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Client Screening

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The tremendous pressures of legal practice can be overwhelming at times, and for a sole practitioner, who is faced with many responsibilities, particularly non-legal ones, 'client' screening is fundamental. The ability to decline and say "no" to a prospective client in appropriate circumstances can minimise the risk of a professional claim.

Often the 'initial' instructions received from a prospective client will provide an indication or warning to the practitioner that the matter being proposed should not be taken on.

Below are indicators / matters to consider every time you are approached by a prospective client:



The client who wants the job done yesterday

The client with the unreasonable expectations as to how quickly a legal task can be performed even when confronted with formal legal advice should immediately set the warning lights flashing.

The client who is concerned with fees

This type of client wants a legal task performed at a cost which is simply uneconomical to the practitioner.

The client who has an unrealistic expectation as to the result

It is important to have an initial understanding of what the client expects from you in a matter and explain to the client at the beginning what can be reasonably expected. Where a legal matter is conducted with the best possible result achieved, if the client's expectations were not met because they were not adequately dealt with from the start, then the client will ultimately be dissatisfied.

Accepting a matter from another solicitor or where a client has transferred the matter from solicitor to solicitor

A prospective client who presents with a matter which has been through the hands of a number of solicitors previously, particularly, if there are outstanding fees owed to the solicitors should raise alarm bells. If the prospective client is changing lawyers, ask yourself why. Obtain the client's permission to contact the previous lawyers, and if possible determine their experience with the client and why the relationship has ended.

Is the client prone to litigation?

Try and ascertain if the client's previous claims were meritorious. Were the other lawyers paid? Were there unjustified fees disputes?

Having made all of the above inquiries, and, if the matter is accepted the engagement letter / letter of retainer is a fundamental risk management tool which can be of great benefit to the parties if properly structured. From the outset, it should set out what the client should expect and what the practitioner expects. It ensures the parties are on the 'same page' when a matter is commenced.

The Engagement Letter should precisely outline who 'the client' is and the scope of the retainer. A general retainer to act will become fraught with difficulties and should be narrowed as much as possible. Some essential aspects should be addressed in this letter including, but not limited to the following:



- precisely what legal work is to be conducted / what the practitioner will do;
- the basis upon which fees and disbursements will be charged;
- who is to conduct the work;
- confirmation of the client's instructions;
- what the client will do;
- any limits on the practitioner's responsibility and/or special conditions applicable to the retainer;
- the estimated or potential time frame for the conduct of the matter;
- the basis upon which the engagement / retainer can be terminated;
- any limitation periods applicable and the consequences if they are missed;
- that it is the client's responsibility to inform the solicitor of change of address / telephone number / contact details.

It is also essential to give an estimate of the general time frame for the matter and, to spell out to the client that unforeseen circumstances might change such initial estimates. At the very least, this provides a safeguard to the practitioner particularly, when from the outset of a matter it is not entirely clear as to the particular time frame which will be necessary.

At times, you may feel bound by your sense of professional responsibility to act on behalf of a difficult client. Cautiousness will assist in the handling of such clients, particularly those that may evolve into 'difficult clients' and hopefully ultimately protect you from a claim, complaint and financial disappointment.

For any queries about this or other Risk Management Services offered by Law Claims, please contact the PII Risk Manager, Gianna Di Stefano on 8410 7677.