

Surviving the COVID-19 hangover - the SME guide to a post lockdown warrant of fitness

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The economy has been battered and bruised by COVID-19, and the pandemic will leave SME businesses feeling like they are battling the hangover that just won't go away.

In the blink of an eye, businesses have been turned 'off' and then 'on' again, and many now face the challenge of surviving the impacts of the lockdown and ongoing economic uncertainty.

For the SME business operator, this article provides a snapshot of some issues (both legal and non-legal) to consider as you navigate your business out of level 3 and back to operating in the new market. Taking some time to consider these issues may help to give your business the post lockdown warrant of fitness it requires.

- **Reinventing your business strategy:** Does your business have a clear strategy to respond to the impacts of COVID-19? SME owners generally have an intuitive understanding of how their business operates and what their business needs, but in times of huge stress and upheaval like this, it can pay to get things out of your head and on to paper. Check what information is available about your market, and if you haven't already done so, take the time to do some planning around how issues faced by your market or industry will impact your business in the short to medium term. Be flexible and consider how innovative strategies can facilitate new business for you. Consider whether there are opportunities for your business to collaborate with other local businesses to support each other? Think outside the box and consider new strategies and innovative ways to adapt your business to the needs of local consumers.
- **Liquidity:** How much working capital does your business need now? If you haven't already needed to, consider whether you need to extend your overdraft facility. Remember that for most businesses the effects of lockdown will flow for many months to come. Reaching out to your bank well before you need an overdraft extension is likely to pay off. Manage your debtors carefully and keep a close eye on your key financial measures around cash flow. Consider whether you should review payment terms under your company's trading terms and conditions. Although they can be seen as the boring fine print, now is a time to think about whether your company's trading terms and conditions say what you need them to say, to help support the day to day cash flow of your business.
- **Supply chain:** Who are your business's key suppliers? Take some time to investigate and ascertain how each of your key suppliers has been affected, and what it might mean for your business. As part of your own planning, consider whether your business should take any steps to safeguard the continuity of a key supplier. Check whether your supply arrangements are exclusive or whether they permit you to source the same or similar goods from other suppliers. Now is the time to get creative and plan ahead for more supply disruptions and the possibility of some businesses within your supply chain not being around. If you can, reach out to and support local businesses.
- **Customers:** Carry out a similar analysis on your key customers, particularly if you have a group of key customers who are significant sources of revenue. The 80/20 rule often applies to SME's customers (80% of your revenue from 20% of your customers), and you know who you need to pay attention to. Where your business runs customer trading accounts and offers credit terms, take additional steps to assess how any significant customers have been affected by the lockdown and how that could impact your business. Consider whether you have the ability to undertake useful and up-to-date credit checks on customers. Think about whether you are giving customers physical possession of goods that you are yet to be paid for, and if so, take advice on whether you can take any additional steps to protect your ownership of goods supplied through registering a security interest on the PPSR. Consider amending payment terms and conditions to reflect the type of customer you are engaging with. Limit your business exposure, and where possible, move to requiring upfront payments (even if only for a portion of the invoice value).
- **Infrastructure:** Do you have appropriate infrastructure for the current (new) shape and size of your business? Do you have equipment or assets that are now unused or obsolete? Check the termination provisions under lease agreements for surplus hardware. Consider how new technologies may facilitate and deliver better or more efficient solutions to support business continuity and implement any new business strategies. There is a lot of new technology being developed as a direct result of the lockdown, and lots of great kiwi ingenuity emerging. Keep a close eye on what is out there, as some of it might make a big difference to your business.
- **Premises:** If you managed to secure rent relief, consider whether any new documentation is required with your

landlord. If you have surplus space, think about whether there are opportunities to sublet or share space. Look at your lease and assess what flexibility might be available to you. If you don't have flexibility but you have a subletting plan that makes sense, approach your landlord and if it can be done, document it well.

- **Wage subsidy:** If you applied for the wage subsidy during lockdown, but business is going better than expected, go through the terms and conditions of the subsidy to check whether your business is entitled to retain the subsidy, or required to repay it. Don't wait to be audited.
- **Contracts:** If your business consists of material contracts that were difficult to interpret during lockdown or resulted in some unintended consequences, consider approaching a contracts lawyer to assist you to seek variations to contracts to provide clearer guidance for the parties in the event of any further lockdown or other force majeure type event.
- **Remote working plan:** If you flew into the lockdown with no real plan, but your business has the ability to operate remotely in some form, consider developing a remote working plan for next time. Never say never – this could happen again, and now is the time to learn from what you have just been through. If it's possible, develop a plan that enables you to have continuity of business operations if locked down again. If you are someone else's key supplier, then they may want to know that you'll be able to cope if we find ourselves at a higher alert level in the future.
- **Employee flexibility:** We all just got a lot more flexible, and it's entirely possible that some of your employees may be happy to engage in more flexible arrangements in the short to medium term, or even for longer. This may give your business the savings and flexibility it requires in a slightly unsettled market.
- **Communications:** Are your customers aware of the challenges your business is experiencing? Open the lines of communication and reach out to those who are important to the survival of your business. When communicating with customers, play to the strengths of your business and be wary of conveying any messages that could undermine confidence in you.
- **Governance documents:** Just in case there is a further lockdown, are your governance documents in a shape that enables you to transact in a remote way? If you experienced any remoteness headaches in March and April, implement a plan to avoid those being repeated if we go back into lockdown. Check that your documents permit your board and/or shareholders to hold meetings by way of electronic means. Have a think about whether you need the ability to utilise an electronic signature. Consider a post lockdown review of your governance framework and address any restrictions that caused niggles for your business this time around.

Most business owners will have had to deal with at least some of these 12 points already, maybe in an ad hoc manner, reacting to an urgent need. Taking a few minutes to think through the rest of these 12 points may help to open your mind to some new things that could help your business through this difficult time and prepare it to accelerate out of the COVID-19 crisis.

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