

5 STEPS TO A BETTER PRACTICE

Presented by

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Housekeeping

- This webinar will be one hour
- Record your CPD points
- We will send out resources at the end
- Participate in the Polls
- I will take questions at the end if time allows
- Contact me at LPLC for follow up questions or discussion



Knowing the law

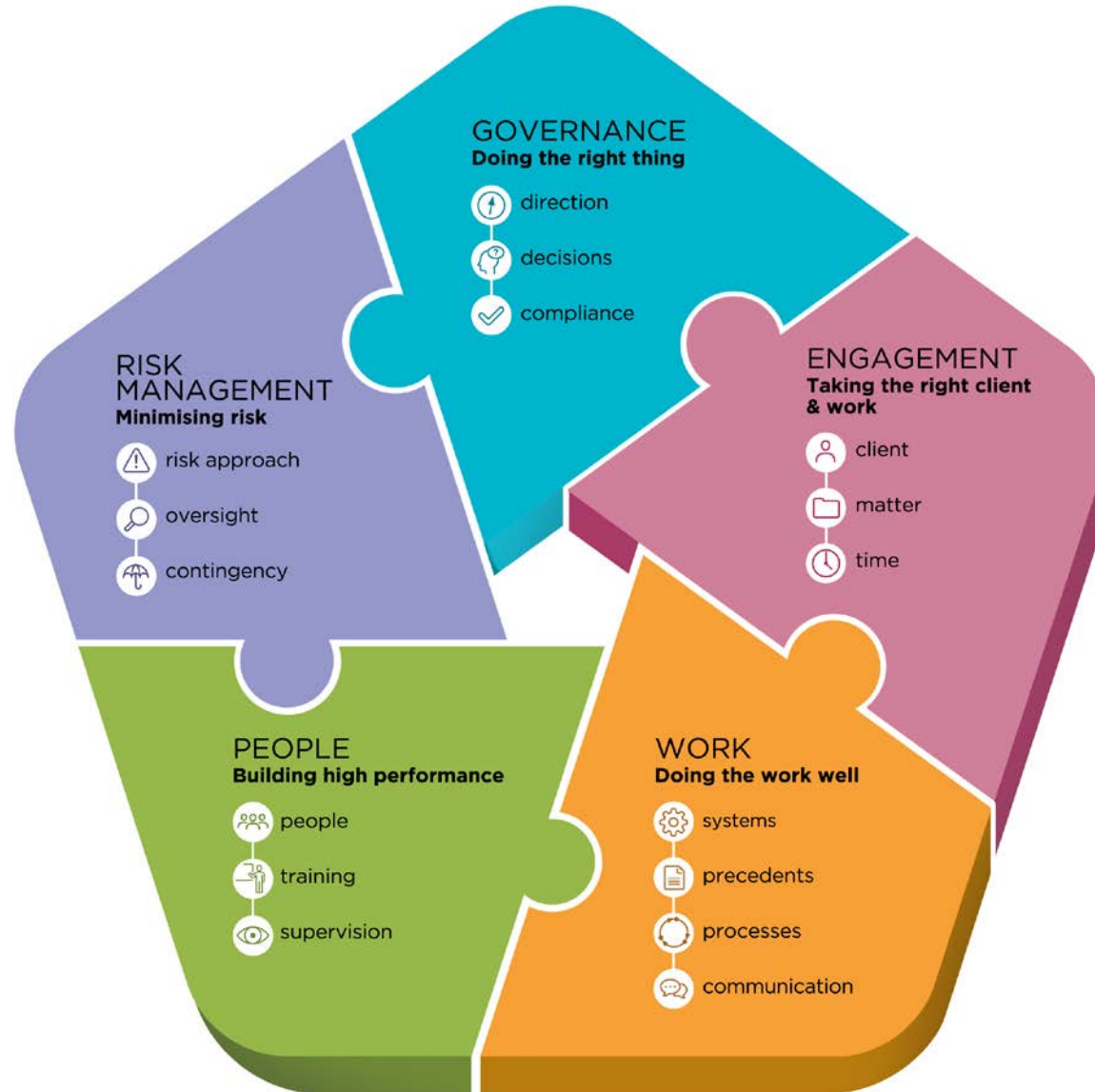
Knowledge

- You are expected to know the law



Client Management Confirming In Writing Trust Accounts Changing Technology Client Management Staff Changes
Client Intake Ethics Changing Practice Changing Practice Retainer Agreements Retainer Agreements
Meeting Deadlines Retainer Ethics Changing Law
Marketing Right Time Trust Accounts Updating Precedents Dormant Files
Supervision Staff Changes Cyber Security Right Client
Mental Health Making File Notes Workflow Management Effective Communication Making File Notes Client Complaints
Ethics Practice Management Client Records Right Matter Cyber Security Client Complaints Changing Technology
Client Complaints Effective Communication Marketing Confirming In Writing Regulatory Obligations
Cashflow Client Records Supervision Training Staff Client Records Data Entry Right Client Virtual Hearings Trust Accounts
Data Entry Training Staff Client Intake Supervision Regulatory Obligations Changing Law
Cashflow Practice Management Right Matter Making File Notes Dormant Files Right Time Efficiency Cashflow
Marketing Mental Health Client Intake
Retainer Data Entry Training Staff Mental Health Client Intake
Dormant Files Changing Technology Staff Changes Cyber Security Right Client
Efficiency Meeting Deadlines Right Matter Retainer Practice Management
Scoping Work Workflow Management Client Management

