From all sides podcast transcript

Episode 23, Lynda Mc-Alary Smith, Commissioner at Victorian Small Business Commission (VSBC)

**Speaker Key:**

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**Transcript:**

IE If you build a business that's following the law, that's set up with solid foundations, you’re really set up as a recipe for success. When businesses start to either deliberately cut corners on following the rules or just accidentally, if you like, through lack of awareness, not following the laws as they should, that's when you’re setting your business up more as a house of cards which could fall over at any point in time.

IV With us today is Lynda Mc-Alary Smith, the Commissioner of the Victorian Small Business Commission. Linda is a qualified lawyer and accomplished senior executive with extensive experience working with businesses within Victoria and nationally. Victoria has over 600,000 small businesses and some of the biggest growth of small businesses in Australia, even during the COVID-19 pandemic.

 In this episode, we'll explore the critical role the Victorian Small Business Commission plays in enabling entrepreneurship across Victoria, ensuring small businesses have low-cost dispute resolution options for disputes that they may face with anyone who is not a retail consumer.

 Belinda grew up in a setting where she saw her own parents navigate the highs and lows of running a small business first hand. This has instilled in Lynda the courage, pride and passion people have for their businesses. And you can see this and how Linda seeks to provide a competitive and fair operating environment for small businesses through her role as the Commissioner of the VSBC. Lynda also reflects on commencing not one, but two leadership roles during the COVID years. And we reflect on what it means to be a modern regulator in our economy today. We hope you enjoy the episode.

 Firstly, thank you so much for joining us on our Cube Group From all sides podcast. Firstly, I'm really interested in how you came to be the Victorian Small Business Commissioner in the first place. What was your path to the role and what does the day in the life of a commissioner look like?

IE Great question. Thank you so much. And it's a delight to be on the podcast today, having a conversation with you about all things small business and leadership. I was appointed as the Victorian Small Business Commissioner in August last year. And there was a formal appointment process, which ultimately ended up with the Governor in Council appointing me as an independent statutory head, to be the Independent Small Business Commissioner, which is really important because while the commission is funded by government, it's independent of government.

 And that's a really important part of the role that I play is that, I have the freedom and the ability and the latitude to be able to make strong arguments into government about what's impacting small business, the good and the bad of that. I've had a bit of an interesting pathway to how I came into the role. And one of the things that really drew me to the role, obviously taking up the appointment to fly the flag for small businesses in Victoria in the middle of the pandemic and lockdowns here in Victoria.

 I grew up in a small business household. My parents had a small business when I was growing up. As a small business as a family, you live and breathe it. Nothing gets left at the door. And their business unfortunately, didn't survive the 1990s recession. And that had a really incredible impact. I was a teenager. I’m giving away my age now. It had an incredible impact on my life. And I felt the opportunity to help Victoria’s small businesses at a time of great need and to give back.

 I've spent quite a bit of time as a lawyer, as a regulator of businesses in building construction and industrial relations. And worked with thousands of businesses right across Australia, of all different sizes. I've seen a lot of when things can go wrong. And I've seen a lot of great things that businesses are doing. I was really keen to bring that experience to bear.

IV Can you tell me what it was like to join in August last year because if my memory serves me correctly, we were navigating lockdowns around that period, and now very much transitioned into an environment of hybrid working. In your experience, what was it like to join in that sort of environment?

IE I've had a really interesting experience with starting new jobs during COVID Chloe because it’s actually my second job, I’ve started during COVID. I started from my lounge room. Prior to my appointment as Commissioner, I'd spent some time in secondment in a Victorian government agency, The Victorian Building Authority. The regulator of builders, and plumbers and other trades in Victoria. And it is really different starting from your lounge room.

 And the first thing I'd say is, it's a position of incredible privilege that when there's so much, and has been so much heartache across Victoria and in Australia and the world, to have the opportunity to be in employment and to work from home. And to work from home safely with access to technology and support. It's something we should never take for granted and I certainly don't.

