



Evaluate the opportunity of a new client or matter to reach an in principle decision to accept the work.

ACTIVITIES

Hold exploratory discussions with prospective client

Screen and clear new client/matter for suitability and risk i.e.

- Client identity, trustworthiness, expectations, capacity to pay
- Law practice capability to service matter - expertise, capacity, resources
- Conflicts of interest
- Other risk factors inc. language difficulties, transferred matter, urgency etc.

In principle decision to accept client and matter

RISKS

1. Prospective client is given wrong information/impression about law practice capability or services

2. Failure to turn down unsuitable prospect/matter or to identify a high risk factor (e.g. client is litigious, financially distressed, registered in a tax haven, has language difficulties, personally vulnerable, matters will stretch firm resources)

3. Duty of care or professional obligation is triggered before law practice formally engages client e.g. lawyer starts to act or advise

4. Acceptance of prospect with unrealistic expectations regarding:

- i. Service outcomes
- ii. Scope
- iii. Costs and Fees
- iv. Time to Complete
- v. Service Levels and Availability
- vi. Requirements on Client

i.e. an "Expectations Gap"

CONTROLS

a. Firm has clear guidelines for all enquiries and discussions with prospects inc. how firm's capability and services are described.

a. Policy that no advice given or work done until formal acceptance by client and firm

b. Firm has clear guidelines for screening client/matters and identifying high risk factors inc.:

- Conflict of interest check
- Verification of ID check
- Credit Check

a. Policy that no advice given or work done until formal acceptance by client and firm

b. Policy to limit collection of confidential information until in principle clearance, particular conflicts clearance

c. Communication process so that prospects are aware that they are not a client until formal acceptance

a. Screening processes make provision for an explicit conversation about expectations regarding:

- i. Service outcomes
- ii. Scope
- iii. Costs and Fees
- iv. Time to Complete
- v. Service Levels and Availability
- vi. Requirements on Client

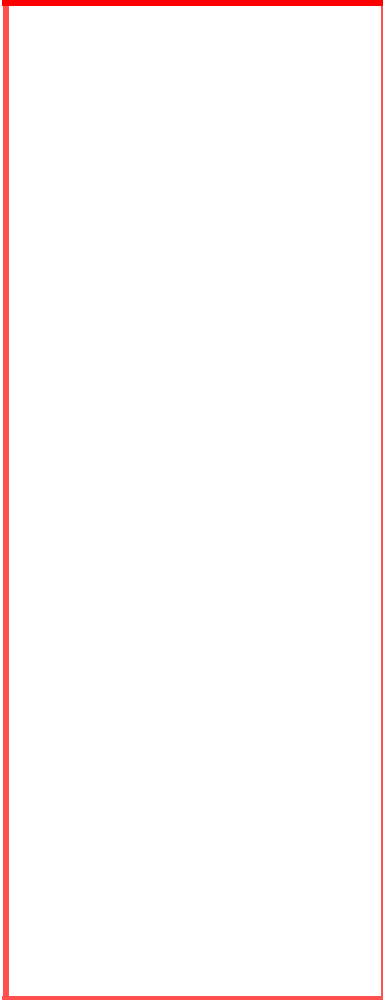
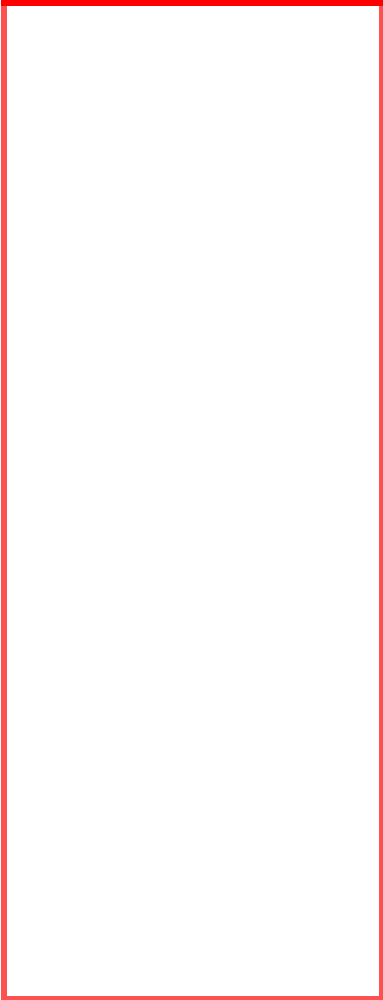


