4. **Back-up systems**—Do you have you a back-up system in place that will allow your systems to operate in the event of a breakdown?
5. **Network**—Has an IT professional conducted an audit of all your technology to ensure the network is secure and compatible?

Technology is not infallible so you should provide for the eventuality of system failure at sometime in the future. [*Beware of Murphy's law!*] Think over what sort of back-up is suited to your needs. Get help from an IT professional who can set up the best and most time effective method.

#### Discussion topic: File security



*Who does anyone use some of the Privacy Commissioner's suggested tips?  
What back-up strategy do you use? How sound is it really?*

#### 4.3.8 Departure of migration agent staff

It can be a complex issue when a migration agent leaves their place of employment/business. There are notification issues to DIAC, the Tribunals, MARA and clients that are set out in Clause 3.5 the Code. This is expected to be in advance or within 7 days if it would be unreasonable in the circumstances to notify in advance. However further questions arise:

- Who is responsible for an ongoing file when a migration agent leaves? Is it the practice or the agent?
- Who is responsible for a completed file when a migration agent leaves?

The way the Code of Conduct is presently structured, the individual agent is responsible for the carriage of a matter and the individual agent is responsible for the storage. These issues may need to be established in an employment agreement and in the client agreement to ensure the interests of the employer are met, and that, in event of a complaint, investigation by MARA or when the client requires clarification. It is likely that changes to the Code of Conduct may be required to clarify these issues.

## 4.4 Financial operations

### 4.4.1 Financial responsibilities

Some of your financial responsibilities include the following:

- The preparation and reporting of monthly, quarterly and annual accounts
- Analysis of financial performance
- Review of debtors and creditors (accounts receivable/payable)
- Cash management and other banking functions
- Negotiations with lending provider for overdraft facility
- Review and negotiations re leasing/purchase of assets
- Communication and monitoring of financial procedures to staff
- Budgets and forecasting
- Lodging returns including GST and other tax obligations
- Payment of staff salaries and other employee-related obligations including work cover, tax and superannuation
- Monitoring and safeguarding of the client/trust account.

### 4.4.2 Budgeting

You will need to manage the company budget, which includes an understanding of the accounting function and cash-flow control. Budgets involve a high degree of business planning, so you need to have a vision of the future.

Think about what you want your business to look like 1 year, 3 years and 10 years from now. How will you achieve these goals? What resources will you need? Planning is vital to be able to manage the various elements that will be necessary for your business to grow.

### 4.4.3 Cash flow

There can be a big difference between operating a practice that has a paper profit and a practice that has strong, positive cash flow. The paper profit may be calculated on a business-wide scale, but unless there is a positive cash flow any paper profits may be illusory and only an accounting illusion.

Tracking your debtors (e.g. how many are there? how long have they been a debtor?) and your creditors is the first step towards ensuring that you have positive cash flow. The next step is to develop a procedure to keep your accounts receivable to a minimum. Critically assessing and meeting your creditor obligations in a hierarchy of priority is also a key task.

***Activity: For those of you in practice as commercial migration agents:***

- 1. Look over your debtors list or create a list that sets out debtors by 30/60/90 days.***
- 2. Establish why you gave them credit and decide your future processes for approving credit, including terms and conditions.***
- 3. Develop methods for collection of fees (e.g. decide whether you should make a phone call, or send a short letter). If you have this in place you may wish to review the procedures to see how effective they have been, including developing friendly versus formal letters.***
- 4. Decide, particularly before the end of the financial year, whether any debts should be written off.***
- 5. Look over your current creditors - consider the payment terms. Are there discounts for certain payments you make? Is there any other way you may get a better deal? Which creditors must be paid immediately and which ones have terms that allows flexibility***

#### 4.4.4 Funds transfer

You may wish to look at ways you collect your fees. Getting the work is not enough - you need to get the work, perform it effectively and be remunerated in accordance with your client agreement. For example, you might wish to establish a Business EFTPOS facility/terminal. This can help with your cash flow, as:

Your client pays upfront and directly into your nominated account. Generally if the fees are in respect of work to be undertaken, funds will need to be paid into your client account, or trust account, and only transferred when the work or parts of it have been undertaken.

