



**PRACTICE STANDARDS AND GUIDELINES**

**Published by The Law Society of Singapore**

**Updated as at 1 October 2005**

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## **PRIMELAW CERTIFICATION**

For the purpose of certification, only the implementation of the PrimeLaw Standards (set out in shaded boxes in this document) is assessed.

In addition to the Standards, this document also provides the Objectives, Guidelines and Method of Assessment for each Standard.

The Objectives explain the purpose of each Standard and indicates the benefits a practice can derive from the implementation of the Standard.

The Guidelines serve mainly to elaborate on what is expected for compliance with the particular Standard. Thus, "**must**" statements in the Guidelines must be followed to achieve compliance with the respective Standard. "May" statements in the Guidelines indicate that the practice has a measure of discretion.

In addition, the Guidelines also set out recommendations on processes and procedures that a practice may wish to adopt beyond what is strictly required for PrimeLaw certification. These recommendations which are not mandated for PrimeLaw certification are in italics and use words such as "The practice is encouraged" or "It is recommended".

The Method of Assessment provides information on how assessors will approach the assessment of a particular Standard. This section lists examples of the kinds of questions that an assessor may ask and the types of documents that a practice may be required to produce to an assessor to support its application for certification.

## DEFINITIONS

The following definitions have been adopted in this document.

**"Fee-earners"** includes persons working in practices who are not qualified as lawyers but who perform work that is chargeable to clients and (where applicable) locum solicitors who are appointed to undertake case work on behalf of the practice. In general, "fee-earners" includes principals, unless the context suggests otherwise, for example, when the term "principals" is used in contradistinction to "fee-earners", either to exclude principals or to emphasize principals in the application of a Standard.

**"Locum Solicitor"** means a lawyer with a locum solicitor practicing certificate engaged on a temporary basis by the practice.

**"Practices"** refers to all organisations that provide legal services, whether registered as sole-proprietorships, partnerships or limited law corporations (LLC).

**"Principals"** refers to:

- (a) sole proprietors where the practice is registered as a sole-proprietorship;
- (b) partners where the practice is registered as a partnership; and
- (c) directors where the practice is registered as an LLC.

**"Staff"** means legal secretaries, paralegals and administrative staff who are not fee-earners.

**"Supervisor"** means a person who directly manages a fee-earner or staff.

## **A FORWARD PLANNING**

### **A1 BUSINESS PLAN**

A1.1 Practices shall institute a process for business review (past) and forward business planning. This shall be carried out at least once annually and shall include the preparation of a business plan, marketing plan (refer to Standard **A2**) and the annual budget and cash flow forecast (refer to Standard **C2(a)**).

A1.2 The contents of the business plan shall include the following matters:

- (a) The statement of purpose of the practice;
- (b) The key objectives for the next 12 months and an outline strategy for a further 2 years providing a framework for the practice to make decisions and to review its performance; and
- (c) The various strategies for achieving the key objectives, including marketing, staffing, training and development, and, where appropriate, technology strategies.

A1.3 Practices shall prepare the following documents in accordance with the objectives and strategies set out in the business plan:

- (a) Annual budget and cash flow forecast (referred to in Standard **C2(a)**); and
- (b) Marketing plan (referred to in Standard A2).

A1.4 Practices shall assess the status and success of the implementation of their chosen strategies at least once every six months. Strategies may be updated, where necessary.

### **A1 - Objectives**

To enable the practice to: -

- (a) Identify the opportunities and threats within a changing environment and determine whether it has the relevant competence and resources to capitalize upon opportunities and to manage threats;
- (b) Identify the gaps and weaknesses within its internal resources that need to be addressed for the practice to remain relevant and competitive;
- (c) Formulate the longer-term vision and directions for the practice;
- (d) Formulate a business plan for the next 12 months with clearly defined objectives and strategies;
- (e) Plan its budget and marketing activities;

- (f) Provide a basis for preparing the personnel, training and development and technology plan;
- (g) Set the benchmarks and objectives for performance evaluation.

### **A1 - Guidelines**

1. The business review **must** include a review of the following matters:-
  - (a) Past year's business activities;
  - (b) Degree of realization of the past year's key objectives and effectiveness of its strategies;
  - (c) Review of the current environment and the factors that have affected and will affect the practice's business operations and performance;
  - (d) Review of the practice's strength, weaknesses, opportunities and threats in light of the current environment.
2. Subject to meeting the requirements of the Standard, in preparing the business plan, the practice may choose the format and level of detail of documentation that suits it best. Where appropriate, the format of documentation may be short and simple.
3. In the case of a sole proprietor, the sole proprietor **must** set out in the business plan or a separate document the appropriate arrangements for the transfer of its files to another party in case of the sole proprietor's death or incapacity.
4. The statement of purpose of a practice is similar to a mission statement and **must** be a concise statement that defines what the practice does or wishes to do and whom it serves or wishes to serve.
5. To comply with Standard A1.2, the business plan **must** meet the following requirements:
  - (a) "**Key objectives**" **must** be **SMART** objectives, and they can be listed in bullet or outline form. A **SMART** objective is one that meets the following criteria:-
    - i. **Specific** - A specific objective is clearly defined, precise and unambiguous. All persons concerned understand precisely what is the required outcome, action or behaviour. For instance, it is not sufficient to say "our objective is to stay in business" as this is unclear, not quantifiable and subject to interpretation.

The practice **must** identify individuals who will be responsible and accountable for the achievement of each key objective.
    - ii. **Measurable** - A measurable objective is one that can be quantified and measured using numbers, rates, frequencies or percentages. For instance, a specific objective that can be measured is "the practice shall reduce its Accounts Receivables by 30% within the next 6 months."

- iii. **Achievable** – An achievable objective (or the expectation of what will be accomplished) is one that can be realistically achieved given the market conditions, time, resources and other constraints.

This means that the people involved in the implementation of such objectives **must**: (a) believe that they can be achieved; and (b) have the requisite authority, skills, financial and human resources to deliver the expected results within the time specified.

- iv. **Relevant** – Relevant objectives means that the objectives must be aligned with the practice's statement of purpose and moves the practice forward towards its long term goals.
- v. **Time Based** – Time based objectives means that the progress of the objective can be measured against an agreed time frame that may consist of milestones. At each milestone, the practice should be able to determine whether the implementation of the objective is ahead of or behind schedule.

- (b) **Strategies** set out what the practice must do to achieve its objectives. To meet this Standard, the practice **must** formulate its strategies for marketing, staffing, training and development and, where appropriate, technology. The achievement of each key objective may require several strategies, and strategies may either be short term (e.g. within the next 12 months) or longer term (e.g. within the next 2 years).

The practice **must** also prepare a marketing plan under Standard **A2** to effect its marketing strategy. (Refer to Guidelines A2.3 for details of marketing plan).

*Practices are also encouraged to formulate more detailed technology and personnel plans (covering staffing, training and development) to effect the strategies for these areas.*

The marketing, technology and personnel plans are also known as action plans.

6. The status and success of the implementation of the various strategies and action plans **must** be reviewed at regular intervals (as deemed necessary by management but no less than once every six months). The practice may decide to update its strategies and actions plans, where necessary.

*7. Where the quarterly variance analysis which practices are required to carry out under Standard C2 indicate that the practices' strategies and actions plans are not on target, the practice is encouraged to review and, where appropriate, update its strategies and action plans, to enable the firm to achieve its business objectives.*

## **A1 - Method of Assessment**

1. The assessor may check documentation (business plans and other plans) if the practice is willing to disclose it. If not, the assessor will need to verify the existence of such documents through the review of the minutes of management meetings and interviews of relevant personnel (usually at management level since the documentation is likely to be confidential).

2. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Documented evidence of statement of purpose
  - (b) Business plan(s) or Minutes evidencing the tabling and consideration of such plans
  - (c) Action plans – marketing plans, personnel plans and technology plans
  - (d) Evidence of reviews of strategies and action plans.
  
3. Questions to be considered:
  - (a) Has the business instituted a process for annual business review and more frequent reviews of strategies and action plans?
  - (b) Has the practice defined its key business objectives for 12 months and an outline strategy for a further 2 years?
  - (c) Are the objectives supported by strategies, action plans and the budget?

## **A2    MARKETING PLAN**

A2.1 Practices shall document in the business plan(s) or a separate marketing plan:

- (a) The services the practice wishes to offer; the client groups to be served, how services are to be provided and the way in which services are designed to meet client needs; and
- (b) The marketing activities it intends to carry out to effect the marketing strategy set out in the business plan (**Standard A1**).

A2.1 This document(s) shall be reviewed every six months.

### **A2 – Objectives**

To ensure that the practice:-

- (a) Plans and carries out its marketing activities in accordance with its business objectives;
- (b) Regularly reviews whether the marketing objectives have been achieved, and make the necessary adjustments to their marketing activities to achieve its objectives.

### **A2 - Guidelines**

1. The marketing plan is the most important action plan for practices to realise their business objectives.
2. One way for a practice to comply with sub-section (a) of Standard **A2** is to have a brochure or website that sets out the matters listed in sub-section (a).
3. The marketing plan **must** describe the marketing activities the practice intends to carry out for the year. It **must** also set down the timetable, budget and persons responsible for each activity. The marketing plan may also describe procedures for monitoring response to marketing efforts (e.g. recording sources of referrals) and feedback mechanisms such as client feedback forms or satisfaction surveys.
4. For practices satisfied with their current quality and level of business, a marketing plan will not need to be as detailed as that of a practice wishing to expand or develop a new specialization or one that is uncertain about its future client base.
5. For some areas of work, the plan may need to describe how to contain demand to an acceptable level (rather than how to encourage additional business) taking into account the profitability of the work and the resources of the practice.
6. How the practice provides services will depend upon its clients and services. Issues to be considered may include location of offices, physical access to the premises, types of work accepted, referral arrangements, languages

spoken, facilities for clients and electronic communication (e.g. email, video conferencing and websites).

## **B2 - Method of Assessment**

1. The assessor may check business or marketing plans, if the practice is willing to disclose it. If not, the assessor will need to verify the existence of such documents through the review of the minutes of management meetings and interviews of relevant personnel (usually at management level since the documentation is likely to be confidential).

2. Examples of Typical Documentation Reviewed by Assessor:

- (a) Services Plan e.g. firm brochure or website
- (b) Marketing Plan
- (c) Client Needs Survey
- (d) Client Satisfaction Survey
- (e) Business plan incorporating information on the provision of services and marketing
- (f) Minutes evidencing the tabling and consideration of such plans
- (g) Evidence of timely reviews of these plans.

3. Questions to be considered:

- (a) Has the practice considered the services it wishes to provide?
- (b) Has the practice considered its marketing strategy?
- (c) Is the information contained within written plan(s)?
- (d) Have the plans been reviewed at the required frequency?

## **B GENERAL MANAGEMENT**

### **B1 MANAGEMENT, SUPERVISION AND COMMUNICATIONS**

#### **B1.1 MANAGEMENT STRUCTURE**

Practices shall document their management structure to reflect the lines of accountability of individuals and their authority and responsibilities. The documentation shall include written descriptions of the key areas of management such as:-

- (a) Financial Management (Refer to Standard **C1**)
- (b) Overall Risk Management (Refer to Standard **D2**)
- (c) Supervisors for each area of work (Refer to Standard **D8**).

Practices shall designate named supervisors for each management function and each area of work.

#### **B1.1 - Objectives**

To ensure that each member of the practice clearly understands the management structure of the practice and the areas of responsibility of managers and supervisors within the practice.

#### **B1.1 – Guidelines**

1. The management structure **must** be one that is appropriate for the members of the practice, the size of practice, its location and the type of work it does.
2. The format of the documentation is not prescribed. Graphical representations may be used i.e. organisational charts, so long as the documentation is clear as to:
  - (a) How the practice structures its management and the supervision of work; and
  - (b) The designated responsibilities of the individuals in the management structure, whether managerial, supervisory or administrative.
3. Standard **B1.1** lists supervision of the key areas of practice management that are important to the PrimeLaw Practice Standards. However, the management structure may cover other areas that are important to the operations of the practice such as human resource management (refer to Standard **B2**), office administration (refer to Standard **B3.2**) and marketing.

*It is recommended that in order for the practice to effectively implement the requirements of Standard **B2** and Standard **B3**, it should designate a manager(s) to be responsible for human resource management and office administration, as*

*appropriate to the size of the practice. The practice may appoint the same person to undertake both roles.*

4. All personnel **must** be aware of the management structure of the practice and the area(s) of responsibility of each manager and supervisor. Actual arrangements within the practice **must** match those outlined in the documentation.

5. Sole Proprietor – All key areas of management and supervision for which the sole proprietor is responsible **must** be listed as part of the management structure.

### **B1.1 - Method of Assessment**

1. The assessor will check the documentation of the management structure and interview a sample of personnel relating to their understanding of the roles and responsibilities of the managers and supervisors referred to in the management structure.

2. Examples of Typical Documentation Reviewed by Assessor:

(a) Documents that show that the practice has defined its management structure (e.g. organizational chart or related documentation)

(b) Documents which identify named supervisors and their corresponding designated area of work.

3. Questions to be considered:

(a) Does the practice's record of its management structure accurately describe the practice in reality?

(b) Are all roles in the management structure clearly identified?

(c) Are supervisors aware of the scope of their responsibilities?

(d) Are personnel clear about who is supervising their work (especially where there is more than one supervisor for an area of work)?

## **B1.2 SUPERVISION OF MANAGEMENT FUNCTIONS**

Practices shall ensure that there are written procedures for supervision of the management and organisation of the practice, including finance, marketing, personnel and office administration (Refer to Standard **D8** for supervision of casework).

### **B1.2 - Objectives**

To ensure that the management activities of the practice are properly supervised.

### **B1.2 - Guidelines**

1. Practices may decide on the level of supervision which is appropriate, and determine the appropriate arrangements for supervision.
2. Where specialist finance, marketing, personnel or administrative staff exist, they are likely to support supervisors in this role through advice, information and services, rather than taking direct responsibility.
3. Where the practice has engaged a locum solicitor, the locum solicitor must be supervised by a designated Partner or Director or the sole proprietor (if the locum solicitor has been engaged by a solo practitioner).

### **B1.2 - Method of Assessment**

1. The assessor will check documentation on supervision and interview personnel involved in the management support functions on the level of supervision they have received.
2. Examples of Typical Documentation Reviewed by Assessor
  - (a) Management Structure
  - (b) Job description containing designated supervisory responsibilities
  - (c) Evidence of supervisors' conduct of performance review of personnel under their management/supervision
3. Questions to be considered
  - (a) Is the responsibility of the supervision of people clearly defined and understood?
  - (b) Do supervisors understand and accept these responsibilities?
  - (c) Is it reflected in what principals and supervisors actually do?

### **B1.3 COMMUNICATIONS**

Practices shall have documented procedures (informal or otherwise) that foster communication within the practice and encourage suggestions for improvement.