What I certainly found starting virtually two jobs now is that, you have to put a lot more energy and effort into building connections remotely. When I had worked in industrial relations, I had hundreds of staff in about 25 offices around the country. People were not working right outside where I was sitting, is not new to me. What I've learned through that experience, and particularly with COVID as well is, you really have to spend time to try and personally connect with people, be it those people in your organisations or important stakeholders you're working with or customers, you have to invest extra time in trying to build those personal relationships.

And in both jobs that I started during COVID, one of the first things I did was set aside, it was about a 40-minute catch up with a whole range of different people one on one, across the organisation just to say hello. And say, this is my story, this is why I'm here. Hear their story back as well before you even get into talking about the work stuff because I think it's certainly not being physically together means you have to try a lot harder to build those connections and to bring a certain leadership style, as well.

IV The Victorian Small Business commission, when you really step back and think about it, you could see it as a bit of an unsung hero of the Victorian economy. In Victoria, we have some of the highest numbers of small businesses. And I think we've just ticked over 600,000 small businesses across our state. What does the Victorian Small Business commission do for those small businesses?

IE We've got a couple of roles and we help businesses at different stages of their life and the small business people who run them, and that their advisors who support them. We have an alternative dispute resolution service that we provide, which is either fee-free in a lot of instances, for our early assistance, or provides also low-cost dispute resolution. When I say low cost, I mean $195 for a mediation if you need it.

 Effectively, when a small business is in a dispute with somebody else who's not a retail consumer. So, that could be for example, with another business, perhaps over unpaid invoices or work not done or work done to a poor-quality, disputes between landlords and tenants. We also assist farmers and their financiers to navigate through debt attached to farms as well. And smash repairers and insurers who sometimes might be in dispute. And owner drivers and forestry contractors as well.

 It's a bit of a mixed bag. And one of the great things about the commission in Victoria is under our Small Business Commission Act, a piece of legislation which sets us up, we can help any small business who's in dispute with someone who as I said, it's not a retail consumer. There are very few limitations on who we can actually help. And small business is not actually defined. So, we take a really pragmatic approach to that and focus on businesses who identify as small.

 And we provide low-cost dispute resolution to all of these parties who might be having a dispute. And we've got staff internally who are really skilled at providing alternative dispute resolution, which I describe Chloe as a cool head in the middle or a circuit breaker.

 When parties are really upset at each other, or the professional relationship has broken down in some way that, we can come in and provide a little bit of, probably a mixture of TLC and sometimes a little bit of tough love to both parties to try and help them to see what's a way forward to resolve the dispute to avoid either having to go to court or get money that they're entitled to.

 And we resolve around 40% of matters that come to us get resolved, with no cost at all to any of the parties and are resolved really quickly. And of those that don't get resolved through that point, we refer them onto mediation, if both parties would agree. So, that's where the $195 comes in. And we have a panel of independent expert mediators, who are all nationally accredited, who effectively work with both parties to figure out what's a sensible resolution to the issue.

 And one of the real gifts of mediation is that it empowers the parties to resolve their own dispute. So, it's not a judge. It's not a tribunal member picking a winner or a loser. It's the both parties are working through thinking about the other party’s perspective. Thinking about what's the most efficient, sensible way to resolve this issue. And trying to take some of that emotion out of it as well. And we get great success through that process as well, too. So, by and large, most disputes that come to us get resolved either through our early dispute resolution or our mediation.

 And then a key part of what the agency also does is, we have a voice for small business into the Victorian Government, and indeed the federal government as well, to ensure a fair and competitive operating environment for our Victorian small businesses. So, that could range from if people are having issues with the tax office or ASIC, or there's policy decisions being made or programs being instituted, which are either making life easier for small business or making it harder, we often hear more about the latter. And where I can have a voice into government to influence those outcomes and ensure that when decisions are being made that impact small business that, that small business perspective is really under understood by the decision makers.

IV Wow, that's a number of different hats that you wear there.

IE Going to court is incredibly stressful for anybody. And I say that as a former commercial litigator as well, myself. And the parties getting involved in disputes, it is costly. It is stressful. You may win. You may lose, that's out of your control. Even if you win, maybe you're in a jurisdiction where you don't get any costs. So therefore, you'd be paying all your legal fees yourself, or you might get some of your legal fees covered, but not all of it.

