

When to DIY or see a lawyer for your business

Wade Pearson

Lawyers will generally tell you to get legal advice. But nowadays you can do a lot yourself, without paying a lawyer (especially as AI develops). So, if you're starting or growing a business, how do you know what you should and shouldn't do yourself? In this article, we'll look at some common legal steps for businesses and break down when to do it yourself (DIY) and when to call a lawyer.

We'll look at the 6 key legal steps most businesses take. I've given each of these steps a DIY star rating. The more stars (out of 5), the more likely you can DIY. A 1-star rating means to definitely see a lawyer!

Of course, I wouldn't be a good lawyer without a big disclaimer and warning, so here goes; this is an article, not legal advice. I've tried to keep things general, so this won't apply for all situations. Everyone's business is different and it's ultimately your call whether you prefer risk or cost. Use your own judgment.

Companies – 4 stars

Forming a company for your business helps protect you and allows for growth. If you're running the business by yourself, then it's easy and inexpensive to form a company online. It probably won't make sense to pay a professional to do it – you can simply follow the process on the Companies Office website. This presumes you can be the sole director and shareholder, and that your circumstances don't require a family trust as shareholder (or any other complex structure).

Cofounders – 2 or 3 stars

However, take care if you're going into business with others – whether they're friends or not. A dispute between founders is one of the biggest issues a business can face. Seeing a lawyer early on can help prevent a dispute from arising or make the consequences more bearable. Even if you incorporate the company yourself, at least talk to a lawyer beforehand. Then you should ideally get a shareholders' agreement drafted by a qualified lawyer. If you really can't afford a quality shareholders' agreement, then using a free template to have an open (and perhaps uncomfortable) conversation with your cofounders can help prevent disputes.

Investment – 1 star

Once your company is up and running, you might end up taking on investment or issuing more shares. This is almost always an area to get competent advice. I've seen businesses that try and issue shares by themselves – ending up with a \$10,000 bill to go back and fix everything they got wrong. I've also seen businesses that relied on a lawyer that didn't

understand startups or investment, leading to an ineffective structure and again, a large bill to fix the error. You can also face fines and penalties if you breach securities laws by offering investment without following the rules. At the worst end, you end up being unable to raise capital, and the business folds.

Contracts – 2 to 4 stars

Contracts are important for any business. Which contracts you can draft or review yourself depends on you. If you have specific industry experience, you might be comfortable handling certain contracts – especially simple, low risk contracts on a known template. If you're less confident, you may want to get some advice, especially for vital or complicated contracts. For example, a competent lawyer is important when you're negotiating a key distribution or publishing agreement. Engaging a good lawyer early on can help, as you then have good examples to draw from if you do need to draft more contracts yourself.

Employment – 1 to 3 stars

When it comes to employment, there are some great free resources online, but these are only part of the picture. Getting the basics wrong can really come back to bite you. Your employee might raise a personal grievance – these can be costly and painful to deal with, even if you were in the right. Or you might find out later you have serious intellectual property issues. In one case, a multimillion-dollar proposed sale of the business fell over due to some questions over who actually owned the key intellectual property. For many businesses, getting good HR or employment law advice can be the top legal priority.

Intellectual property – 1 to 4 stars

Depending on your type of business, protecting your brand through trademarks can be vital. If you're just selling goods within NZ, you might be able to spend the time applying for a simple NZ trademark yourself. Often, it's better to contact an intellectual property lawyer early on – especially if you're selling overseas or online. They can help you decide when, where and how to trademark (and they can give you an indication of costs).

If you're thinking about patents (and have a business where patents are relevant), then see a patent attorney – not just any lawyer, you'll need a specialised patent attorney.

That said, you can actually do some key intellectual property basics by yourself. Ensure you have written agreements with cofounders, contractors and employees. If your business involves software, make sure you understand and have the rights to use any code going into your product.

What next?

While you can do some legal work yourself, a good lawyer can really add value and save you time/stress. If you're starting a business, contact a good startup-focused lawyer – they should be able to have a free, initial chat. Any honest lawyer (they do exist) would rather

build trust and ensure you spend your money on growing your business where possible. If you have any doubts on all of this, do talk to a good lawyer – and ask for a fee estimate early on.

Wade Pearson is an Associate in law firm Gallaway Cook Allan's commercial team in Dunedin. This article is general in nature, so don't use it as a substitute for legal advice.