

# Matter Management Guidelines

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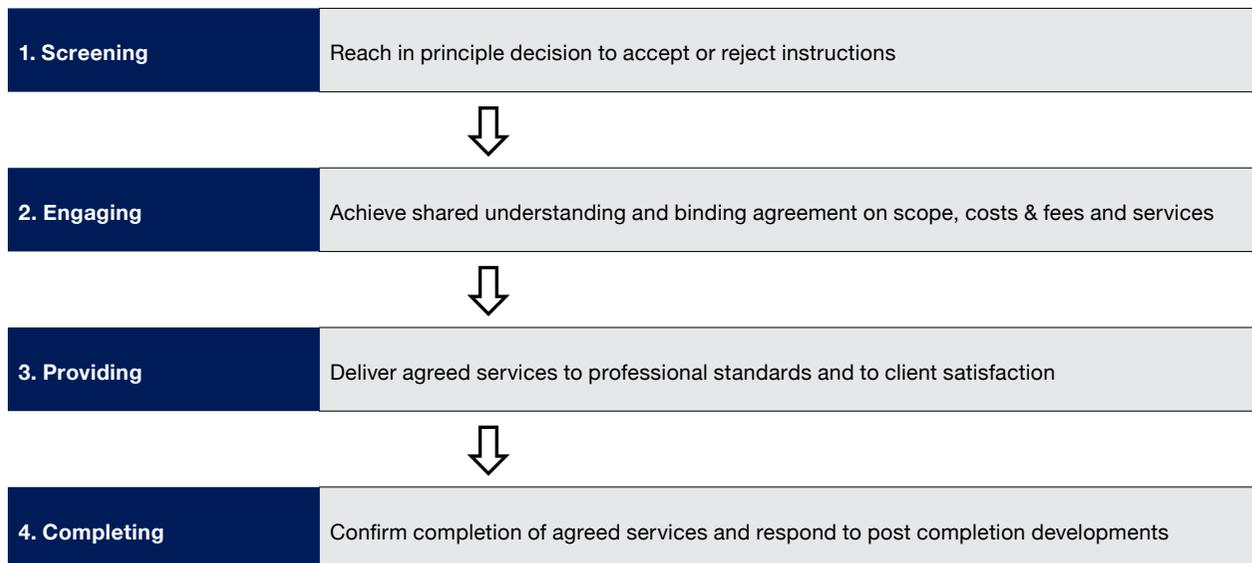
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# This Guidelines

These Guidelines contain knowledge about good practice in the delivery of legal services. They describe the general characteristics and requirements for managing Matters to effectively deliver legal services. A Matter describes a related set of instructions from a client or clients, managed under a single file by the legal practice.

There are four key phases in the management of any Matter:



To achieve these purposes, a legal practice must undertake certain Key Activities, for example:

- 'check for conflict of interest' during Screening
- 'conduct legal research' during Providing

These Guidelines provide:

- Key Activities for each phase; and
- Key Activities that should be conducted during all phases

Each Key Activity also has a Requirement which is a minimum standard that ensures service quality and protects the legal practice. For example, the Requirement for 'check for conflict of interest' is:

'Determine whether the legal practice has any potential conflict of interest and if so, either decline the instruction or manage the conflict in a legally permissible manner'

Each legal practice will have its own method to meet a Requirement, depending on its size, resources, the areas of law in which it practices etc. This method will be set by the principals (partners and directors), who are responsible for its reputation and finances. These methods are referred to as 'Controls'. These Guidelines give examples of certain Controls.

Assistance documents are available to provide more detailed guidance on how to meet the requirements within each phase of the management of a Matter.

# Controls

Principals will employ policies, training, templates, supervision, checking and other management mechanisms to ensure that their method for meeting the requirement is implemented. These management mechanisms are referred to as Controls. There are four types of Controls. Controls will vary depending on the size and resources of the legal practice. The following table provides comments on each type of Control.

