

MANAGE TO KEEP YOUR CLIENTS

Law firms which follow through with promises to keep clients updated are likely to have happier clients.

In the last two columns of 2009, we discussed some of the key objectives set out in the Legal Service Board's self-assessment audit for incorporated legal practices (ILPs).¹

There are four areas or "objectives" that are particularly relevant for managing professional risk in a law firm. They are:

- competent work practices to avoid negligence;
- effective, timely and courteous communication;
- timely delivery, review and follow up of legal services to avoid delay; and
- timely identification and resolution of conflicts of interest.

While only ILPs are required to complete the self-assessment, every legal firm could benefit from considering issues raised in the audit.

Continuing the discussion on effective, timely and courteous communication in the December 2009 *LJ*, firms should look at their methods and time frames for communicating with the client and adhere to what the firm and client agreed to at the start of each matter.

Stick to agreed methods of communication

With so many means of communication, working out at the start which form will best suit your client is essential.

Inform your client how often they are likely to receive communications and you will alleviate their anxiety about what is happening with their file.

Many lay clients do not understand how long legal steps can take.

In some instances, especially litigation, communication at least once a month would be ideal from a risk management point of view. Writing to them at those times, even if nothing has happened, means the client knows you have not forgotten them. The appropriate time will vary according to the types of matters and practice areas.

Not knowing what is happening leaves clients to fill in the gaps themselves, usually with the wrong information.

Deal with complaints promptly

Comments and complaints by clients should be dealt with promptly and, where possible, by someone else in the practice other than the person complained about.

Some firms set out in their retainer letter the name and details of the "complaints partner" that clients may contact to discuss confidentially any concerns about how their matter is being handled.

This allows the client to vent about areas of discontent before they are so disgruntled that they will not pay the bill or take advice.

A complaints policy may also involve practitioners (and support staff) being required to report any adverse comments in correspondence to the complaints partner.

Keeping track of unpaid interim accounts may also be a good way of determining where there are unhappy clients.

Timely delivery, review and follow up

All of the above complements the next objective – the timely delivery, review and follow up of legal services to avoid delay.

Keep the client informed

The client should be regularly updated and provided with periodic billing.

In effect, you need to do what you promised you would at the start of the matter.

If your plan is to bill the client monthly, then consider whether your firm has a computer report that shows what bills are generated each month and whether someone checks that the bills are sent out and paid. Does your firm have an "inactive file report" that can show if there has been no activity on a file for more than three months?

Keep a complete record

Creating a culture of recording advice and discussions and keeping a well-organised file is essential for reducing risk and meeting the next key concept of ensuring each file contains a complete record of all aspects of the transaction or matter.

To create this culture, firms need protocols on how files are to be managed and kept, particularly how electronic communications are handled.

Good risk management may require printing out all email correspondence and putting it on the file. That way it tells a complete story for the next person working on the file. However, greener offices and less paper means people are less keen to print everything and some firms scan all of the paper and keep the file in electronic form.

File management, both paper and electronic, should be a firm-wide decision and it should be well documented and communicated to all staff.

Finding files

The next concept to keep in mind includes procedures for locating files and documents and for monitoring activity in all open files.

While this may seem like a fairly basic concept and in many cases there will be only one physical file, your firm will no doubt have matters with multiple parts or folders, some of which will contain original or important documents.

A policy on how files are to be structured in each practice area with a checklist or index for each file would be useful, together with a central database indicating where each part of the file is stored.

Critical dates

Lastly, ensure that there is a record of all critical dates and that these dates are monitored and complied with.

Every firm will have a different system for recording dates. The problems are more likely to occur when every staff member has a different system.

There should be a firm-wide or at least a practice area system for date recording and monitoring.

At least two pairs of eyes should be responsible for checking dates to ensure they are complied with.

Telling a client how their matter will be handled and following through on that promise is the best way to keep happy clients and avoid claims. ●

This column is provided by the LEGAL PRACTITIONERS' LIABILITY COMMITTEE. For further information ph 9672 3800 or visit the website www.lplc.com.au.

1. "Management is real work", November 2009 *LJ*, p73 and "Manage to communicate", December 2009 *LJ*, p70.