Quality Legal Practice Framework



Governance



Governance

Governance Habit		
Objective – do the right thing		
Firm	Matter	Self
Right direction: <ul style="list-style-type: none"> • Leadership • Clear values • Clear strategy Right decisions: <ul style="list-style-type: none"> • Made by the right people • Made consistently with the strategy • Made at the right time Right compliance: <ul style="list-style-type: none"> • Awareness of the rules • Processes to comply 	Right direction: <ul style="list-style-type: none"> • Duty to the court • Best interests of client • Ethical obligations Right decisions: <ul style="list-style-type: none"> • Made by the right people • Made consistently with the strategy • Made at the right time Right compliance: <ul style="list-style-type: none"> • Following the rules • Following the processes 	Right direction: <ul style="list-style-type: none"> • Ethical compass Right decisions: <ul style="list-style-type: none"> • Commitment to integrity, independence and steely-eyed advice Right compliance: <ul style="list-style-type: none"> • Discipline

Basic Compliance

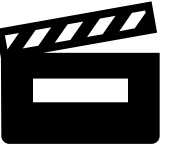
Understand the rules that regulate you:

- Legal Professions Uniform Law Application Act 2014 (Uniform law)
- Australian Solicitors' Conduct Rules 2015
- Uniform law- General Rules
- Victorian Legal Services Board -Policies
- Law Institute of Victoria-Ethical Rulings



Ethical application - doing the right thing.

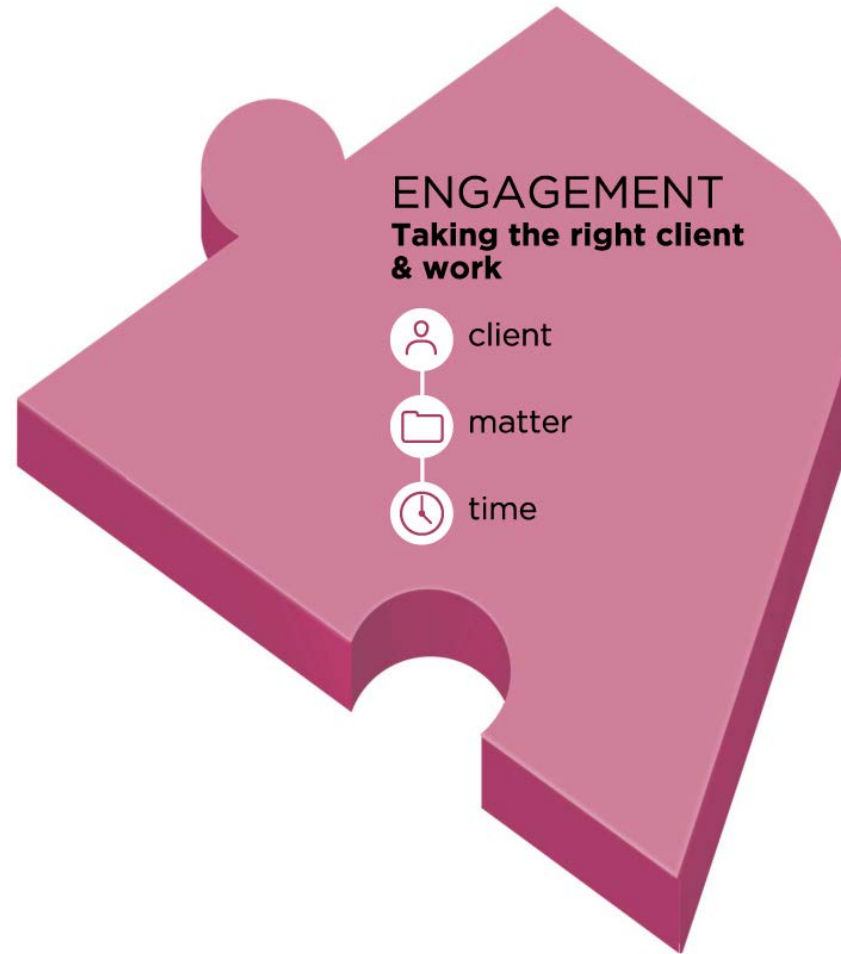
Action



Do a written plan that:

- Sets your direction
- Defines your work areas
- Identifies your target clients
- Sets a process for - client intake, work production and people management
- Is measured and reviewed

Engagement

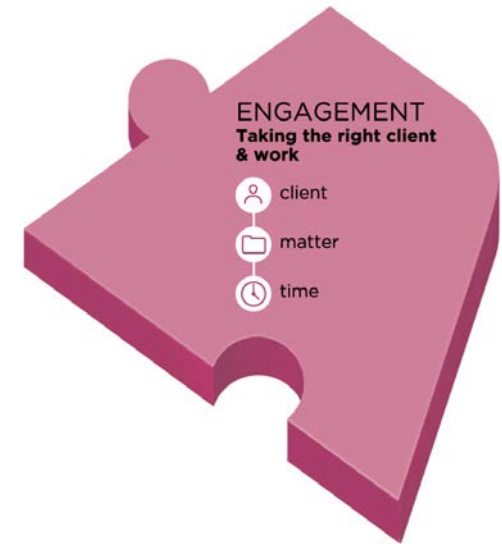


Engagement

Engagement Habit		
Objective – taking the right client and the right work		
Firm	Matter	Self
Right client: <ul style="list-style-type: none"> Conflicts Client characteristics Well matched Financial risk Right matter: <ul style="list-style-type: none"> Defined work areas Right expertise Right time: <ul style="list-style-type: none"> Capacity 	Right client: <ul style="list-style-type: none"> Identify Legal authority to instruct Right matter: <ul style="list-style-type: none"> Legal knowledge for this matter Scope the retainer Document the retainer Right time: <ul style="list-style-type: none"> Right resources Critical dates Client expectations 	Right client: <ul style="list-style-type: none"> Communication skills Emotional intelligence skills Risk awareness Right matter: <ul style="list-style-type: none"> Legal skills Right time: <ul style="list-style-type: none"> Work capacity Other support