Type	Comments
Knowledge	<p><b>How principals ensure people know and understand the method to meet a Requirement</b></p> <p>People must know and understand the method to meet a Requirement. This might be done via:</p> <ul style="list-style-type: none"> <li>• training or mentoring (suitable where the method is variable and/or nuanced e.g., method for managing client expectations)</li> <li>• documentation and tools (e.g., procedures, checklists or templates – suitable where the method requires completion of specific tasks)</li> <li>• embedded via business rules into IT systems (e.g., IT system does not allow invoicing until conflicts check completed)</li> </ul>
Role clarity	<p><b>How people know what aspects of the method they are accountable or responsible for, and what aspects lie outside their authority</b></p> <p>Where people work together, role clarity ensures that the method is implemented by defining who is accountable for an outcome; this is usually a principal or senior lawyer, who is also accountable for:</p> <ul style="list-style-type: none"> <li>• each task that leads to the outcome; and</li> <li>• limits of authority, i.e., who cannot do certain tasks without approval</li> </ul> <p>Confusion over who is accountable or responsible leads to errors. Key accountabilities and responsibilities should be documented.</p>
Motivation	<p><b>How principals motivate people to follow the method through leadership, culture, performance review and other mechanisms</b></p> <p>Mechanisms to motivate lawyers to implement the method include:</p> <ul style="list-style-type: none"> <li>• demonstrated leadership (i.e., walking the walk)</li> <li>• recognising performance, especially for important tasks that typically go unrecognised e.g., good scoping prior to engagement</li> <li>• aligning performance metrics with the method; i.e., measuring more than billable hours</li> </ul>
Assurance	<p><b>How principals have comfort that the method has been followed</b></p> <p>Principals should ensure relevant checks, reviews and sign off for higher risk activities:</p> <ul style="list-style-type: none"> <li>• an assurance control might be as simple as requiring initials against a checklist on the file.</li> <li>• some Requirements are so critical for protecting the legal practice that principals require assurance they have been met in every Matter e.g., conducting a conflicts check or ID check.</li> </ul>

In this document, Knowledge Controls marked  are considered mandatory for effective risk management. For Controls marked \*\*, there is a Toolkit available to download from the Law Mutual website.

# Screening

Purpose	Reach an in principle decision to accept or decline the client's request to act on their behalf in the conduct of a Matter	
Key Activity	Requirements	Knowledge control
Confirm identify and authority	Verify the prospective client's identity and ensure they have authority to instruct you	<a href="#">Client Identity Toolkit</a> ❤️ **
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 including prompts to capture the nature of the legal need
Check for conflict of interest	Determine whether the legal practice has any potential conflict of interest and if so, either decline the instructions or manage the potential conflict in a legally permissible manner	<ul style="list-style-type: none"> <li>• Conflicts database ❤️</li> <li>• <a href="#">Conflicts Management Toolkit</a> ❤️ **</li> </ul>
Determine suitability of client	Conduct relevant enquiries and searches to assure the legal practice of the potential client's capacity and suitability	<ul style="list-style-type: none"> <li>• Standard instruction form including prompts for capturing risk related information</li> <li>• Client credit checking procedure</li> </ul>
Determine capability to conduct Matter	Determine whether the legal practice has the capability and appetite to conduct any Matter that is high risk, complex or unusual	Risk appetite statement sets limits on type of work the legal practice will undertake ❤️
Communicate capability to act on client's behalf	Ensure the client understands the legal practice's capability (and limits) to act on the client's behalf	Legal practice capability statement
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	<ul style="list-style-type: none"> <li>• Policy on who can and cannot accept instructions on behalf of the legal practice</li> <li>• Standard letter accepting instructions</li> <li>• Standard letter declining to act</li> <li>• Checklist for declining a Matter</li> </ul>

Refer to the [Screening Phase Assistance](#) document for more details on how the meet these Requirements.

