

Another financial year rolls on. We wish you all the best. The following articles will keep you up to date. If you have any questions, please don't hesitate to ask.

Included are the following:

- Employee or Contractor
- 7 Steps to Dealing With a Legal Issue or Dispute - UPDATED 2025
- Prepare for Div 296 now
- ATO warns SMSF trustees to be aware of an increase in scams
- Benefits of a Business Plan
- Benchmarking for small businesses

Employee or Contractor



In Short

- *Assess your business's readiness before hiring by evaluating workload, efficiency, and budget.*

- *Prioritise hiring adaptable candidates who align with your company's culture and growth trajectory.*

- *Implement effective onboarding and management strategies to set new employees up for success.*

Tips for Businesses

Before expanding your team, ensure your business can support the new role financially and operationally. Focus on hiring individuals who are adaptable and share your company's values to foster a cohesive and resilient team. Establish clear onboarding processes and provide ongoing support to integrate new hires effectively.

A business's success depends on having the right people at the right time.

Challenges that are familiar to any new business, include:

- assessing whether you can afford a new hire.
- competing for talent with established companies; and
- setting our team members up for success.

53% of business owners expect to hire or fire employees in the next 12 months.

This guide aims to introduce employers to Australia's employment law landscape and share best practices around recruitment and retention.

Having a process to quickly test for the skills your business needs can help you scale up and reach your next milestone faster. So, whether it is your first hire or your fiftieth, this article seeks to help you understand the moving parts behind building a high-performing team.

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Assessing the Right Time to Hire

Most businesses start with one person wearing many hats—making sales calls, managing new relationships with suppliers, and setting up social media accounts. As the business grows, you will look for new hires to help take it to the next level. But hiring can be both emotionally and financially draining. There is a risk that there will not be enough work for your new starter.

Before advertising the role, you should assess current workloads to help answer the following key questions.

- **Is a dedicated person required for the role?** Consider whether an existing employee can absorb the work into their role (without working regular overtime).
- **Are there any processes you can implement to improve efficiency?** You should regularly review the efficiency of internal processes to identify what roles to consolidate or improve using technology (e.g. outsourcing or automating a data entry job).
- **What tools will your new hire need to do their job successfully?** For example, will you need to purchase a phone,

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laptop or fuel card, and can your business afford this cost?

- **Are there tasks for your new hire to work on immediately?** Write a position description that details the new employee's roles and responsibilities, as well as any key performance indicators (KPIs) they will be held accountable for.
- **Have you identified the impact of any monthly or seasonal trends on your hiring?** Seasonal trends can impact the hiring needs of your business. Anticipating these factors helps ensure that your business operations are not interrupted. For example, by hiring additional staff for the Christmas period earlier in the year, you can make sure that you dedicate enough time to training.

Does your business have the budget to hire someone new?

Case Study: Lachlan McKnight



Hiring new staff is expensive. From recruitment costs to the ongoing costs of employment (such as salary and training), you should always carefully assess whether your business has the budget to hire someone new.

Recruitment Costs

Many businesses engage a professional recruiter to source and vet candidates. Recruiters have lists of candidates on

hand, so they can often fill a position quickly.

We've found that sourcing candidates ourselves produces better results for our business. This approach gives us full control over the hiring process and ensures that every candidate fits with our culture.

Recruiting in-house is time-consuming and occupies the attention of team leaders and HR professionals, so there's a risk that their day jobs will suffer. Plus, there are the additional costs of listing open positions on job boards and flying interstate candidates for face-to-face interviews (yes, you should offer to cover candidates' travel costs if you can!). Before recruiting, make sure you can afford the significant time it takes to do it well.

Ongoing Cost of Employment

The costs of employing a team member are more than the salary you agree to in their contract. You also need to pay ongoing costs (like 12% superannuation, as well as payroll tax) and provide essential equipment (like a desk, computer and software or tools). Ongoing costs vary by industry and state, so make sure you do your research.

Of course, the biggest cost is the new hire's compensation. You should have in mind a salary range and a sense of how you will pay, for example, will you offer base salary only or will commission be on the table? It is easy to get excited about hiring an excellent candidate – but try not to blow your budget!

Remember that most team members will expect, at least, an annual salary increase and sometimes, every six-months, so keep this in mind when forecasting expenses.