You have the advantage of knowing that you do not need to chase the client for any outstanding balance - that should bring you some peace of mind.

You do not need to stand in a queue at the bank as the amounts are settled each night.

Clearance is faster than a cheque - generally 2 rather than 5 days and you will know immediately if the funds are cleared.

The costs of EFTPOS are reasonable, other than payment by some credit card providers, some of whom can charge 3% of the amount. This can represent a significant part of your profitability.

### 4.5 Contingency planning

Contingency planning is a form of planning that provides for various scenarios and assumptions. While your business plan sets out various options and assumptions—a contingency plan may present more abnormal alternatives and scenarios. The main forms of contingencies to plan for should be identified in a strategic analysis, such as a *What If?* or a SWOT (strengths/weaknesses/opportunities/threats) analysis. Some of these factors are internal and some are external.

A personal trauma such as illness or death affecting a key person in the business would have a significant impact on the business - think about your succession plans for everyone who works for you and with you.

Externally, regulation plays a significant role in the migration advice profession. If the government were to cease migration altogether—all agents would face a serious disruption to the businesses!

Think also about the current barriers to entry to our profession. Is it becoming easier or harder to enter and stay in the profession. This can seriously impact the number of people working in the profession, bringing either a threat or an opportunity to you! Let us suppose that the number of agents doubled in a period of 12 months - will you get so many clients? Why? Why not? Would you be able to charge the same fees, or would they have to drop? What about if the number of agents halved in the same period? Would you be able to cope with the influx of clients? Would you charge more? The number of clients you are likely to see may also depend on economic conditions or a spate of natural disasters around the world. Recent events such as severe storms, bombings and tsunamis all show that many businesses can be devastated by unusual events. Interest rates may also have an impact on your business - be prepared for all eventualities.

It does not matter that contingency planning is imprecise. What is important is that you have begun to consider the issues prior to them occurring, which can be a big help in responding quickly and effectively if or when they do occur.

## 5.0 Avoiding failure: Lessons from failed businesses

### 5.1 Common pitfalls

The reasons and issues listed above are example of what factors contribute to making a business successful. Just as these factors contribute to making a business successful, so too does a lack of attention to these factors contribute to the failure of a business. They can be grouped into various including personal, client communication, financial and legal factors:

#### *Client communication*

Misunderstanding with client on the nature and extent of the work - much of this could be addressed by written communication

Breakdown in relations with the client - this might happen due to a lack of confidence in your services

Changes in client instructions - this is a need to manage the expectations of clients

Failure to return calls or to keep the client up to date

**Financial**

Poor cash flow resulting in inability to meet obligations

**Legal**

Suspension from practice by MARA

Application for a wind up order from a creditor - e.g. the Tax Office

Bankruptcy

Litigation from a former client

**Personal**

Key staff left to take up a more lucrative offer

Temperament not suited to running a business

Relationship breakdown within office

- Weakness in businesses can be reflective of management deficiencies, leaving overloaded or poorly trained staff, poor procedures, lack of appropriate time management, to name but a few.

**5.2 Failed migration advice businesses****5.2.1 Consequences of poor practice**

The following cases highlight the importance of good practice, and the consequences of poor practice:

*Griffiths and Migration Agents Registration Authority [2002] AATA 247 (15 April 2002)*

–The agent was suspended from practice for 2 years.

*Woods and Migration Agents Registration Authority [2004] FCA 1622 (9 December 2004)*

–The agent was cancelled from practice.

In these two cases both agents had large volume practices. The following are examples of practices or issues that were admitted (in respect of to Mr Griffith):

(ii) The Applicant admits that there were many cases in the year 2000 where copies of invoices had not been retained on the files of the clients of the Applicant.

(iii) The majority of fees paid to the Applicant were by way of telegraphic transfer from clients overseas to the Applicant's bank account. In those instances, no receipts were issued by the Applicant.

(iv) Prior to 13 June 2000, the Applicant did not keep a separate client account.

