

# Why every business owner needs a disaster recovery plan

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We all know life is unpredictable. When you're running a successful business, you have many competing priorities - business succession is often bottom of the barrel. However, if you don't plan for unexpected events - like sudden illness, incapacitation, or even death - it could mean the end of your business and serious financial problems for you and your loved ones.

If something happens to you, who will look after your business? Will they know what to do and where to find key contacts or vital information to make sure your business keeps running smoothly?

With the festive season imminent, and the world opening up again for travel, now is the ideal time to protect the future of your business and ease the stress for your colleagues and loved ones by planning for these eventualities as part of your disaster recovery plan.

Here are eight things you need to include in your disaster recovery plan.

### **1. A will and enduring power of attorney**

If you are a sole shareholder/director of a company, you should have a will and it should include who will inherit your shares if you die *and* who will have management responsibility for the company. Key people within your family and your company should also know what's in the will and power of attorney and how to find it.

When a sole director of a company dies, or is incapacitated, without a will or power of attorney it adds further complexity and stress to an already very difficult time. In most cases the company is left without anyone properly authorised to run it, meaning that management decisions cannot be made. This can cause an interruption to trading, or in the worst cases the complete shutdown of the company while management and ownership are legally worked out.

A relative, or other person, would need to apply to the local Supreme Court for letters of administration to manage your business and this could take a considerable amount of time, all while your company flounders. Becoming a company director is a serious responsibility, and a risk, so it's not a decision that should be taken lightly. Ideally the new director(s) would be people already involved in the business.

### **2. Keeping stakeholders informed**

Someone must tell your employees, suppliers, customers and other stakeholders what has happened and what will happen next. When stakeholders hear that there is a disaster recovery plan in place, and a concrete plan for how to manage the situation, it will alleviate their fears and reassure them that your business will continue to operate smoothly. Employees will know their jobs are safe and customers and suppliers will understand their ongoing commitments will be met. Without a thorough, quickly implemented, and well thought through communication plan employees, customers and suppliers can quickly move on and make it very difficult to rebuild your business.

### **3. Banking authority**

Banks and other financial institutions may be unwilling to accept instructions in relation to a company's trading account if they're not satisfied there is someone properly authorised to act for it. Credit cards may need to be cancelled, or opened, and new ways of operating will need to

be quickly enacted to make sure the company's financial operations continue smoothly. Without banking authority, staff and suppliers may not be able to be paid, which can quickly have a harmful effect on the reputation and value of the company. In addition, personal expenses like your mortgage, taxes, utilities and other expenses will need to be taken care of.

#### **4. Maintaining key relationships**

Over and above your long list of stakeholders, your key clients, suppliers and other third parties are an essential part of running your business. Maintaining these key relationships can be as simple as keeping a contact list or database that's easily accessible to key people within your business and working out who is responsible for each relationship, with a backup. Someone will need to contact each of your key stakeholders to make sure that critical parts of your business continue running uninterrupted.

#### **5. Key documents**

In addition to your will and enduring power of attorney, there are many other important documents that people will need to keep your business running – things like shareholders agreements, lease agreements, insurance statements etc. Who will know where these are kept? If there are multiple shareholders of the company, a shareholders agreement (and a buy-sell agreement) is recommended.

#### **6. Personal guarantees and undocumented agreements**

If you have personal guarantees, what will happen to them, and who will take them on? Do you have any undocumented agreements, for instance a handshake deal? What would happen to these agreements if you were the only one aware of them? Could you rely on the other party's goodwill to continue to honour them?

#### **7. Business and personal assets**

Who has access to a full list of both your business and personal assets and understands how they are linked? Are they secure? Are they insured? Are they encumbered? If you die, an inventory of all your assets will be required for probate (personal property, bank accounts, house, motor vehicle, brokerage account, personal property, furniture, jewellery, etc.) and it will need to be filed in court.

#### **8. Passwords and cyber security**

Who has access to your passwords for internet banking, phone system, computer, tablet, software packages etc? Your business could grind to a halt, or suffer severe interruptions, simply because someone doesn't know the password they need (or have authority to reset it). As well as looking after access to key systems, hardware and software you should also consider security. To prevent identity theft and fraud, in the event of your death or long-term

incapacitation it's worth considering shutting down or putting on hold email accounts, driver's licence, social media accounts and informing relevant government agencies.

While none of us like to think about serious illness or death it's an important part of your responsibilities as a business owner. If you take the time now to plan for the unexpected you can make an awful situation a little bit easier for your loved ones, employees and anyone else who relies on your business.

If you would like to discuss your disaster recovery plan, or get help putting one in place, please contact your [Fordham Partner](#).

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