

THE BUSINESS LEGAL LIFECYCLE

How to Successfully Navigate
Your Way from Start Up to Success



JEREMY STRETEN

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For Abigail and Benjamin

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Contents

Foreward	7
Preface	9
Introduction	11
Chapter 1	Phase 1 – Conception 15
1.1	Your Initial Team 16
1.2	Goals 17
1.3	Choosing the Right Name 17
1.4	Conclusion 18
Chapter 2	Phase 2 – Start-Up 21
2.1	Structures 22
2.2	Leasing Premises 31
2.3	Directors' Responsibilities 36
2.4	Becoming a Franchisee 38
2.5	Borrowing Money 39
2.6	Insurance 46
2.7	Conclusion 48
Chapter 3	Phase 3 – Initial Clients 51
3.1	Who is your Ideal Client? 52
3.2	Tracking 53
3.3	Businesses Based on one Client or a Government Body 54
3.4	Where are you Going to get the Clients from? 55
3.5	Your Initial Agreement/Terms of Trade 55
3.6	Debt Recovery 57
3.7	Conclusion 58
Chapter 4	Phase 4 – Bringing on Employees 61
4.1	Employee vs Contractor 63
4.2	The Interview 65
4.3	The Agreement with your Employee or Contractor 65
4.4	Liability for Employers 66
4.5	Workplace Policies 67
4.6	Conclusion 68
Chapter 5	Phase 5 – Protecting Intellectual Property 71
5.1	Trademarks 72
5.2	Separate Entity to Hold your Intellectual Property 74
5.3	How-to Guides (including Operating or Process Manuals) 77
5.4	Patents 78
5.5	Conclusion 78
Chapter 6	Phase 6 – Maximising your Business/Bringing in Investors 81
6.1	Maximising your Business 83
6.2	What to Look out for in an Investor 83
6.3	Shareholders'/Unitholders' Agreements 86
6.4	Joint Venture Agreements 88
6.5	Conclusion 89
Chapter 7	Phase 7 – Expansion/Franchising/Licensing or Buying an Existing Business 91
7.1	New Business Premises Considerations 93
7.2	Franchise 94

7.3	Licensing	96
7.4	Buying an Existing Business	97
7.5	Conclusion	98
Chapter 8	Phase 8 – Estate Planning	101
8.1	Wills	102
8.2	Power of Attorney and Advanced Health Directives	104
8.3	Personal Insurance	105
8.4	Buy/Sell Option Agreements	106
8.5	Conclusion	107
Chapter 9	Phase 9 – Investing in Property	109
9.1	Buying Residential Property	110
9.2	Buying Commercial/Industrial Property	111
9.3	The Process of Buying a Property	112
9.4	Important Factors to Consider when Buying a Property	113
9.5	What Questions are Important to ask the Real Estate Agent?	115
9.6	Selling Property (be it Residential, Commercial or Industrial)	116
9.7	Conclusion	119
Chapter 10	Phase 10 – Litigation and Dispute Resolution	121
10.1	What is Litigation?	122
10.2	Dispute Resolution	124
10.3	Debt Recovery	126
10.4	Defending Proceedings brought against a Business	127
10.5	Conclusion	129
Chapter 11	Phase 11 – Sale of Whole or Part of the Business or the Listing on a Stock Exchange	131
11.1	Taking Cash for Fees	133
11.2	Selling a Business	133
11.3	Considerations about the Sale of Part of the Business	138
11.4	Listing a Business on a Stock Exchange	139
11.5	Conclusion	141
Chapter 12	Phase 12 – Retirement	143
12.1	Setting Up for Retirement	144
12.2	Superannuation	145
12.3	Buyout Periods	145
12.4	Conclusion	147
Chapter 13	Phase 13 – Insolvency/Winding up	149
13.1	Insolvency	150
13.2	Winding Up	151
13.3	Bankruptcy	152
13.4	De-registration	154
13.5	Conclusion	154
Conclusion		157

Foreword

I believe entrepreneurs are extraordinary. Starting, scaling, and selling a business is one of the greatest endeavours a person can embark on. This endeavour has the potential for great financial rewards as well as personal growth but it also comes with enormous risks and many pitfalls.