#### **B1.3 – Objectives**

To ensure:-

- (a) That the practice establishes a positive attitude towards regular communication within its organisation to foster team spirit and to encourage a culture of continuous improvements to internal processes through feedback or suggestions from its members;
- (b) The practice's procedures and policies on financial management, case supervision, risk management, human resource management, client care, office operations, technology operations and other areas relevant to the operation of the practice, are clearly communicated to and understood by all personnel;
- (c) Channels exist for members of the practice to share knowledge and experiences.

#### **B1.3 – Guidelines**

1. Good communication is required throughout the Standards in PrimeLaw as an essential component of good management. Regular communication involving all members of the practice will help the practice to achieve greater efficiency in internal processes and to manage risks.

Methods of communication may involve briefings which may be formal or informal in nature, including staff meetings, practice group meetings, executive committee meetings and electronic communications via intranet and email.

2. Communication processes **must** be a two-way process. The two-way communication process:-

- (a) Provides the opportunities for constructive feedback and suggestions from subordinates to supervisors and management;
- (b) Fosters a collaborative effort between members of the practice in the conduct of financial, case and risk management;
- (c) Facilitates communication of the practice's objectives to its members and to align all action plans (refer to Standard **A1**) to the objectives of the practice.

3. Sole Proprietor – A sole proprietor practising alone without any staff would not be expected to document arrangements for communication and encouraging suggestions for improvement within the practice.

### **B1.3 - Method of Assessment**

1. The assessor will check documentation for evidence of the practice's attitude towards communication, including:
  - (a) minutes of departmental or practice group meetings;
  - (b) circulation of memos/newsletter/notice boards (if any);
  - (c) employee surveys, if any, have taken place;and interview individuals.
  
2. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Employee briefing arrangements
  - (b) Minutes of meetings
  - (c) Employee survey results
  - (d) Newsletters
  - (e) Internal publications
  - (f) Suggestions box or feedback forms.
  
3. Questions to be considered:
  - (a) What arrangements are there for communication within the practice?
  - (b) How effectively do they operate?
  - (c) Is the staff kept informed of issues within the practice that affect them?
  - (d) Are there examples of suggestions for improvement which have been adopted?

## **B2 PEOPLE MANAGEMENT**

### **B2.1 JOB DESCRIPTION FOR RECRUITMENT**

Practices shall document:

- (a) the requisite skills, knowledge and experience of each position that the practice wishes to fill; and
- (b) the roles, responsibilities and lines of accountability of existing fee-earners and staff and new recruits, which shall be updated from time to time.

#### **B2.1 - Objectives**

To ensure that:

- (a) The practice considers and understands the requisite skills, knowledge and experience, and the scope of responsibility for each person it employs;
- (b) Each member of the practice clearly understands his individual role, responsibilities and lines of accountability.

#### **B2.1 - Guidelines**

1. The job description that is required under this Standard **must** be kept up to date and reflect the current roles and responsibilities of the individual. Thus, it is preferable for the job description to be separate from the employment contract, although the employment contract may refer to it. The job description may also be supplemented by office manuals.
2. The above requirement applies to principals of the practice as well. It does not apply to sole practitioners without any staff, or to casual or temporary staff employed for less than 6 months.
3. *It is recommended for practices to include an undertaking of confidentiality to its employees' employment contract. As the solicitor's duty of confidentiality to clients extends to all members of the practice, including staff, all members of the practice should be bound by an undertaking of confidentiality which prohibits the disclosure of any confidential information which the solicitor receives as a result of the retainer and the contents of the papers recording such instructions.*

#### **B2.1 - Method Of Assessment**

1. The documentation to be reviewed under this Standard is not confidential and may be audited during the assessment process.
2. Interviews will be conducted by the assessor to confirm that personnel understand what is expected of them, and that job descriptions are accurate and up-to-date.
3. Examples of Typical Documentation Reviewed by Assessor:

- (a) Job descriptions
- (b) Office Manuals
- (c) Employment Contracts

4. Questions to be considered:

- (a) Do principals, fee-earners and other staff have clear job descriptions?
- (b) Can they explain what is expected of them in terms of the skills, knowledge and experience they are expected to have, their responsibilities, tasks and lines of accountability. Does this accord with the written job description?

## **B2.2 RECRUITMENT**

Practices shall have written recruitment procedures that enable the practice to:

- (a) effectively evaluate the skills, knowledge and experience of job applicants and select the most suitable applicant for the post; and
- (b) ascertain whether the job applicant is disqualified or requires special authorization to be employed by the practice in accordance with s.78 of the Legal Profession Act.

### **B2.2 - Objectives**

To ensure that the practice has procedures to recruit candidates with the relevant skills, knowledge and experience to meet the needs of the practice.

### **B2.2 - Guidelines**

1. Although it is for the practice to determine the recruitment procedures to be adopted and different arrangements may be in place for different positions, the procedures **must** be documented and **must** be clear and consistent in their application.

For example, the procedure may consist of providing the applicant with a job description and application form, checking the completed application form against the job description and interviewing the applicant based on the two documents.

2. Sole Practitioner - This requirement does not apply to a sole practitioner who practises without any staff, and does not plan to recruit anyone (this should be stated in the Business Plan). However, if this should change, the procedures **must** be drafted and implemented, as appropriate – this can be done prior or immediately subsequent to recruitment.

### **B2.2 - Method of Assessment**

1. The assessor examines the written procedures and job application forms and conducts interviews with those involved in the recruitment process.

2. Examples of Typical Documentation Reviewed by Assessor:

- (a) Recruitment policies
- (b) Job application forms
- (c) Advertisement / job description

3. Questions to be considered:

- (a) What procedures are followed to evaluate applicants for posts in the practice?
- (b) Are these procedures followed for all positions?
- (c) Are they clear and applied consistently?

## **B2.3 INDUCTION PROCESS**

Practices shall have a written procedure for an induction process to introduce new recruits to the practice.

### **B2.3 - Objectives**

To ensure that:

- (a) New recruits are provided, at the outset, with essential information about the practice and their responsibilities, and introduced to key personnel whose duties are relevant to the new recruit's post;
- (b) Relevant personnel in the practice know that a new person has joined the practice and about his role and responsibilities.

### **B2.3 - Guidelines**

1. To satisfy this Standard, the practice **must** institute an appropriate induction procedure which:-

- (a) Provides essential information about the practice to new recruits, including:-
  - i. The objectives of the practice, the practice's type of work, management structure and the supervisory structure for the area of work in which the new recruit will be involved;
  - ii. The primary responsibility of key personnel whose duties are relevant to the new recruit's position – including the introduction of the new recruits to such persons;
  - iii. The Office Manual.
- (b) May include:
  - i. Practice policies, such as client care and quality;
  - ii. The values of the organization;
  - iii. Training policies;
  - iv. Human resource policies.

2. The Induction procedure in a practice **must** cover principals, fee-earners and staff, both full-time and part-time.

3. Formal induction courses are usually only practicable in large practices. Smaller practices and sole-proprietorships may have a less formal procedure. However, new recruits **must** be given the opportunity to ask questions or to clarify the information they have been given.

4. Induction procedure may be applicable to existing employees moving from one position or area of work to a new position or to another area of work.
5. Sole Practitioner - This requirement does not apply to a sole practitioner who practises without any staff, and does not plan to recruit anyone (this should be stated in the Business Plan). However, if this should change, the procedures **must** be drafted and implemented, as appropriate - this can be done prior or immediately subsequent to recruitment.

