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## Planning your business continuity

Financial Advisers in Australia face many unique challenges in managing and growing their financial advisory businesses. Perhaps the most overlooked of these challenges is the business continuity plan.

Practice101

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## 1. QUESTIONS TO ASK

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Have you ever stepped back for a while and considered what would happen if something catastrophic occurred to you or your practice office space? Do you feel confident that in the event of your death, disability, or temporary illness your practice would continue to grow?

Alternatively, what would happen to your business if your client files or computers were stolen or destroyed in a flood or a fire? What steps have you taken to ensure that you are prepared for such an event?

Consider the advice you give clients about planning for life changing events – many of us feel uncomfortable about talking about the unpleasant possibilities of premature death or incapacitation - but failing to plan for the worst is irresponsible.

If your clients have begun to ask you what will happen to them should something happen to you and you do not have a business continuity plan in place, then you are in bigger trouble than you thought!



## 2. SOLE PRACTITIONERS FACE BIGGEST RISK

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Those financial advisory businesses owned by a sole practitioner where most of the client contact and service responsibilities remains with the owner of the practice face the biggest risk. This is simply because if they became unavailable to service their clients, whether temporarily or permanently, their practices face extinction.

It is, we believe, your duty as a financial adviser, to ensure that your clients are taken care of should something happen to you. In addition, you will be acting in both your own and your families' interests in ensuring that you have a business continuity plan in place when an emergency occurs.

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Ensure that your clients are taken care

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### 3. FAILING TO PLAN IS A BIG MISTAKE

If you are a financial adviser who has inadvertently made the mistake of not putting a business continuity plan in place you face significant business risks. These may be:

- A disruption to your ability to continue to service clients
- A loss of key clients in your practice
- A concomitant loss of practice income
- Exposure to potential regulatory action
- Private litigation for failing to satisfy possible legal, regulatory or contractual duties to your clients
- Irreparable loss of business reputation

Adopting a business continuity plan forms a critical part of your practice management activities. It really is a question of ensuring your practice's survival or not.

Such a plan ensures that your clients will receive the uninterrupted and ongoing service levels that you committed to when you engaged with them. It will assist in preserving the value of your business for until such time you are able to return to work or alternatively ensure that your heirs will inherit the full value of the business. We all know that when an emergency occurs that makes you unavailable to serve your clients time is not on the side of your business. The longer the service is disrupted the more likely your clients will become unhappy.

If your unavailability from the practice becomes permanent, the loss of clients means a far lower business value in a sale to any successor. In addition, the legal and regulatory requirements for a successor to take over the business can accept a significant amount of time if not planned properly. It is our opinion that not putting in place a continuity plan is a disservice to your clients and indicates a major gap in your compliance program.

It would be a mistake to adopt a one-plan-fits-all practices approach and for this reason some important aspects of business continuity planning for financial advisers are covered below:

#### 1. Starting your advice business

Many potential continuity roadblocks can be avoided if you successfully implement a continuity plan when you set up your practice. Choosing the legal structure of your practice such as a close corporation or company rather than a sole practitioner will go a long way in your continuity planning. By setting up the practice as a legal entity another adviser can, at least on a temporary basis step in to serve your clients without the time, expense, and burdens of executing additional paperwork.

#### 2. Internal business continuity plans

You may wish to consider planning for the continuity of your business through an "internal continuity plan" where your duties as an adviser are transferred to an employee or colleague in the same business. This can be done on a temporary or permanent basis. Bringing other advisers into your business and into existing client relationships presents an excellent way to set up internal continuity plans.

#### 3. External business continuity plans

If an internal continuity plan is not feasible then it may be an idea to look at adopting an external continuity plan. These plans involve many similar concerns as the internal plans, including the transfer of financial planning and advisory duties to another business. These plans work well when you may be away temporarily. In this instance an agreement is entered into whereby conflict of interests and



confidentiality are set out. Naturally, the external adviser should be remunerated for his efforts. Where permanent unavailability occurs such as death or retirement it is suggested that you enter a buy and sell agreement with a successor adviser.

#### 4. Transferring Contracts and Licences

ASIC imposes certain restrictions on the transfer of licenses and contracts to other advisers. You would do well to discuss these with your compliance practitioner.

### 4. STEPS TO PREPARE FOR TEMPORARY OR PERMANENT CONTINUITY

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Below are some action steps that you may consider implementing in your practice in order to ensure that you have the requisite continuity plans in place:



- • Identify a potential substitute for your business
- • Due a due diligence on the potential substitute
- • Involve attorneys and seek legal advice from compliance or practice management specialists
- • Ensure that full client disclosure takes place when such agreement is reached
- • Address any confidentiality and conflict of interest situation
- • Ensure you always keep detailed and organized client records
- • Introduce your clients to the substitute adviser and obtain your clients written permission to the assignment of their contracts upon the occurrence of specified contingencies
- • Always involve a 3rd party in the business continuity planning process

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Things can change overnight. Life happens

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Although your business may be growing exponentially and you have many happy clients, things can change overnight. Life happens.....Proper planning and preparation can assist you and your clients in protecting and managing both your financial futures.

*Johann Maree*

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