



COVID-19

FRANCHISOR RESPONSE GUIDE

written by
Elizabeth Gore-Jones

Brisbane Office

Clarence Chambers
Level 10, 239 George St
Brisbane QLD 4000
Phone (07) 3180 0150
Fax (07) 3041 4797

Gold Coast Office

Wyndham Corporate Centre
Level 9, 1 Corporate Court
Bundall QLD 4217
Phone (07) 5529 8803
Fax (07) 3041 4797

Central Post Office Box

P.O. Box 428
Oxenford, QLD 4217

Franchisees are Looking to you

Your franchisees will be looking to you for direction, policy and probably reassurance.

Now is the time to ensure you have good leadership, good communication and definite directions and policies.

These directions and policies may change as the crisis evolves and new factors come into play and you need to ensure your responses are swift and direct.

Set boundaries and be definitive in your communication.

Appoint one person to be the point of contact for your franchisees. That person must keep up-to-date with the latest changes so they can be shared with the network.

How and When to Communicate

Your communications to your franchisees should be:

1. in writing – email updates and ensure you change the operations manual to reflect any directives or change in policy;
2. regular – your franchisees need the reassurance that you have not forgotten them and that you are working tirelessly to protect them, their livelihood and the brand/franchisor;
3. up to date – if the Government changes policy or directive ensure that you are responding in a timely manner and updating franchisees;
4. definitive – now is not the time to be vague or uncertain. If you are setting a directive or changing or issuing a policy make it direct, succinct and unambiguous.

OH&S

The health and safety of your franchisees, their employees and their clients/customers is paramount.

The health directives of the Government are clear. However, you cannot assume that your franchisees are watching the news or up-to-date with the latest.

You need to send a directive and update your operations manual to cover matters such as:

1. hand washing and sanitisation;
2. if employees or the franchisee have been overseas then they cannot work in the business until the mandatory 14 days of self isolation has been met;
3. if employees or the franchisee are showing symptoms then they must stay at home and self-isolate, then cannot come to work;
4. charge each employee with the obligation to report if they become aware of other employees showing symptoms or who have been overseas and not declared that to the franchisor;
5. have each employee sign an acknowledgement and undertaking with respect to their obligations to report and self-isolate – predominately to show just how important this is and is being treated;
6. the policy in dealing with clients/customers and the public in the operation of the franchised business and measures to reduce likelihood of contamination;
7. require the franchisees to sign an acknowledgement and undertaking with respect to the OH&S directive; and
8. consider potential legal liability if an employee contracts the virus.

Franchise Agreement

Immediately review your franchise agreement to ascertain your legal rights and obligations and the legal rights and obligations of the franchisees.

Does the franchise agreement provide for circumstances such as these? Are there any provisions governing what to do?

Look at the force majeure clause, does it apply?

Are there termination or suspension rights?

Are there abatement of fees or other payments provisions.

You should be aware of your legal position and plan accordingly.

Let Franchisees Contribute

You may like to consider allowing franchisees to contribute to new policies.

Suggest to franchisees that they form a response group and appoint 1 member from that group who will communicate with the franchisor representative.

This will give franchisees some ownership and input and you will have access to feedback from the face of the business which may assist you to formulate better policy.

Employees

- *you and your franchisees should consider your employment needs over the coming months*
- *review awards, legislation and EBAs to ascertain potential risk and liability if staff are let go*

Landlords and premises

If your franchisees lease premises then they need advice about their legal rights and obligations with respect to ongoing rental and other payments especially if there has been a significant downturn in trade.

Are there rent abatement clauses?

Is there a force majeure provision?

You need to tell you franchisees to review their leases to be aware of any rights and obligations they have.

Your franchisees should consider contacting their landlords right now to ascertain if there is any rent relief available now and what the policy and plan of the landlord is now (remembering this will change as the situation evolves).

Consider writing a template letter for the franchisees to send to their landlords.

You cannot give them legal advice, but we can review leases for them.

Supplier Arrangements

- *Make contact with suppliers to ascertain any current or potential supply chain disturbances*
- *review supplier contract to ascertain your position and that of your franchisees*
- *negotiate more favourable terms*
- *adopt contingency plans*

Clients and Customers

Consider drafting an open letter to clients and customers advising of:

- 1. your policies;*
- 2. varied operating/opening hours;*
- 3. how you are dealing with the virus;*
- 4. your policies to protect them;*
- 5. innovative products and services;*
- 6. reassurance it is business as usual (as much as it can be).*

You can either direct your franchisees to send this or give them the option.

Again, open communication is key.

Remember

- 1. this will be relatively short term; and*
- 2. current pain needs to be weighed against consequences once the crisis abates.*

How we can help

You may have a lot on your plate at the moment.

To help you in navigating these times we can:

- 1. keep you up to date with law changes and Government directives as they occur;*
- 2. draft changes to your operations manuals;*
- 3. draft policy changes and communications to your franchisees;*
- 4. draft communications to clients and employees;*
- 5. review your leases and those of your franchisees;*
- 6. draft communications to landlords;*
- 7. draft undertakings and acknowledgements for your employees, franchisees and their employees*



CONTACT US

www.thefranchiseandbusinesslawyers.com.au

elizabeth@thefranchiseandbusinesslawyers.com.au

Brisbane Office

Clarence Chambers
Level 10, 239 George St
Brisbane QLD 4000
Phone (07) 3180 0150
Fax (07) 3041 4797

Gold Coast Office

Wyndham Corporate Centre
Level 9, 1 Corporate Court
Bundall QLD 4217
Phone (07) 5529 8803
Fax (07) 3041 4797

Central Post Office Box

P.O. Box 428
Oxenford, QLD 4217

Disclaimer: *This is not legal advice. You should seek your own legal advice for your circumstances. Do not rely on this communication without consulting a solicitor.*