The client

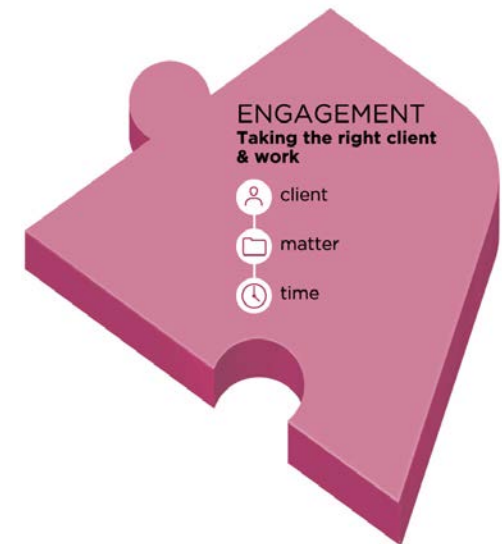
- Identify the client
- 3C's - capacity, conflict, communication
- Authority to instruct - Powers of Attorney
- Establish client expectations:
 - Outcome
 - Cost
 - Service level



Not every client is the right client for you / firm

Right matter

- Don't dabble
- Get details to make a proper assessment
- Do you have the expertise to identify the issues?
- Do you have precedents to do the work
- If you need assistance - get it early

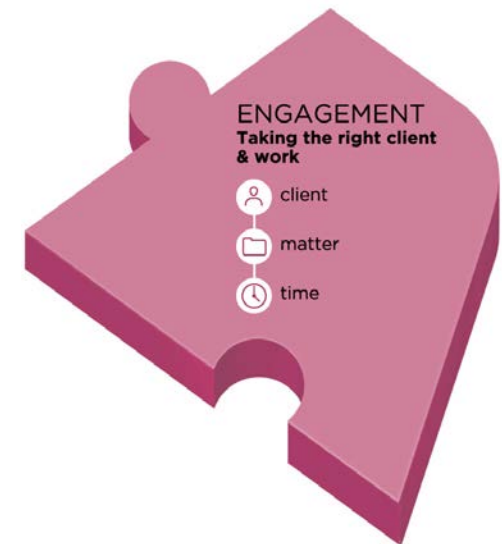


The retainer

A written retainer should:

- Identify the client
- Have a clear scope of work
- Set out excluded work
- Set out when it starts and how it is to end
- Be updated and modified as changes occur

Clarify if one document includes costs and other business terms or if these are done separately.

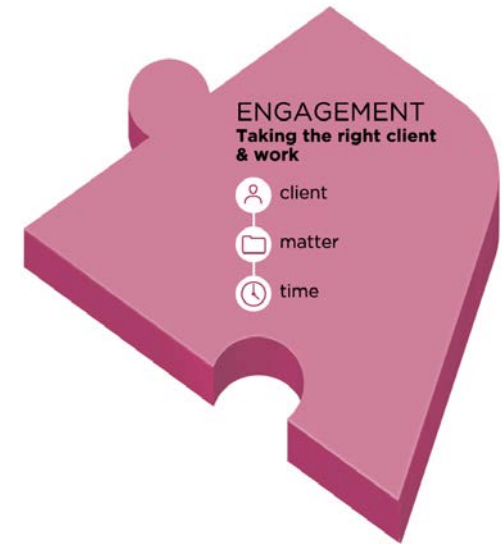


A couple of cases

In *McLennan v Clapham* [2019] ACTSC 1, her Honour Associate Justice McWilliam said at paragraph 47:

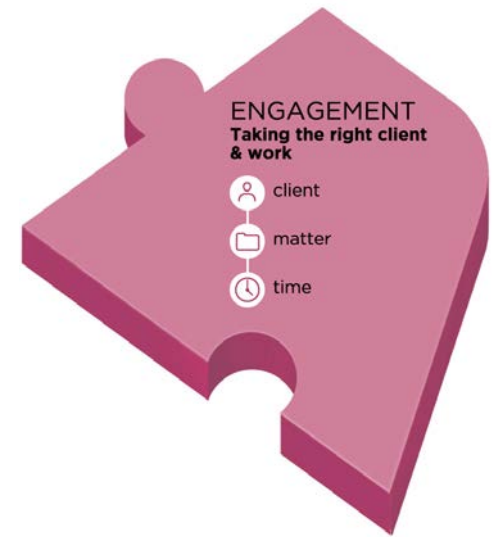
‘A solicitor’s duties will depend upon the terms and conditions of that retainer and any duty of care to be implied must be related to what he or she is instructed to do’

Also see *Littler & Anor V Price & Ors* [2004] QCA 383



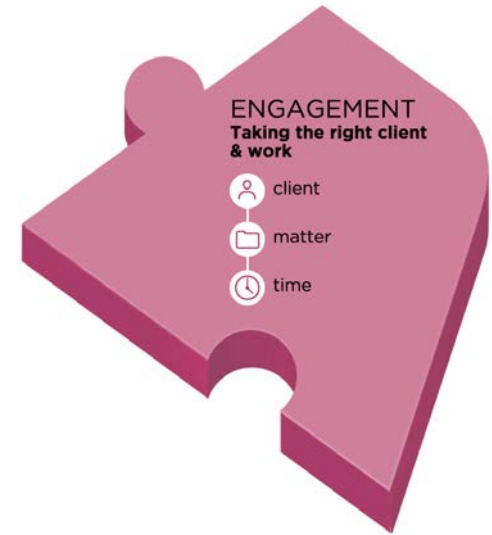
Right time

- Identify critical dates
- What support do you need
 - Other staff
 - Experts
 - Other professionals
- Other commitments - work
- Other commitments - outside work

