

AUDITS ADD VALUE

File audits are an important tool for all legal practices.

File reviews are an effective way of checking your firm's susceptibility to claims as well as being good file management practice. No matter the size of the practice, monitoring files for compliance with the firm's standards and for identifying risk areas that need attention are sound claims prevention strategies. File audits can also reveal potential problems on a particular matter that can be resolved before a claim arises.

Supervising experienced staff

Many firms employ lawyers and clerks who work independently and run their own files. Regular face-to-face meetings with even highly experienced employees are critical for monitoring the progress of matters. Reviewing files is a key supervisory tool for ensuring that files are being properly managed as well as providing insight into how people are coping with their file loads.

File audits are not a sign of mistrust. LPLC's experience shows people can fall into bad habits that can be exacerbated when they are busy, under tight time pressures or dealing with personal issues. At one firm the principal conducted a file review and discovered that an experienced lawyer was falsifying time records, not actioning matters and misleading clients about what was being done. The lawyer was having personal difficulties and not coping with the work, and despite working closely with the lawyer over several years, it was only the file audit that alerted the principal to the problems.

Approaches to file audits

The frequency and number of files audited varies from firm to firm, however they should at least cover the day-to-day management and supervision of the files.

Areas of focus will typically include:

- complying with client selection policy
- conflict checking
- sending engagement letters scoping the work and cost disclosure
- following up and receiving signed cost agreements
- diarising important dates
- keeping adequate file notes
- complying with file closing procedures.

Some firms appoint one person to conduct random file reviews while others use file-auditing as a training and team building opportunity where colleagues review each other's files. Some practices find it more practical to engage a consultant or someone familiar with the practice such as a retired partner.

Some firms review the files on the substance or quality of legal work as well as compliance with policies and procedures. These usually take longer and are often performed as a peer review as they require a person who has expertise in the relevant area of law. Whichever approach is adopted, it is important the person undertaking the task can make objective assessments and report candidly.

Apart from risk assessment, audits can add value to a firm in other ways such as helping to identify weakness and inefficiencies affecting client service, financial performance and employee engagement.

LPLC risk management audit checklist

LPLC's risk management audit checklist, which is available on its website, contains more than 50 questions to assist practitioners to identify possible problem areas in how the retainer and file is being managed. It guides them through a review of a file and helps them assess their risk of a negligence claim. The checklist is not intended to be used to examine the technical quality of the legal work undertaken.

Questions on retainer management deal with issues such as retainer set-up and variations, cost disclosure, billing, appropriate delegation and supervision as well as termination of the retainer. The section on matter management includes questions on file organisation, file notes and client communication.

Once completed, one copy of the checklist could be placed on the file for the next review and another copy in a separate folder with other completed audit checklists. Any deficiencies found should be addressed with the file operator and where necessary, file management policies improved. ■

This column is provided by the **Legal Practitioners' Liability Committee**. For further information ph 9672 3800 or visit www.lplc.com.au.

TIPS

- Undertake file reviews even where staff are experienced.
- Explain to staff that file reviews are a proactive risk management strategy, not a sign of mistrust.
- Audits need not be undertaken by a lawyer.
- Refer to LPLC's risk management audit checklist for assistance.
- File reviews are not a substitute for regular face-to-face meetings.