### **B2.3 - Method of Assessment**

1. The assessor will check for documented induction programmes and interview the practice's most recent recruits to verify consistency in the application and effectiveness of the induction procedure. The induction procedure may be formal or informal and can be tailored as appropriate to the practice.
2. Examples of Typical Documentation Reviewed by the Assessor:
  - (a) Documented induction programmes or induction checklists
  - (b) Office Manual
  - (c) Information packs for new recruits
3. Examples of Assessment Questions:
  - (a) How are new recruits normally introduced into the practice?
  - (b) What, in broad terms, does induction cover?
  - (c) Does the practice apply the induction process to all new recruits coming into the practice?

## **B2.4 PERFORMANCE REVIEW**

- (a) Practices shall have written procedures to evaluate the performance of fee-earners and staff at least annually.
- (b) Performance Reviews shall be based on the job description of the fee-earner or staff (which shall be kept up-to-date) and agreed objectives or performance targets.

### **B2.4 - Objectives**

To ensure that there are written procedures for performance review to:

- (a) Provide guidance and direction for the development of each member of the practice;
- (b) Ensure that the job description of each member of the practice is current and accurate and that he understands his individual role and responsibility and lines of accountability within the practice;
- (c) Ensure that the practice is kept informed of the career development and aspirations of each member of the practice as part of the audit/assessment of its human resource needs. (Refer to Standard **B2.5**).

### **B2.4 - Guidelines**

1. An individual's performance **must** be reviewed against:-
  - (a) The individual's job description which sets out his roles, responsibilities and tasks; and
  - (b) Objectives or performance targets which the individual has agreed to.
2. The job description may be the job description that was provided when the individual first joined the practice, as updated from time to time. The performance appraisal is a convenient time for the practice to review and update the job description, as appropriate.
3. The performance appraisal will review past performance against previously established criteria and set objectives for the future. It is recommended that the practice provide a copy or the written record of the review and its outcome to the individual.

The review may include a review of the individual's training needs (refer to Standard **B2.5 (b)**).

4. *The practice is encouraged to extend performance review procedures to principals.* Performance review procedures may be specified in the partnership or shareholders or management agreement.

5. Sole Practitioner – The above Standards do not apply to sole practitioners who do not plan to recruit any staff (this should be stated in the Business Plan

document). However, if this policy changes, the procedures **must** be drafted and implemented, as appropriate - this can be done prior or immediately subsequent to recruitment.

#### **B2.4 - Method of Assessment**

1. The assessor has to be satisfied that such performance review procedure and records do exist and that the appraisal review was made against previously established criteria and set objectives for the future.
2. The assessor will (a) review a sample of the performance review records but will not request for complete records except with the express prior consent of the practice and the individual concerned, and (b) conduct interviews with individuals to establish that documentation reflects current responsibilities.
3. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Office Manual
  - (b) Documented appraisal procedures (may be found in Office Manual)
  - (c) Existence of appraisal records
  - (d) Examples of updated individual plans with future objectives
4. Examples of Assessment Questions:
  - (a) Where are records of completed appraisals kept?
  - (b) Does every member of the practice have a copy of his completed appraisal record?

## **B2.5 TRAINING**

Practices shall have written procedures to ensure that:

- (a) All fee-earners and staff are trained to a level of competence necessary for them to carry out their responsibilities to the clients and the practice;
- (b) Training and development needs are assessed for fee-earners and staff members against the objectives of the practice and are reviewed at least annually;
- (c) Appropriate written training records are maintained.

### **B2.5 - Objectives**

To ensure that the practice provides for the continuing development of the skills and competence of its fee-earners and staff required to meet the objectives of the practice as stated in the business plan (refer to Standard **A1**) or as the changing circumstances of the practice requires.

### **B2.5 – Guidelines**

1. To satisfy the requirements of Standard **B2.5(a)**, the practice **must** have processes to ensure that it develops the skills and competence of its members at all levels to improve performance and keep their skills and knowledge in line with the practice's needs.
2. The appropriate "*level of competence*" can be determined by the practice. However, the primary aim here is to ensure that the individual is competent and has the requisite skills to carry out his work (whether legal work, managerial or administrative work.) For instance, if the individual's position requires him to use a case management system to monitor his work progress, then the individual must be trained.
3. *It is recommended that managers be given opportunities to develop the necessary people management skills.* Management skills include coaching and counseling, appraisal/review, acting as a mentor, and identifying and matching training needs to the needs of the practice. "Manager" for this purpose includes principals, supervisors, and anyone who directly manages others within the practice.
4. The training review referred to in Standard **B2.5 (b)** may be part of the performance review of employees referred to in Standard **B2.4**. Whatever the form chosen, the review **must** be documented.
5. Training and development includes less structured training methods such as on-the-job training, coaching / mentoring, attachments and shadowing.
6. Practices **must** ensure that written records are, at least, maintained for formal training sessions. *It is recommended that the training record include the individual's evaluation of the training programme to ensure those managing the*

*practice and individuals who have undergone it appreciate the benefits of such training.*

7. The training records will help the practice evaluate the performance, skills and knowledge and training needs of its personnel.

8. Sole proprietors **must** evaluate their own training needs and be conscious of the need to maintain the appropriate level of competence required for the practice.

### **B2.5 - Method of Assessment**

1. Assessors will not assess the quality of training. The assessor will check documented procedures, training records and interview individuals about their training and development programmes.

2. Examples of Typical Documentation Reviewed by Assessor:

(a) Documented training records for managers and non-managers

(b) Training reviews

(c) Evaluation of Training Programmes

3. Questions to be considered:

(a) How are individual training and development needs assessed? How often are they assessed? How are they assessed against the business needs of the practice?

(b) Does the process cover all employees?

(c) Have the managers been trained and developed to manage people?

(d) Are training records maintained and are they referred to in performance evaluation or business planning?

## **B3 OFFICE ADMINISTRATION**

### **B3.1 OFFICE MANUAL**

Practices shall maintain an Office Manual on office policies and procedures that is current and readily available to all personnel. The practice shall have written procedures to:-

- (a) Review the Office Manual at least annually and update it, where necessary; and
- (b) Keep personnel promptly informed of changes or updates to the Office Manual.

#### **B3.1 - Objectives**

To ensure that the practice's policies and procedures are recorded in an Office Manual that is kept up-to-date and available to all personnel.

#### **B3.1 - Guidelines**

1. To satisfy this Standard, the practice **must**:-
  - (a) Have in place an up-to-date Office Manual as a guide to office practice and procedures that reflects the actual policies and procedures of the practice;
  - (b) Ensure that all fee-earners and support staff in the practice have ready access to the most current version of the Office Manual;
  - (c) Assign a person to be responsible to keep the Office Manual updated and current; and
  - (d) Ensure that the Office Manual is reviewed at least once annually and updated, where necessary, with the amendment dates clearly recorded in the Office Manual.
2. The Office Manual may be a single document in either paper or electronic format, or a collection of documents, which together provide a comprehensive compilation of the office policies and procedures. However, the practice should be able to demonstrate clearly what constitutes its Office Manual.

The Office Manual does not have to be in paper format but may be accessed through a computer network.
3. It is not necessary for every member of the practice to have its own copy of the Office Manual. What is important is that all members **must** have ready access to a copy of the Office Manual or the copies of a collection of documents representing the practice's Office Manual.
4. The Law Society's manual setting out sample office procedures for Prime Law compliance is a starting point for practices to start to compile their own Office Manual.