(v) In an advertisement placed by the Applicant in the Chinese Yellow Pages, the advertisement made reference to '100% success rate'.

The advertisement did not include the Applicant's migration agent number.

'... The case of Mr Morris was so badly handled that Mr Morris and his family went from living in Brisbane and running a convenience store, with a realistic chance of eventually obtaining Australian citizenship, to being deported and ending up back in South Africa. Mr Morris gave evidence to the Tribunal by phone from Johannesburg. The Tribunal has no reason to doubt the evidence of Mr Morris. Not only was Mr Morris' case badly handled by Mr Griffiths but Mr Griffiths lied to Mr Morris about the progress of the matter...'

**5.2.2 Some recent MARA sanctions**

Having an efficient office administration system is vital in a migration practice. It is easy to drown in a sea of paperwork given the volume of documents needed to prepare and lodge an application, keeping records of oral and written communication, etc. Failure to operate the practice in accordance with the Code of Conduct can lead to a sanction from MARA from practice.

**Activity: Visit MARA's website to see other recent cases at:**

<http://www.mara.com.au/AgentSanctioned/ASSearch.aspx?FolderID=395>

The following cases are of interest:

Howard and Migration Agents Registration Authority [2002] AATA 1249 (5 December 2002)

Reptis and Migration Agents Registration Authority [2005] AATA 35 (17 January 2005)

In the latter case the Tribunal affirmed the decision of the MARA to issue a caution to the agent for breaching clauses 2.10 and 2.11 of the Code. The advertisement referred to a 100% success guarantee in relation to business visas.

### 5.2.3 Government changes & controls

The migration agent advice sector is still in its infancy. Its evolution has been plagued by attempts by the Government to gain control over its portfolio through the actions of an unscrupulous few.

Examples of changes by the Government which have affect Agents include the following.

The introduction of the scheme in 1992 - go to the Minister's 2<sup>nd</sup> Reading Speech where the then Minister Gerry Hand expresses his concerns.

The abolition of the onshore 456 visa extension and 457 Independent Executive onshore applications (other than Index FAO) was brought about because some agents each had up to 100 applications, where the number that were for approval were in a handful.

The so called '\$30 work visa', where some agents encouraged or at the very least processed hundreds of protection visa applications at both primary and merits review level.

Ministerial requests with little or no supporting documentation or well reasoned grounds for accessing the Minister's intervention powers.

Tightening of the vexatious provisions in the Code of Conduct in the late 1990's where an agent required the informed written consent of the client.

Further tightening of the vexatious agent provisions in 2004, where sanctions were introduced for agents submitting a high volume of applications that are unsuccessful.

The decision by Government to allow overseas agents to obtain a registration number when they are not subject to regulation by MARA.

It is important to understand that poor business practice may lead to attention from the MARA. This will inevitably take up some of your time and will distract you from your business.

#### 2007-2008 review of the migration advice profession

The Federal Government regularly reviews the system of statutory self regulation of the migration advice profession. As part of the scheduled 2007-2008 review, the Government has released its discussion paper 2007-08 Review of Statutory Self-Regulation of the Migration Advice Profession.

This discussion paper was released on 12 September 2007 calling for submissions to inform the review. The paper provides background on the profession and examines issues to be considered by the review, including the continuing adequacy of the regulatory framework, dual regulation of lawyer agents, professional development requirements for migration agents, and our performance as the regulator.

## 6.0 Lawyers and other professionals

The proportion of registered agents who hold practising certificates has been on the increase with both the number and the percentage increasing by nearly double.

	No of agents with Practising Certificate	No agents (commercial & non commercial)	%
At 30 June 2009	1124	4097	27.4%
At 30 June 2008	1091	3793	28.7%
At 30 June 2007	1034	3492	29.6%
At 30 June 2006	964	3163	30.5%
At 30 June 2005	893	3144	28.4
At 30 June 2004	809	3274	24.7
At 30 June 2003	739	3084	24.0
At 30 June 2002	595	2773	21.5
At 30 June 2001	411	2429	17.0

**Source:** Figure 1, MARA 2008 Annual Report - available at: [www.themara.com.au](http://www.themara.com.au)

Lawyers and other professionals may have additional or alternative, and sometimes conflicting obligations. You may wish to check your obligations as a solicitor prior to committing to a course of action, particularly if your professional indemnity insurance and practice rules require you to act in a certain fashion.

