

Black & Blanco

A simple guide to

STAKEHOLDER AGREEMENTS

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What is a Stakeholder Agreement?

A **Stakeholder Agreement** is an agreement between owners of a business which sets out the manner in which the business is to be managed, both during and after the lifecycle of the business.

Partnership Agreements, Shareholder Agreements and Unitholder Agreements are all types of Stakeholder Agreements and the type of Stakeholder Agreement which will be appropriate for your business is dependent on the business structure.


For example, generally:

- A **Shareholder's Agreement** is appropriate for a business run through a company structure
- A **Unitholder's Agreement** is appropriate for a business run through a trust structure
- A **Partnership Agreement** is appropriate for a business run through a partnership structure

Best practice is to enter into a Stakeholder Agreement with your business associates at the commencement of the business relationship. This allows parties to have positive and productive discussions from the outset and make proactive decisions about how the business is to run, who is responsible for what and how disagreements are to be overcome. It also enables any differences in approach and opinion to be highlighted early so alternative strategies and resolutions may be considered and discussed in a collaborative and non-confrontational environment.

Don't fall into the trap of thinking that because you're entering into business with your best friend or a family member that you don't need a Stakeholder Agreement. In practice having a Stakeholder Agreement when entering into business with someone you have a preexisting personal relationship with can assist in ensuring that the personal relationship is preserved beyond the lifespan of the business by assisting in the prevention of business related disputes and dictating the manner in which disputes must be resolved in the event they arise.

Do I need a Stakeholder Agreement?



Stakeholder Agreements, while not compulsory, are an important agreement to have in place for all businesses where there are two or more stakeholders (such as partners, shareholders or unitholders) as they set out how the business is to operate, be managed and, when the time comes, terminated.

You can think of a Stakeholder Agreement as a 'rule book' for the operation and management of your business as well as a 'pre-nup' for the end of your business relationship.

Negotiating and agreeing with your business associates on how the business is to operate and be managed early in the relationship can save much time, stress and money down the track.

Stakeholder Agreements will often consider issues such as:

- How decisions are made
- How disputes are resolved
- What happens if a party wants to leave the business
- What happens if a party passes away or becomes incapacitated
- Who is responsible for injecting funds into the business
- How are profits to be divided and distributed
- Can other parties buy into the business
- How will the business be valued
- The process for selling the business

Next steps?

If you're entering into business with someone else, it is highly recommended that you seek professional advice and consider entering into a Stakeholder Agreement with your business associates. As the circumstances surrounding each business is different and the nature of each business and each business relationship unique, Stakeholder Agreements should be prepared for and tailored to each individual business.

Spending some time negotiating and discussing with your business associates how your business is to operate and be managed early in the business relationship can save much time, stress and money down the track.

At **Black & Blanco** we take the time to understand your business and make things easy by coming to you, outside of office hours if necessary and providing fixed fee quoting.

If you'd like to proactively make decisions about the management of your business, contact us to organise an obligation free 20 minute telephone consultation.



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Founder and Principal Solicitor
Black & Blanco