The Cost of 'NOT' Hiring

You should weigh the cost of hiring against the return you expect to receive from the new hire. But you also need to factor in the cost of missing out on opportunities that

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you are unable to pursue without enough staff. For instance, if you have inbound leads who are not receiving the prompt attention of a sales rep, you could be missing out on the revenue from those leads. That's why we always try to hire a couple of months ahead of the time needed. This is made possible by anticipating future opportunity using revenue forecasts.

Determining Who to Hire First

Who you hire first will depend on the industry you work in, your team's skills and your business goals.

Who A Small Business Should Look To Hire First

Joan Westenberg (Director of Communications – FlareHR)

Once your business gets off the ground, you can better identify what tasks need an extra pair of hands. First hires are critical to driving growth and shaping your business' culture because they will likely help you train other team members. So, it is essential to take the time to hire the right people.

As a small business owner, we suggest assessing your strengths and weaknesses and hiring someone who complements them. For example, if you are an expert in sales, you may hire an all-rounder who can assist with other parts of your business, like digital marketing, finance and general administration.

What to Look For in a First Hire

1. Focus on the candidate's industry expertise and work experience rather than their impressive job titles.
2. Hire for potential and have a progression plan to help your future employee up skill over time and take on more responsibility.

3. Invest in your employee by paying them well and providing professional development opportunities (e.g. external training or mentoring) to enable them to grow with your business.
4. Hire someone with a background different from your own to encourage more creative thinking and problem-solving

An alternative: In the early days, we outsourced some core functions like payroll, accounting and administration. This gave us more time to focus on what



skills our new hires needed to possess to help grow the business.

Types of Employment

It's important to know who you're hiring and for what purpose. This will determine your new hire's employment status and impact the obligations you owe them, as well as their rights at work.

The examples below summarises the different worker classifications, using a clothing store as an example.

Full-time employee

Example - You hire a store manager who works full time at your clothing store in the CBD. As an employer, you must provide the store manager with the following:

- 38 hours of work per week;
- 20 days of *annual leave* per year; and
- 10 days of *personal carer's leave* per year. The **Retail Award** will apply and set

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out further entitlements, including the manager's minimum entitlement to wages.

Part-time employee

Example - you decide to hire a part-time sales assistant to work 25 hours each week (five hours each day) to help the manager during busier periods.

A part-time employee works fewer than 38 hours each week and usually works regular hours. They are entitled to the same benefits as a full-time employee, but these are adjusted depending on the hours they work (i.e. on a pro-rata basis).

In this example, you must provide the employee with approximately: 12 days of annual leave per year; and 6 days of personal carer's leave per year.

Casual

Example - During the holiday season, you hire three casual employees who work irregular hours from week to week.

Because you don't need to provide a casual employee with benefits like sick leave or annual leave, you must pay them a higher hourly pay rate. This is called *casual loading*.

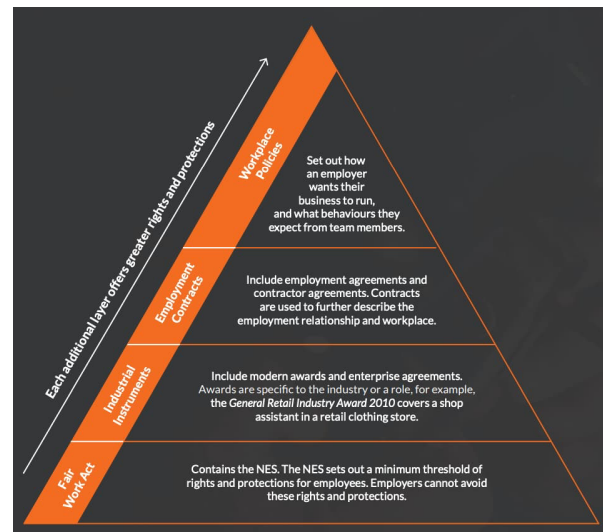
All modern awards now include a term which gives a casual employee who works *regular and systematic hours* the right to request a full-time or part-time position after 12 months.

Australian Employment Framework

In Australia, employees have rights at work under the National Employment Standards (NES), industrial awards and employment agreements.

The pyramid below depicts where an employee's rights and protections come from. The base is the minimum threshold of rights that an employee is entitled to. Each additional layer offers greater rights and protections.

