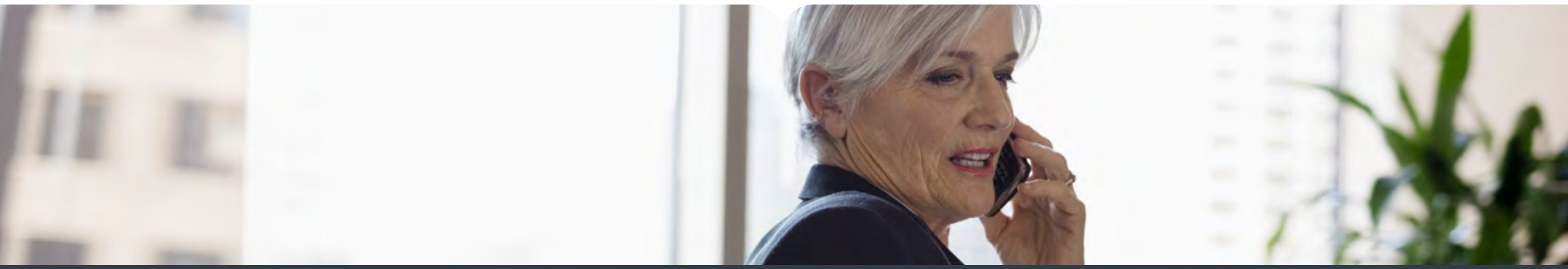

GUIDANCE NOTES FOR LEGAL PRACTICES

Organisation

Good research, careful preparation and excellent client care can all be spoiled by lack of organisation. It is important that everyone in your practice follows procedures, and this must include partners and directors – nobody should be exempt from compliance because of their status.

It is helpful to develop office procedures with input from those who will be using them. They should be set out in your office manual, and must form part of the induction procedure for new staff. Regular monitoring should be built in to ensure that they are being followed.

Personal organisation

- Set objectives for the day and prioritise your work. Spend the last five minutes of each day preparing a 'To Do' list for the following morning. It will clear your mind and help you to put tasks in order of priority
- Distinguish urgent, important and routine matters and allow time for all. Focusing on urgent matters only may seem essential but the routine non-urgent items will build up
- You, and not your client, should set the priorities. Use your retainer letter to establish a clear plan and to define the work you will and won't do. Just because the client rings up frequently or sends emails or faxes, is the matter really more important than other work?
- Try to have a 'clear desk' policy. The more paperwork on your desk, the greater the risk of something being lost or mislaid, and the more time will be wasted searching for things. Don't keep picking things up and putting them down again – action them, file them, pass them on or bin them
- Decide when your 'prime time' is, and use it for complex work which requires detailed concentration. Tell clients that you will not be able to take calls at this time, and divert your phone
- Don't check your email every time a new item arrives – turn off automatic notification and check it hourly (or less frequently)
- Plan ahead – what needs to be done and when (this includes planning to meet your CPD requirements). Do not leave matters until the last minute. Use your diary system, and involve your support staff, by keeping them informed

Staff management

The standards, objectives, and procedures of the firm must be identified to staff. There should be an induction process for all new staff, irrespective of seniority, so that these matters can be explained to new joiners. Anyone in the firm could cause a negligence claim by their actions, not just fee earners.

- Make sure staff are aware of the firm's standards, objectives and procedures
- Identifying the risks and explaining systems will reduce exposure to risk and enable you to act on any breaches of policy
- Document the skills and expertise required of all personnel within the firm and the tasks they are required to perform – i.e. formal job descriptions
- Set objectives and identify training needs of staff through the appraisal system. Each member of staff should be appraised at least once a year
- Review office procedures with staff and encourage their input
- Try to encourage a culture in which staff feel able to admit to problems, or to tell you about other's problems
- Involve everyone in the affairs of the firm, whether by an internal newsletter, or regular staff meetings. Happy staff make for a good working environment, and social functions can help to develop the right atmosphere
- Everyone should know where to find the office manual and be made aware of any updates. New staff should have the office manual explained to them at their induction training

Specific areas which should be covered in the manual include:

- The firm's culture and management structure
- Standards: confidentiality, time keeping, dress codes
- Financial procedures, including the difference between client and office account
- Their levels of authority, i.e. requesting cheques, handling cash signing letters
- Client care and complaints procedures
- Grievance procedures
- Fraud and money laundering prevention

Holidays

Planned leave can be a source of risk. Before going on holiday, many fee-earners work long hours to bring work up to date, and this can lead to errors being made. Failure to leave detailed notes (or to have files in good order) can result in problems, as can lack of monitoring systems for diaries and e-mails. In some firms, no one is available to cover holiday absence.