# Engaging

Purpose	Achieve shared understanding and binding agreement on scope, costs & fees and services	
Key Activity	Requirements	Knowledge control
Understand the potential client's ability to give instructions	Gauge the potential client's ability to give instructions and to receive and act on advice, and adopt an approach to engaging and communicating accordingly	Standard instruction from including prompts for checking client's ability to provide instructions and level of sophistication
Understand potential client's objectives and explain options	Capture the client's objectives and concerns about the conduct of the Matter Explain options for achieving objectives and possible outcomes for each	Engagement agreement template including confirmation of client objectives ❤️ **
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)	<ul style="list-style-type: none"> <li>• Scoping templates for Matters often managed by the legal practice</li> <li>• Engagement agreement template including standard services and fee section, to be adapted to particular instructions</li> </ul>
Explain course of action, rights, obligations and proposed costs	In accepting an instruction, communicate to the potential client the proposed course of action, their rights and obligations, and the proposed costs and satisfy yourself they understand and give their consent, in accordance with the requirements of the relevant legislation	Client Engagement agreement template in accordance with disclosure requirements of the relevant legislation ❤️
Obtain consents and make disclosures	Obtain consent from client and engage with relevant third parties to ensure appropriate disclosures	<ul style="list-style-type: none"> <li>• Disclosures and consents checklist</li> <li>• Data security and permissions controls</li> </ul>
Complete engagement agreement	Not act until an client engagement agreement that meets the requirements of the relevant legislation has been signed	Client Engagement agreement template ❤️
Confirm engagement as required	Communicate as required with third parties in writing that it now acts on behalf of the client	Checklist of third parties for Matters often managed by the legal practice

Refer to the [Engaging Phase Assistance](#) document for more details on how the meet these Requirements.

# Providing

Purpose	Deliver agreed services to professional standards and to client satisfaction	
Key Activity	Requirements	Knowledge control
Implement a legal strategy	Develop, communicate and implement a legal strategy to achieve client objectives	Template advice on legal strategy
Undertake further investigation	Gather relevant facts to inform decisions, strategy and actions in the conduct of the Matter	<ul style="list-style-type: none"> <li>• Policy (communicated to client) of not continuing unless required searches are conducted</li> <li>• Checklist for further fact checking on common Matters</li> <li>• Proof of evidence template</li> </ul>
Conduct legal research	Conduct appropriate legal research on the basis of the most relevant and current references	<ul style="list-style-type: none"> <li>• Subscriptions to legal references</li> <li>• Legal research template</li> </ul>
Engage experts	Engage appropriate and competent barristers and experts and then fully brief and monitor delivery of their scope of work	<ul style="list-style-type: none"> <li>• Standard briefing template</li> <li>• Register of experts</li> </ul>
Draft and lodge documents	Use legal practice precedents and client instructions to ensure accurate and compliant documentation is drafted and lodged	<ul style="list-style-type: none"> <li>• Legal practice precedents ♥</li> <li>• Precedent management procedure</li> <li>• Electronic lodgement procedure</li> <li>• Document/file management procedure ♥</li> </ul>
Provide advice & 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	<ul style="list-style-type: none"> <li>• Client instructions form</li> <li>• Legal practice precedents ♥</li> </ul>
Render bills	<ul style="list-style-type: none"> <li>• Provide bills and a description of the work the legal practice has undertaken in accordance with client engagement agreement</li> <li>• Ensure full account for monies received by and on behalf of the client</li> </ul>	<ul style="list-style-type: none"> <li>• Client Engagement agreement template, including costs agreement ♥</li> <li>• Form or system with standard time recording fields</li> <li>• Billing procedure including frequency and maximum WIP allowed without principal's approval</li> </ul>

Refer to the [Providing Phase Assistance](#) document for more details on how the meet these Requirements.

