

# Rise to the challenge - Try to find some positives in the lockdown

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At the time of the writing of this Article we are (in early April) in the second or third week of widespread working from home and Government imposed “*social distancing*” as a result of the Covid-19 Pandemic. The response of the Federal Government in relation to relief from insolvent trading law, increasing the threshold debt levels for bankruptcy and liquidation proceedings to \$20,000 and extending the time for responding to a bankruptcy notice and a statutory demand to six months before a deemed insolvency occurs has been, in terms of the time it usually takes for legislative changes to occur, remarkably swift. Further, the issues surrounding employment law and changes to awards announced by the Fair Work Commission in early April also show how quickly things are changing.

The speed of these changes, many of which are quite radical, is in fact a sobering indication of the seriousness of the situation we find ourselves in. The situation has been changing so quickly

that it is impossible for this article to even pretend to be topical with substantive legal matters and so it will not: instead this article will attempt to set out some considerations that might lead to some positives coming out of this crisis.

Without wanting to sound like Pollyanna or Dr Pangloss,<sup>1</sup> the unique nature of the current problems might be seen as the opportunity to test your resourcefulness and resilience.<sup>2</sup>

Although we don’t know when the immediate crisis will abate, and what the “*new normal*” will look like, strategic thinkers will already be planning how their businesses -including legal practices- will deal with things if and when the current “*social distancing*” rules are relaxed and society emerges from this current period of “*hibernation*”. Who knows, there may actually be some good that comes out of all this - we can hope for this, but we can also plan to make those positives happen, without of course downplaying the obvious issues we all now face.

One example of a potential “*silver lining*” might be if your newly found (and in many cases, including mine, hard won) IT skills developed after a period of working from home result in a more flexible approach to working from home even after your office reopens. It is possible that this could turn into a long term positive for your practice and your staff. As long as the cyber security issues caused by working remotely are properly addressed and client needs are met it may be that a happier and more productive work place could result.

I recall that many years ago I was in Bangkok on my way home to Adelaide after trekking in both Kashmir and Nepal when my wallet was stolen leaving me with 48 hours before my flight home and no money and no credit cards. As crises go it wasn’t by any means life or death but it was in the days before mobile phones and the internet. It was very much in the heyday of hard copy guidebooks. So out of the blue I had the idea to hang out for a while in a bookshop in the main

backpacker area of Bangkok and see if I could sell my Lonely Planet Guides to Kashmir, Nepal and Thailand. I still don't know where this thought came from but I did manage to get talking to a Swiss backpacker who was going to both India and Nepal and she bought my books! I managed to clear enough Baht to tide me over for the next couple of days and get me to the airport on time.

Hardly Bear Grylls or The Amazing Race, I know, but the point of the anecdote is that faced with an unusual situation I managed to find resources and resilience within myself that I didn't know I had. It was actually a classic win-win scenario because I got enough money to have some cheap and delicious Thai

curries from street hawkers and she got the guidebooks she wanted cheaply.

The story is most likely apocryphal but King George III is reputed to have said "*lawyers don't know any more law than anyone else, they just know where to find it*". Now I'm sure that lawyers do know more law than others, but of course no one can know or remember everything. When faced with a problem that we don't know the answer to, lawyers will search for the answer perhaps through legal research, looking for precedents, consulting colleagues or barristers, or maybe even searching the risk management resources on the Law Society website. These steps will always be done by lawyers using their training and logical clear thinking skills. The challenges

brought about by our current situation should be no different.

As legal practitioners you will have been trained to think clearly and logically and to apply problem solving skills for the benefit of your clients. In addition to using these skills for the benefit of your client you also need to use them in your own practice generally but in particular over the next few months. We are all in uncharted waters and no-one has all the answers, but hopefully as lawyers we have the capacity to find them. **B**

#### Endnotes

- 1 Look it up!
- 2 As to well-being, the Well-Being & Resilience Committee has released a useful article published to Practitioners on 25 March 2020 and which is reproduced in this issue of the Bulletin.