- Consider a pairing system, in which every fee earner has a 'pair' who is accountable for the files in the fee earner's absence
- The pair must treat the files as if they were their own, checking the diary on a daily basis, reading incoming post, liaising with clients
- Fee earner and secretary should not be allowed to take their holidays at the same time. There must be someone available with a working knowledge of the client and the file
- Encourage the preparation of file notes before planned leave, but allow sufficient time for this
- Consider adjusting monthly fee-earning targets to take account of holidays
- Be careful of leaving too much dictation for your secretary to deal with in your absence. With you on holiday, the secretary is likely to be very busy dealing with clients and filtering matters to your pair, and may not have time to type it all before you get back
- If you do leave work, make sure there is a list of all correspondence dictated, and file references, so that it is easy to identify which file belongs to which recording. Do not mix up urgent and non-urgent files
- Do not take on urgent matters just before going on holiday
- Tell the clients that you are going on holiday, and give them a contact name
- Encourage staff to take their full holiday entitlement – whether they want to or not
- Failure to leave detailed notes before going on leave can cause problems

Post, DX, email, faxes

Have a clear procedure for dealing with incoming post, e-mail, faxes and outgoing post. Who is allowed to sign off outgoing post? There should be a clear line of authority so that only those with sufficient experience are allowed to sign and send substantive letters or emails. Undertakings should always be signed by a partner, director or member.

Outgoing post

It is the responsibility of the person signing the letter to ensure that it says what it was meant to say.

- The person signing the letter must make sure that all enclosures are included and are correct. If signing for a colleague, ask to be given the file with any letters
- Check the client's name, title, address and the date of the letter
- Only allow suitably experienced or qualified staff to sign outgoing post
- Take care if signing post on behalf of a colleague. Letters are best signed by their author, especially letters of advice, settlement offers, or letters enclosing cheques
- Hard copies of emails and faxes must be placed on the file
- If cheques are enclosed, make sure they are made out to the right person or persons and are for the right amount
- Remember that these rules should apply to faxes and emails as well
- Incoming post should also be supervised. This can be a very effective way of identifying problems at an early date, such as dissatisfied clients, complaints, or potential claims
- A partner, director or member should be present at post opening
- Responsibility for monitoring incoming post should be rotated, so that the post is not monitored continuously by the same individual
- All incoming post should been seen and checked by the departmental head before distribution
- Second post, faxes and incoming emails should be supervised as well

Emails

There should be a clear organisation-wide policy with regard to use of emails. Emails tend to be regarded as an informal means of communication which can cause standards to drop. This is very dangerous. Email is a communication exposed to the same, if not greater, risks than other means of communication.

- Care must be taken to ensure that the email is sent to the correct destination. Avoid using shortcuts which automatically fill in the recipient's name. It is good policy to type the text of an email first, and then to add the name and address, this avoids sending half-completed emails
- Common problems are clicking on:
  - 'Reply to all' instead of 'reply'
  - 'Reply' instead of 'Forward'
  - 'Send' instead of 'Save as draft'
- Check with clients that they are happy to communicate via email and put this in your retainer letter. Tell them your intended response time for email correspondence, and warn them that if a matter is urgent they should phone the office, not rely on an email having been received
- If you are absent from the office, someone else should be able to access your emails. Insist that all staff set 'Out of Office' details
- Authority with regard to signing letters extends to e-mails as well
- Ensure hard copies of the email are put on the file or that emails are stored electronically in the appropriate place
- Consider the need for a confidentiality clause to be attached to all emails
- Make sure the correct attachments are annexed to the email – double-click on them to check they are right
- It is almost impossible to check emails in the same way as post – reserve the right to read all emails sent through the firm's email system and make sure that staff are aware of this. Make spot checks from time to time to ensure that all emails are being recorded on the file and that suitable language is being used

Faxes

Faxes are used much less frequently these days, but similar considerations arise as those in relation to emails.

- Make absolutely certain that the correct fax number has been identified
- Complete a fax instruction sheet or front sheet with all relevant details if delegating sending the fax to a third party
- Ensure that the fax sender double-checks the number on the display before pressing the send button
- Make sure that the confirmation sheet is retained after the fax has been sent. This is evidence of the date, time and length of the fax, the number it was sent to, and that the transmission was either effective or defective. This document is crucial as evidence that the fax was sent
- Have a defined procedure for the collection and distribution of faxes to staff
- Check with the client that they are happy for you to fax letters and documents to them. The fax may not be secure
- If the communication contains particularly sensitive or confidential information, query if the fax is the correct medium of communication

Telephones

The telephone is often the first point of contact between a potential client and your practice. The client – or other professionals – will form an impression of the firm as a result of the call. Training in the use of the telephone is therefore recommended. The following points should be noted:

- There should be a call logging system
- A commitment made by a member of staff, qualified or not, will bind the firm. Switchboard operators and receptionists should therefore be made aware of the risks attaching to the telephone and making commitments to clients
- Use standard form message pads
- Where possible, ensure that clients who need to leave a message are passed through to a member of staff
- If voicemail is used, have a policy that staff must set the message and check their system daily
- It is crucial that messages are passed on to the recipients with minimum delay
- Have a designated response time for returning calls, say 24 hours
- If you operate a voice mail facility, make sure that arrangements are in place for your voice mail to be accessed in your absence, and that messages are dealt with
- Be careful using mobile phones in public places – do you know who may be listening in to your conversation?
- Remember the rules of confidentiality
- Complaints and claims should be monitored and logged to ascertain why they happened

Complaints

It is the responsibility of every firm to have an established complaints procedure to comply with professional requirements. Complaints should be investigated in detail to ascertain whether or not there is a requirement to notify your insurers. Under the current indemnity insurance arrangements you must notify not only claims, but also any circumstances which may give rise to a claim.

Notifiable circumstances may arise in connection with a complaint.

Staff must be made aware of your procedures both for complaints and for claims. Complaints and claims should be monitored to ascertain why they have occurred, and what can be done to ensure they do not happen again.