



JUNE 2011

The **ABC's** of **Risk Management**

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A**CTING** for friends and relatives increases the risk of a negligence claim as the extra familiarity can cause problems.



b**ILLING** and collection systems need to be agreed to before acting for a client at the commencement of any substantial work undertaken. Disputes over legal fees are common and represent a large number of claims. The reason is usually not due to overcharging by the practitioner but rather a failure to explain at the outset the legal fees that will be involved in handling a matter.

C**ONFLICTS** of interest can emerge in many areas and contexts, be they potential or actual. Conflicts can emerge before or during a matter. Ensure a conflict check policy is in place and adhered to.

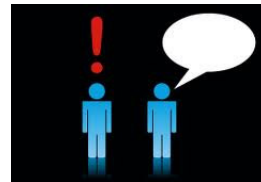


d**ISASTER** Recovery plans are required in the event of unanticipated problems. If there is a disruption in client service for any reason, firms must be able to continue with their core business. It is important to consider having back up data and very clear plans should a disruption occur.

e**MAIL** etiquette is necessary. Consider email guidelines to cover all such communications in an attempt to avoid ambiguities, misunderstandings and accuracy.

f**ILE** closure – Removal from Storage and Destruction. Claims have arisen against practitioners due to inadvertent destruction of files which should have been kept indefinitely e.g. Wills and Estate files and capacity issues. Review practice policy in place and ensure it is adhered to by all staff.

G**OOD** client relations means ensuring you and your client have a shared understanding of your mutual objectives and the likely outcomes in relation to the work you are undertaking for them. A failure to properly communicate with the client during the course of a matter can lead to dissatisfaction and ultimately a claim, sometimes on unmeritorious grounds.



K**NOWLEDGE** Do you have the requisite knowledge to handle the matter? It is often difficult to refuse work for economic reasons, or because of your long term association with a client. Taking on work that you, or your firm, are not equipped to handle is risky.

h**OLIDAYS** bring their own pressures for lawyers and clients. Often practitioners have to 'babysit' matters they know nothing about. Clients may be unavailable to provide instructions when unexpected developments occur. Plans need to be considered and executed for holidays which are a risk management strategy in itself for all practitioners.

L**ACK** of follow up or file maintenance are common reasons for professional negligence claims.

M**IS-UNDERSTANDING** between practitioner and client can be avoided by formalising the grounds on which you will act in a particular matter in writing. The engagement letter should contain details of any critical aspects of the matter you will not be providing e.g. tax advice.

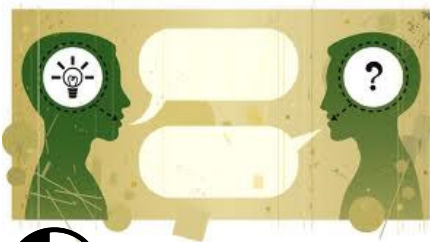


J**ARGON.** For most clients, it is essential to avoid legal jargon and to use only expressions that they will understand.

No - Be prepared to say 'No' if you feel that you are not in a position to competently take on work for a client. Consider whether you have the time and resources to complete the work. Firms or individual practitioners already carrying a considerable workload are more likely to make mistakes.

OBLIGATION - to notify Law Claims – must be in writing and done as soon as practicable if you are faced with a possible claim. Notification should be made when any claim is made against you, any notice you have received that a person intends to make a claim against you, or you become aware of any circumstance that might give rise to a claim against you.

pRIORITISING - is essential. Some deadlines are obvious, others not. For example, you may have a 'dormant' client and opposing practitioner and not give this matter the attention it requires. This may lead to a situation where the matter is struck out for failure to prosecute whereby a professional negligence claim ensues.



QUESTION - the client at the outset of the matter to ensure you understand what are your client's expectations and motives. Unrealistic expectations not properly managed can lead to claims against you. If those expectations are simply unobtainable, you will never satisfy the client. Do not act in such circumstances.



RETAINER agreements are a critical tool in the risk management process. The terms of your engagement, extent of work to be undertaken and any variations to those terms need to be documented. A number of claims against practitioners are successful because the practitioners failed to document the extent and nature of the retainer, and the advice that was given.



SUPERVISION - and delegation. Failure to delegate and supervise effectively can lead to missed deadlines, inefficient work practices, mistakes and errors, stress, miscommunication, unhappy clients and an unhappy working environment.

TIME limit expired / deadline missed continue to occur across all fields of practice and continue to be a main reason for claims. Deadlines are missed due to inadequate systems, incorrect calculations, simple oversights, neglect and procrastination.

USEABLE trails. A lack of proper file notes or records on a file can prevent effective defence of a claim on a practitioner's behalf. Often a practitioner denies professional negligence but unfortunately there is no documentary evidence in support.

VEXATIOUS claims and claimants can make life difficult for practitioners. Strategies need to be put in place to manage the vexatious litigant.

WELLNESS and Wellbeing is important. Eating well, exercising and maintaining good health can make all the difference when balancing all aspects of your life. When your fitness and overall health decline so does your motivation and productivity.

X-RAYS and other documents belonging to your client need to be stored safely. Loss of client's property can be detrimental to a matter and a trigger for a claim.

yOU should avoid giving 'off-the-cuff' advice on an informal occasion. Claims have arisen in such situations even though the advice was gratuitous and provided in a social setting. Avoid the risk and arrange for the 'acquaintance' to attend at your office to provide proper instructions so you can give considered advice.



ZEST - Hopefully this article has provided you with some practical risk management tools or has been a good reminder and you have the zest to continue on!