For example,

There are moves towards a National legal professional with model legislation introduced by the Commonwealth, and each of the States and Territories in the process of introducing legislation consistent with the model legislation.

Different states have developed principles as to whether a legal practice can incorporate and whether non-legally qualified persons can be in practice in such an entity.

Professional indemnity issues need to be considered on a case by case basis.

There are various Ethics committee rulings in most States which require that a solicitor must hand over the complete file in certain circumstances (other than the solicitor's own documents), if so requested by a client.

## 7.0 Concluding remarks

This paper has raised questions that are relevant not to your knowledge of migration law, but to the way migration practices are run. The scope of the module is necessarily limited and participants are encouraged to investigate the issues further.

## Appendix A: References & links



Always check the accuracy of information at the primary source.

### A1 Legislation

#### Migration Act 1958

Act No. 62 of 1958 as amended. An Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons. Series Home Page: [www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401592?OpenDocument](http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401592?OpenDocument)

– Part 3, Migration agents and immigration assistance

#### Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended made under the *Migration Act 1958*. Series Home Page: [www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200400505?OpenDocument](http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200400505?OpenDocument)

#### Migration Agents Regulations 1998

Statutory Rules 1998 No. 53 as amended made under the *Migration Act 1958*. Series Home Page: [www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200400862?OpenDocument](http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200400862?OpenDocument)

#### Acts Interpretation Act 1901

Act No. 2 of 1901 as amended. An Act for the Interpretation of Acts of Parliament and for Shortening their Language. Series Home Page:

[www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200403950?OpenDocument](http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200403950?OpenDocument)

#### Privacy Act 1988

Act No. 119 of 1988 as amended. [ComLaw ID - C2005C00697] An Act to make provision to protect the privacy of individuals, and for related purposes. Series Home Page:

[www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/F8E7ADCD1910F878CA2570CA0010ACFD?OpenDocument](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/F8E7ADCD1910F878CA2570CA0010ACFD?OpenDocument)

#### Trade Practices Act 1974

Act No. 51 of 1974 as amended. [ComLaw ID - C2006C00026] An Act relating to certain Trade Practices Series Home Page:

[www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401339?OpenDocument](http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401339?OpenDocument)

### A2 Useful business-related weblinks

Privacy Commissioner - [www.privacy.gov.au](http://www.privacy.gov.au) and [www.privacy.gov.au/business/index.html](http://www.privacy.gov.au/business/index.html)

Department of Employment, Workplace Relations and Small Business booklet 'Look Before you Lease' - [www.industry.gov.au/assets/documents/itrinternet/LookBeforeYouLease20030902172217.pdf](http://www.industry.gov.au/assets/documents/itrinternet/LookBeforeYouLease20030902172217.pdf)

Your bank might have a range of business tools and course to assist you in growing and managing your business. See for example the following Westpac website:

[www.westpac.com.au/internet/publish.nsf/Content/BBBIRB+Running+Your+Business](http://www.westpac.com.au/internet/publish.nsf/Content/BBBIRB+Running+Your+Business)

[www.asic.gov.au](http://www.asic.gov.au)

[www.ntis.gov.au](http://www.ntis.gov.au)

[www.ato.gov.au/businesses](http://www.ato.gov.au/businesses)

[www.aat.gov.au](http://www.aat.gov.au)

[www.business.gov.au/Business+Entry+Point](http://www.business.gov.au/Business+Entry+Point)

[www.ausindustry.gov.au](http://www.ausindustry.gov.au)

[www.fairtrading.qld.gov.au](http://www.fairtrading.qld.gov.au)

[www.smallbusiness.ninemsn.com.au](http://www.smallbusiness.ninemsn.com.au)

[www.smallbiz.nsw.gov.au](http://www.smallbiz.nsw.gov.au)

