

Guidelines for Matter Management

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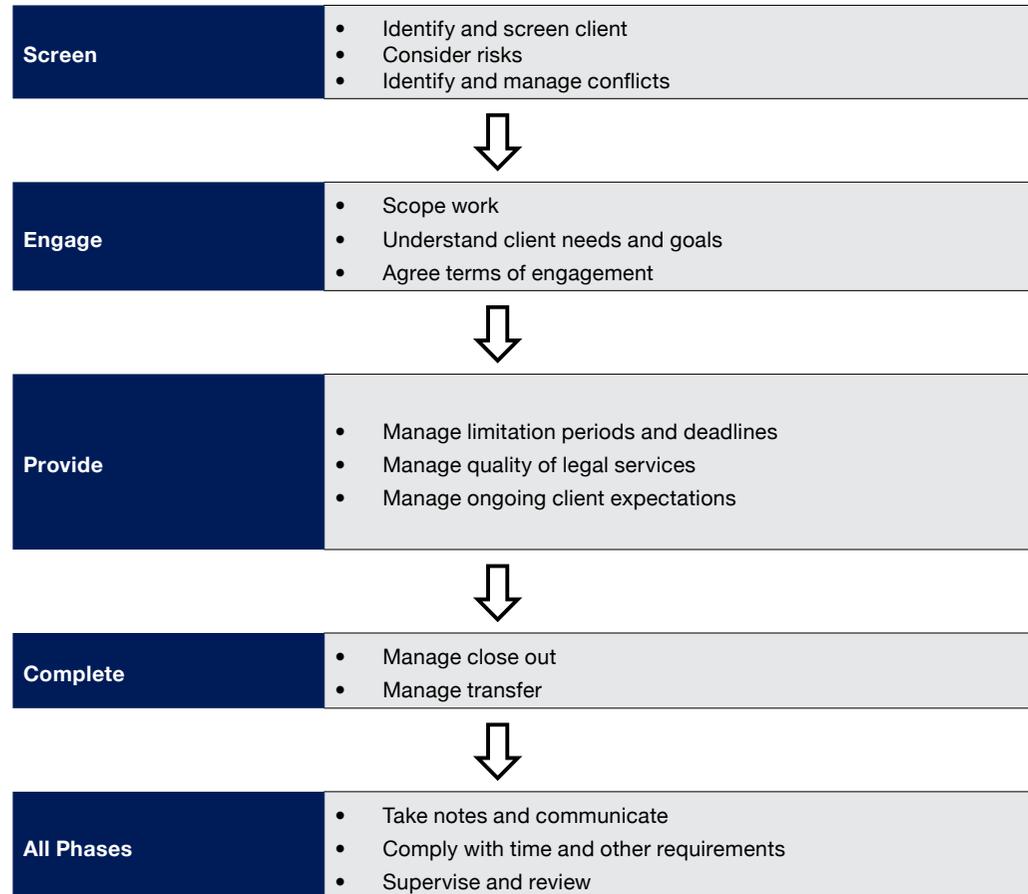
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This Guideline

This Guideline contains knowledge about widely accepted good practice in the delivery of legal services. It describes the general characteristics and requirements for managing Matters to effectively deliver legal services. It incorporates certain requirements of the *Legal Profession Act 2008 (WA)* (the Act).

Matter management comprises the following core elements:



Mandatory – Law Mutual considers this is a requirement that must be met for the purposes of good risk management practice.

Sole Practitioner* – Law Mutual considers this is a requirement that must be met for the purposes of good risk management practice for a practitioner who practices on his or her own account alone without legally trained staff requiring supervision.

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A Matter

There are four key phases in the management of any legal matter. The phases, their purpose and related key activities are summarised in the following table:

Phase	Screen prospective client and matter	Engage client	Provide and monitor service	Close and manage aftercare
Purpose	Reach in principle decision to accept or reject matter	Achieve shared understanding and binding agreement on scope, costs and fees and services	Deliver agreed services to professional standards and to client satisfaction	Confirm completion of agreed services and respond to post completion developments
Key activities	Confirm identify and authority	Understand key facts and client objectives	Obtain detailed instructions	Check legal requirements met
	Understand nature of legal need	Explain options for achieving objectives	Provide advice on conduct and potential outcomes of matter	Check scope and services in agreement to deliverables
	Check for conflict of interest	Explain rights, obligations and requirements	Undertake further investigation	Render final bill
	Determine suitability of client	Scope services and fees	Conduct legal research	Confirm matter closed
	Determine capability to conduct matter	Make disclosures and obtain consents	Draft and lodge documents	Archive documentation
	Manage initial client expectations	Sign costs agreement	Provide representation	File transfer (if required)
	Decide to accept or reject matter	Confirm engagement	Engage experts	Answer post completion enquiries
			Communicate with client and other stakeholders	
		Render invoices		

Screening

The purpose of this phase is for the Practice to reach an in principle decision to accept or decline the client's request to act on their behalf in the conduct of the legal matter.

