

HOW TO START A NOT-FOR-PROFIT



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SRJWW

Growing Business Growing People

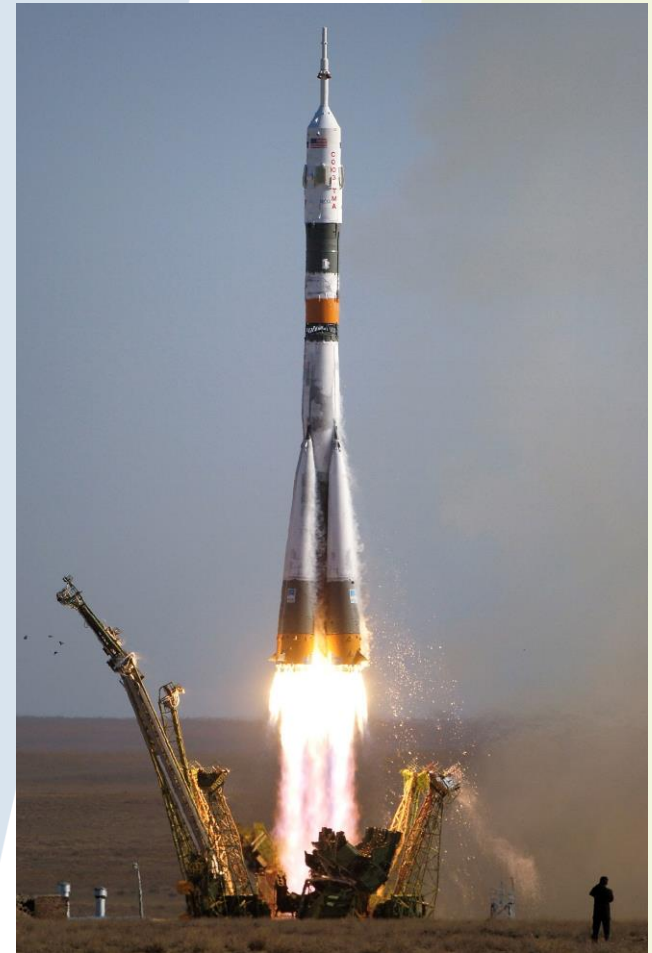
- **About Dianne Brown**

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10 Steps to Start a Not-for-Profit (NFP)

1. Do your research
2. Decide whether you want to incorporate
3. Determine the most appropriate Incorporated structure
4. Determine if you want to register as a Charity
5. Governance and Directors Duties
6. Obtain appropriate licenses, registrations and insurance
7. Set up your record keeping and accounting system
8. Develop a strategic plan
9. Develop your Financial plan
10. LAUNCH



What is a Not-for-Profit (NFP)?

- NFP doesn't operate for profit, personal gain or benefit of its members
- Profit is used to further the aims of the organisation

2 Categories:

1. Charities – *Charities Act 2013*
2. Other NFP's – sporting & recreational clubs, community service organisations etc

What is a Social Enterprise?

- Not legally recognised classification
- Business designed to achieve a particular social outcome through market based strategies (eg selling goods or services)
- Social outcomes may be economic, social, cultural or environmental consistent with public interest
- Can be For-Profit or NFP – depends on purpose
- Generally reinvests minimum 50% profit towards achieving their identified social purpose
- Examples:
 - trading co-operatives
 - organisation that directs profits to particular causes

1. Do your Research

Formal v Informal Organisation

- What is the purpose of your group?
- Are there any other community groups doing similar work? (>700,000 community groups in Australia)
- Engage with peak bodies that cover your area of interest
- Define your group - organisation, management, staffing v volunteer
- Activities of the group
- Resources
- Seek Professional Help

1. Do your Research – Informal Groups

Unincorporated Association

- Not separate legal entity from its members
- Members each have individual legal liability for actions of the group
- Set up by a group for a common purpose
- Cannot enter into contracts in its own name or employ staff
- Can still register as charities if conducting Charitable Acts
- Examples = religious communities, animal welfare groups, cultural welfare groups etc

2. Decide if you want to Incorporate

Advantages of Incorporating

- Separate legal entity
- Can enter into contracts in its own right – purchase assets, borrow funds, lease premises
- Employ staff
- Improves eligibility for grant funding
- Allows Deductible Gift Recipient Status (DGR)
- Allows for perpetual succession

2. Decide if you want to Incorporate

Issues to consider

- Costs and time – formal meetings, proper financial records etc
- Public Information
- Likely activities – risk of activities + future activities
- Certain regulated activities must be incorporated. E.g. housing, aged care, native title activities

3. Determine the most appropriate Incorporated Structure

1. Incorporated Association
2. Company limited by guarantee (CLG)
3. Non-trading (or non-distributing) co-operative
4. Indigenous Corporation

Incorporated Association (Inc.)