Being an entrepreneur can be a lonely journey with no one to turn to for guidance, support or advice. For many entrepreneurs, they can't talk about their challenges with their employees, their family or their friends because they "just won't understand" or they fear being perceived as arrogant when talking about their business. This leaves many entrepreneurs feeling isolated when trying to figure it out on their own or, worse still, being guided by what they read on the internet or social media. From what I have learnt by helping over 1160 entrepreneurs grow sustainable businesses, this is never more true than when looking at the legal side of growing a business.

One of the blessings of growing a business is that you get multiple opportunities to test and measure, tweak and improve in all areas of business. If you make a mistake, you learn from it and do it better next time. Unfortunately, this does not apply to the laws around growing a business; for the most part, you only get one shot to get it right, so it has to be done right the first time.

Unfortunately, entrepreneurs often seek professional legal advice way too late, often to their personal peril or sometimes to the demise of their business. That's where the Business Legal Lifecycle steps in. It will give you early and accurate knowledge before it's too late.

This practical and easy-to-read book will become your companion guide as you discover the legal obligations and options that await you at each phase. Written with insightful intelligence and full of practical examples and anecdotes, this is a legal and business book that is easy to read and simple to follow. It is a book every entrepreneur should have within arm's reach because it will help you safely navigate the often nerve wracking and treacherous waters of the laws associated with running a business.

Although there are many books on how to grow a successful business (of which I have written one), there are few, if any, that focus on the legal steps associated with starting, scaling and selling a business. This book is the missing and critical piece of the puzzle that aims to support entrepreneurs in any phase of their business development. It is a long overdue and much needed resource to be added to the bookshelves of small to medium business owners everywhere. It gives the reader insight with the ability to predict and prepare for the future. Properly applied, it will allow entrepreneurs to not only grow a sustainable business but to make sure their treasured asset is also well protected.

The Business Legal Lifecycle is laid out like an old 'choose your own adventure'

novel, allowing you to enter at the place that is right for you. It then gives you the options you can take with the pros and cons of each, so you can be well-informed and grow your business with confidence and certainty.

This is a refreshing book not written by some lawyer sitting in their ivory tower pointing their judgmental finger at you like your school teacher did when you didn't do your homework. It's written by someone who not only cares about entrepreneurs but who has walked the path himself. Jeremy started his business from scratch and has grown it into an iconic boutique legal practice. He is also an entrepreneur who has experienced the highs and lows of growing a sustainable enterprise. Unlike many legal texts which are long, boring and full of legalese, this book is written in plain English, making it simple to understand and easy to apply. It is also written with compassion, care and clarity.

In my experience, people want more direction, not more information. While this is an informative book, you will also come away with very clear direction as to what your next business legal steps should be. I expect it will help you navigate safely through your entrepreneurial pathway as you set out to achieve your dreams and desires in business.

Enjoy.

Dr David Dugan

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Author of Bullet Proof Business, Amazon No 1 Best Seller

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Preface

As a lawyer and a business owner I am often frustrated with the legal industry as a whole. All too often, advice from lawyers is boring and repetitive with no thought for the client's actual situation. What happens more often than not is that clients are scared of going to their lawyer, scared of being told that they need to spend tens of thousands of dollars to do everything that they need to do. There is no commercial advice given and legal advice becomes unworkable in the real world. This frustration led to the creation of the Business Legal Lifecycle, a concept to shift legal advice away from the simple 'do everything at once' approach to a more commercial set of instructions for every business owner to use.

This book is all about demystifying the legal processes and unlocking the often confusing world of legal advice for business owners. My aim is to give business owners a reference guide to be able to use in business, to give guidance on legal terms, and to give a clear direction of where a business is and should be going. The 13 phases of the Business Legal Lifecycle have been developed to solve these issues and give business owners a clear path for their business.

As with anything in life, business owners are on a journey of discovery. In writing this book, I have developed a deeper understanding of the Business Legal Lifecycle in general and discovered new and interesting ways to look at businesses. The examples I have given are designed to give that clarity to business owners to be able to identify whether they have encountered a similar problem in the past or as a beacon saying to a business owner that they are not alone and that issues that they face in business are normal. Moreover I want to give you the knowledge and confidence to tackle problems head on and know that other business owners have been there before and there is always light at the end of the tunnel.