As an employer, you cannot avoid the rights and obligations set out in the bottom two layers (the NES or an applicable award).



Employment Agreement

An employment agreement sets out an employee's rights, as well as your expectations about their performance and duties. We have set out some standard terms that your agreement should address, as well as some questions your lawyer may ask when drafting your agreement.



Terms and Questions to Consider

Type of Employment. Is your new hire a full-time, part-time or casual employee? What hours will they work? What is their position title? What are their duties?

Compensation. What is your new hire's salary? What does it include (e.g. penalty rates, allowances, casual loading, superannuation)? How often will you review their salary? Will you reimburse

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them for work-related expenses? If so, what process must they follow?

Superannuation. Will your new hire earn \$450 or more (before tax) in a month? If so, you're legally required to pay them superannuation, which is set at 12%.

Notice Periods. How much notice must your employee provide when they resign?

Probation Period. Will you put your new hire on a probation period? If so, how long will the period last? How will you assess your new hire's progress and performance during this period?

Importantly, your new employee has paid leave entitlements during probation.

Intellectual Property (IP). Will your new hire be creating any intellectual property (IP) in their role (e.g. blog content)? Does your new hire know the consequences of disclosing your IP to a third party (e.g. a competitor)? Does your new hire know that you own any IP they create during the course of their employment?

Confidentiality. What confidential information will your new hire have access to (e.g. financial information, business plans, supplier lists)? Is there any type of confidential information unique to your business that the contract should specifically cover (e.g. specific client lists in a sales role)?

Non-Compete Provision. Would your business suffer a substantial loss if your ex-employee were to work directly in competition with you after leaving? If your ex-employee were to engage in direct competition with you close to your office, would this impact your business?

If so, you may need to restrict your former employee from working for a competitor for a period or within a specific area.

Leave Requirements. Will you offer any leave entitlements above those guaranteed under the NES? A full-time employee

(other than a casual employee) is entitled to 20 days of paid annual leave per year. Does your employee handbook clearly set out how an employee should apply for leave, and how much notice they should provide?

Contractor's Agreement

Contractors will need a *contractor's agreement*. As with an employment agreement, your contractor's agreement should address a number of standard issues.

Term and Questions to Consider

Scope and Delivery of the Project

Have you engaged your contractor to work on a specific project? What do you expect the contractor to deliver? When will the project begin and end? Can the contractor engage subcontractors to complete the work?

Compensation

What will you pay the contractor for their services (e.g. a fixed fee, an hourly rate, daily rates)? When will you pay the contractor (e.g. when the job is complete, within 14 days of providing the invoice)?

Superannuation

Is your contractor responsible for paying their own superannuation? If so, you should clearly state this in your contractor's agreement.

Ownership and Use of IP

Will your contractor create IP (e.g. a software programmer writing the code for your business' new subscription service)? Do you intend to own the IP the contractor creates?

If so, you need to state this in the contractor's agreement expressly. Otherwise, you will have no right to use the IP when the contractor stops working with your business.

Non-Solicitation Provisions

Is your contractor in a client-facing role, or will they develop client relationships over

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time? A non-solicitation provision will prevent the contractor from asking former clients to follow them to their business.

Liability

What kinds of insurance do you need your contractor to have (e.g. public liability insurance, professional indemnity insurance)?

Confidentiality

What kinds of confidential information will your contractor be exposed to?

Is there any type of confidential information unique to your business that the agreement needs to cover specifically?

Sham Contracting

It is against the law to call a worker a contractor while treating them as an employee. This is called *sham contracting*.

There are Australian Taxation Office and Fair Work penalties if you mischaracterise workers to avoid your employment law obligations. You will also need to pay the worker any unpaid wages or leave entitlements.

If you are unsure of whether your worker is a contractor or an employee, you should seek legal advice.

CHECKLIST

- Draft a position description setting out key roles and responsibilities.
- Write down the skills your new hire should possess to succeed in the role.