Associations Incorporation Act 1981 (Qld)

- Separate legal entity
- Must have minimum 7 members
- Each State/Territory has own laws
- If operating outside Queensland register with ASIC as Registered Australian Body under *Corporations Act 2001* or register in each relevant state
- Model Rules – referred to as Association's Constitution
- Must elect Management Committee (minimum 3)
- Financial statements must be adopted at AGM and may require audit/verification
- Annual return lodged with Office of Fair Trading

Incorporated Association (Inc.)

Recommended For	Not Suitable For ...
Locally (Qld) focused NFP or community groups	Groups with < 7 members
Groups with limited capacity to meet more extensive reporting obligations and costs of some other structures	Groups from interstate or operating across many states/territories as well as Qld

Company Limited by Guarantee (Ltd)

Corporations Act 2001

- Regulated by ASIC unless registered charity
- Can operate anywhere in Australia
- Limited liability
- 3 tiers of reporting
 - Small – <\$250k – no audit
 - Medium - \$250k - \$1mill – financial report + audit or review
 - Large >\$1mill – financial report + full audit
- If registered charity report to ACNC
- If DGR status – all tiers require financial reports + audit
- Company constitution
- Penalties for non-compliance with reporting requirements and directors duties higher and more strictly enforced

Company Limited by Guarantee (Ltd)

Recommended For	Not Suitable For ...
Organisations that want to operate nationally	Non-ACNC registered groups without resources to comply with ASIC and ACNC more extensive and costly operational and reporting requirements
Larger NFP's	

Co-Operative (Co-op)

Cooperatives National Act 2020 (Qld)

- Regulated by Queensland Office of Fair Trading
- If registered charity also reports to ACNC
- Distributing (Trading) and non-distributing co-ops
- Principles set out in the Act regarding membership, control, economy participation, autonomy & independence, education, training and information, cooperation and concern for the community
- Constitution
- Trading Co-ops - agricultural, retail, transport, water & wholesale trade industries
- Non-Trading Co-ops – accommodation & hospitality, arts & recreation, education, training, health care, housing & social service industries

Co-Operative (Co-op)

Recommended For	Not Suitable For ...
<p>Groups serving their members where each member is willing to share in the investment and operational risks (eg owned art co-op, ski lodge, childcare group providing services to its members)</p>	<p>Groups that want different classes of members or different voting rights</p>
<p>Groups that wish to follow the co-op principles</p>	<p>Groups that want to benefit a wider range of people than the members</p>

Indigenous Corporation

Corporations (Aboriginal and Torres Strait Islander) Act 2006

- Registrar Indigenous Corporations (ORIC)
- Can operate anywhere in Australia
- Separate legal entity
- Can be For-Profit or NFP
- If NFP – must have “rule book” that prevents profit being distributed to members
- Rule Book incorporates Indigenous customs and traditions

Indigenous Corporations

Recommended For	Not Suitable For ...
Aboriginal and Torres Strait Islander Groups.	Non-Indigenous Groups
Must be used by those holding or managing native title under <i>Native Title Act 1993</i>	

4. Determine if you want to register as a Charity

Charities Act 2013

- Australian Charities and Not-for-Profits Commission (ACNC)
- 12 Charitable Purposes:
 - Advancing health, education, religion, culture or social or public welfare
 - Promoting or Protecting Human Rights
 - Other purposes beneficial to the public
- 14 Charity Sub-types
- Must comply with ACNC Governance Standards & Reporting Requirements
- Must lodge Annual Information Statement
- Eligible for tax concessions
- May be eligible for Deductible Gift Recipient (DGR) Status
- Constitution must have specific Charitable Purpose Clause and
- If DGR Status must have specific DGR Revocation Clause