### **B3.1 - Method of Assessment**

1. The assessor will check the document(s) that constitute the Office Manual and verify if it reflects the actual procedures of the practice.
2. The assessor will verify when the Office Manual was last updated, the procedures for review and amendments, and whether and how personnel are informed of changes to the Office Manual.
3. The assessor will conduct interviews to check that individuals know how to access the most current version of the Office Manual.
4. Examples of Typical Documentation Reviewed by Assessor
  - (a) Office Manual – on computer network or in paper format
  - (b) Issue and control log
5. Questions to be considered
  - (a) Does the practice have an Office Manual?
  - (b) How often is the Office Manual reviewed?
  - (c) Do the employees have ready access to a copy of the Office Manual?  
How are employees informed of changes made to the Office Manual?
  - (d) Do the procedures reflect the actual policies and procedures of the practice?

### **B3.2 MANAGEMENT AND ADOPTION OF INFORMATION TECHNOLOGY (IT)**

(a) Practices shall adopt appropriate information technology that enable the practice to meet its business objectives, manage the practice and deliver its services to clients efficiently and effectively.

(b) Practices must take the necessary precautions to protect its information systems against unauthorized disclosure, minimise the risk of data corruption and provide for data recovery.

#### **B3.2 - Objectives**

To ensure that the practice:

- (a) Adopts appropriate IT to operate effectively in the modern environment characterised by the high speed of change and the emphasis on technology, liberalisation and globalisation; and
- (b) Takes the necessary precautions to protect its IT systems and data.

#### **B3.2 - Guidelines**

1. To comply with sub-section (a) of the Standard, the practice **must** adopt and use, at the very minimum, the following basic IT to enable it to function effectively in the current environment:

- (a) Word processing; and
- (b) Internet.

2. To comply with sub-section (b) of the Standard, the practice **must** have in place the appropriate procedures for protecting the systems against viruses and hackers. Practices **must** install anti-virus programmes and have procedures for keeping their anti-virus programmes up-to-date and, where applicable, install firewalls for machines that are connected to the Internet.

3. The practice **must** have in place procedures for backing up its data on a regular basis. The practice **must** have written procedures to deal with the restoration of the systems, where necessary.

4. *Where the practice has implemented enterprise systems such as practice management systems, the practice is encouraged to maintain off-site back up systems of the critical information stored in the practice management system.*

5. *In addition, the practice is also encouraged to leverage optimally on IT and to consider the adoption of the following, where applicable. These include:-*

- (a) Email;
- (b) Software for maintaining computerized index of matters;
- (c) Electronic research databases such as Lawnet or Lexis-Nexis
- (d) Applicable government e-services such as the EFS, INLIS, BizFile, STARS (Standard **B3.4**);

- (e) Local Area Networks (LAN);
- (f) Accounting or Practice Management software (Guideline 10 of Standard **C2**);
- (a) Implementation of the practice's website;
- (b) Case management / workflow systems;
- (c) Document management systems;
- (d) Document assembly systems;
- (e) Litigation Support Systems;
- (f) Extranets;
- (g) Video conferencing.

6. *Where appropriate, the practice is encouraged to appoint a person(s) to be responsible for the management of the IT systems of the practice.* The IT Manager's responsibilities shall include ensuring that:

- (a) the practice complies with the Standards set out in Standard **B3.2**;
- (b) the IT needs of the practice are taken into account in the forward planning process and that IT strategies are considered to assist the practice achieves its objectives (Standard **A1**); and
- (c) the practice implements IT that supports its business objectives.

7. *Practices that have implemented IT systems are encouraged to institute policies and procedures to ensure the proper use, maintenance and security of its systems.* These policies and procedures should be documented and kept up-to-date, and include the following areas:

- (a) Maintain an up-to-date hardware and software inventory documenting all the hardware and software that is used in the practice and the practice's current network configuration;
- (b) Maintain records on system maintenance including software upgrades and installation of updates;
- (c) Maintain records on security and access controls, including password management information;
- (d) Maintain and make readily available to the members of the practice, the practice's written policies on the acceptable use of the practice's IT systems, including policies on the use of external storage media, emails, the Internet, downloading and use of software that is not essential to the practice;
- (e) Document the provisions for securing the practice's IT systems against virus attacks, unauthorized access and abuse by members of the practice;
- (f) Document the provisions and procedures for disaster recovery, including back-up procedures.

In formulating its IT policies and procedures, practices should refer to the Guidance Note of the Law Society on Ethics and Information Technology dated 1 October 2003.

### **B3.2 – Method of Assessment**

1. The assessor will check whether the practice has implemented the technology listed in Paragraph (1) of the Guideline and whether the practice has considered the adoption of other relevant IT.
2. The assessor will check if the practice has implemented anti-virus programmes and back-up procedures for its IT systems.
3. Examples of Typical Documentation Reviewed by Assessor
  - (a) Business Plan or IT Plan
  - (b) Office Manual
  - (c) Subscription Agreements with various service providers of electronic services
4. Questions to be considered
  - (a) Has the practice implemented the technology set out in Paragraphs (1) or (4) of the Guidelines?
  - (b) Has the practice implemented anti-virus programmes and back up systems to protect its IT systems?

### **B3.3 MANAGEMENT OF LEGAL REFERENCE MATERIALS**

Practices shall have written procedures to ensure that fee-earners and research staff: -

- (a) have ready access to up-to-date legal reference materials for the areas in which the practice offers services; and
- (b) receive timely information about changes in the law, practice and procedures that are relevant to their work.

#### **B3.3 - Objectives**

The practice shall ensure that its members have ready access to up-to-date legal reference materials to properly and efficiently discharge their professional duties.

#### **B3.3 - Guidelines**

1. To satisfy the requirements of Standard **B3.3 (a)**, the practice **must** ensure that it either has its own copies of or on-line access to the legal reference materials which it needs to refer to on a day-to-day basis. For other types of legal materials which is referred to only occasionally, the practice **must** ensure that its fee earners and research staff shall, at least, have access to libraries which have these materials.
2. Where practices maintain their own legal reference materials, they **must** ensure that these are kept up-to-date and that they can be easily accessed by fee-earners and research staff.
3. To satisfy the requirements of Standard **B3.3 (b)**, the practice **must** have procedures in place that ensures its fee-earners and relevant research staff receives updates in law, practice and procedure that are relevant to their work. For instance, the procedure for the communication updates could be by emails, mail or faxes to the practice from third parties (such as the Law Society), and dissemination of such updates within the practice could be by email or a notification via the intranet. Dissemination by physical circulation may be appropriate where the practice is small.

#### **B3.3 - Method of Assessment**

1. The assessor will need to establish whether the fee-earners and research staff have immediate access to legal reference material used on a regular basis by the practice and whether these materials are kept up-to-date.
2. The assessor will need to find out whether and how fee-earners and research staff are kept up-to-date on relevant updates in law, practice and procedures.
3. Examples of Typical Documentation Reviewed by Assessor
  - (a) Library resources

- (b) Legal reference materials
- (c) Systems for incorporating updates
- (d) Arrangements for the distribution of legal updates
- (e) Arrangements for on-line access to research materials.

4. Questions to be considered

- (a) Do fee-earners have immediate or library access to legal reference materials?
- (b) Do these materials cover all areas in which the practice offers a service?
- (c) Are the materials up-to-date? What is the process for updating? Who is responsible for doing it?
- (d) What processes exist for ensuring fee-earners are updated on changes in the law?

### **B3.4 MANAGEMENT OF OUTSOURCED SUPPLIERS**

Practices shall clearly document:-

- (a) the services which it has outsourced to third party suppliers;
- (b) the contractual arrangements with such suppliers;
- (c) the person(s) in the practice responsible for managing and/or liaising with the outsourced supplier; and
- (d) the contact details for contacting the outsourced supplier.

