

CHECKLISTS CAN HELP AVOID A CLAIM

LPLC has a range of risk management checklists to help practitioners.



Checklists are an essential risk management tool that should be used routinely by any legal practice. If you find it difficult to set aside time to develop these tools yourself, the free checklists on LPLC's website can help. Here are some fundamental checklists that can help you avoid a claim.

Risk management audit

A good starting point is our risk management audit checklist, which provides a framework for assessing whether your practice is at risk of a negligence claim arising from poor retainer or matter management. It covers key risk areas such as screening clients and matters, setting up and terminating retainers, delegation and supervision, file management, communication and record-keeping.

Client intake and VOI

It is important to have a consistent approach to accepting new clients and matters. Document this process and reinforce it with a checklist to help ensure your people complete all steps in the process every time. Our client intake checklist prompts you to ascertain who is the client or clients, any potential conflicts, the need for verification of identity (VOI) checks and whether there are specific factors indicating the client is a high professional negligence risk – such as the client having used another firm in the matter.

We also have a separate checklist for undertaking face-to-face VOI. This addresses what information you need to provide to the client, what to do when you meet the client and what you need to retain on file.

Conveyancing and other matter-specific checklists

We have developed a range of checklists to assist practitioners undertake specific types of matters and deal with specific issues. These include:

- Sale of land – questions for the vendor
- Purchase of land – questions for the purchaser
- Electronic property transactions – matter checklist
- Electronic property transactions – office management
- Tax issues and related charges relevant to conveyancing
- GST issues relevant to conveyancing
- Small business – when acting for the vendor
- Small business – when acting for the purchaser
- Solicitor's certificates for borrowers or surety providers
- Preparation of wills
- Administration of estates

- Witnessing an enduring power of attorney.

Consider how these checklists could assist you and others in your practice, even if for reviewing checklists already used.

File closing and transfers

Practitioners can fall into the trap of treating file closing as a burden or afterthought with insufficient urgency and attention to detail. If you have completed your retainer, there is no reason to leave the file open and remain at risk where the client can allege you were under an obligation to do other work. Our file closing checklist reminds you to:

- write to the client to confirm the matter is finished and advise if there are any tasks the client needs to complete
- check all necessary documents have been filed or lodged
- check the physical file and consider when it can be archived
- check a final invoice has been issued and disbursements paid
- check the trust account has a zero balance.

Although these steps might seem obvious, they can languish or even be missed without the rigour of a checklist. We have had many claims where a practice did not handle an internal or external transfer of a file well. Practitioners sometimes take a casual approach to internal file transfers which can result in misunderstandings about instructions or mistakes such as failing to diarise critical dates. File transfers between firms are less familiar for many practitioners, and often arise suddenly with important checks being missed. We have developed three separate checklists to use when a file is transferred:

- to another practitioner within the firm
- to another firm
- from another firm.

Using the checklists

We encourage you to add to or customise our checklists to maximise their relevance for your own practice. Making completion of checklists mandatory in your practice will assist people with their work as well as provide a record that all necessary steps have been undertaken and issues considered.

All checklists referred to above and more can be found at lplc.com.au/category/checklists. ■

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

TIPS

- Checklists can be used routinely for managing and minimising risk across your practice as well as in individual client matters.
- Use client intake and VOI checklists to ensure your practice has a consistent approach.
- LPLC has a range of checklists for use in conveyancing and other specific matter types.
- Checklists help ensure file closing and transfers are done promptly and with appropriate attention to detail.