

Practice Resource

Loss prevention planning checklist

Preface

This checklist is designed to promote the use of effective office systems, and flag potential problem areas, within a legal practice. Depending on the individual practice environment, some variation will occur in terms of preferred systems and levels of importance and customization, including the use of technology.

There are many software packages that can assist with your office systems. Many of the procedures in this checklist can be enhanced with technological aids.

Legal-specific case management and accounting software packages have been developed to suit the needs of legal practitioners ranging from the sole practitioner to large firms. A well-maintained database can track information, provide reminders, track time, and more. For more information see further articles such as "Building an automated practice: it's not so tough" on the Law Society website (www.lawsociety.bc.ca).

Procedure	Yes	No
Filing system		
1. Do you have a procedure for opening each new file?		
2. Do you have a computerized database to track your files, including contact and detailed file information?		
3. Do you maintain a file opening book providing a record of all client matters commenced? (chronological, alphabetical, closed files)		
4. Do you have a file opening sheet?		
5. Do you use a new file folder for each new case?		
6. Do you have a logical system for organizing files on your computer system/network?		
7. Do you use subfiles for correspondence, pleadings and memoranda of law, searches, documents and other groups of papers where appropriate?		
8. Do you fasten all loose paper inside each file?		
9. Do you have a procedure to highlight limitation date reminder in each file?		
10. Do you have a procedure for protecting original or other special documents?		
11. Do you use a central file system?		
12. Do you return all unnecessary files to the central system, ensuring that no file is put away without a brief forward reminder?		
13. Do you have a file checkout system?		
14. Can you always find a file when you need it?		
15. Do you conduct a periodic inventory of filing cabinets to ensure that no files have escaped your system of review and updating?		
16. Do you avoid filing backlogs?		
17. Is your file space adequate?		
18. Are your files secure from fire or theft?		
19. Are open files kept physically separate from closed files?		
20. Do you have a procedure for closing a file:		
a. Responsible lawyer review file to ensure no matters remain outstanding and “signs off” file;		
b. Closing letter is written to client;		
c. Documents are returned to client if necessary;		
d. Final bill including all disbursements has been paid?		
21. Do you store closed files in an area of limited access for at least six years?		

Procedure	Yes	No
22. Who is responsible for file control?		
23. Have you reviewed guidelines for file retention and destruction? (see Closed Files: Retention and Disposition, available on the Law Society website under Practice Resources.)		
Limitation, bring forward and diary systems		
24. Do you have a procedure for entering limitation dates and bring forward dates immediately in the appropriate system?		
25. Do you take advantage of technology/case management software to aid in your reminder systems?		
26. Do both you and your secretary or legal assistant keep a hard copy diary recording of all client and office management dates, including, where applicable:		
a. Due dates for:		
i. Commencing an action		
ii. Completing each stage of litigation; e.g., due dates for experts' reports, subpoenaing witnesses, responding to Notices to Admit, etc.		
iii. All court appearances		
iv. Probate proceedings		
v. Corporate or securities matters		
vi. Appellate proceedings		
vii. Tax returns		
viii. Estate matters		
ix. Real estate transactions		
b. Renewal dates for:		
i. Writs licenses		
ii. Copyrights, trademarks, patents		
iii. Judgments		
iv. Leases		
v. Insurance coverage		
c. Review dates for:		
i. Wills		
ii. Trusts		
iii. Buy/sell valuations of business interests		