ACTIVITIES
<ul style="list-style-type: none"> Understand client objectives (legal, business, personal), needs, requirements and preferences
<ul style="list-style-type: none"> Explain service options and law practice's requirements and terms
<ul style="list-style-type: none"> Scope and estimate costs for specified agreed services
<ul style="list-style-type: none"> Make conflicts disclosures and obtain consents
<ul style="list-style-type: none"> Provide costs disclosure
<ul style="list-style-type: none"> Enter costs agreement
<ul style="list-style-type: none"> Confirm engagement/instructions

RISKS
1. Not clear for whom firm is acting (i.e. who is the client)
2. Client representative lacks authority to engage lawyers
3. Client or matter accepted without authority or before completion of screening or clearance
4. Inadequate/incomplete scope of work creates wider than intended obligations to client
5. Conflict of interest is not recognised
6. Client engagement terms impose unacceptably high risk factors e.g.: <ul style="list-style-type: none"> Create obligations beyond tort for lawyer Make lawyer liable for work done by a 3rd party selected by the



CONTROLS
a. Standardised information collections and explanations b. Policy to confirm non-engagement with any third party who may mistakenly consider themselves a client.
a. Policy to verify client representative's authority/capacity to engage
a. Clear authority/delegations as to who can accept clients and matters and agree costs and terms b. Nominated principal has overall authority for each matter and is required to sign off that client or matter is an acceptable risk c. Intake processed are able to flag any new clients or matters that are accepted without prior screening or clearance
a. Standardised processes for gathering and giving information in relation to services and engagement terms b. Those responsible for doing so have the processes, time and capability to properly scope and estimate costs c. Clear decision points for confirmation and engagement before giving advice or commencing work d. Before work commences there is a cost agreement or other written evidence of shared understanding between lawyer and client as to client objectives, scope of work/exclusions, basis of charging, costs estimate and other service terms
a. Clear policy as to the appetite of the law firm to accept matters with a potential conflict of interest b. Firm has an agreed process to identify and resolve potential conflicts of interest
a. Process of screening client/matter/risk factors described above are applied at pitch stage and any tender for legal services b. Proper scrutiny of client terms/tender scope before submission of tender c. Clearance of client terms obtained from underwriter



client

- Impose unreasonable services standards, such as “24 hour turnaround by lawyer or 10% off fees” (so work is rushed) or “no juniors paid to attend meetings” so meetings are not properly recorded)

7. Engagement of client with Expectations Gap regarding:

- i. Service outcomes
- ii. Scope
- iii. Costs and Fees
- iv. Time to Complete
- v. Service Levels and Availability
- vi. Requirements on Client



