Don’t Leave Them On The Shelf For Another Year!

The commencement of each New Year traditionally signals a period of review, both personal and professional, of the year that was, and planning for the one that is yet to come. We ask ourselves questions such as “what did I achieve last year” and “what would I like to achieve this year”? While you find yourself reviewing aspects of your practice, it is worthwhile asking “where are the possible areas of professional exposure for me and/or my practice”? This may not be a question which automatically springs to mind, but nonetheless it is a question which ought to be asked periodically. In short, it is time to evaluate your risk management processes!

There is little doubt that the struggling global economy will have some impact on most law firms. Now, more than ever, be clear about what it is you wish to deliver, to whom and in what fashion. It is time to consider old risks as well as any new ones which might emerge, given the state of the economy. To do this, you should revisit your Risk Management Manual—DON’T LEAVE IT SITTING ON THE SHELF! (If you don’t have one, now is the time to develop one). Risk management doesn’t happen by chance, it is up to each firm to consider how it is they intend to avoid risks, or at the very least manage them. Good risk management is a conscious process of asking "how can I position myself and my firm to avoid having to go into "damage control" when something unexpected arises?

Effective risk management in the legal context rests on two core principles - serving clients and ensuring profitability. ¹ It has been posited that risk management should focus on seven (7) key areas, the first four (4) being the most important: ² Consider the following:

1. **Client Intake Management**
   - Who are you accepting as clients?
   - On what terms are they accepted?
   - What clients won’t you take?

   We know from past experience that during times of economic downturn and hardening of the insurance cycle that lawyers are at greater risk of being sued by their clients, or at the very least having complaints made against them. There appears to be a domino effect. The credit crunch may mean clients have less cash but expect more for their money. What clients will accept in more affluent times may not be what they will accept when the economy is less buoyant. Client selection becomes critical as a way of protecting oneself from the potential for litigation. Elicit as much information as you are able from the client about their history with other lawyers and what they expect you to be able to achieve (in measurable terms).

   Having clear guidelines in place to influence which clients you won’t take is just as important as understanding which clients you will take. Accepting clients who ultimately cost you time and money by having to deal with complaints or even litigation is certainly false economy.

2. **Billing and Collection Systems**

   As a corollary to what clients you choose is the equally important issue of how you bill and collect monies owed. This process should be documented in completely unambiguous terms so that it can be followed by all staff. Again, this becomes paramount during times of economic downturn. Clients may avoid payment by complaining about the level of service or the outcome of the matter. It is important that these complications of billing and collecting monies owed are considered before agreeing to act and commencing any substantial work on the client’s behalf.

3. **Managing technology**

   With the growing use of technology it is important that client information is protected at all times. Client confidentiality can sometimes be overlooked when dealing with their information via some form of electronic media. With the heavy emphasis on learning how to use electronic forms of communication, the basics of how to handle the information can sometimes be overlooked. Protecting data stored in an electronic form is equally important as protecting paper files.
What ever the area of law, legal practice will always be a human based activity. “When you’re managing the quality of someone’s work, you’re not just looking at the work; you’re looking at how you are managing the people who are doing the work”.  

5. Have policies in place for managing things when they go wrong

6. Disaster Recovery
It is important that firms have plans in place 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. Disruption can occur for a number of reasons such as: computer crashes, fire, flood or even environmental events external to the firm. Some disruptions will be completely outside of your control.

7. Financial Controls
Embezzlement and stealing can happen within any firm at any time. It is imperative that your financial systems are able to track the flow of funds into and out of accounts. In addition, ensure that those who have direct access to the accounts are audited on a regular basis, perhaps even by an external source.

These principles are of no value unless they can be mobilised within the firm and their efficacy measurable.

Mobilising these principles can be achieved by:
- Staff Education and Training;
- Firm Audits – What directions are staff following? You may be surprised to discover that not all staff follow the guidelines/directions that have been set out. Staff may have their own interpretation on your guidelines. An audit will demonstrate these differences.
- Immediate resolution of problems. One useful strategy to achieve this is to develop a “Hotline Service”. Have a designated staff member or even a person external to the firm who addresses problems and resolves them quickly.

As we start the 2009 work year we wish to remind all practitioners that Law Claims can assist in any of these areas. We continue to develop and deliver education packages that address the key risk management concepts in addition to offering packages that focus on more recent risk topics.

We also continue to offer all firms the opportunity to undertake a Practice Review. This confidential audit process provides firms with the opportunity to review their risk management profile. There is little use having sophisticated risk management policies and procedures if these are not applied consistently by all staff. Having ambiguous directions to staff can be just as risky as having no direction at all.

During times of economic downturn when all attention and energy is diverted into maintaining client numbers it is easy to let other activities slip. It is for this very reason that all firms should turn their minds to what risk management process are in place and whether they are capable of meeting the demands of legal practice moving forward into 2009. When reflecting in early 2010 on what you and your firm achieved during 2009 it would be rewarding to be able to say that you reviewed and updated, or even introduced an effective risk management strategy into your firm.

Risk management can and should be the mechanism that underpins your legal practice by providing staff with the tools and knowledge they need to manage all aspects of delivery of a high quality service to clients. If you accept that delivering a superior service to your clients through good risk management is compatible with profitability, then we urge you to re-examine your risk profile in 2009, don’t leave that Manual on the shelf for yet another year!

2. ibid
3. ibid
4. ibid
5. ibid

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