In writing this book I have researched other business books and legal processes and have also undertaken an extensive review of the business owners that I have dealt with over the years. I have examined where businesses did things correctly and where they did not, and I have developed the phases of the Business Legal Lifecycle as a guide to where the most successful businesses did things correctly.

Your journey as a business owner will be fraught with danger but it should be a journey that is interesting and allows you to develop many different skills. Whether you are a small, medium or large business owner, you will at some stage of your business life have many different roles, embrace them and learn from your mistakes and also from your successes. This book has been designed for you to establish and build a successful business.

Introduction

Business owners are in business to take control

When you first start out in business, you need to do everything yourself to keep your business going. You need to be the marketer, strategist, salesperson, manager and even the cleaner. Staying in control of all aspects of your business is vitally important to its ongoing success. As your business grows and develops, it is critical that you are aware of the changes and cycles that it will go through. All businesses go through very predictable and repetitive cycles that are both positive and negative. They are all very important and you need to be proactive and ready to take action when the time comes. I have examined not only what successful business owners have done well, but also where business owners have failed, in order to work out what went wrong. This led me to develop the 'Business Legal Lifecycle' based on my experiences as a lawyer working with over 5200 business owners and their businesses.

The main problem that I observe is that many business owners do not know what they need to do with regards to the legal side of their business. They often do not establish the appropriate structure for their business and do not know when certain legal processes of the business should be undertaken. I developed the Business Legal Lifecycle to guide businesses through what legal steps they need to take and when they need to take them.

Experiences

As a young corporate solicitor during the 2000s it was drilled into me that a business should have every single legal document in place before it starts to trade. Part of this is due to the increasingly litigious nature of our society, and part is due to the commercialisation of legal businesses.

Crossing the t's and dotting the i's before you start trading is critical in order to make sure that you are ready for the challenges that you will face as a business owner.

What we see from many business owners

All too often, a business owner, struggling to get their product off the ground, engages with clients and starts employing staff without having the resources or the time to implement all the necessary steps at the beginning of their journey. Setting up your business properly from day one is crucial as the decisions you make at the start will have huge impacts down the track, and could be the difference between success, failure and even bankruptcy.

The Business Legal Lifecycle was developed to help business owners overcome the challenges and protect yourself from the risks that you will face at different stages of your business' development. When your business is about to transition to the next

phase, it is critical for you to understand what your legal options and obligations are so as to ensure that the transition from one stage to the next is successful.

The aim of the Business Legal Lifecycle

The aim of this book is to demystify the legal processes, explain the different legal practices, and demonstrate why they are necessary through the use of real-life examples. I will also attempt to fight my inner lawyer by doing all of this in plain English! The focus of this book is not specific to any particular type of business and can be used by all types of businesses and business owners.

It should be used by entrepreneurs, existing business owners, accountants, lawyers, financial planners, business mentors, business coaches, mortgage brokers, business brokers, real estate agents and other professionals as a guide to the legal aspects of a business.

It may be that some steps occur in a different order or certain events trigger the phases slightly differently, but from my experience, both as a business owner and as a lawyer, successful businesses generally follow a predictable pattern as presented in the Business Legal Lifecycle.

How to use this book

Before we begin, a word of warning: specific businesses and business owners have requirements that are unique to their particular circumstances. This book is a general discussion on the phases of the Business Legal Lifecycle but it should not replace the advice that you, as a business or business owner, receive from your professional team of advisors which is specific to your own particular circumstances.

I have included many different case studies and examples to show how following the phases in the Business Legal Lifecycle can help your business grow into an asset that can either be sold or be used as a lifestyle business (a business set up to fund your ideal lifestyle as opposed to a larger type business). I have not included any names and some of the details have been changed for privacy. The effect of what happened in each case study or example, whether it is positive or negative, is very real. Ideally, you should read this book from cover to cover at least once and I encourage you to flag chapters that are especially relevant to you and scribble notes as you go. You may discover things that you have done correctly (or incorrectly) and, as you reach each transition to a new phase in your business, I encourage you to continually revisit the book to ensure that you follow the correct processes and seek the appropriate advice from your consultants.