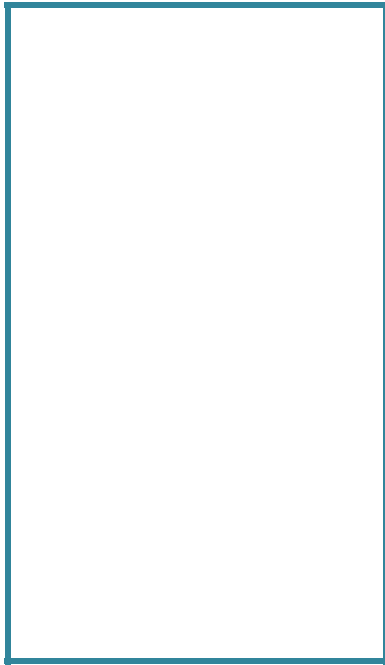
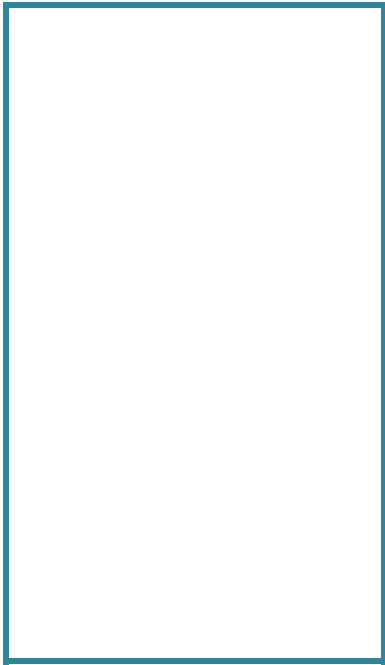
- a. Standardised gathering and giving of information in relation to services to be provided and engagement terms
- b. Processes, time, diligence and capability to scope and estimate costs appropriately in context of client objectives
- c. Clear decision points for confirmation of engagement before giving advice or commencing work
- d. Written evidence, before work commences, of shared understanding of client objectives, scope of work/exclusions, basis of charging, costs estimate and other services terms.
- e. Guidelines/training to avoid creating unrealistic expectations or misunderstandings (e.g. clear meaning of ‘no win no fee’, avoiding use of words that could be construed as guaranteeing an outcome)
- f. Good engagement records including of practitioner’s push back on client’s unrealistic expectations



ACTIVITIES
<ul style="list-style-type: none"> • Advice in conference or in writing • Drafting documents • Representation, negotiation and advocacy • Factual investigation • Legal research • Management of affairs • Engagement of experts • Communication • Billing

RISKS
1. Substandard legal work – failure to manage the legal issues or identify relevant options, mistakes
2. Timing problems – deadlines
3. Failure to obtain, follow or update instructions
4. Failure to identify and respond to emerging conflicts of interest

CONTROLS
<ul style="list-style-type: none"> a. Standardised work practices and processes inc. matter planning and scheduling, and file review against overall client objectives b. Appropriate delegation (to most qualified not least busy) c. Workload management and resource allocation (no one overloaded or under resourced) d. Appropriate supervision (inc. appropriate oversight of senior lawyers and consultants) e. Review, approval and sign off protocols (formal review and decision points before moving to next stage or delivery of work product) f. Protocols for use, selection, engagement, and monitoring of external resources and experts g. Creation and retention of adequate records of work performed and communications h. File, information and data management systems
<ul style="list-style-type: none"> a. Early identification of timing issues built into standardised engagement and work processes b. Diarisation and reminder system (including checks against oversight by diary user) c. Matter planning and review processes take account of deadlines or timing issues that could be overlooked while other options or resolution strategies are being pursued d. Regular review of all open files with no WIP recorded (i.e. dormant files)
<ul style="list-style-type: none"> a. Practice of obtaining written instructions/confirmation from client b. Accessible record of current instructions c. Standardised work processes includes points at which client instructions must be obtained
<ul style="list-style-type: none"> a. Updated conflict searches when parties to the matter change b. Protocols for reporting the emerging conflict to a decision maker as to whether or not the firm can continue to act c. Database of consents and loyalty guarantees



- 5. Signs of client dissatisfaction are not recognised or are not addressed effectively
- 6. New Expectations Gap arises during services: i.e. changes in circumstances mean that the nature and terms of engagement originally agreed no longer reflect reality with regards to:
 - a. Service Outcomes
 - b. Scope
 - c. Costs and Fees
 - d. Time to Complete
 - e. Service Levels and Availability, or
 - f. Requirements on Client

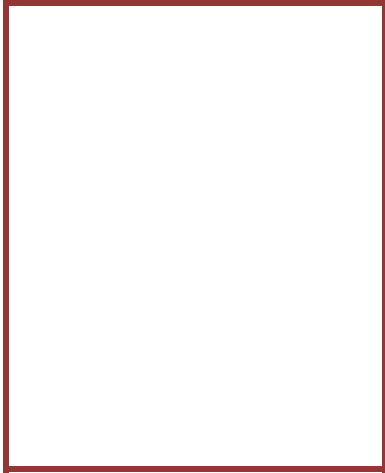
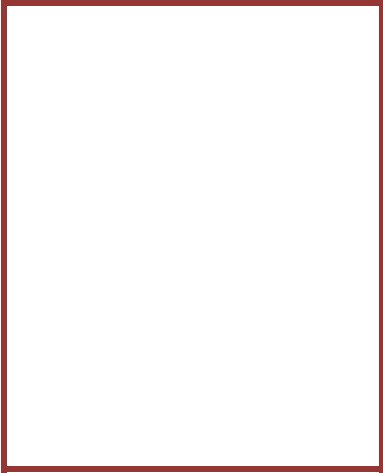