[www.retail.nsw.gov.au](http://www.retail.nsw.gov.au)

[www.business.vic.gov.au](http://www.business.vic.gov.au)

[www.ebc.com.au](http://www.ebc.com.au)

<http://beca.org.au>

[www.flyingsolo.com.au](http://www.flyingsolo.com.au)

[www.instant-offices.com](http://www.instant-offices.com)

[www.myob.com](http://www.myob.com)

[www.themara.com.au](http://www.themara.com.au)

### A3 MARA cases

View at: [www.themara.com.au](http://www.themara.com.au)

*Vo and Migration Agents' Registration Authority* (23 Apr 2007)

*Dey and Migration Agents' Registration Authority* (19 Mar 2007)

*Liang and Migration Agents' Registration Authority* (19 Feb 2007)

*Altintas and Migration Agents' Registration Authority* [2004] AATA 978 (20 September 2004)

*Joel v Migration Agents Registration Authority* [2001] FCA 186 (6 March 2001)

*Muthu and Migration Agents Registration Authority* [2004] AATA 608 (16 June 2004)

*Reptis and Migration Agents' Registration Authority* [2005] AATA 35 (17 January 2005) and [2006] AATA 41 (20 January 2006)

*Roszy and Migration Agents Registration Authority* [2005] AATA 420 (11 May 2005)

*Wang and Migration Agents Registration Authority* [2005] AATA 628 (30 June 2005)

*Woods v Migration Agents Registration Authority* [2004] FCA 1622 (9 December 2004)

### A4 Further reading

David Master's website [www.Davidmaister.com/](http://www.Davidmaister.com/) is an outstanding resource for ideas and business strategies. While he was formerly a lawyer his ideas apply to professional service firms.

David H. Maister, 1997, *Managing the Professional Service Firm*, New York, Free Press and his website at: [www.davidmaister.com](http://www.davidmaister.com) [A seminal work and full of great ideas that are able to be translated into your practice, whatever its size and orientation.]

Geoff Smith, 2004, *Leading the Professionals: How to Inspire & Motivate Professional Service Teams*, Kogan Page.

Terry R Bacon, David G Pugh *Winning Behaviour: What the Smartest, Most Successful Companies Do Differently*, AMACOM Div American Mgmt Assn, 2003

Julian Campbell, Allan Williams, *It's Your Money...So Get Paid!*, McGraw-Hill Professional Division, 2002

English, John W, *Going Solo in Your Own Small Business*, Allen & Unwin, Crows Nest, 2002

English, John W, *How to Organise and Operate a Small Business in Australia*, 9th edn, Allen & Unwin, Crows Nest, 2003

Gaujers, Regina, Harper, Julie-Ann & Browne, Jennifer, *Guide to Managing a Successful Small Business in Australia*, McGraw-Hill, Sydney, 1999

Humphrey, Nicholas, *The Penguin Small Business Guide*, Penguin, Camberwell, 2004

Humphrey, Nicholas, *The Business Startup Guide: How to launch and operate a high-growth business*, Melbourne, Penguin, 2001.

There are a wide range of courses available. For example some of the courses include Certificate IV in Business (Small Business Management). These can be quite good in that they require you to talk and participate in a range of ways - discussing and presenting a case study are very important ways to learn, as it will enable you to not only improve your management skills but immediately turn the theory into practice.

Australian Competition and Consumer Commission (ACCC), 'Are you happy with your retail tenancy lease?' This ACCC publication assists in determining what constitutes unconscionable conduct in relation to the *Trade Practices Act*.