Activity	Requirement	Potential Control	Mandatory	Sole Practitioner*
Confirm identify and authority	Be certain of the prospective client's identity and authority to instruct you	Client identity confirmation checklist	✓	✓
Understand nature of legal need	Take sufficient initial instructions to understand the facts, the legal issues to be addressed and the overall approach to conducting the matter	Standard instruction form with prompts to capture the nature of the legal need**	✓	✓
Check for conflict of interest	Determine whether the practice has any potential conflict of interest and if so, either decline the instructions or manage the potential conflict in a legally permissible manner	Conflicts database Requirements for update of conflicts database Conflict checking, management and escalation procedure	✓	✓
Determine suitability of client	Conduct relevant enquiries and searches to assure the practice of the potential client's capacity and suitability	Standard instruction form that includes <ul style="list-style-type: none"> risk indicator checklist and/or prompts for capturing risk related information sign off procedure by accountable senior practitioner Client credit checking procedure	✓	✓
Determine capability to conduct matter	Determine whether the practice has the capability and appetite to conduct any matter that is high risk, complex or unusual	Risk appetite statement that sets limits on the work the practice is prepared to take. Mandatory signing off by accountable senior practitioner	✓	
Manage initial client expectations	Ensure the client understands the practice's capability (and limits) to act on the client's behalf	Practice capability statement Confirmation of instructions template	✓	✓
Decide to accept or reject matter	Consider key risks identified during screening, decide whether to take on matter and communicate to the potential client and related parties	Standard letter accepting instructions Standard letter declining to act	✓	✓

Engaging

The purpose of this phase is for the Practice and the client to reach a shared understanding and binding agreement on the scope, fees, disbursements and services associated with the conduct of the Legal Matter.

Activity	Requirement	Potential Control	Mandatory	Sole Practitioner*
Understand the client's sophistication	Gauge the client's level of sophistication in accordance with the Act, capacity and capability to give instructions, receive and act on advice and adapt an approach to engaging and communicating with the client accordingly	Client management checklist	✓	✓
Understand key facts and client objectives and explain options for achieving objectives	Capture the client's objectives and concerns about the conduct of the matter and options for achieving objectives	Standard instruction form** Standard confirmation of objectives and options in template engagement agreement	✓	✓
Explain rights, obligations and requirements	In accepting an instruction, communicate to the potential client the nature of instructions, requirements, legal team, fee basis and agreement, in accordance with the disclosure requirements of the Act	Standard instruction form** Standard confirmation of rights, obligations and requirements in template engagement agreement	✓	✓
Scope services and fees	Consider the work required by the scope and the fees to be charged for that work (including disbursements and third party fees)	Standard services and fee section in template engagement agreement	✓	✓
Make disclosures and obtain consents	Engage with relevant third parties to ensure full disclosure and obtain consents	Disclosures and consents checklist	✓	✓
Provide advice on conduct and potential outcomes of matter	Has a clear communicated strategy for the conduct of the matter in accordance with the client's instructions	Initial advice to be included in template engagement agreement	✓	✓
Complete engagement agreement	Not act until an engagement agreement that meets the requirements of the Act has been signed	Template engagement agreement**	✓	✓
	In varying the agreement, communicate and obtain client's agreement to the variation	Guidance on varying services and scope Standard form of variation to costs agreement	✓	✓
Confirm engagement as required	Communicate as required with third parties in writing that it now acts on behalf of the client		✓	✓

Providing

The purpose of this phase is to deliver services in accordance with client's instructions and commitments and to required professional standards so that the best client outcome is achieved.