 And it's the uncertainty and the time. One of the things we seek to do is look at situations where there might be a bit of a disparity of bargaining power, and trying to equalise that, and then get the parties to be able to resolve it themselves. I won't say to a situation where they're happy with it, necessarily, particularly not at the moment with all the legacy impact of the impact of COVID. But that they can at least live with it and most importantly, get back to running their business, and that their dispute isn't a distraction for them. It's not a drain on their bank account, in trying to deal with it. And most importantly, it's not a drain on their mental health in having to have a dispute hanging over their head as well.

IV Yes, absolutely. You have any number of queries coming through the Victorian Small Business Commission, on any given day. Let's imagine you were to embody your parent's dream and start your own small business. What would be your top tips for people wanting to start a small business in Victoria, based on what you've seen at your time with the Commission?

IE I think firstly I'd say, Victoria is an awesome place to do business. I think there are lots of opportunities. And even on the back of the last couple of years, I'm still seeing so much of that incredible entrepreneurial spirit and that resilience as well. And new businesses are opening up every day. We have new businesses opening up even in the middle of COVID. That doesn't mean that there are not others who are doing it really tough. But there are certainly some really significant green shoots in the small business sector.

 The top couple of tips I would have would be planning. And it's really tricky, because when you're wanting to start your own business, normally, it's because you've got a brilliant idea, or you're really good at something and you see an opportunity. And it's a really exciting time, which is a really positive thing. I don't want to rain on that parade. But taking the time to make sensible decisions and plan.

 One thing that we see a bit of here at the commission is, people who have been really excited to start their business and perhaps have signed a lease without finding out if they're actually allowed to use that premises. If the counsel will let them use that premises for that type of business, which in lawyer lingo is called permitted use.

 And we sometimes have tenants come to us who've signed a lease, because they're really passionate, and they're excited about their business. And they think they’ve found the best spot. And they go to council to get the permits required and then they find out that actually, no, they can't operate it. And then they're dealing with a really significant financial contractual issue with the landlord where they've effectively agreed to pay a lease for x period of time and can't run their business.

 Getting good advisors around you is really important early on. And I think one thing too is, even when you're starting out as often people do it as self-employed, so just with themselves, effectively. Making sure you're setting up your structures and thinking about your structures and you're in control of that. Sometimes, and we saw this a bit through COVID, too with differing grant programs and things that, sometimes people probably had devolved to that event to their advisors.

 They didn't necessarily understand why their business structure was what it was, or they had been told by their advisor what their structure should be. And they’ve just gone along with that, getting an ABN. Registering for GST is really important, even if you're not going to be earning enough to pay it. It's really important to register for it. Do you incorporate and set up a company? These are like the weeds questions that are like an issue that can sometimes feel like a bit of a drag on whatever exciting idea or business opportunity you have.

 If you get this stuff right, you get the foundation's right, so that you're setting it up. So, you can grow your business if hopefully, it's successful. And of course, you've got solid foundations in place in case maybe things don't go as much as you'd hoped.

 The other point is doing research, as well. There's heaps of great information available really freely, particularly on the internet, local councils, and your economic development officers within your local council. If you bring your local council and ask to speak to the economic development team, eco devs for short, and have a chat about your idea. And have a chat and get their advice and perspective on where might be good areas in the area, in the council area to operate.

 What might be some of the permits you might need, if you do? What are some of the training programs or support you can get? There's a heap of free information available at business.vic.gov.au all to do exactly with this about starting a new business. And it can take you through a whole range of things about business planning. Even if your business plan is only one page, it's a good idea to jot down and go, what are you aiming for?

 I know that a lot of people have had success when starting out in their small businesses too, with staying in their normal job, to start with a little bit, that good old side hustle. And so, you've got cash coming in, because that's probably one of the biggest challenges when you are starting a business is uneven cash flow.