Procedure	Yes	No
d. Office management dates:		
i. Tax returns and quarterly installments		
ii. Renewals of leases		
iii. Insurance renewals		
iv. Lawyer's annual practice fees and insurance		
v. Review dates for accounts receivable		
vi. GST and PST remittances		
27. Do you follow a set procedure for recording and following up on each bring forward and limitation date?		
28. Is your limitation/bring forward system:		
a. Kept in a central location and/or easily accessed by all staff involved; if computerized, is it a networked system?		
b. Kept by one person?		
c. Reviewed each morning?		
d. Followed up at the end of the day?		
29. Is your limitation/bring forward system initiated by written instructions from the responsible lawyer?		
30. Does your limitation/bring forward reminder system include the following steps, or their equivalents:		
a. entry of the dates in a central limitations card system or computerized database system;		
b. notation of the bring forward date in a prescribed area of the file cover;		
c. preparation of a file opening sheet including at least three follow-up reminder sheets with dates of two months, one month and two weeks prior to the expiry of the limitation;		
d. filing an extra copy of all correspondence in a tickler file by follow-up date;		
e. ensuring all limitation/bring forward reminder dates are noted in the responsible lawyer's diary, in electronic form or paper or both?		
31. Does your reminder system provide enough lead time to complete the activity prior to the deadlines?		
32. Do you add new dates to your reminder system as new limitations arise?		
33. Does everyone in the office always use the system?		
34. Do you periodically conduct a hands-on review of all your files to ensure that each one is up to date?		

Procedure	Yes	No
35. Do you have a system which alerts you to check files which have had no activity for six months?		
Conflicts system		
36. Is each new file screened to ensure no conflict of interest exists before any work is done on the file?		
37. Are you using a conflicts of interest checklist? (A checklist is available on the Law Society website under Practice Resources.)		
38. Do you circulate each new file opening sheet or a weekly summary of new cases to all members of the firm so they can advise whether any conflict exists based on their knowledge of the firm's clients?		
39. For each new matter, are the names of the client and all opposing parties checked against indices of the firm's clients and opposing parties?		
40. If a conflict arises, do you promptly inform your clients of the situation and take appropriate steps (e.g., disqualify yourself, recommend that parties obtain separate legal advice, continue to act after obtaining written informed consent)?		
41. When you act for two or more parties, do you advise in writing that:		
a. you must not favour the interests of one party over the interests of the other (undivided loyalty);		
b. there is no confidentiality relevant to the case between or among them;		
c. if you act for one party on a separate matter and receive confidential information that is relevant to the joint matter, you must either withdraw from the joint matter or share the information with both parties;		
d. in the event of a dispute between the parties which cannot be resolved, you will be obliged to cease to act for all parties;		
e. although joint representation may have some advantages, you recommend that the clients obtain independent legal advice? (Appendix 6 of the Professional Conduct Handbook contains a sample letter to clients regarding joint representation.)		
Time keeping system		
42. Do you record how your time is spent each day, distinguishing between time chargeable to each client?		
43. Does your time keeping system record an easily understandable explanation of each service performed?		
44. Does your system provide a record for all accumulated time spent on each client by all lawyers and other staff whose time is charged to the client?		

Procedure	Yes	No
Client communications		
45. Do you use a retainer letter for each new file, including:		
a. Identity of your client (e.g., individual, corporation, group of shareholders);		
b. Confirmation of your instructions;		
c. The scope of your retainer;		
d. An agreement on fees;		
e. An outline of the proposed schedule of the new matter;		
f. The procedure for terminating the lawyer/client relationship (e.g., warning you can withdraw if fees not paid)?		
46. Do you have a procedure for confirming your instructions and agreement concerning fees in writing?		
47. Have you read the retainer letters available on the Law Society website?		
48. At the time of your first contact with a client, do you consider whether:		
a. you have enough experience in the area of law;		
b. you have enough time to do the work;		
c. any conflict exists;		
d. there is no imminent danger of limitations?		
49. Do you use a "non-engagement letter" when a client consults you but you do not take the case? (available under Practice Resources on the Law Society website)		
50. Do you bill your clients:		
a. on a regular basis;		
b. according to a predetermined agreement;		
c. in an easy to understand format;		
d. explaining exactly what services were provided during the billing period?		
51. Do you require a financial retainer to be held in trust?		
52. Do your contingency fee agreements conform with rules 8-1 to 8-4 of the Law Society Rules and sections 66-67 of the Legal Profession Act?		
53. Do you keep time dockets on contingency fee files?		
54. Does your agreement with your client allow you to claim interest on overdue accounts?		

