

# THE WORK HABIT

Presented by  
**Stephen Bubb** | Risk Manager, LPLC



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# Introduction

This session will identify the key areas of practice management to cover and then focus on important aspects of **doing the work** in what we call the **Work Habit**.



# Introduction

Knowing the law

Producing **quality** legal work

# Five key risk areas

Governance  
Habit

Engagement  
Habit

Work Habit

People Habit

Risk Management  
Habit

# The work habit

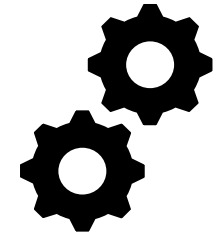
To consistently produce quality legal work you need:



# Systems

Hardware, software and connectivity for:

- Communications - phones and video conferencing
- Production of letters, emails, documents and notes.
- Calendars, tasks and workflow management.
- Work specific platforms - PEXA, SRO and the courts.

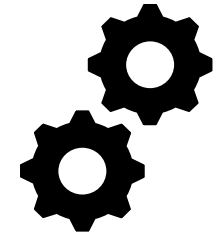


Legal practise software - one **system** to bring it together

# Systems

Is your technology:

- Efficient?
- Reliable?
- Secure?



Do you have the **necessary technology skills?**

# Precedents



Generate a volume of consistent quality work

Avoid errors

Increase efficiency

Quickly produce work



# Precedents

A firms precedents should include:

- Checklists.
- Letters.
- File notes.
- Documents.



# Poll

Do you use a checklist at the start of each new matter as a prompt or a reminder to raise important issues and get relevant instructions?

- a) I **always** use a checklist
- b) I **sometimes** use a checklist
- c) I **never** use a checklist



# Processes

There needs to be agreed processes for the way things are done across the firm, on each client matter and by each individual.

Policies and procedures underpin how the processes work.

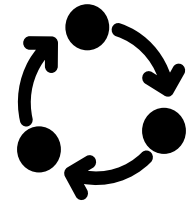


Image source: SnackNation

# Processes

They should be:

- Written down – the office/ work manual
- Regularly reviewed and updated
- Part of a regular training program
- Practiced from the top down – no exceptions
- Part of every new employees induction.



# Processes

Some important procedures to cover are:

- Cyber security
- Making file notes and confirming matters in writing
- Using the firms precedents and not individual variations
- Using a checklist for every new matter
- Following required work processes in each area of work
- Data entry – including what, when and how things are recorded

# The Work Habit in practice

Some critical points when doing the work are:

- Setting up a new matter
- The retainer
- Confirming things in writing
- Communication
- Keeping records.



# Setting up a new matter

Start every matter on a solid footing by:

- Allocating time to take full instructions
- Identify and record key and critical dates
- Using checklists and prompts to get full details
- Say 'no' to work you are not set up to do with precedents and procedures



# The retainer

The retainer is your contract with the client and the starting point in most claims.

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



# The retainer

Three steps:

1. Raise relevant issues so the client can make an informed decision about the work they require
2. Document the required work and any excluded work
3. Do the required work.

# The retainer

Your agreement with the client should be in writing and:

- Identify the client
- Have a clear scope of work to be completed
- Set out excluded work
- Set out when it starts and how it is to end
- Be updated and modified as changes occur
- Clarify if costs and other business terms are included in the document or done separately.

# Confirming advice in writing

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.

# Specific risk situations

Set up and use precedent letters for specific risk situations to:

- Warn the client of the risk and consequences in writing
- Produce the advice letter quickly
- Seek written acknowledgment from the client before you proceed.



# Poll

Do you use a comprehensive advice letter or email to clients at or near the commencement of each new matter?

- a) I **always** use a comprehensive advice letter
- b) I **mostly** use a comprehensive advice letter
- c) I **don't** use a comprehensive advice letter



# File notes

Making a file note is an important part of doing the work.

Some cases:

- *Renard V Geach* [2013] FCCA 617 – critical of the solicitor for no note, see paragraphs 78-79.
- *Anthony V Vaclac* [2009] - accepts the solicitor's evidence in accordance with his file notes.

# File notes

File notes help to:

- Prevent claims
- Defend claims
- Protect practitioners.

Make them easier to do with **precedents** and **technology**.



# File notes

A file note should include:

The image shows a screenshot of a 'File Note' form. The form is titled 'File Note' and contains several fields. The following fields are circled in red:

- Date
- Time Start
- Time End
- Attendees
- Important instructions and advice

The form also includes the following fields:

- Units
- Matter
- Matter No
- Location
- Author
- Telephone In
- Telephone Out
- Face to Face
- Video Conference

The form is displayed on a grey background with a vertical bar on the right side containing the text 'File Note' repeated five times.

Do you ask the client to sign as an **acknowledgement**?



# Communication

Effective client communication is necessary for:

- Getting detailed instructions
- Giving advice
- Client understanding
- Risk management
- Client satisfaction.



Image source: Generational Equity

# Communication

Is this the right communication for this client in this matter including the:

- Right method
- Right level
- Right delivery.



Image source: Constant Content

# Communication

Confirm matters in writing:

- Gives clarity and focus to important issues
- Allows the client to review important issues in their own time
- Provides protection for practitioners

On important issues, seek an **acknowledgement** of the advice.

# Records

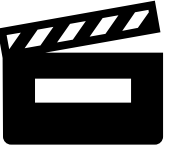
It is part of your role to create and maintain a client file for:

- Clarity
- Future reference
- To avoid dispute
- Evidence
- Costing
- Compliance.



Image source: AsiaOne

# Action



Write down three actions you will implement to improve your risk management:

- 1.
- 2.
- 3.

# 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](mailto:lawyersrisk@lplc.com.au).



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