 You might be doing work, while you're often doing work for customers, if you're in a service industry, for example, then you've got to bill them at the end of the month, and then they've got time to pay. And that's if they pay on time. So, having a little bit of regularity of cash flow and security of dollars coming in can help you dip your toe in the water, as well. But it's exciting when you're starting a business.

IV You reflected earlier that you saw lots of small businesses cropping up during COVID. And I think we all saw around us how small businesses where we lived, were quick to adapt to the changing conditions of COVID. I saw many restaurants convert very quickly to take away and a whole number of different ideas popping up out and about. What were your main reflections on the challenges that small businesses have faced during the period of COVID? And also, just following the most intense period of COVID, where we start to see life start to transition back to normal now, what are you seeing at the Commission, in terms of the issue small businesses are facing today?

IE I think one of the hardest things for our small businesses during COVID was the uncertainty and the not knowing what the future held. And it made it really hard for businesses to make decisions, because in the early days, was this going to last for a little bit of time? Was it going to be more significant? I don't know that any of us ever thought we'd still be talking about COVID two and a half years later.

 And it makes me reflect on the time when Omicron popped up again. And there was the language that was getting used around like, the shadow locked down where there were no restrictions on people being able to go out and about into shops and cafes and restaurants and things but consumers themselves were choosing to stay home.

 And I think a lot of businesses found that really, really difficult because one of the certainties that you had with some of the government decisions that were made were, and albeit these timeframes do change from time to time. But you had a date that you were aiming for, that you thought this is when this period will finish. And the hard thing about when it was consumer behaviour, people choosing to stay home was how do you respond and manage to that?

 Our businesses in our central business district in Melbourne, in particular. But not only Melbourne, around in our larger regional cities too is that ongoing impact of what's happened in the workforce and how that's fundamentally changed. And so, businesses now are needing to say, CBD in Melbourne is booming of an evening and on the weekends.

 What's my offer? What's my offer for my business? How viable is my business when Mondays and Fridays, for example, are pretty quiet in the city in terms of office workers being in. So, businesses are having to make decisions saying, I might be running a sandwich shop and I've got three busy days out of seven. And I'm paying rent for seven. And I'm paying other overheads for seven. Is that viable or are there other opportunities where I could actually tap into people wanting to come into the city to go to shows and sporting events and having dinner and things like that? I think that creativity has really, really shone through during COVID.

 And you're right about the two speeds, I think there are lots of, there are some businesses who are doing incredibly well and don't like to shout it from the rooftops, but are probably making more money than they ever have because people were redirecting their money into their industry or their particular business. Or they've made had to make business changes such as QR codes and things like that, or automation or using technology more and running their business to help get through some of the checking responsibilities.

 But then also the staff shortages. And now looking at going, my business is actually operating much more efficiently than it has. And then at the flip side, you've got businesses who are still carrying a lot of debt from COVID. So, that could be rental debt that they've deferred, that might be money that they owe to the Tax Office. And usually, if you're owing money to your landlord, you almost invariably will be owing money to the Tax Office and then often to others as well.

 And that could be, you might have loaded up on your credit cards, redrawn on your home if you have a home, or borrowed from family and friends. I think that's one of the challenges now for some businesses to navigate through that, because effectively now they need to be more profitable than they've ever been before, because they're having to service debt that they haven't previously had. And of course, it's hard to find staff at the moment. There's some pressures in that space as well, too.

IV Now, we've got many diverse small businesses across Victoria. But what sits behind that diversity is often diversity of the people who are running small businesses. I'm really interested in your perspectives on how you make information and resources more accessible to our diverse small business owners across Victoria.

IE It's so important, Chloe. It's one thing that government is focusing on but government of all tiers can be doing better is, making sure that they're communicating with either the actual small business owners or potential small business owners in a way that works for those business operators, because our small businesses in Victoria are not a homogenous group. And that's a good thing, that they are also so different and unique in their own way.

 But connecting into where those businesses are already doing business. So, that could be through software companies that are providing their bookkeeping and their business management technology. That could be through local Chambers of Commerce or Traders Association. Community groups, where people are connected to as well. But it's really beholden on government to go to where the businesses are doing their business or living their lives, rather than expecting businesses to have to come to government to seek help. I think there are some really good resources and support that are available from government. And it's really important that, that gets out to a diverse of range of our small business people as possible.