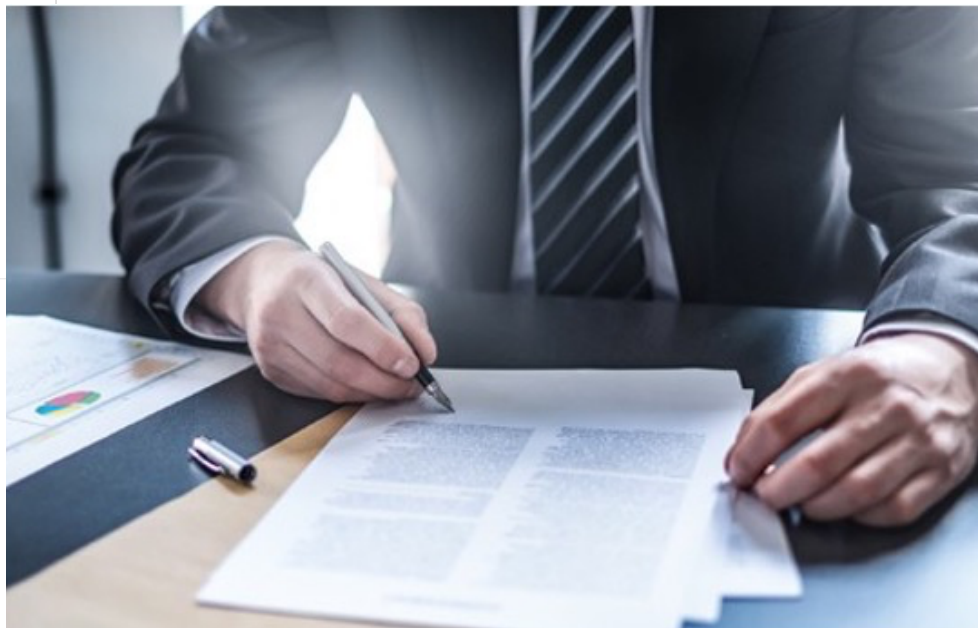
- Determine what type of worker you will need to complete the tasks (i.e. an employee or independent contractor).
- Prepare an employment agreement or contractor's agreement for the role.
- Ensure any rate of pay complies with the minimum set out in the Fair Work Act or otherwise under an award or enterprise agreement.
- Confirm what other legal entitlements and obligations you will owe your new hire including by checking any applicable award or enterprise agreement.



Key Takeaways

The need to hire employees is an encouraging sign that your business is growing. But when you are cash-strapped and time-poor, finding the best person for a role can be draining, emotionally and financially. And even if you can carve out the time to do it, finding and recruiting top talent is a massive challenge – particularly in a competitive job market. By ensuring that you have a consistent and comprehensive recruitment and onboarding process, your employees will start on the right foot.

The greatest compliment we receive from our clients is the referral of their friends, family and business colleagues. Thank you for your support and trust.



In Short

- *Be proactive by including dispute resolution clauses in contracts and reviewing relevant terms when issues arise.*
- *Explore cost-effective options, such as reconciliation, mediation, or arbitration, before considering court proceedings.*
- *Seek legal advice early to understand your position and make informed decisions about the best course of action.*

Tips for Businesses

Disputes are often unavoidable, but a well-prepared business can resolve them quickly and cost-effectively. Have clear processes in place, act early, and always check the contract. Where possible, aim for a resolution outside court to save time, money, and maintain important relationships.

If you run a business for any length of time, you will likely get involved with disagreements and disputes with your associates, whether they be customers,

employees, suppliers or competitors. Some legal issues or disputes are more serious than others. Nevertheless, all legal issues and disputes need to be dealt with efficiently and quickly in order to prevent them from escalating. This article will delve into seven ways you can deal with a legal issue or dispute.

1. Have a Plan



You never know when a legal issue or dispute may arise during the course of your business, so it is always a good idea to be prepared. The key to ensuring that legal issues and disputes are dealt with efficiently is ensuring that you have an effective dispute resolution system set up. The result of having such a system in place is that it can spring into action when needed, thus saving you from making hasty decisions when an issue arises. This can be as simple as having a dispute resolution clause in your contracts or the terms and conditions of your services.

2. Review the Contract



If your legal issue or dispute relates to a particular contract, you should review the contract in question. The important clauses to look for are:

- the clause that relates to the particular dispute;
- a dispute resolution clause, which sets out the procedures should any dispute arise; and
- the termination clause, which sets out how the parties to a legal agreement can end their contractual relationship.

