

BE PREPARED

Office policies and procedures are good risk management.

There are many risk management benefits to having well-written and implemented office policies and procedures, including enabling employees to clearly understand their individual and team roles and responsibilities within the firm.

The LPLC has developed a list of policies (and some procedures) for legal firms. It can be found on the LPLC website under Resources Checklists and lists risk management issues to be considered when drafting the policy.

Best practice includes undertaking regular reviews of policies to ensure current and emerging issues are addressed.

Here are two high priority risk management policies.

Client selection and matter intake

Client and matter selection are integral parts of any law practice's risk management strategy. Practices that target particular types of work and clients are more likely to have a high degree of expertise in their chosen areas. This in turn makes it easier to attract and select the right clients.

This policy should set out:

- the work that the firm will and will not do
- the selection criteria for new clients
- who is entitled to make the client and matter selection.

Best practice suggests the client selection function be centralised or at least require approval from practice group heads in larger firms or a partner in smaller firms.

This policy may also include details on the firm's requirements relating to acting for family and friends or acting on overseas/interstate matters. In some firms these are separate policies.

When acting for family and friends the following issues should be considered:

- whether to act for family and friends of partners or employees
- if so, what type of matters and who should do the work. When considering this issue firms should refer to clause 5 of the LPLC's policy in relation to acting for related parties and In Check issue 63
- whether there is any pricing discount and how it works.

When acting on overseas/interstate matters consider:

- whether the firm will act in overseas or interstate jurisdictions
- if so, what precautions should be put in place

- will the firm instruct agents in the other jurisdiction or will the firm act as agent for a principal in the other jurisdiction
- who will supervise the work
- professional indemnity
- insurance requirements for that jurisdiction.



Verification of identity

Practitioners need to take reasonable steps to verify the identity of clients in order to avoid claims, as well as comply with common law obligations and Victoria's electronic conveyancing participation rules.

The verification of identity policy should dictate how these requirements are to be satisfied, even if the client is known to the firm, as well as how they should be adhered to without exception. The policy should cover:

When client identification will occur: It ideally should occur for all new clients. For existing clients there should be some thought given to if and in what circumstances identity checks should be undertaken. For example, only if the client has not retained the firm for more than a set period of time or after a set period of time since the last identification check. The policy should be clear about when the checks need to occur – when the client comes in for the first meeting or before the file is opened or within a certain time after the file is opened.

How the client will be identified: There are several verification of identity processes to consider including the 100 point check used by banks and the verification of identity standard set out in the Model Participation Rules. Prudent practice would suggest the need for a face to face meeting and production at the meeting of at least a current Australian driver's licence or passport. If the client has neither, the policy should set out what secondary documents will be acceptable.

If the client is unable to attend the office, the policy should state possible alternative options such as using an identity checking service or another firm that could act as your agent to identify the client.

How the identification information will be stored. Specify how the copies of the identification documents will be securely kept. ■

TIPS

- Written office policies and procedures are good risk management tools.
- Firms should at least have written policies on client selection and matter intake as well as verification of identity.
- Revisit your firm's policies and procedures regularly. See a list of policies on the LPLC's website.

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