What is the Business Legal Lifecycle?

Starting a new business is an exciting venture for any entrepreneur. I know from my personal experience of starting three businesses that sometimes you get swept up in the excitement and resist getting bogged down in important, but let's face it, often boring, legal matters. There is a long list of considerations that a business owner needs to think about when starting a business, with initial start-up costs typically

being the driving factor behind making decisions.

This is one of the reasons that the Business Legal Lifecycle was developed: to ensure that you are aware that you need to start thinking about implementing the different legal processes from the very beginning.

The different phases of the Business Legal Lifecycle are:

- (a) Phase 1 - Conception
- (b) Phase 2 - Start-Up
- (c) Phase 3 - Initial Clients
- (d) Phase 4 - Bringing on Employees
- (e) Phase 5 - Protecting Intellectual Property
- (f) Phase 6 - Maximising your Business/Bringing in Investors
- (g) Phase 7 - Expansion/Franchising/Licensing or
Buying an Existing Business
- (h) Phase 8 - Estate Planning
- (i) Phase 9 - Investing in Property
- (j) Phase 10 - Litigation and Dispute Resolution
- (k) Phase 11 - Sale of Whole or Part of your Business or the
Listing on a Stock Exchange
- (l) Phase 12 - Retirement
- (m) Phase 13 - Insolvency/Winding up

Each phase of the Business Legal Lifecycle will have a different impact on your efficiency and profitability. Consequently, you may decide not to go through a particular phase, or another phase may present itself earlier for you. Your company may enter into litigation much earlier in its lifecycle, or you may decide to invest in property sooner than others typically do. Some business owners decide never to franchise their business.

The phases of the Business Legal Lifecycle were created as a general guide based on our experience in dealing with business owners and the stages we see them experience during the life of their business. Whether you follow the cycle exactly or not, the book is designed to give you an idea of where your business is currently situated and where it is headed.

A word on contracts

Throughout the book I use various terms that refer to a contract, such as: a company constitution, a lease, agreements with your staff and so forth. These are all forms of contracts which are very important legal documents. There is an old saying in the

legal profession, “in any dispute there is your belief as to the truth, there is the other side’s view on the truth and then the actual truth is somewhere in the middle.” This is especially true if you do not have a contract in writing as each party to the contract will have a different interpretation of the agreement. In the ever-increasingly litigious nature of our society, putting a contract in writing is imperative for any agreement so that all parties can agree upon the terms and conditions.

CHAPTER 12

Phase 12 – Retirement

Where a business owner has opted not to sell their business and wants to continue to trade, they will usually want to trade the business until retirement. If you decide to go through this phase of your business, you will need to ensure that you are properly set up for your retirement. The Retirement phase usually occurs after the business has reached and surpassed its peak.

Retirement may not be a result of age; it may also be forced upon you earlier due to illness and are not able to sell the business or because you decided to continue working in the business for a period after you sold it to help with the transition.

Obviously, there are pension plans in many countries but, in most countries, they are not sufficient to allow you to continue to live the lifestyle that you want to in the future. Properly setting up for this phase will ensure that you do not need to rely on such a pension and will be able to fund yourself into the future.

During this phase I will discuss setting yourself up for retirement, different superannuation options, and buy out periods.

Important considerations during this phase are:

- Where will my income come from after I retire?
- What will happen to my business when I retire?
- Is there an opportunity to sell the business at this point?
- Do I need to revisit an earlier phase of the Business Legal Lifecycle?

Dangerous considerations during this phase are:

- I do not need to do anything to set myself up for retirement
- It will just work out
- I do not want think about retirement

12.1 Setting Up for Retirement

Earlier, I discussed the advantages of investing profits in income generating assets (see section 9). One of the reasons behind such an investment was to allow you to retire and continue funding the lifestyle that you deserve. Business owners should seek advice from a qualified professional financial planner to help them plan their retirement and review crucial questions such as (this list is not exhaustive):

- (a) What income do you require to be able to live comfortably in your retirement?