# Completing

Purpose	Confirm with the client completion of the Matter in accordance with legal requirements and the client instructions	
Key Activity	Requirements	Knowledge control
Check legal requirements met	Review file to ensure compliance with relevant procedural and regulatory requirements	File close-out checklist includes “check procedural and regulatory requirements met” ♥
Check instructions & scope fulfilled	Review deliverables and outcomes against instructions and engagement agreement	File close-out checklist includes “check instructions and scope fulfilled” ♥
Provide final advice	Explain to the client the outcome of the Matter and the reasons and implications for the client	<ul style="list-style-type: none"> <li>• File close-out checklist includes “Final letter of advice”</li> <li>• Final letter of advice templates for standard Matters undertaken by the legal practice</li> </ul>
Render final bill	Render final bill and where required, provide monies owed to client in a timely manner	<ul style="list-style-type: none"> <li>• Bookkeeping software</li> <li>• Billing procedure</li> <li>• Final bill template</li> <li>• Accompanying letter template</li> </ul>
Archive documentation	Archive the file and returns client documents	Archiving, return and records management procedure
Transfer file following termination of services	Where the legal practice terminates its services prior to the conclusion of the Matter: <ul style="list-style-type: none"> <li>• provide reasonable and just grounds for terminating it</li> <li>• communicate that it has ceased acting to the client and relevant stakeholders</li> <li>• render final account and return documents</li> </ul>	File transfer checklist
Answer post completion enquiries	Provide required information and assistance recognising that the practice no longer acts for the client	<ul style="list-style-type: none"> <li>• Contemporaneous notes form</li> <li>• Training on post completion enquiries</li> </ul>

Refer to the [Completing Phase Assistance](#) document for more details on how the meet these Requirements.

# All Phases

Purpose	Manage essential activities throughout the conduct of the matter	
Key Activity	Requirements	Knowledge control
Take notes	Take accurate and complete contemporaneous notes concerning instructions received, advice given, information communicated, and action taken	<a href="#">Contemporaneous Notes Toolkit</a> ❤️ **
Manage file	<ul style="list-style-type: none"> <li>Retain all information in relation to the Matter in a central location comprising logically ordered and identified documentation</li> <li>Ensure other lawyers can understand status of the Matter if needed</li> </ul>	<ul style="list-style-type: none"> <li>File management IT system</li> <li>Document/file management procedure</li> <li>Matter handover checklist</li> </ul>
Protect information	Maintain privacy and security of documentation and confidentiality of client information and communications at all times	<ul style="list-style-type: none"> <li>Client confidentiality policy</li> <li>Information security procedure</li> <li>Cyber security IT controls ❤️</li> </ul>
Manage client expectations	Ensure ongoing communication to and feedback from the client so that client expectations on performance, cost, timing and outcomes are constantly managed	<ul style="list-style-type: none"> <li>Risk appetite statement</li> <li>Initial meeting template including prompts to identify and manage client expectations</li> <li>Requirements regarding money on trust at engagement followed by regular billing</li> <li>Client complaint handling process</li> </ul>
Manage changes in conduct of the Matter	Promptly notify the client of any material change in the legal practice's conduct of the Matter including to the legal practice, scope, lawyer, fees and costs and obtain the client's agreement to any variation	Template for variation to costs agreement
Manage deadlines and time	<ul style="list-style-type: none"> <li>Identify, track and ensure deadlines are considered and met during the conduct of a Matter</li> <li>Conduct the Matter in a timely and efficient manner in accordance with the client's instructions</li> </ul>	<ul style="list-style-type: none"> <li>Integrated practice-wide diary system ❤️</li> <li>Time tracking IT system</li> <li>Procedure for entering and managing deadlines</li> <li>Monitoring whether critical dates are entered into diary system</li> </ul>

Purpose	Manage essential activities throughout the conduct of the matter	
Supervise and review	<ul style="list-style-type: none"> <li>• Ensure supervisor regularly meets with and reviews the conduct of lawyers who manage the Matter</li> <li>• Ensure supervisor reviews all written advice and legal documents prepared by junior lawyers</li> <li>• Review other written advice and legal documents that are high-risk due to their contents or the consequences of an error</li> </ul>	<p><a href="#">Supervision Toolkit</a> ** specifies:</p> <ul style="list-style-type: none"> <li>• senior lawyer accountabilities: who, how often, what</li> <li>• requirements for review, both for work of junior lawyers and senior lawyers that is high risk</li> </ul>
Identify and manage new conflicts of interest	Periodically review for changes to conflict of interest position and manage any emerging conflicts	<a href="#">Conflicts Management Toolkit</a> including requirements for ongoing checking ❤️ **
Meet undertakings	Consistently and appropriately give and comply with any required undertakings	

Refer to the [All Phases Assistance](#) document for more details on how the meet these Requirements.

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

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