#### **B3.4 - Objectives**

To ensure that:-

- (a) The arrangements with the outsourced suppliers are documented and these documents are accessible to enable the practice to manage its suppliers effectively.
- (b) Relevant personnel understand what services (including service level or terms of service) are outsourced and to whom and know how to obtain support and request maintenance.

#### **B3.4 - Guidelines**

1. To satisfy this Standard, a practice **must** have up-to-date documents that:-

- (a) Lists all services that it has outsourced and the name and contact details of the suppliers; and
- (b) Set out the key arrangements with the suppliers for the provision of services and identifies the person in the practice who is in charge of managing and / or liaising with the outsourced suppliers and ensuring that they perform their duties.

2. The practice **must** maintain copies of the various contracts setting out the terms of the outsourced arrangement.

3. Where a practice outsources its office and client or simply its client account book-keeping functions, the practice **must** comply with the terms of Rule 11A of the Legal Profession (Solicitors Accounts) Rules and the Practice Direction of Council on Engagement or Employment of a Book-keeper under the Legal Profession (Solicitors Accounts) Rules dated 5 March 2004.

4. *Practices are encouraged to extract from its outsourced suppliers undertakings of confidentiality not to disclose any confidential client or matter information which the outsourced provider may come across in the course of providing services to the practice.*

#### **B3.4 - Method of Assessment**

1. Assessors will check documentation to ensure that the above procedures are documented and are followed in practice. Assessors will interview relevant

personnel to confirm that they know how to obtain support and request maintenance from outsourced suppliers.

2. Examples of Typical Documentation Reviewed by Assessor

- (a) List of outsourced suppliers with contact person details
- (b) Office Manual.

3. Questions to be considered

- (a) How has the practice documented its outsourced suppliers?
- (b) Where a practice has outsourced its IT maintenance, does the staff know how to obtain support or maintenance when their IT systems fail?
- (c) Has the practice assigned personnel to be in charge of liaising with or managing the providers and are these personnel aware of and carrying out their duties?

## C. FINANCIAL MANAGEMENT

### C1 APPOINTMENT OF FINANCIAL MANAGER

Practices shall appoint and authorise a principal to be responsible for the management of the financial affairs of the practice. This appointment shall be documented and the scope of the responsibilities of the Financial Manager shall be clearly stated in the management structure and other documentation (refer to Standard **B1**).

#### **C1 - Objectives**

To ensure that the practice is able to oversee its financial affairs by appointing and authorising a principal to be responsible for managing the finance of the practice.

#### **C1 – Guidelines**

1. To satisfy this Standard, the practice **must** appoint a principal to be responsible for the management of day-to-day and longer-term financial affairs of the practice.
2. Financial management shall cover management of billings, accounts receivables and debt collection, cash flow management and budgetary review, and to ensure compliance with Standard **C2 B** (reference to financial information) and Standard **C3** (clients' account management).
3. The scope of the Financial Manager's responsibilities **must** be clearly stated in the Management Structure (Standard **B1.1**) and other documentation which serve to inform the members of the practice of the Financial Manager's role and responsibilities (e.g. Office Manual).
4. *It is recommended that the Financial Manager should have some knowledge or experience in financial management, and, where appropriate, be supported by staff that possess the requisite competence and experience in financial and accounts management to enable the practice to comply with the requirements of Standard **C2**.*
5. Sole proprietors **must** be responsible for the financial management of their practice and for ensuring that the practice complies with Standards **C2** and **C3**.

#### **C1 – Method of Assessment**

1. The assessor will check the documentation setting out the appointment and responsibilities of the Financial Manager and interview personnel on their understanding of the role and responsibilities of the Financial Manager.
2. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Management Structure or Organizational Chart (for role of Financial Manager)

(b) Office Manual

3. Questions to be considered:

(a) Who has the overall responsibility for the financial affairs of the practice and what is his scope of responsibility?

(b) Do the principals agree on the above?

## **C2 ACCESS AND REFERENCE TO FINANCIAL INFORMATION**

Practices shall prepare and have access to the following financial reports necessary to enable them to monitor and manage their finances and to plan and implement their business strategy:-

- (a) Annual budget of the practice (covering projections for income and expenditure and, where appropriate, proposed capital expenditure);
- (b) Quarterly variance analysis of income and expenditure against budget;
- (c) Annual profit and loss statements;
- (d) Annual balance sheet;
- (e) Annual cash flow forecast;
- (f) Quarterly variance analysis of cash flow;
- (g) Monthly report on accounts receivables; and
- (h) Monthly Report on aged list of debtors.

### **C2 - Objectives**

To ensure that the practice is able to:-

- (a) Effectively manage its financial affairs in accordance with its business objectives;
- (b) Receive up-to-date and relevant information necessary for proper financial control, and for the strategic decision-making process;
- (c) Constantly review whether financial objectives have been achieved, and to analyze gaps and factors that have affected its ability to achieve such financial objectives (such as management of accounts receivables and debt collection).

### **C2 - Guidance**

1. To satisfy this Standard, the practice **must** be able to show that it has the financial information necessary to:-

- (a) Evaluate financial performance through quarterly analysis of the variance between actual income expenditure and cash flow against the budget and cash flow forecast; and
- (b) Monitor accounts receivables and effectiveness of its debt collection policies.

2. The budget and cash flow forecasts **must** be prepared in accordance with and reflect the business and strategic plans of the practice (Refer to Forward Planning in Standards **A1** and **A2**.)

3. Where applicable, the projected income in the budget and cash flow forecasts **must** be based on projections made by each department for its specific area of practice. Practices may choose to project and account for expenditures on a global basis rather than an individual department basis. This applies to the quarterly variance reports.

4. "Quarterly Variance Analysis" helps the practice to analyse the difference between actual financial performance per quarter against what is projected or expected in the annual budget or cash flow projections. **Table A** provides an illustration as to how variance analysis of income and expenditure for a practice with litigation and corporate departments is calculated.

**Table A: Calculation of Quarterly Variance for gross income and expenditure**

A Simple Variance Formula: ***(Actual – Projected) / Projected***

<b>Income</b>				
<b>Department</b>	<b>Projected</b>	<b>Actual</b>	<b>Variance</b>	<b>Comments</b>
Litigation	\$200,000	\$250,000	+25%	Income in litigation department is 25% more than that projected for the quarter
Corporate	\$500,000	\$300,000	-40%	Income in corporate department is 40% less than that projected for the quarter
<b>Total</b>	<b>\$700,000</b>	<b>\$550,000</b>	<b>-21.43%</b>	Overall income is 21.43% less than that projected for the quarter
<b>Expenditure</b>				
<b>Costs</b>	<b>Projected</b>	<b>Actual</b>	<b>Variance</b>	<b>Comments</b>
Operational Expenditure	\$650,000	\$480,000	-26.15%	Operational Expenditure is 26.15% less than that projected for the quarter.
<b>Total</b>	<b>\$50,000</b>	<b>\$70,000</b>	<b>40%</b>	Profit before Tax is 40% more than that projected for the quarter.

This process of variance analysis helps the practice to focus its attention on factors that have affected the realization of its projections, in particular, the issue of the Corporate Department not meeting its targets, and to make relevant strategic decisions to improve or maintain its performance.

5. *It is strongly advisable for the practice to institute procedures to record the amount of time spent on each matter for purposes of determining the costs of each matter.* This will enable the practice to:

- (a) Determine the appropriate amount of fees to charge and to justify this, if challenged; and
- (b) Gauge the profitability of each matter, area of work, fee-earner, department and the practice as a whole.