IV Could you share some examples of where the Victorian Small Business Commission has maybe gone to where businesses are doing business?

IE We make a point, and meet me personally as commissioner in terms of getting out into our region's and that's really, really important. So, doing things such as walking the local high street, if you like of communities, and talking to actual small business owners is really important. We've also worked really closely to build relationships with a whole range of different, as I said, associations, traders associations, chambers, councils who are dealing with businesses every single day.

 We've been working on developing networks across all of the councils across Victoria, to make sure we’re connected into them really strongly and to their businesses themselves. And it's one of the upsides of we have to look for a silver lining through the COVID years. It's how much we've all adopted technology. All of a sudden, I can do a webinar and that can be recorded. And any business across Victoria or even the world, if they really wanted to watch, can access that at any time, in a time that suits them.

 They can save it. They can come back to it. I think what we've really tried to work on at the commission is really making sure that, we're making sure interactions with us are as easy as they can possibly be, and as valuable for businesses. I think we've got more to do in terms of connecting with communities where the language other than English is spoken. And there's a lot more that we can we can be doing in that space.

 So, that's a key priority for us over the next couple of years is to strengthening our relationship with communities where English is either not spoken or there are challenges in terms of people understanding, potentially the Victorian context or the Australian rules around doing business. And we want to make sure that we really encourage those businesses where we might have migrants. We've got an incredibly rich and diverse refugee community here in Victoria, as well. How do we partner with those people to be able to support them in building up their own economic development and growing jobs for themselves and for their families as well?

IV How would you respond to someone who says that regulation can be a threat to innovation and growth in our economy? What would you say to a comment like that?

IE I think what we need is a healthy environment where there are frameworks for people to be able to operate their business safely and lawfully, but not in a way that's overly constrained. But recognising that, unfortunately, human nature being what it is, there are some people who will look to take advantage of others. And that could be to take advantage of other business people, that could be taking advantage of their employees, if you like.

 One of the things which regulation provides to small businesses is a level of confidence and certainty around what are the rules. The trick is making sure that everyone has to play by those rules. And that those rules are fit for purpose for small business and not just big business. And that's probably one of the challenges is that with small businesses, there can be a lot of regulation to navigate. And that's before you get into laws changing at different points in time.

 And large organisations will have teams of lawyers or experts who can help advise them on the impact of that and change anything that they need to. And that's one of the tricks for small businesses and one of the harder things which is again, where I think the value of industry associations and chambers of commerce can really come into their own about helping explain to small businesses, what are the regulatory requirements. And what they need to do to make sure they keep doing the right thing.

 If you build a business, my experience is that, if you build a business that's following the law, that's set up with solid foundations, you really set up as a recipe for success. When businesses start to either deliberately cut corners on following the rules or just accidentally through lack of awareness, not following the laws as they should, that's when you’re setting up your business more as a house of cards, which could fall over at any point in time.

 I think there's a balance about making sure regulation is fit for purpose. So, businesses aren't overly regulated. And one of the questions I constantly have into government regulators is, what harm are you seeking to prevent? What risk are you seeking to seeking to manage and how is this helping? Rather than just building a scaffold of rules that have existed for a long time, and that everybody’s just, it's the rules. What's this regulation seeking to achieve? Is it achieving it? And is the benefit to the community? Does that justify the impost on the business of having to jump through that hoop? That's a work in progress, I would say.

IV I love that, that's such a simple, practical, straightforward question of what harm are you seeking to prevent? Because that's why we have regulators in the first place. And it's often a question we ask the public purpose organisations that we work with, what would happen if you didn't exist?

IE Yes, that's right. And it can really centre people's thinking about the why, particularly if small businesses sometimes, maybe through no ill intent of the policymakers. But sometimes, small businesses can end up with perverse outcomes because of regulation works in a certain way that maybe didn't anticipate their scenario.

 And you get back to the basics of, was this person actually doing something really bad or not or did they just make a mistake? Why do we require this business to get all these different licences and permits? And why do different councils require businesses to navigate those requirements in different ways? That's an ongoing challenge.

