

# Good practice management: lessons for all law practices

This fact sheet reviews several major practice management issues identified in a series of legal practice audits.

## INFORMATION FOR LAW PRACTICES

### Incorporated Legal Practice (ILP) audits

The Legal Services Board has the power to conduct audits of ILPs to check they are complying with their legislative and regulatory obligations.<sup>1</sup> These audits look at how ILPs deliver their legal services and seek to ensure that ILPs have appropriate management systems in place to comply with the legislation, regulations and professional rules.<sup>2</sup>

The purpose of these audits is to maintain the high standards of practice expected of and by the legal profession.

Audits are based on the 10 objectives set out in the Board's [Approved Management Systems for ILPs](#) policy, and are consistent with the approach taken by regulators in New South Wales and Queensland.

### Audit lessons are valuable to all law practices

The Board's objective is to ensure good practice management applies equally to all practices, not just ILPs. Many of the practice issues identified during ILP audits are common to law practices more broadly. The information gained through the Board's ILP audits can therefore be of value to all law firms.

Several prominent issues have emerged from previous audits of ILPs and are discussed in detail below. These are as important for ILPs to address as for any other legal practice.

The Board acknowledges the valued assistance of the Law Institute of Victoria in identifying these issues and developing this fact sheet.

<sup>1</sup> See s2.7.22 *Legal Profession Act 2004*

<sup>2</sup> See s2.7.10(3) *Legal Profession Act 2004*

### Practice management systems are fundamental to good practice

Audits have confirmed that practitioners are better able to meet the demands of legal practice if they have in place clear policies and procedures, supported by an efficient software system, checklists and precedents.

Utilising efficient technology that supports the legal services you provide and your method of service delivery is highly recommended. Good systems facilitate efficiency, reduce risks and increase regulatory compliance. They are fundamental to you providing consistent, quality work.

Practices can develop their own software systems, or buy an 'off the shelf' integrated system and adapt it for their own needs. Purchased systems usually provide data management functions that address key practice requirements such as file activity, work flow, time recording, costing and billing, account balances, and record-keeping.

Legal practice is constantly changing: you cannot simply set and forget your practice management systems. Ongoing compliance review and training are essential, and systems need to be maintained, reviewed, improved and driven by the practice's directors or principals.

### Work focus leads to good practice

It is difficult for practitioners to provide efficient and quality legal services across a wide range of different legal areas.

Practices need a clear focus on the work they can and want to do. More importantly they must understand the work that they are not equipped to do. They need to say 'no' to work outside their experience, knowledge and capacity.

Audits have shown that practitioners and practices who

tried to provide every service for every client had difficulty keeping up to date and maintaining precedents and systems for efficient, quality work.

Practices that took instructions for work they were not equipped to do tended to have poor cost disclosure, and had trouble providing clear advice and managing client expectations. This often resulted in problem files and unhappy clients.

By contrast, practices that worked within specific areas of law were able to stay up to date and develop good precedents and systems for consistently efficient and high quality work. They generally provided more accurate cost disclosure, clear advice and managed expectations for a solid client relationship.

#### **Written communications must be clear and consistent**

Good communication with your client builds a strong professional relationship. Poor communication is a common factor in the breakdown of client-lawyer relationships and is the basis for a large percentage of client complaints.

Clear written communications confirming your instructions, the advice given and for concluding your engagement are minimum requirements – you should establish template documents for these functions to ensure these minimum requirements are always completed.

#### **Discuss costs disclosure and fee estimates with clients regularly**

Legal costs are important to clients and should be raised and discussed initially and as a matter progresses.

Audits revealed that in many instances, costs disclosure and fee estimates were only given at the commencement of a matter, and not updated in writing when circumstances changed.

Changes to costs should be a regular part of conversations with the client to ensure there are no surprises waiting for them at the end of the matter. Any change should be confirmed in writing.

An unexpected account is often the catalyst for a complaint – it leaves practitioners with a further problem to deal with and affects the opportunity for ongoing relationships and client referral. Audits have also shown that practices with poor cost disclosure often have debtor problems and difficulty collecting fees.

A further problem identified through audits is overly broad fee estimates which are meaningless to clients; for example '\$7,000 to \$70,000'. Such vague estimates do not give the client any sense of control or confidence in the practice's ability to manage their matter efficiently.

#### **Disbursements and statement of clients' rights**

Administration fees and office overheads are not disbursements, but audits have demonstrated that this is not always clearly understood by practitioners.

Disbursements are expenses you must reasonably pay to advance the client's particular matter. You should disclose them to the client, get their instructions to incur them and itemise them in the account.

The law is set out in the '*Legal Costs Handbook*<sup>3</sup>:

*'A solicitor cannot charge the client for office overheads and can only charge to a client disbursements incurred on behalf of a particular client on a particular matter.'*

Including a statement of client rights with all accounts, is an absolute requirement.<sup>4</sup>

#### **Establish registers and policies**

Several audited practices did not have a central place to record important information, such as solicitor undertakings or complaints.

A register is a simple yet effective way to record and keep track of important corporate information. To ensure a consistent approach across the practice, it is also important to establish policies to give clear guidelines to all staff on how and when business processes and registers should be used and/or maintained.

#### **Keep advertising clear and accurate**

Advertising is regulated and must comply with the Act and Rules<sup>5</sup>. The basic rule is that advertising cannot be false or misleading or likely to mislead or deceive. Most importantly, don't allow your advertising to give clients false or unreasonable expectations that they will then expect you to keep.

#### **Self-assessments for all law practices**

The Board has prepared a [Self-Assessment Audit](#) for ILPs which can be used by all law practices to review and measure their own performance against the Board's Approved Management Systems objectives.

#### **Further information**

Contact the Victorian Legal Services Board+ Commissioner

Tel: 1300 796 344

Email: [admin@lsbc.vic.gov.au](mailto:admin@lsbc.vic.gov.au)

<sup>3</sup> See Ahern, J, Weingart, A and Johnson, M, (1995), [Legal costs handbook: a guide to the preparation and taxation of legal costs](#), Law Book Co, pp 33 to 37.

<sup>4</sup> See s3.4.35 *Legal Profession Act 2004*

<sup>5</sup> See s2.7.18 and 2.7.47 *Legal Profession Act 2004*; Rule 35 of the *Professional Conduct and Practice Rules 2005*