Usually, these clauses will outline the steps that must be taken to resolve the dispute before escalating any further. Often, they will have a mandatory Alternative Dispute Resolution (ADR) clause in an attempt to resolve the dispute in the most efficient, timely and cost-friendly manner, without the need for court proceedings.

It is important to note that ADR is not always appropriate for certain disputes. For example, if you need an urgent court order or injunction to stop the other party from taking certain action, ADR may be unsuitable.

3. Speak to a Lawyer

You will likely need to speak with a lawyer if you are involved in a legal issue or dispute. This will apply even if it is minor issue.

A lawyer will give advice on your legal position and can guide you in your approach and discuss your options moving



forward. This guidance is best sought at the beginning of the dispute when your strategy can still be mapped and changed easily. Ideally, you want to avoid beginning legal action and then consulting a lawyer, only to learn the lawyer advises a different course.

4. Attempt to Reconcile



It is sensible to attempt to reconcile with the other party to your legal issue or dispute if at all possible. Taking a legal issue or dispute into the legal arena is usually very time-consuming and can be expensive. You should carefully consider, along with your legal adviser, whether the severity of the dispute warrants legal action. The first step to resolving the dispute is to communicate with the other side. Put your concerns in writing or arrange a call or meeting to explore possible solutions.

5. Arbitration



Arbitration is a form of alternative dispute resolution. In many ways, it is similar to court proceedings but much more flexible and sometimes less costly.

Some contracts will include requirements for arbitration in a dispute resolution clause. Generally, the parties to the issue can choose an arbitrator and agree on the procedures and processes to be followed. This ensures you can resolve the dispute in a manner suitable to the party's needs and the industry standards involved.

You can, however, agree to binding arbitration when a dispute arises. Whether arbitration is a good option will depend on the circumstances of your legal issue or dispute. This is why you should work with a lawyer who can advise you on these matters.

6. Mediation



Mediation is a less formal type of ADR that involves parties meeting with an experienced mediator to attempt to resolve the dispute. It has a high success rate and is less structured and, therefore, quicker and cheaper than arbitration or going to court. The mediator does not make a binding determination about the dispute but guides the parties through all options to resolve it.

7. Litigation



If you cannot resolve your legal issue or dispute through communication, discussion, compromise and possibly ADR, you may need to move to litigation. Obviously, this means getting the courts involved.

Litigation is generally expensive. The court will usually order that the losing party pays the successful party's costs, but this is only about 60% - 80% of the total out-of-pocket costs, depending on the type of cost order made. Litigation is also very time-consuming, with some matters taking several years to resolve in the courts. For all these reasons, we always recommend litigation as a last resort and attempt to resolve matters outside the courts wherever possible.

Key Takeaways

The key to resolving a legal issue dispute as effectively and cheaply as possible is to work with the right legal professional at the right time.

stamp duty and land tax, death tax and liquidity considerations.

“The best thing that you can do with [clients] is condition them that, unfortunately, [they’re] going to have to pay a little bit more tax. It’s just a question of how and where.”



It’s a hard thing to say to clients, because, clients hate paying tax. But that’s a really hard thing to say, but it’s the most real thing that you can tell people.

Michelle Griffiths, investment and wealth partner at TAG Financial Services, explained that the most tax-effective strategy would depend on an individual client’s financial situation.

“Look at this as a holistic decision, not have your clients go straight to what is this tax on the \$3 million and just look at that in isolation. I think that’s dangerous,” she said.

Another warning: Altering the distribution of their wealth could have adverse implications for estate planning.

For example: Clients might be on, say, a second marriage. They may want their spouse to inherit their super and they might want their non-superannuation wealth to make its way to their children,” he said.

“If you’re changing the distribution of that wealth, you’re also changing your estate plan.”

It must also be noted that the burden of navigating the Div 296 tax would be

ongoing, but the largest adjustments would happen during its first year of operation.

“This is not a one-year tax. This is an annual tax that’s coming in. The big concerns are in the first year, because that’s probably where most of the heavy lifting and most of the decision making for your clients is going to occur.”

“But each and every year, if you have a client that’s hell bent on missing or dodging this tax, you’re going to need to be conditioning them every year as to what the thresholds and caps are.”



The ATO has issued a warning to SMSF trustees to be aware of scammers at this time of year.