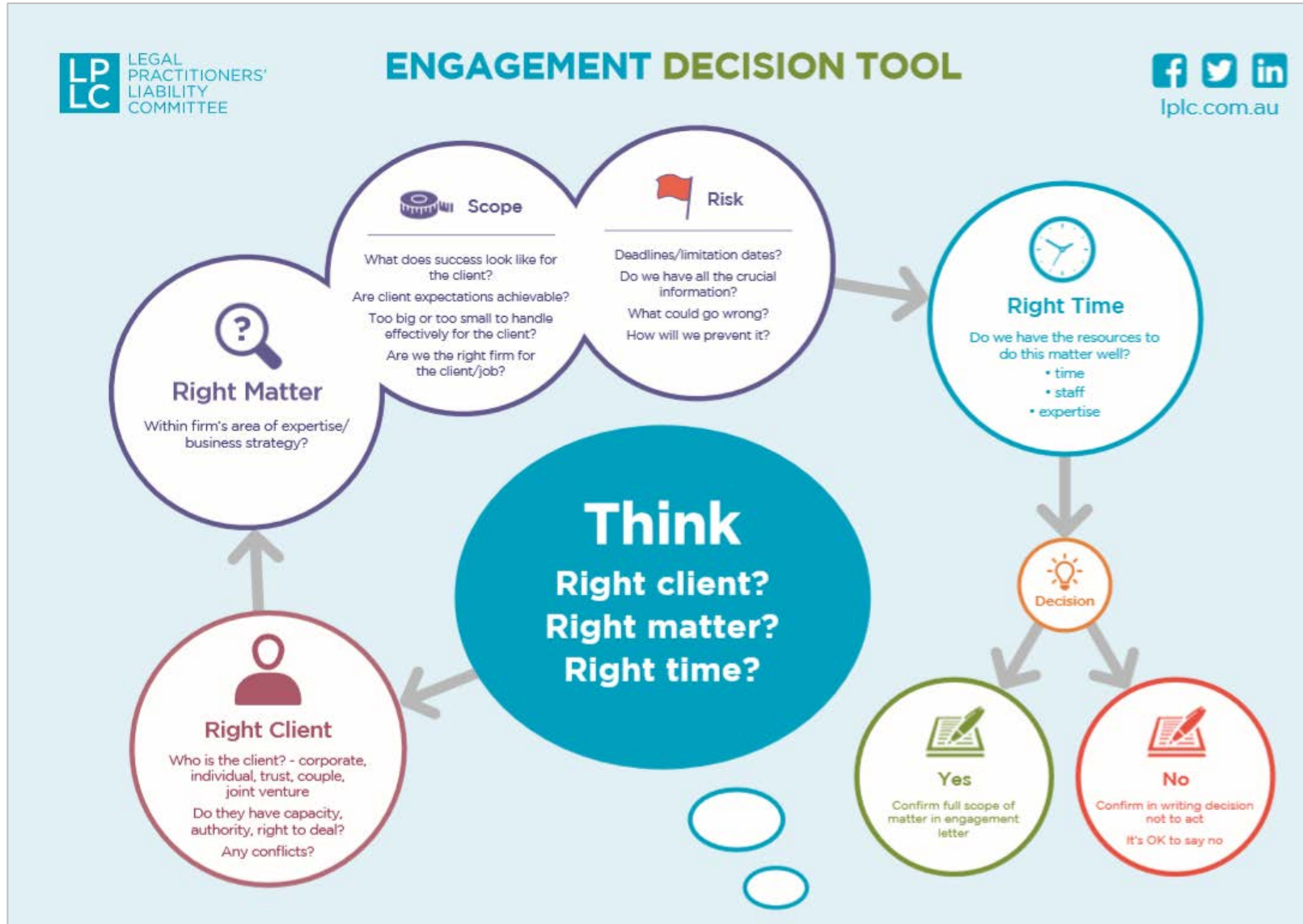


Some risks

- Identifying the client
- No clear scope of work
- Friends, family and relationships
- You need the work - budgets and fees
- No systems/precedents to do the work
- Dabbling- failure to identify the issues



Action-apply the Engagement Habit



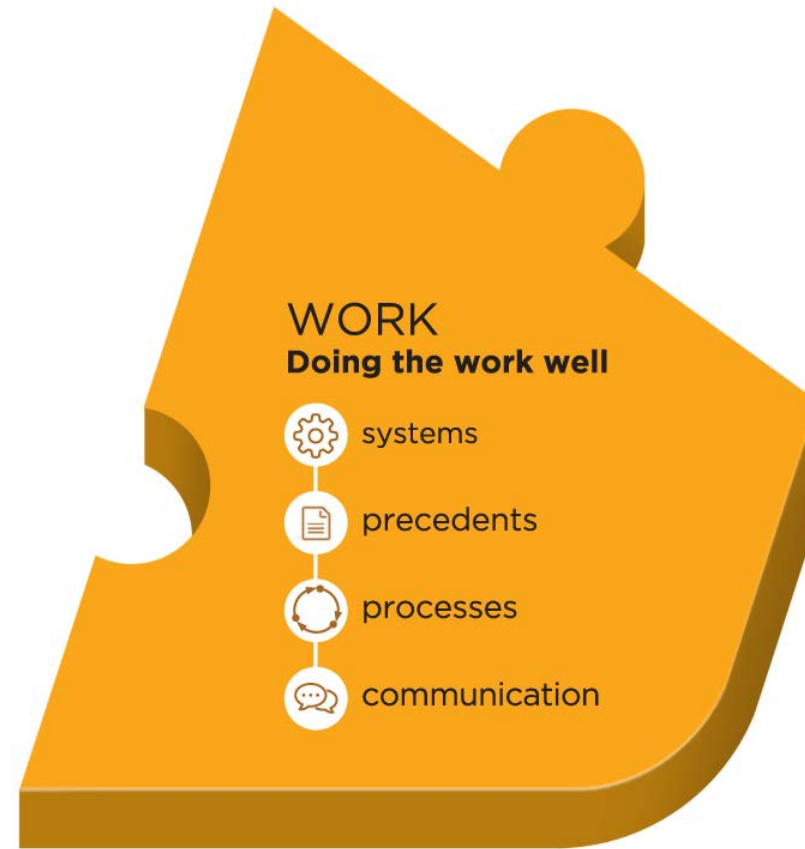
Poll

Do you apply a client engagement policy that considers the three steps of right client, right matter and right time:

- a) For every new engagement
- b) Sometimes
- c) Never



Work



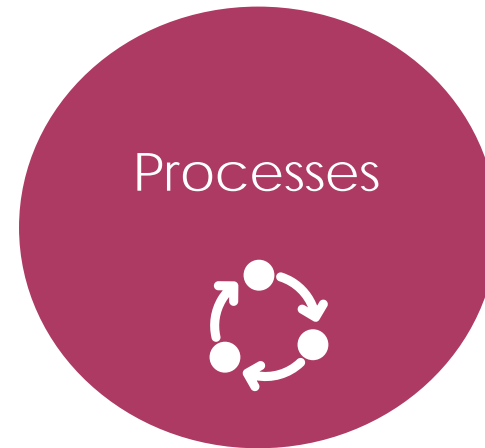
Work

Work Habit

Objective – efficiently and effectively do the work

Firm	Matter	Self
<p>Right systems:</p> <ul style="list-style-type: none"> Technology and infrastructure – <ul style="list-style-type: none"> communication work production records tools <p>Right precedents:</p> <ul style="list-style-type: none"> The firm's intellectual property <p>Right processes:</p> <ul style="list-style-type: none"> Policies Procedures (work done and checked) <p>Right communication:</p> <ul style="list-style-type: none"> With clients With colleagues 	<p>Right systems:</p> <ul style="list-style-type: none"> Diary system Note taking system Workflow Case management <p>Right precedents:</p> <ul style="list-style-type: none"> Checklists Letters Documents <p>Right processes:</p> <ul style="list-style-type: none"> Appropriate process Done every time <p>Right communication:</p> <ul style="list-style-type: none"> Appropriate to client Clear delegation Clear internal reporting 	<p>Right systems:</p> <ul style="list-style-type: none"> Technology skills <p>Right precedents:</p> <ul style="list-style-type: none"> How and when to use precedents <p>Right processes:</p> <ul style="list-style-type: none"> Matter management skills Time management skills <p>Right communication:</p> <ul style="list-style-type: none"> Speaking up Asking questions

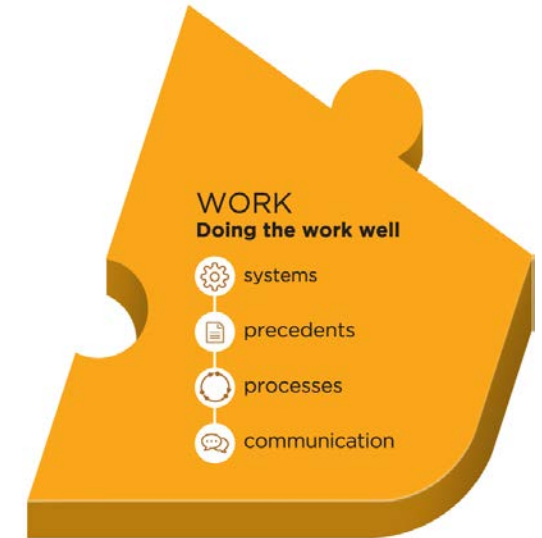
Work - Doing the work well



Systems

Hardware, software and connectivity for:

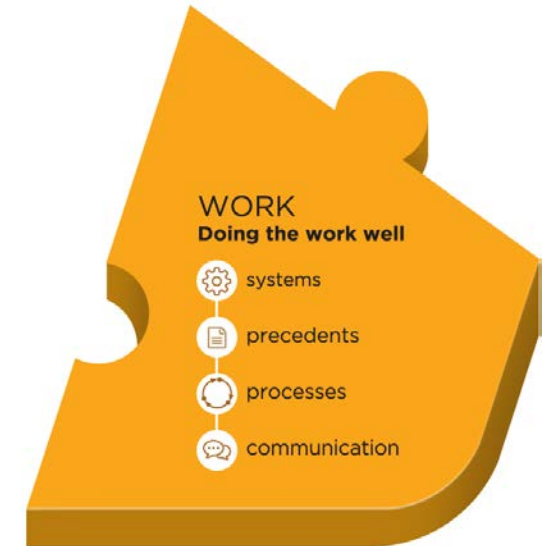
- Communication-phone and video conferencing
- Production-letters, emails, documents and notes
- Calendars- tasks and workflow management
- Integration with Work specific platforms –PEXA, Courts, SRO
- Practice management software
- It needs to be **efficient, reliable and safe**



Digital Systems the New Normal - on LPLC website

Using technology

Practitioners need technology skills



Precedents



Generate a volume of
consistent quality work

Avoid errors

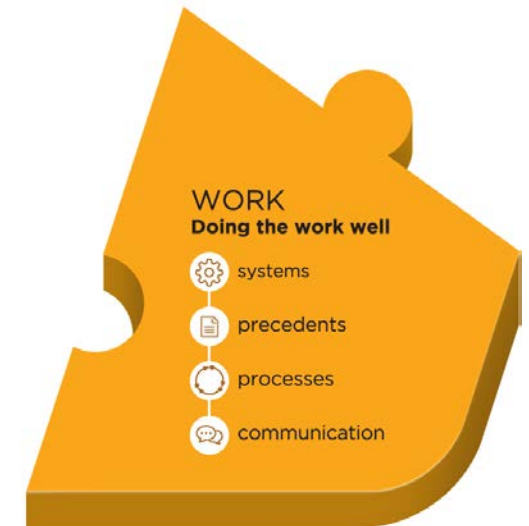
Increase efficiency

Quickly produce work

Precedents

A firms precedents should include:

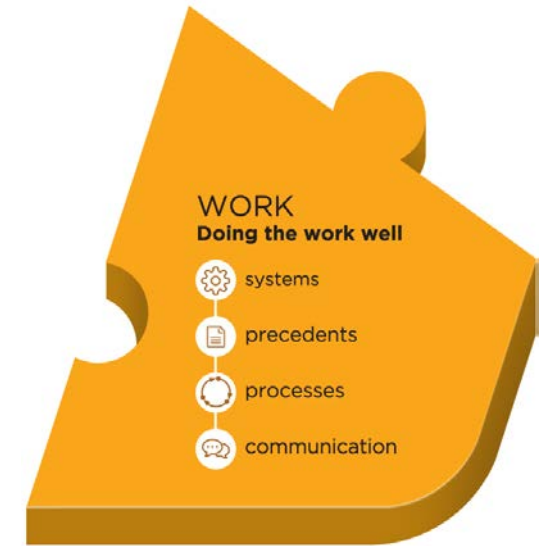
- **Checklists** - a prompt to collect information/ avoid omissions
- **Comprehensive advice letters** for every type of work
- **Common risk situation** proforma file notes and letters
- **Documents**
- **End retainer letters** to confirm the work is finalised and any ongoing client responsibilities



Precedents

Every matter should have a comprehensive advice letter to:

- identify relevant issues the client should consider
- give the standard advice required in that type of work
- focus the client to specific important issues
- identify critical dates and consequences
- confirm any oral advice
- confirm instructions



Poll

Poll question:

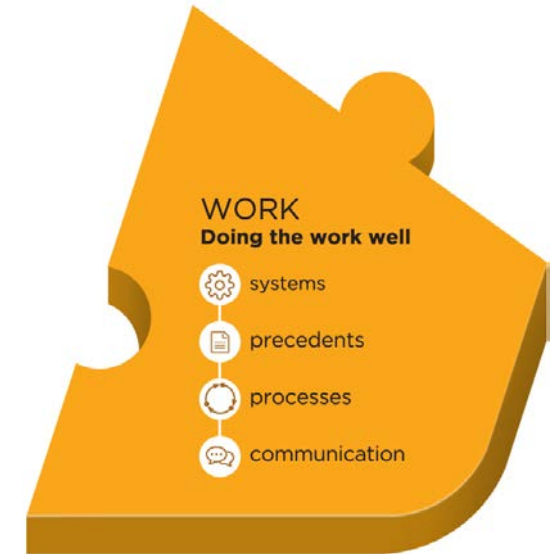
Do you send the client a comprehensive advice letter at or near the commencement of each matter:

- a) Never
- b) Occasionally
- c) Most times
- d) Always



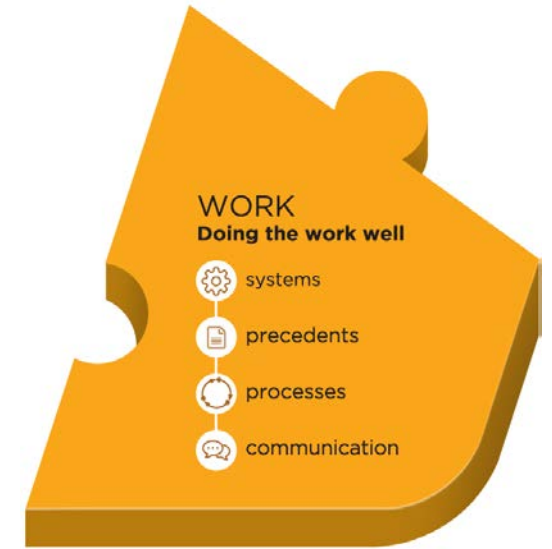
Processes

- Matters are unique but same process applies
- Processes should be written down
- Process applies for one person or team
- Training – top down, no exceptions



Processes

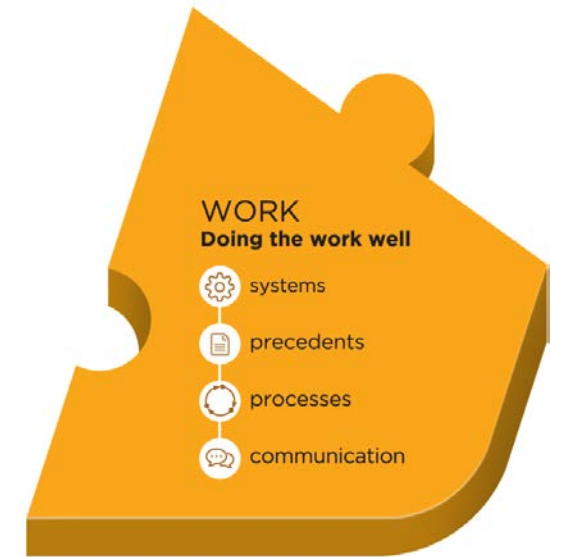
- Cyber security
- Make file notes/confirm matters in writing
- Use firm precedents and not individual variations
- Use a checklist on every matter
- Follow workflow in each area of work
- Consistent data entry