- (b) What risks are you willing to take with your investments to increase your potential return?
- (c) What assets do you currently own and what income do they generate?
- (d) What assets do you need to acquire to generate the income that you need to retire comfortably?

There are many other considerations that are unique to each person's circumstances. The best advice I can give you is to seek the advice of a qualified financial planner, your lawyer and your accountant and collectively plan out your retirement strategy. There are many circumstances where clients have taken advice from a financial planner and set themselves up for retirement.

From the Case Files

An example of this was a client who, at the age of 40, realised that she had not put any plans in place for her retirement. She had operated a manufacturing business producing furniture for over 20 years and had made a nice profit along the way. However, she had spent the majority of her profits on consumable products and overseas holidays and did not have significant savings to be able to fund her retirement. She sought advice from a financial planner to assist with setting up a plan to try to save enough money to help her retire. She started to invest the profits from her business into investments that derived her income. This meant that by the time she turned 55 she was able to comfortably retire.

12.2 Superannuation

In some countries there is a legal requirement for employees to be paid superannuation, which is a way to save for retirement. The money then goes into a superannuation fund where the money is held until the person retires or reaches another predefined goal. There are a number of ways that superannuation can be held. The two most common methods are:

- (a) A private business superannuation fund (or an industry-based superannuation fund) or
- (b) A self-managed superannuation fund

A private business or industry-based superannuation fund is very attractive to people who want to put their money into superannuation. Generally, the fund is managed by a professional fund manager and the money is pooled with many other investors who also are saving for their retirement. A self-managed superannuation fund is often used by business owners. This type of fund gives the person a greater degree of

control and allows the owner of the superannuation fund to make other investments that may not fall within the scope of other superannuation funds.

Before deciding which type of superannuation is right for you, you should consult your lawyer, accountant and financial planner to ensure that you choose the right fund and, in the case of self-managed superannuation funds, that you are properly managing the fund in compliance with local laws and regulations.

12.3 Buyout Periods

Often in the sale phase of a business, you may decide that you want to continue working in the business during a buyout period and you can also consider not selling all of the business assets. From the seller's perspective, a buy-out is not something that they particularly may want as it is often used by the buyer to either reduce the purchase price or stage payments for it.

The main drawback with this type of arrangement is that the retiring business owner is at the mercy of the new business owner, the terms of the buy-out agreement and the ongoing successful operation of the business before they receive their profits. The best way to avoid a buyout is to have a business that has been developed through the Business Legal Lifecycle, which will ensure that it is a properly set up and saleable business, and that you do not have to honour a buyout period for the business as the buyer will be able to operate the business with you.

You may also decide you don't want to sell all of the business assets and want to retain some to generate a future income. A prime example is intellectual property, which you can license to generate an income after you retire. As with any investment, there is a risk in retaining ownership of part of the business.

Additionally, if you retain part of the assets, the sale price of the business will be lower. As discussed in section 11, it is important that any sale of whole or part of your business proceeds with the right advice.

From the Case Files

An example of where this did not work was a business owner who owned a printing business. The business had been operating for over 30 years and the owner had originally bought it from the original founder some 20 years beforehand. Even with the significant challenges that printing businesses faced in recent years, this business was making a nice profit for the business owner to be able to live comfortably. A buyer approached the business owner with a view to being able to work with the business owner to increase the profitability of the business and then buy the business owner out for a more significant amount of money than the business was worth at that time. However, the new owner wanted the business owner to continue working in the business, increase the business and its profitability before being paid a price for the business. The business

did not become more profitable and the buyer was shown to have no business acumen. The once profitable printing business was making the same mistakes that a lot of its competitors were making and was not innovating as required to beat the downturn in the printing industry. The business ended up folding with large debts and the client was left with nothing from the business that they had operated for 20 years.

Of course buy out periods work as long as the goals are realistic and achievable. An example of this was an accountancy business. The client sold his business to an employee who had worked in the business for some time. The client was able to maintain and slightly increase the business during his buyout period meaning that the seller was paid a premium for the business and the buyer was left with a strong and profitable business that continued to trade successfully for many years.