### Information Security and Privacy

Standards Australia publishes a wide range of guidelines

GB 002-2004: The Australian Business Excellence Framework

HB 90.1-2000: The Small Business Handbook - Guide to ISO 9001:2000

HB 221:2004: Business Continuity Management

HB 231:2000: Information security risk management guidelines

HB 248-2001: Organisational experiences in implementing information security management systems

AS/NZS 4360:1999 Risk management

AS 4590-1999: Interchange of client information

AS 4390: Records management

## Appendix B: Business plan template

### Executive Summary

#### 1.0 The Marketing Plan

- 1.1 Environmental Analysis
- 1.2 Product(s)/Service(s)
- 1.3 Customer Demographics
- 1.4 Competition and Competitive Advantage
- 1.5 Price Strategy
- 1.6 Advertising and Promotional Strategy
- 1.7 S.W.O.T. Analysis
- 1.8 Market Research
- 1.9 Market Targets

#### 2.0 The Operations Plan

- 2.1 Business Structure
- 2.2 Scope of Operation
- 2.3 Regulatory Issues
- 2.4 Insurance
- 2.5 Business Premises
- 2.6 Location
- 2.7 Production Arrangements
- 2.8 Distribution (Place) Arrangements
- 2.9 Credit Terms
- 2.10 Plant and Equipment
- 2.11 Quality Control
- 2.12 Memberships and Affiliations
- 2.13 Communications
- 2.14 Trading Hours
- 2.15 Commencement Date

#### 3.0 The Organisation Plan

- 3.1 Organisation Structure
- 3.2 Skills Required
- 3.3 Personnel
- 3.4 Resumes

#### 4.0 The Financial Plan

- 4.1 Financial Strategy
- 4.2 Establishment Costs and Source of Funds
- 4.3 Balance Sheet Projections
- 4.4 Profit and Loss Projections
- 4.5 Expected Cash Flow Projections
- 4.6 Break Even Cash Flow Projections

### Appendices

A workbook version of the following template can be downloaded at:

[www.business.gov.au/Business+Entry+Point/How-to+guides/Thinking+of+starting+a+business/What+planning+tools+can+help+me/Business+plan+guides+templates.htm](http://www.business.gov.au/Business+Entry+Point/How-to+guides/Thinking+of+starting+a+business/What+planning+tools+can+help+me/Business+plan+guides+templates.htm)

## Appendix C: Business terms

**Company** - a registered legal entity with the right to do business in its own right. The proprietors are the shareholders and usually its directors. A company must have at least one director. In a small business context the business owners are the company shareholders, and are usually also directors and employees of the company.

**Cooperative** - a registered legal entity like a company but there must be at least five shareholders and all shareholders have equal voting rights

**Covenant** - a fundamental clause or term in the lease agreement

**CPI** - Consumer Price Index -usually the rent will be reviewed or increased at the very least in alignment with the CPI

**Disclosure statement** - a statement made by the landlord to the tenant regarding certain obligations or information imposed by retail tenancy law, and may include details about the premises, the estimated outgoings, payable by the landlord and the tenant has to contribute to these

**Fit-out** - a cosmetic modification or addition made to the property under lease. They can be done by the landlord as an inducement to the lessee or made by the lessee upon entering the lease. While they may be fixed to the premises in such a way as to seem to be a part of the premises, a lease can require the fitout to be removed at the expiry of the lease (see 'make good')

**Fittings** - modifications / additions made to the property such as walls, internal doors, plaster and painting

**Incorporated Association** - a registered legal entity usually for recreational, cultural or charitable purposes with at least five members and all profits applied to the purposes of the association

**Lease, or tenancy agreement** - a written contract, usually for a fixed period of time, that allows exclusive possession and quiet enjoyment, on certain terms and conditions

**Lessee or tenant** - the person or entity that takes up the lease of the property for the period agreed in the lease

**Lessor, or landlord** - the owner of the property that grants the leasehold interest

**Leasehold reversion** - where the lessor or owner retains his/her ownership interests and powers as lessor

**Make good** - to return the property to the condition it was in before entering into the lease. This could include removal of walls, signs, flooring, plastering, etc. In these situations it is vital to have contemporary evidence of the property's condition (such as a photo or report) when entering into the lease.

**Market rent review** - a process of rental review, frequently to the landlord's advantage when the rent is offered at a low entry rate. A market review is a valuation of the rate of rent, calculated on comparable properties in the area to ensure that the rent does not fall below market for a long period in the lease.