Communication

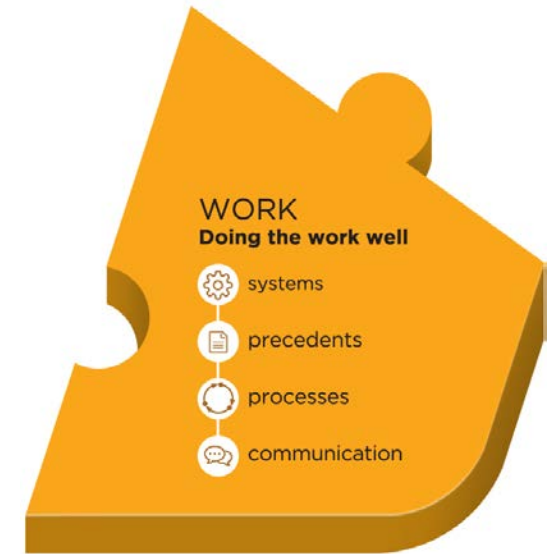
The link between you and the client:

- Collecting information and giving advice
- Appropriate for the client and the matter
- Make it effective
- Tools- visual aids and tell stories



Writing creates focus and clarity

- Always confirm important advice in writing
- Make a file note of every client contact
- Client can review it in their own time
- Evidence - avoids disputes
- Precedents - avoid oversights and create efficiency



File notes

A file note should include:

The image shows a 'File Note' form with several fields. Five fields are circled in red to indicate they are required: 'Date', 'Time Start', 'Time End', 'Attendees', and 'Important instructions and advice'. The form also includes fields for 'Units', 'Matter', 'Matter No', 'Location', 'Author', and a section for communication methods: 'Telephone In', 'Telephone Out', 'Face to Face', and 'Video Conference'. A vertical sidebar on the right contains the text 'File Note' repeated five times.

Date	Time Start	Time End	Units
Matter	Matter No		
<input type="checkbox"/> Telephone In	<input type="checkbox"/> Telephone Out	<input type="checkbox"/> Face to Face	<input type="checkbox"/> Video Conference
Location			
Author	Attendees		
Important instructions and advice			

Action- to do the work well

There is a lot to do including;

- Set up reliable hardware and software
- Develop precedents for all work you do
- Establish written processes for key steps
- Make your communications effective
- Always do a comprehensive advice letter
- Make file notes and confirm risks in writing
- Update your technical skills

People



People

People Habit

Objective – high performance workforce

Firm	Matter	Self
Right people: <ul style="list-style-type: none">• Defined skill requirements for the firm• Job descriptions• Performance criteria• Performance plan• Right resources Right training: <ul style="list-style-type: none">• Knowledge (legal & ethical)• Skills Right supervision: <ul style="list-style-type: none">• Structured reviews• Development plans	Right people: <ul style="list-style-type: none">• Right level of expertise for the work Right training: <ul style="list-style-type: none">• For this matter Right supervision: <ul style="list-style-type: none">• File reviews• Feedback	Right people: <ul style="list-style-type: none">• Legal expertise• Soft skills• Work ethic Right training: <ul style="list-style-type: none">• Assessment of professional development needs• Commitment to PD• Ethical overlay Right supervision: <ul style="list-style-type: none">• Understanding and attitude

People

Before you hire:

- define what you want staff to do
- write a job description
- decide what skills are essential
- test for what you want
- always do reference checks



Training

- Induction
- The Work Habit – systems, precedents and processes
- Client engagement – the engagement habit
- Set training plan



Supervision

- Clear delegation
- Allocate specific times
- Establish a structured approach
- Use practice management reports
- Different requirements for different levels
- Remote work arrangements
- File audits

Tips for effective supervision- On the LPLC website



Poll

Which one of the six practice management steps listed below do you find the hardest to consistently do?

- a) Make file notes
- b) Issue a comprehensive advice letter
- c) Confirm specific risk issues in writing
- d) Produce a written retainer with a scope of work
- e) Implement the three step Engagement habit
- f) Systematically supervise staff
- g) None of the above - I do all of these things



Risk management



Risk management

Risk Management Habit		
Objective – quality assurance and risk minimisation		
Firm	Matter	Self
Right risk approach: <ul style="list-style-type: none">• Right risk framework• Risk aware behaviour Right oversight: <ul style="list-style-type: none">• Systems• Precedents• Process• People Right contingency: <ul style="list-style-type: none">• Practice• Key people	Right risk approach: <ul style="list-style-type: none">• Risk assessment and review• Risk aware behaviour Right oversight: <ul style="list-style-type: none">• Proactive supervision• Regular file audits	Right risk approach: <ul style="list-style-type: none">• Risk aware behaviour• Bringing your 'A' game Right oversight: <ul style="list-style-type: none">• Attitude of continual improvement• Commitment to quality

Risk management

- Be alert to risks
- Discuss risks – be open and honest
- Listen to people that speak up
- Take action for improvement
- Learn from a complaint or a near miss

Establishing a risk management culture.



Establish good habits

Practice management needs to become a habit:



Action

It's all about **what** you do.