4. Determine if you want to register as a Charity

Benefits	Extra Obligations
Access to more tax concessions, and therefore access to incentives and, in some cases, extra funding (some funders can only provide grants to DGRs)	State incorporated structures like incorporated associations and trusts not previously required to report may have extra or duplicated reporting obligations
Reputation and standing in the community (due to being listed on the public register, and being required to comply with ACNC governance standards) and ability to use the ACNC charity 'tick' logo	Requirement to comply with the ACNC's governance standards
Simpler reporting for companies limited by guarantee	Need for 'responsible persons' and listing on public register of 'responsible persons'

5. Governance and Directors Duties

4 Main Legal Duties for Committee Members

1. Duty to act in good faith in the best interests or the organisation & for a proper purpose
2. Duty to act with reasonable care, skill and diligence (including the duty to prevent insolvent trading)
3. Duty not to improperly use information or position
4. Duty to disclose and manage conflicts of interest

5. Governance and Directors Duties

Other Legal Duties

- Record Keeping
- Meetings – including AGM
- Reporting Requirements

Know what other laws you need to comply with, including:

- Workplace Health & Safety
- Anti-Discrimination
- Fundraising Laws
- Working with Children Laws
- Privacy Laws
- Negligence and Defamation Laws

6. Obtain appropriate Registrations, Licences and Insurance

- ABN and TFN
 - GST if turnover >\$150,000
- If employing staff
 - Pay as you go Withholding (PAYGW)
 - Superannuation
 - WH&S
- Business Name Registration
- Consider trade mark registration
- Any other IP considerations
- Domain Name Registration – secures your website address

6. Obtain appropriate Registrations, Licences and Insurance

Obtain appropriate insurance cover

- Public Liability Insurance
- Workers Compensation Insurance
- Volunteer Personal Accident Insurance
- Public Liability Insurance
- Professional Liability Insurance
- Directors and officers or management association liability insurance
- Asset/MV Insurance

7. Set up your Record Keeping and Accounting System

- ATO – 5 years, starting from when record obtained or transaction completed (whichever is the later)
- Preferred electronically
- ACNC – 7 years – financial and operational records
- Set up integrated systems
 - XERO/MYOB etc
 - Customer Relationship Management System (CRM)
 - Receipt Bank
- Develop & Document your systems & processes & policies. See <https://www.acnc.gov.au/tools/templates>

8. Develop your Strategic Business Plan

- **What is Strategic Business Planning?**
- Process that provides business direction
- Breaks that direction down into strategies and action items
- Keeps business owners/managers accountable
- Strategic Plan = evolving document

- **Why is it important?**
- Business Clarity, Priorities, Actions
- Map to achieve your business goals
- Required for financing (investor + traditional)
- Used to obtain Grant Funding



Strategic planning model



A clear sustainable competitive advantage is critical for success.

Why?

Too often organisations drive strategy with ‘operations’ as the focus first rather than ‘marketing’.

Why is that a risk?

8. Develop your Strategic Business Plan

- Define your purpose
- Define your product/service
- Clarify your sustainable competitive advantage
- Complete a strategic SWOT analysis
- Develop your path to market
- Define your goals (SMART)
- Develop action plan
- Be Accountable!

9. Plan your Finances

- Create a start up budget
- Determine your capital commitment
- Prepare a cash flow forecast for critical first 12 months
- Calculate your break even point
- Identify and monitor financial KPI's

10. Launch

- HOW
- WHERE
- WHEN
- WHO



Resources

1. <https://communitydoor.org.au/resources/start-a-community-service-organisation>
2. <https://www.ourcommunity.com.au/>
3. <https://www.nfplaw.org.au/gettingstarted>
4. <https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/queensland-laws-and-regulations/associations-charities-and-non-for-profits/incorporated-associations>
5. [https://www.ato.gov.au/non-profit/getting-started/getting-endorsed/is-my-organisation-eligible-for-dgr-endorsement-/](https://www.ato.gov.au/non-profit/getting-started/getting-endorsed/is-my-organisation-eligible-for-dgr-endorsement-)
6. https://www.nfplaw.org.au/sites/default/files/media/Duties_Guide_Cth.pdf
7. <https://www.acnc.gov.au/tools/templates>

10 Steps to Start a Small Business

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Thank you for Tuning in.

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