In relation to fixed fee work such as conveyancing, accident claims and debt collection, time recording should be applied on a sample basis to ascertain the average amount of time and costs for these matters. In relation to agreed fee work, practices are encouraged to time-record for the purpose of ascertaining costs and profitability of the matter.

6. Management of accounts receivables and debt collection affects the cash flow and working capital of the practice. **Table B** provides useful benchmarks to assist the practice to analyse its financial information and determine the effectiveness of its collection policies.

**Table B: Useful Financial Ratios – to Determine the Effectiveness of Accounts Receivable Management and Debt Collection Policies**

Part I: Accounts Receivable Turnover (A/R Turnover)

$$\text{A/R Turnover} = \text{Total Invoiced} / \text{Total Accounts Receivable}$$

Part II: Average Collection Period (ACP)

$$\text{ACP} = 365 / (\text{A/R Turnover})$$

Total Invoiced	Total A/R	A/R Turnover	ACP
\$1,200,000	\$300,000	4.0	91.25 days
Comments	<p>The average collection period for the practice is 91.25 days per invoice issued. If the practice has a strict collection policy of 30 days or has the objective of reducing collection periods, then this indicator helps management to (a) monitor its collection policies and practices, and (b) take action by reviewing collection activities and (c) assess what negative impact such a result may have on the practice’s cash flow.</p> <p>To achieve a 30 day ACP, the A/R Turnover must be about 11. Accounts Receivables must be reduced substantially. Further analysis may be required to pinpoint the reason(s) for slow collections.</p>		

**Table A** and **Table B** are provided in these guidelines for illustration purposes. The practice is advised to work with its accountants and financial personnel to determine the types of ratios or benchmarks that it should employ to assist in its financial analysis.

7. *The practice is encouraged to institute documented policies and procedures for debt collection.*

8. *The practice is strongly advised to have ready access to the following data or reports which will enable it to manage its cash flow, analyze, plan or manage its business more effectively and to provide better service to its clients:-*

- (a) Accurate and current records and reports of disbursements and anticipated disbursements (billed in anticipation of payment);
- (b) Ready, on-line access to bank account information;
- (c) Records of suppliers' invoices and their due dates;
- (d) Cash flow analysis showing the source or destination of monies received and paid by the practice;
- (e) Fee analysis reports to measure performance broken down by fee earners, department, work type or clients;
- (f) Reports to help the practice ascertain when monies can be transferred from the clients account to the office account;
- (g) Aging debtors' reports.

9. *Practices are encouraged to adopt a regular or milestone invoicing system, where applicable.*

10. *The implementation of a computerised accounting or practice management system will assist the practice in producing the relevant reports and information accurately and cost-effectively. Thus, practices are encouraged to implement such systems.* For larger practices, it is not possible to produce such reports efficiently without the use of a computerised accounting system that is specifically designed for law firm accounting.

## **C2 - Method of Assessment**

1. The assessor will check the existence of all the reports set out in Standard **C2** (without looking at the financial data which they contain).

2. Where the practice does not want to disclose to the assessor the annual budget, cash flow forecast, the quarterly variance reports, the report of accounts receivables and aged list of debtors referred to in Standard **C2**, it is sufficient to provide the accountant's certificate that such information is regularly compiled and made available to the practice for consideration, and minutes of partners' meeting or directors' meeting to demonstrate that the figures have been considered without providing any further details.

If no such accountant's certificate is available, the assessor will interview the personnel involved in producing or considering the information, typically principals, financial manager, practice manager, cashier, book keeper and/or the accountant.

3. Examples of Typical Documentation Reviewed by Assessor:

- (a) Financial plans or information
- (b) Annual accounts prepared by the practice's accountants
- (c) Annual budget, cash flow forecast, quarterly variance reports, accounts receivable report and aged list of debtors and/or written confirmation from the accountants that the procedures that provide the relevant information required by Standard **C2** are in place

- (d) Minutes from partners' or directors' meeting which demonstrate that the financial reports have been considered (without providing details about the discussion of these reports).

4. Questions to be considered:

- (a) Can the practice prove that it has this information available?
- (b) Is this information provided to management and does the management refer to this information at management meetings?

### **C3 MANAGEMENT OF CLIENTS' ACCOUNTS**

Practices shall institute documented procedures for the proper authorisation of monies transferred out of clients' accounts, and to accurately track the balances of monies for each individual client account, including monthly bank reconciliations.

#### **C3 - Objectives**

To ensure that practices have the necessary documented procedures to comply with the Solicitors' Accounts Rules, Deposit Interest Rules and Solicitors' Trust Accounts Rules and for the proper management of client accounts.

#### **C3 - Guidelines**

1. Many practices inadvertently fall foul of the above Rules because they are unable to accurately track payments in and out of individual clients' accounts. The client account bank balance is not an accurate record as it reflects the global balance of the monies from numerous clients' accounts that are paid in and out of that bank account.
2. To satisfy this requirement, practices **must** institute procedures to enable them to:
  - (a) ensure that payments from the client account are properly authorised in accordance with the Legal Profession (Solicitors' Accounts) Rules, including the requirement where applicable for two solicitor signatories (excluding a locum solicitor) for cheques or other instructions above a certain value; and
  - (b) track the monies transferred in and out of clients' accounts, and the balances of monies for each individual client's account pertaining to the matter(s) for which the monies are to be applied against billings for work done.
3. Aside from monthly bank reconciliations, the relevant personnel in the practice **must** have ready access to information on the outstanding balance for each individual client's account, including details of payments in and out. This information should be reviewed before payments out are authorized.
4. The Financial Manager (Standard **C1**) **must** be responsible for ensuring that the practice complies with the rules governing clients' accounts and Standard **C3**.
5. *The practice is encouraged to institute procedures for the review of client account balances on a regular basis.*

#### **C3 – Method of Assessment**

1. The assessor will check the existence of documented procedures for the authorisation of payments in and out of clients' accounts and monthly bank reconciliations.

2. The assessor will check the existence of readily available information on client account balances and payments in and out, and whether this information is reviewed before payments out is authorized.
3. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Office Manual
  - (b) Evidence of bank reconciliation
  - (c) Evidence of written authorisation of payments transferred out of client account.
  - (d) Reports of individual client's accounts balances
4. Questions To Be Considered:
  - (a) Has the practice instituted any documented procedures for the proper authorisation of payments transferred out of clients' accounts and for monthly bank reconciliations to be carried out?
  - (b) Does the practice have ready access to information on the balances and payments in and out of individual client's accounts? Is this information reviewed before payments out are authorized?

## **D CASE MANAGEMENT**

### **D1. SYSTEMS**

Practices shall institute documented procedures and systems for the following: -

- (a) Maintaining a central index of clients and matters;
- (b) Identification and management of conflict of interest;
- (c) Monitoring the number and type of matters assigned to each fee-earner to ensure that they are within his capacity;
- (d) Recording key dates and maintaining a back-up system of key dates;
- (e) Providing the supervisor with the ability to track and monitor the performance, progress and status of matters (refer to Standard **D5**);
- (f) The management of incoming and outgoing communications;
- (g) Monitoring the authorization and compliance of undertakings given on behalf of the practice.

#### **D1 – Objectives**

To ensure that the practice has in place systems that provides up-to-date, relevant and readily accessible information for effective case and risk management.