At the same time, ASIC commissioner Alan Kirkland has said one of the greatest risks to investors that the regulator is witnessing is the use of high-pressure sales tactics to lure Australians into decisions that don't reflect their best interests, especially in regard to their retirement.

The ATO said EOFY in particular has seen a rise in the incidence of scammers impersonating the Tax Office through fake emails and messages, hoping trustees will respond quickly without verifying if they are genuine.



In the past 12 months, the ATO has seen a rise of 300 per cent in email scams. It warned that scammers will try to make those they contact act quickly without verifying the identity of the caller, and trick victims into handing over personal

information so they can steal their identity and commit fraud in their name.

The regulator said SMSF trustees should take three steps in order to protect themselves and their funds against the risk of scammers.

- **Stop:** Never share your myGov sign-in details and only share personal information such as your tax file number (TFN) or bank account details if you trust the person and they can prove they genuinely require them. **If in doubt, don't provide anything.**
- **Check:** Take a sec to check. Ask yourself, could it be fake? Is it really the ATO? If a link or QR code is directing you to provide information or to log into an online portal, don't click on it!
- **Protect:** If something doesn't feel right or you notice unusual activity, stop the conversation immediately.

The ATO continued that while it may send an SMS or email asking someone to contact the office, it will never send an unsolicited message with a link asking them to return personal information or log into its online services.

ATO warns SMSF trustees to be aware of increase in scams

Additionally, it will not use its social media platforms to ask for personal information, documentation or payments.

In conjunction with the ATO warning to SMSF trustees and members, ASIC stated it is also turning its focus to fraudulent or unsolicited advice in regard to retirement products.

Commissioner Kirkland said the practice of high-pressure sales not only erodes the retirement savings of thousands of Australians but also risks threatening the reputation of the industry.

“While only a small proportion of providers may be engaging in this type of misconduct, the risks to consumers are significant.”

There were a range of models that raise serious concerns for ASIC, and often involved consumers being lured by clickbait ads on social media or websites that encourage them to “find their lost super” or participate in a “super health check” for free.

“[Other tactics include] consumers being asked to hand over their contact information as the first step towards receiving the purported assistance and telemarketers then using this information to target those consumers with phone calls, in which they convince the consumer their current super fund is a poor performer – regardless of whether or not this is accurate,” Kirkland said.

He warned that consumers should also be wary of financial advice being provided by a telemarketer or a financial adviser who is introduced during a phone call, who recommends the consumer switch their super into a high-risk investment, often involving property development.



“This exposes consumers to the risk of significant losses – not only from the nature of the underlying investments but also from the high fees that are deducted from their super balances, directly or indirectly, by a range of entities along the way,” he said.

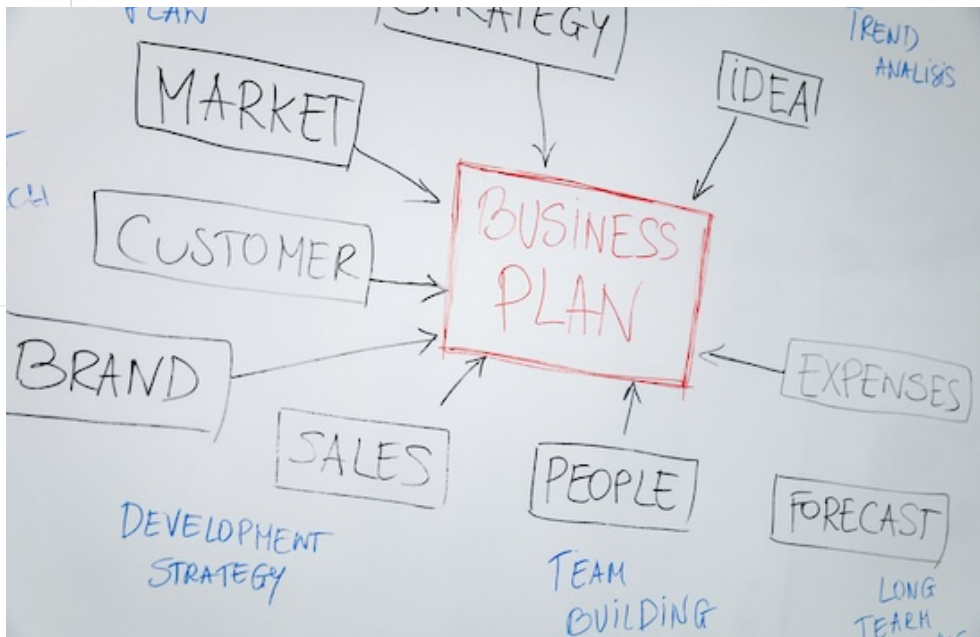
“Addressing this pattern of misconduct is a significant priority for ASIC, as reflected in our 2025 enforcement priorities. In the past year, we have taken a range of court actions to preserve assets for the benefit of investors where we have suspected misconduct.”