12.4 Conclusion

The decision to retire is one of the biggest that you will make during the Business Legal Lifecycle. Taking care of all of the aspects of the business and ensuring that you can comfortably retire is an important consideration for you to make. As I said earlier, the pension alone is generally insufficient to allow you to properly retire. Therefore, it is critical that you take the advice of your consultants to ensure that you can properly navigate your way through this phase to allow you to live the lifestyle that you want. Properly navigating your way through this phase will mean that you are set up for the future and the negative effects of the final phase, Insolvency/Winding up, will not impact on you too greatly.

QUESTIONS TO ASK BEFORE YOU PROGRESS TO THE NEXT PHASE:

1. Do you have enough passive income to fund your retirement?
 2. Have you determined what will happen to your business when you retire?
 3. Is there an opportunity to sell the business at this point and do you need to revisit an earlier phase of the Business Legal Lifecycle?
-

Conclusion

In business you are always learning new systems, procedures and methodologies. This book is all about educating you on the different aspects of your business and when legal processes and considerations should be implemented. The main reason that I wrote this book and developed the Business Legal Lifecycle was to share my experience as a business owner and a lawyer. We built our law firm on the principle of 'Solutions for a Better Life' and all of the work we do is geared towards that goal.

Understanding the Business Legal Lifecycle is not the end point for any business owner; it is the beginning of how to operate your business, how to grow your business, and how to prepare for your future. It is critical that you understand the different phases and times when different legal processes should be followed. It is also critical that you have a basic understanding of a number of legal concepts when in business. I hope that you have appreciated the explanations that I have given in this book and that it gives you, as a business owner, a greater understanding of the legal processes involved in operating a business.

I have used many examples and case studies in this book to illustrate how legal processes work and why they are important. You may find these examples similar to your own experiences or you may find that when you are faced with a similar situation, you can identify a potential problem and fix it before it becomes an issue. No two situations are ever exactly the same but you need to know when to take action at the appropriate time. This will prevent you from continually treading water or, worse yet, being swept away when problems occur.

It is important to remember that in business you will face tough times; that is the nature of business and it is entirely normal. It is *how* you deal with those problems that will determine how successful you are in the future. I also encourage you to read all you can and take in as much advice (but not 'barbecue advice'!) as you can in relation to operating your business. Do not implement everything you read and hear; consider your options and, if you are not sure of which way to go, it is probably best to take the course of a trusted advisor. Running a business is a rewarding endeavour and is something that I am very glad I have been able to participate in.

As you will have gathered from this book it is important that throughout the Business Legal Lifecycle you obtain advice from the right consultants at the right time.

Often lawyers or accountants will try to do too much, or they will not allow the other consultants to do their job. I have tried to also point out the various types of consultants that I recommend that business owners engage with at different times in their business.

I wish you the best of luck in your journey in business and through the Business Legal Lifecycle. If you have any questions, then please feel free to email me at lifecycle@jeremystreten.com.

"The Business Legal Lifecycle is one of those books every business owner should own. Written in plain English with practical advice, no matter where you are in your business journey there are gems of wisdom on every page."

Adam Houlahan, Author & International Keynote Speaker

Whether you want to have a large company or a small, lifestyle business; you have to pay attention to the legal aspects – right from the start. If you don't take care of your legal obligations and plan for the inevitable problems that will surface, you will be exposing yourself to strain, stress, loss of business and potentially even bankruptcy.

The Business Legal Lifecycle is designed to guide and empower you with the knowledge you need to successfully navigate your business journey.

In this book you will learn:

- Why and when you need to pay attention to the legal aspects of your business;
- How to successfully start up your business;
- What you need to put in place to sell the business in the future;
- Whom you should consult with along your business journey; and
- What you should look at when your business is coming to an end.

Act now and get ready to build a successful business – today!



Jeremy Streten is a successful entrepreneur and lawyer. His passion is to help entrepreneurs and small to medium-sized business owners to succeed in their business so that they can live the life that they want to live. He has challenged and changed the way that many people look at lawyers. With a personal perspective from acting for thousands of businesses and their owners Jeremy often contradicts conventional wisdom.

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