Procedure	Yes	No
55. Do you have a follow-up system for outstanding accounts?		
56. Do you regularly report to your clients on the progress of their work?		
57. Do you confirm all major decisions - both your client's and your own - in writing?		
58. What do you do to ensure that your client has reasonable expectations about the outcome of his or her case?		
59. Do you send copies of all important correspondence and documents about their case to your clients?		
60. Do you have a procedure for handling all incoming correspondence including:		
a. date stamping on receipt;		
b. reviewing it before it is placed in a file;		
c. responding within a set time period?		
61. Do you avoid answering other calls when you have a client in your office?		
62. Do you return all phone calls daily, or instruct your secretary to return calls when you are unable to do so?		
63. Do you avoid using "legalese" or technical language when talking to or writing to clients?		
64. When you explain the reasonable options and risks to your client, do you always record the advice given and instructions received?		
65. Do you keep notes of all significant phone calls and conversations, including the date, time and the names of all parties involved in the conversation?		
66. Do you refuse cases outside your area of expertise and attempt to find alternate counsel for your clients where required?		
67. Do you document all settlements offered and rejected and have them signed by the client?		
68. Do you document occasions when your client refuses to follow your advice?		
Accounting		
69. Is your accountant or bookkeeper familiar with the Law Society accounting procedures?		
70. Is your accounting up to date?		
71. Have you filed your annual CDIC (Canada Deposit Insurance Corporation) report for your pooled trust accounts?		
72. Do you manage your finances to avoid cash flow problems?		

Procedure	Yes	No
Personnel management		
73. Do you have an office manual explaining standard procedures, firm policies and employee benefits which is given to each person working at the firm (or available electronically via a networked computer system)?		
74. Are you aware of the programs available to the profession to deal with substance abuse and stress related problems, such as Interlock and the Lawyer's Assistance Program?		
75. Do you have regular performance appraisals of all support staff and lawyers, involving all members of the firm in the appraisal where applicable?		
76. Do you have a designated person to whom all members of the firm, lawyers and support staff, can talk about any work problems they might encounter?		
77. Do you have a policy regarding:		
a. professional secrecy;		
b. greeting clients;		
c. handling of mail;		
d. work schedule;		
e. task sharing;		
f. holidays;		
g. overtime?		
78. Do you devote time and resources to maintaining or improving the motivation of support staff and professionals?		
Professional training		
79. Do you regularly hold information meetings among lawyers, and where appropriate, other staff, on new legislation or recent jurisprudence?		
80. Do you regularly read new case law relating to your field of practice?		
81. Do you attend continuing legal education courses?		
82. Do you attend section meetings of the Canadian Bar Association related to your areas of practice?		
83. Do you have friends or mentors with whom you can discuss problem cases or ethical questions?		
84. Do you call the Law Society Practice Advisors for advice when you need it?		

Procedure	Yes	No
Insurance		
85. Do you have insurance policies for:		
a. disability;		
b. office expenses;		
c. office contents, including valuable documents?		
86. Are you aware that you must give notice to the Lawyers Insurance Fund at the Law Society as soon as practicable after you become aware of a possible professional negligence claim against you?		
87. Are you aware that you may not be covered by Professional Liability Insurance if you admit liability without the consent of the insurance department at the Law Society?		
88. Do you annually consider the need for excess insurance?		
General		
89. Does your firm discuss loss prevention at regular meetings with all staff?		
90. Have you outlined specific actions for improvement?		
91. Have specific people been given responsibility for implementing these actions?		
92. Have they been implemented?		
93. Do you train new personnel on office procedures prior to relying on those people?		
Coverage		
94. Have you made arrangements for coverage of your practice when you are unexpectedly absent?		