Kirkland said ASIC has a range of significant investigations underway in this area and will be taking further action using a broad range of enforcement tools.

“While our work focuses on disrupting and addressing misconduct, we also see it as important to warn investors.”

The greatest compliment we receive from our clients is the referral of their friends, family and business colleagues. Thank you for your support and trust.

Benefits of a business plan



Your business plan outlines:

- your vision for the business.
- the actions that will help you achieve it.

When you are starting out, your business plan can help you secure financing and investment. But your business plan does more than tell others what you plan to do. A good business plan can help you test the feasibility of your business idea, set operational and financial objectives, and make sure your business is manageable and effective.



You will need to revisit your business plan regularly as your business evolves, and the business environment changes. These changes could include increased competition, advances in technology or the expectations of your customers.

- [What to include in your business plan.](#)
- [Write your business plan.](#)
- [Video: How to write a business plan in 8 steps.](#)
- [Create your one-page action plan.](#)

Added to the above is this comprehensive Guide to Writing a Business Plan.

Business Victoria



One gap when owning and operating a small business is to get a feel for how you are doing compared to your peers. The ATO realises the importance of this and have developed a list of benchmarks to help.

- [Air conditioning, refrigeration and heating services](#)
- [Alarm systems installation – fire and security](#)
- [Architectural services](#)
- [Automotive electrical services](#)
- [Bakeries and hot bread shops](#)
- [Barber and men's hairdressing](#)
- [Beauty services](#)
- [Blocklaying services](#)
- [Book retailing](#)
- [Bottle shops and liquor retailing](#)
- [Bricklaying services](#)
- [Cabinet makers](#)
- [Cake shops and patisseries](#)
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- [Electrical and electronic product retailing](#)
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- [Fuel retailing](#)
- [Furniture removalists](#)
- [Furniture retailing](#)
- [Garden supplies retailing](#)
- [Gift stores](#)
- [Glazing services](#)
- [Grocery retailing and convenience stores](#)

Benchmarking for small business

- [Hairdressers](#)
- [Hardware and building supplies retailing](#)
- [Health and fitness centres](#)
- [Health food retailing](#)
- [Homewares retailing](#)
- [Ice cream retailing](#)
- [Kebab shops](#)
- [Landscape construction](#)
- [Laundry and dry-cleaning services](#)
- [Lawn mower retailing](#)
- [Lawn mowing and garden services](#)
- [Machinery and equipment repair and maintenance](#)
- [Manchester and other textile goods retailing](#)
- [Meat and poultry retailing – fresh](#)
- [Motor vehicle parts and batteries retailing](#)
- [Motor vehicle retail – new and used](#)
- [Musical instruments retail](#)
- [Newsagents](#)
- [Painting services](#)
- [Panel beating and smash repairs](#)
- [Pest control services](#)
- [Pets and pet supply retailing](#)
- [Pharmacy](#)
- [Physiotherapy services](#)
- [Picture framing retailing](#)
- [Pizza shops – takeaway](#)
- [Plastering and ceiling services](#)
- [Plumbing services](#)
- [Printing](#)
- [Printing support services](#)
- [Pubs, taverns and bars](#)
- [Restaurants](#)
- [Road freight transport services](#)
- [Roofing services – includes roof tiling, guttering and metal roofing](#)
- [Sports, camping and fishing retailing](#)
- [Sports and physical recreation instruction](#)
- [Stationery goods retailing](#)
- [Takeaway food services](#)
- [Tiling services – floor and wall](#)
- [Timber floor sanding](#)
- [Tobacco retailing](#)
- [Towing services](#)
- [Toy and game retailing](#)
- [Tutoring and coaching](#)
- [Tyre retailing](#)
- [Veterinary services](#)
- [Watch and jewellery retailing](#)

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