**Option** - a right to extend the term of the lease. For example a 5-year lease might have a 5-year option to renew, exercised by the lessee

**Outgoings** - the landlord's expenses relating to the retail lease or a proportion of space. Examples include rates and land taxes, security services, car parking, insurance, maintenance such as cleaning, landscaping, caretaking, lift, centre marketing

**Partnership** - two or more persons in business together under their own names or a registered business name

**Registration** - the process of registering a lease on the certificate of title at a Land Titles Office in the State or Territory; this mechanism acts as an important protection for the tenant

**Security bond/ deposit** - a bond or deposit made by the lessee as security against default of the lease

**Sole trader** - a single person operating a business personally under their own name or registered business name

**Trading Trust** - usually a company that operates a business for the benefit of certain beneficiaries

## Appendix D: Business structures: Advantages & disadvantages

Advantages of Sole traders	Disadvantages of Sole traders
<p>Simple and cheap to establish - it currently costs less than \$100 to register a name for three years</p> <p>The owner has full control over the business</p> <p>The owner is personally entitled to profits and capital</p> <p>The business is easier to wind up</p> <p>A sole trader may be able to offset losses against any other income or future earnings</p>	<p>Many sole traders find it difficult to take time off from the business</p> <p>Unlimited Liability - the owner is personally responsible for debts and other liabilities incurred by the business</p> <p>Difficulties with succession - it may be difficult to sell if the owner dies or is incapacitated</p> <p>Business income tax is payable at personal income tax rates</p>

Advantages of a Partnership	Disadvantages of Partnership
<p>Simplicity and informality – a written agreement may be prepared, but as it is governed by law, terms will be deemed to exist in the absence of an agreement. Recognition as a legal entity, for example, may enter into contracts and hold property in its corporate name</p> <p>As with operating as a sole trader, partnerships are inexpensive to establish</p> <p>There may be tax advantages when the partners are within the same family and the income can be split at the rate proportionate to ownership (spouses is a common example)</p> <p>Access to more capital</p> <p>Responsibility for the operation of the business is shared – this allows for the combining of knowledge, experience and skills</p> <p>Possibility of taking time off</p> <p>Relatively easy to dissolve and recover investment funds</p> <p>Capital losses may be offset by other non-business capital gains derived by the individual owners</p> <p>Secrecy – unlike a company, it is not a requirement to publicly disclose the constitution, shareholding or business affairs, other than the requirements of business names legislation. Public disclosure can be very costly.</p>	<p>Disputes over profit sharing, administration and business development may arise</p> <p>Personality clashes may arise</p> <p>Each partner is personally responsible for business debts and liabilities incurred by the other partners – there is an unlimited liability, and each partner has an implied authority to bind the other members of the partnership</p> <p>One partner may dissolve the partnership and effectively ruin the business.</p> <p>Business income tax is payable at personal income tax rates</p> <p>From an accounting point of view there is limited flexibility in distributing profits – the income might not be able to be deferred so it may be taxable in the year of earning. Unlike a company, a partnership is not a legal entity separate from the members of the partnership</p> <p>Succession – consent of all the other partners is required for the sale of a partner’s share and admission of a new partner</p>

Advantages of a Company	Disadvantages of a Company
<p>Tax minimization (in very limited cases)</p> <p>Separate legal personality</p> <p>Limited liability</p> <p>Ease of succession.</p> <p>Can retain earnings</p> <p>Diversity of ownership through issue of shares</p> <p>Can issue additional capital through different classes of shareholders</p> <p>National presence</p> <p>Shareholders (owners) have no responsibility for the debts of the company unless they signed personal guarantees or caused the debts recklessly, negligently or fraudulently</p> <p>Can be owned and operated by one shareholder and director</p> <p>Easier to attract capital because of limited liability</p> <p>Entitlement to use titles like Managing Director or Chairman/Chairwoman</p>	<p>Complex and expensive business structure, with relatively high compliance costs</p> <p>Strict liabilities imposed on Directors - e.g. Director's duties in Corporations Law</p> <p>Difficult to dismantle - requires winding up</p> <p>Requires a registered office, positions such as company secretary</p>