Activity	Requirement	Potential Control	Mandatory	Sole Practitioner*
Manage file	Ensure a consistent effective and efficient practice for opening, monitoring and closing the file	File management procedure File management checklist**	✓	✓
Provide further advice on conduct and potential outcomes of matter	Has a clear communicated strategy for the conduct of the matter in accordance with the client's instructions and changing circumstances	Standard form of ongoing advice	✓	✓
Undertake further investigation	Ensure relevant facts are gathered to inform decisions, communication, strategy and actions in the conduct of the matter	Checklist for further fact checking Documentation management procedure Standard form for proof of evidence	✓	✓
Conduct legal research	Ensure appropriate legal research is conducted on basis of most relevant and current references	Guidance on legal research	✓	✓
Draft and lodge documents	Use practice precedents and client instructions to ensure accurate and compliant documentation is drafted and lodged	Client instructions form Precedents management procedure Document management procedure**	✓	✓
Provide representation	Act on client instructions and on the basis of relevant law to communicate, advocate, agree and initiate action with relevant third parties to achieve client objectives	Guidance on representing clients Client instructions form** Precedents Contemporaneous notes form	✓	✓
Engage experts	Engage appropriate and competent barristers and experts and fully brief and monitor delivery of their scope of work	Process for engaging and monitoring experts	✓	✓
Render bills	Provide bills and a description of the work the Practice has undertaken in accordance with engagement agreement Ensure full account for monies received by and on behalf of the client	Process for billing clients including frequency, debt, credit limits	✓	✓

Completing

The purpose of this phase is to confirm completion of the legal matter with the client, finalise finance and administration and to advise and respond to post completion issues.

Activity	Requirement	Potential Control	Mandatory	Sole Practitioner*
Check legal requirements met	Review file to ensure compliance with relevant procedural and regulatory requirements	File review checklist**	✓	✓
Check scope and services in agreement to deliverables	Review the matter and outcomes to ascertain whether client's objectives were achieved and expectations were met in the conduct of the matter	File review checklist	✓	✓
Render final bill	Where required, provides monies owed to client in a timely manner	Billing procedure	✓	✓
Confirm matter closed	Explain to the client the outcome of the matter, reasons and implications for the client	Standard template	✓	✓
Archive documentation	Archive the file and return client documents	Archiving and records management procedure	✓	✓
File transfer (if required)	Where the Practice terminates its services prior to the conclusion of the matter it: <ul style="list-style-type: none"> provides reasonable and just grounds for terminating it has communicated that it has ceased acting to the client and relevant stakeholders has rendered final account and returned documents 	File transfer checklist and procedure	✓	✓
Answer post completion enquiries	Provide required information and assistance recognising that the practice no longer acts for the client	Contemporaneous notes form Guidance on post completion enquiries	✓	✓

All Phases

During all phases of the Legal Matter, the Practice should have appropriate process, control, documentation, and oversight of the practitioner's conduct of the matter.

Activity	Requirement	Potential Control	Mandatory	Sole Practitioner*
Take notes and communicate with stakeholders	Take accurate and complete contemporaneous notes concerning instructions received, advice given, information communicated and action taken	Contemporaneous notes procedure Standard notes form	✓	✓
	Retain all information in relation to the matter in a central location comprising logically ordered and identified documentation	Records management procedure	✓	✓
	Ensure other practitioners are able to understand status and conduct of the matter if needed	Matter handover procedures	✓	
	Ensure ongoing communication and feedback from the client so that client expectations on performance, cost and outcomes are constantly managed	Client care and complaints handling procedure and guidance	✓	✓
	Promptly notify the client of any material change in the Practice's conduct of the matter including changes to the Practice, scope, practitioner, fees and costs	Change management procedure including variation to Engagement Agreement	✓	✓
Comply with requirements	Consistently and appropriately give and comply with required undertakings	Undertakings guidance	✓	✓
	Maintain privacy and security of documentation and confidentiality of client communications at all times	Information security and confidentiality procedure and checklist	✓	✓
	Periodically review for changes to conflict of interest position as matter progresses	Conflicts of interest checking procedure and guidance	✓	✓
Meet time requirements	Identify, track and ensure important dates are considered and met during the conduct of a matter	Important dates tracking procedure and guidance	✓	✓
	Conduct the matter in a timely and efficient manner in accordance with the client's instructions	Matter progression guidance	✓	✓
Ensure ongoing supervision and review	Ensure supervisor regularly meets with and reviews the conduct of lawyers who manage the matter	Supervision procedure	✓	
	Ensure supervisor reviews all written advice and legal documents prepared by junior lawyers	Supervision procedure	✓	

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Contact Law Mutual (WA) for further information. All enquiries are treated with the utmost confidentiality.

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