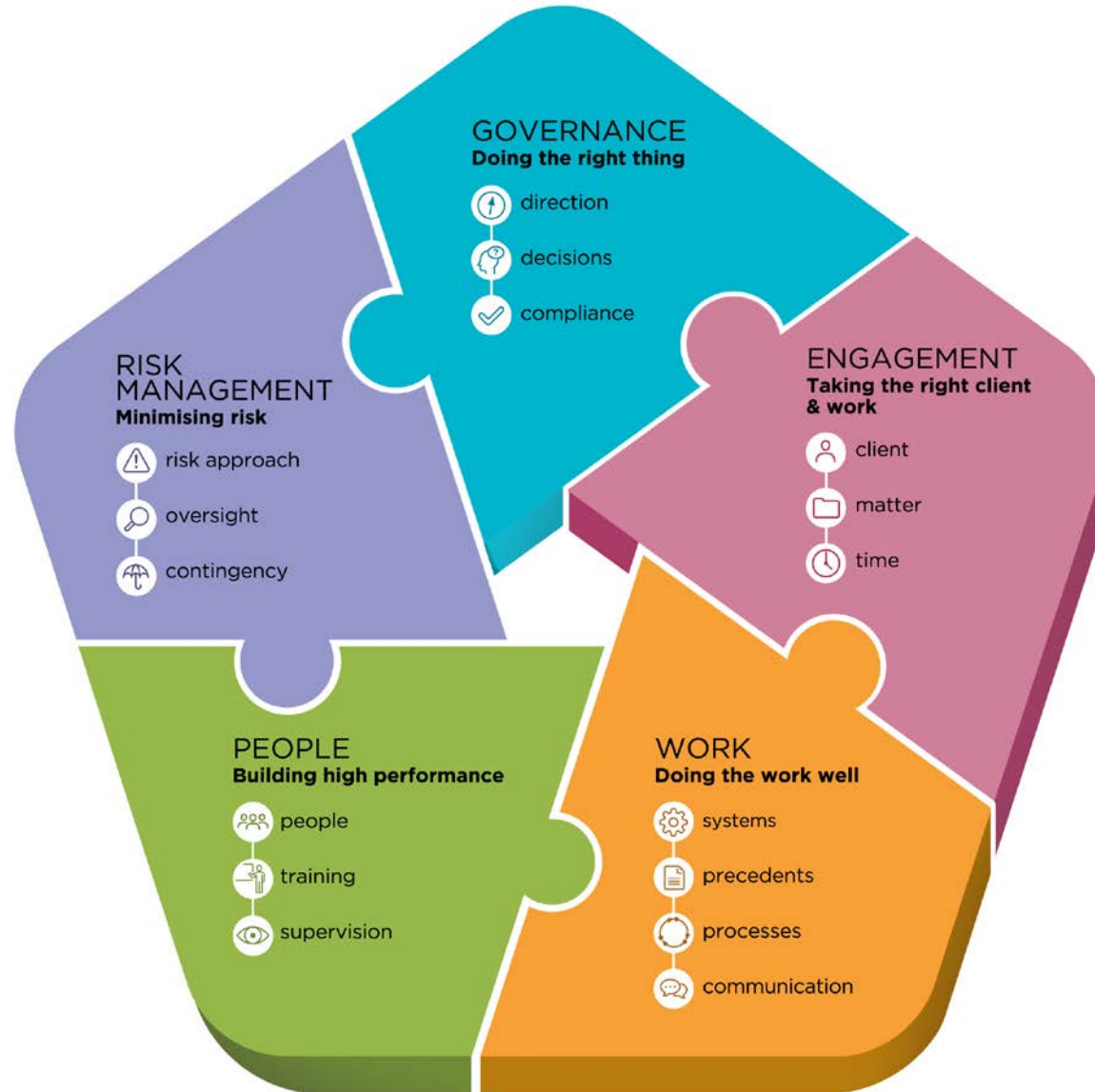
'We are what we repeatedly do.
Excellence then, is not an act, but a habit.'

- *Aristotle*



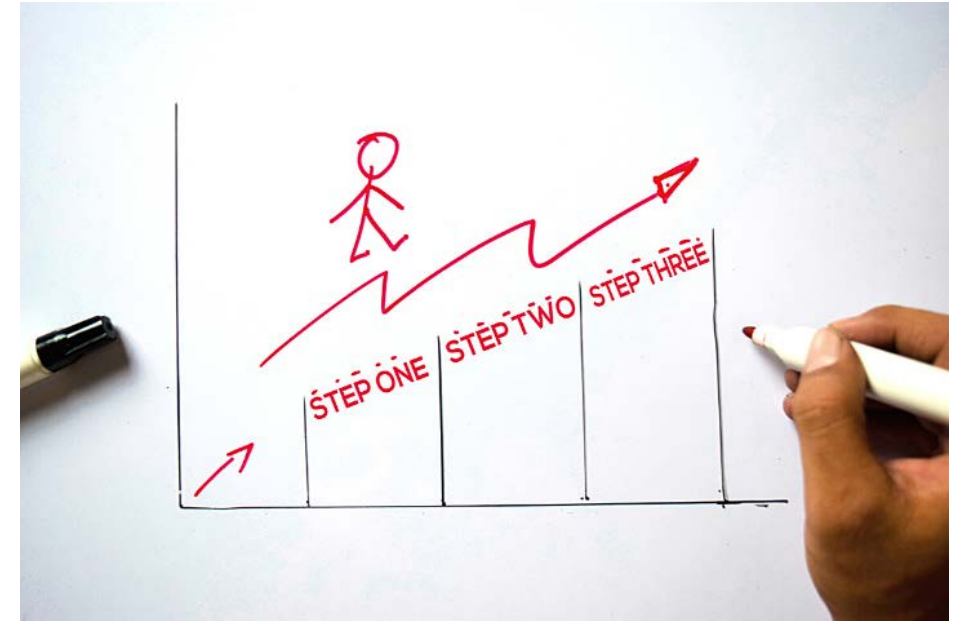
Source: Anselm H. Amadio / Anthony J.P. Kenny

Quality Legal Practice Framework



How

- Use the QLPF as a guide- establish the most important practice management things for you and your firm
- Do something from each area of the QLPF
- Allocate time to practice management
- Take action-do something



Contact

If you have a question and would like to speak to an LPLC Risk Manager, you can contact LPLC via phone on **03 9672 3800** during business hours, or via email at: lawyersrisk@lplc.com.au.



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