IV I think as simple and straightforward as we can make it, the better, because then we'll have even more brilliant, small businesses across our economy.

IE That’s right. We want the next generation of small businesses owners and entrepreneurs to be excited. And we want them to have a go and have a tilt because that's how I describe our small business entrepreneurship as our superpower. And we want to make sure that the new generations coming through see being a small business is a great option for them.

IV Lynda, you've touched on a few of the aspects that we are seeing in modern regulators throughout our conversation already today. They're things like becoming really evidence-based, investing in education and also, that all important partnering. You've alluded to partnering with people like industry associations to ensure you're tapping into the different small businesses that exist across Victoria. What do you see as key to being a modern regulator in today's society?

IE I think having that really laser light connection to your core purpose about why you exist in the first place. And being really honest and open to being able to use your data to be able to inform your policymakers and your authorising environment about whether or not your regulations are fit for purpose.

 Every regulator should aspire to ultimately do themselves out of a job. Human nature is that there's always going to be naughty people, so that's probably a utopian aspiration. But it is a really important reflection of regulators that it's not, they're not doing work just to keep themselves in a job. But what are you doing to prevent the harm? What are the what are you doing to prevent people making mistakes in the first place?

 We know that, from a regulatory perspective, there will always be that very, very small percentage of people who will always do the wrong thing. And their regulators need to be throwing the book at them. And putting all their energies into them, because no one wants them in the marketplace at all, that by and large, the vast majority of people will do the right thing, if it's easy enough for them to do the right thing.

 How do you invest in that preventative piece and that education piece? And using the data, as you said, sort of really evidence-based, proper risk-based and proportionate. And not putting everyone in the same bucket. But being really thoughtful and sophisticated or nuanced. And with access to data and technology and artificial intelligence and the like, there's no excuse for any of our regulators operating in any different kind of way.

IV Yes, absolutely. I think what you said there, there's a smaller percentage of people who do set up to do the wrong thing. It reminds me, I started life in internal HR. And there was one company that I stumbled upon, it was their social media policy was just don't be an idiot. Sometimes, that's all people really need.

IE Yes, just keep it simple. Keep the message simple.

IV Lynda, thank you so much for meeting with us today. It's been really fantastic to learn more about the Victorian Small Business Commission, the sorts of businesses you support, and your important role in the Victorian economy. I'm really interested in closing, what's your one last message for small business owners today?

IE Look after yourselves, because you only get one you. And small business is really exciting but it takes up a lot of your time and your headspace, as well. So, stay up to date, with all your health checks. Stay on top of all of that sort of stuff. And also, look after your mental health as well. It can be tough at times running a business. And it can be lonely, as you said before, as well. And there's extra pressures that small business owners have that employees just don't.

 I'd really encourage any small business operator out there who is struggling to reach out for support, because there are many programs. You've got Beyond Blue, you've got lifeline, you've got Partners in Wellbeing which you can access free financial counselling, and free mental health counselling. And you can get all that info on business.vic.gov.au.

 We've got it on our website at vsbc.vic.gov.au. But make sure you make time to look after yourself and figure out what fills up your cup, in terms of be it spending time with your loved ones or doing stuff that's not about your business. Make sure that you set yourself up for, running a business is a marathon. You have to pace yourself and you need to be match fit in order to be able to do that really well.

IV Fantastic advice. Thank you so much for your time.

IE Fantastic. Thanks so much, Chloe.

IV Our guest today has been Lynda, The Commissioner for the Victorian Small Business Commission. At Cube, we would like to recognise the Wurundjeri people of the Kulin nation as the traditional owners on the lands on which Cube is based.

 If you'd like to know more about our conversation today, please visit our website at cubegroup.com.au where you can find show notes, additional links and download a transcript of this conversation. Whilst you're there, you can find out more about Cube Group, our case studies and learn about our team and our work as a purpose driven consultancy. I encourage you to subscribe to our podcast From all sides on Apple, Spotify and wherever you get your podcasts. Thanks again for listening.

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