- d. Client knows with whom to raise questions or concerns about the conduct of the matter and not to hesitate in seeking information or explanation
- e. Client satisfaction with conduct of the matter is confirmed periodically (inc. reasons sought for client's lack of contact, co-operation or payment)
- a. Regular Matter Status Reviews (i.e. periodically check the job you said you'd do is still the job you are doing, check the matter is on track on time and on budget) and updates to the client
- b. Proactively checking for changes in client expectations
- c. Record of client agreement to any variations in strategy, scope, timing, costs or terms of engagement
- d. Regular billing, plus review and updating of costs estimates (i.e. even when the matter is progressing as planned)
- e. Creation and retention of adequate records of work product and communications



Confirm completion of the specific engagement in accordance with terms of engagement, professional standards and to satisfaction of client and deal with follow up issues

ACTIVITIES	RISKS	CONTROLS
<ul style="list-style-type: none"> • Check all steps complete • Check what was promised in engagement has been delivered 	<ol style="list-style-type: none"> 1. Matter not completed, services not fully performed, steps still to be taken result in unrecognised ongoing duty of care 	<ol style="list-style-type: none"> a. Standardised work process for matter completion/checking for loose ends (e.g. file cannot be closed without review by lawyer that services have been fully performed) b. End of matter letter confirms outcomes and implications for client, and that this particular engagement is concluded c. Regular review of all open files with no WIP recorded
<ul style="list-style-type: none"> • Final bill • File closure and archiving • Give notice/transfer of files if matters end prematurely 	<ol style="list-style-type: none"> 2. Failure to recognise duties when matter is ended prematurely 	<ol style="list-style-type: none"> a. Checklist of duties on premature termination of retainer (inc. notice/approval of court or third party) b. Protocol to retain copy of file before it is released to client or another firm c. Written confirmation to client of termination or withdrawal from engagement and implications for client
<ul style="list-style-type: none"> • Respond to developments or inquiries arising post completion 	<ol style="list-style-type: none"> 3. Firm does not have or retain adequate records to defend a PL claim, complaint or fee dispute 	<ol style="list-style-type: none"> a. File closure and archiving and records management
	<ol style="list-style-type: none"> 4. Action or advice after closure triggers new obligations 	<ol style="list-style-type: none"> a. Guidelines on nature of advice or work that can be undertaken once a matter is completed so as not to trigger new obligations
	<ol style="list-style-type: none"> 5. Mismanagement of complaint/claim (e.g. attempt to resolve complaint/fix mistakes prejudices client's interests) 	<ol style="list-style-type: none"> a. Incident escalation and handling protocols include recommending independent advice and notification to Law Mutual
	<ol style="list-style-type: none"> 6. In doing work, lawyer loses sight of client's overall objectives or is unaware that the client's objectives have changed (legal plus business/personal) 	<ol style="list-style-type: none"> a. Regular file review against overall client objectives and performance standards



7. Ongoing Expectations
Gap becomes apparent,
or significant or new gap
is created at closure:
- i. Client Mistakenly
assumes services
are ongoing or that
lawyer has an
ongoing duty
 - ii. Client is dissatisfied
with outcome or
costs
 - iii. Seeking to recover
unpaid fees triggers
claim or complaint



- a. Process to check firm has done the job it said it would and that this job is complete (i.e. no surprise outcomes or variations from what was agreed, no loose ends)
- b. End of matter letter confirms outcomes and implications for client, and that this particular engagement is concluded
- c. Prompt and proper end-of-matter letter and final bill
- d. Check and record for satisfaction (i.e. check for positive feedback as well as absence of complaint)
- e. Risk review conducted before suing for fees (ideally by someone not connected to file)