#### **D1 – Guidelines**

1. Practices **must** institute a centralised Index of Matters which contains the essential information relating to the client and matter, including, the name and contact details of the client, the matter name, the type of matter, a short description of the subject matter, and names (s) of fee-earner(s) responsible for the matter.
2. *Practices are encouraged to use a central index that is electronically searchable.* This may include the recording of the Index of Matters in an Excel sheet.
3. The practice **must** ensure that the relevant personnel understand the procedures and that these procedures are consistently applied throughout the practice.
4. The practice **must** have documented procedures for conflicts of interest searches which prescribe the following: -
  - (a) How and when conflict of interest searches should be performed;
  - (b) Procedure for recording the date and results of the search; and

- (c) Procedures for managing potential conflict of interest situations.
5. The index of matters may be used as a means of identifying potential conflicts of interest.
6. Key dates are dates linked to required action(s) or undertaking(s) pertaining to a matter, which, if missed, may result in legal liability, claims made against the practice or which adversely impact the practice's indemnity insurance. Practices **must** document what constitutes key dates, which shall include the expiration of limitation periods in litigation matters and completion dates in conveyancing matters.
7. The back-up system for key dates is to ensure redundancy in cases where the primary record of key dates is misplaced or lost and to allow the practice to follow up on matters if the responsible person is absent.
8. Practices **must** implement a back-up system for key dates. This system can be either manual or computerized and can include the diary of a secretary, lawyer or department provided that the back-up system is such that:
- (a) The back-up information is current and accurate;
  - (b) The back-up records are separate from the matter file itself (e.g. the matter file itself does not form part of the backup system), is easily accessible by relevant personnel and is generally not taken out of the office;
  - (c) The persons, policies and procedures for maintaining the back-up system are clearly documented and communicated.
9. *Practices are encouraged to implement notifications systems which alert:*
- (a) Relevant supervisors, fee-earners and staff of approaching key dates;
  - (b) Supervisors and /or the Risk Manager when key dates are missed.
10. The practice **must** implement documented procedures for the management of incoming and outgoing communication, which may include specific instructions on:
- (a) opening and sorting of mails;
  - (b) handling, controlling of and accounting for cash received;
  - (c) the distribution of faxes, messages, emails, courier deliveries;
  - (d) which persons have authority to sign letters on behalf of the firm.
11. The practice **must** designate the individuals who may authorise the giving of undertakings on behalf of the practice. The practice **must** document these designations and the procedures for obtaining authorisations for the giving of undertakings.
12. All undertakings given on behalf of the practice **must** be recorded in a central register (e.g. undertaking register) which shall include the following information for each undertaking: -

- (a) Text of the undertaking;
- (b) Person(s) who authorised the provision of the undertaking;
- (c) Relevant client and matter to which the undertaking relates;
- (d) Person(s) responsible for monitoring the performance of the undertaking;
- (e) The status of the undertaking e.g. pending or fulfilled, including updates of status change.

13. Undertakings given by a solicitor which do not bind the practice need not be recorded in a central register. However, this undertaking **must** be documented in the file so that they are evident to anyone picking up the file (Standard **D7**).

14. *Practices are encouraged to consider the implementation of an integrated and computerised practice management system with a centralised database to enable fee earners and managers to have instant access to current and comprehensive information for the management of cases, risks and the practice in general.* Practice management systems generally provide for the following:-

- (a) Index of clients and matters;
- (b) Comprehensive conflict of interest search;
- (c) Case flow management tools enabling (a) supervisors to monitor and track the progress of their cases, key dates, and the tasks being completed by those under supervision, and (b) fee-earners and support staff to manage their tasks and key dates;
- (d) Centralised calendar for the management of key dates with an alert system;
- (e) Time recording, bill generation and disbursement tracking;
- (f) Accounting and Financial Management including the generation of financial reports relevant to accounts and management – from tracking and analysis of performance (by case, department, type of work, and individual fee earners), costs analysis and accounts receivable information; and
- (g) Client relationship management.

### **D1 - Method of Assessment**

1. The assessor reviews documents setting out the procedures for case management and documents or systems used for maintaining case management information–i.e. index of matters, diaries or central calendars.

2. Where possible, the assessor will review case files for evidence that (a) conflict of interest has been considered; (b) key dates have been entered into the primary record and appropriate back up-system; and (c) undertakings have been correctly authorized or monitored.

3. If the assessor does not have access to case files, the assessor will interview and question a sample of relevant personnel about the above

procedures and about their files. Relevant personnel may include fee-earners, paralegals, secretaries and other support staff.

4. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Client matter index and key dates records
  - (b) Documented procedure and systems for the identification of conflicts of interest
  - (c) Diaries acting as back-up systems
  - (d) Documented authorization of undertakings and systems for monitoring compliance with undertakings
  - (e) Practice management systems capturing client matter index, key dates and undertakings.
  - (f) Office Manual.
5. Questions to be considered:
  - (a) How does the practice maintain an index of matters?
  - (b) What arrangements exist that facilitate the identification of any conflict of interest?
  - (c) How does the practice monitor workload?
  - (d) How are back-up records / registries of key dates kept?
  - (e) What arrangements are there to ensure proper authorization and monitoring of undertakings? Who is authorized to give undertakings?

## **D2. RISK MANAGEMENT**

D2.1 Practices shall appoint and authorise a principal to be responsible for the management of risk in the practice, including ensuring the practice's compliance with Standards **D2.2** and **D2.3**. This appointment shall be documented and the scope of the responsibilities of the Risk Manager shall be clearly stated in the Management Structure and other documentation.

D2.2 Practices shall have documented procedures for risk management, which shall provide the following:

- (a) Maintain information about the generic risks associated with the type(s) of work it performs;
- (b) List and define types of cases which are likely to fall within acceptable risk levels;
- (c) List and define types of cases which are likely to fall outside acceptable risk levels;
- (d) Implement procedures to manage all cases which fall outside acceptable risk levels, including mitigating actions and contingency plans, where appropriate;
- (e) Record problems or errors made so that these issues can be considered, corrective can be taken, and preventive action implemented;
- (f) Conduct a final risk assessment of the matter at the conclusion of a matter;
- (g) Conduct an annual documented review of all risk assessment data generated within the practice.

D2.3 Practices shall have documented procedures to establish the identity of the clients before accepting the client in accordance with current Guidelines or Regulations relating to the prevention of money laundering and the funding of terrorist activities.

### **D2 – Objectives**

To ensure that the practice has:

- (a) appointed a principal with the specific responsibility and authority to oversee risk management;
- (b) put in place risk management processes that minimise the possibility of the mis-handling of matters which could adversely affect the interest of the client and/or result in a claim on the practice's professional indemnity insurance; and
- (c) put in place "know your client" procedures for "vetting" a prospective client before accepting the party as a client of the practice.

## **D2 – Guidelines**

1. Risk management **must** be treated as a continuous activity and the collective responsibility of all fee-earners, commencing from the beginning of the matter (Standard **D4**), through the conduct of the matter (Standard **D5**) to the end of the matter (see Guidance for Standard **D6**).
2. Wherever possible, the Risk Manager **must** be a principal who is experienced in managing casework.
3. It is not necessary for the practice to record the consideration of risk for every individual file. If the matters fall within a type defined as acceptable by the practice, there is no need to make a record of the risk. However, the practice **must** institute procedures on what should be done if the matter falls outside normally acceptable risk, but the fee-earner(s) or department would like to accept instructions from the client. *Ideally, the Risk Manager should be notified of and agree to this before instructions are accepted.*
4. To comply with Standard **D2.3**, practices **must** establish the identity of the prospective client before the solicitor-client relationship is established, in accordance with the current Guidelines or Regulations relating to the prevention of money laundering and the funding of terrorist activities.
5. Larger firms may institute a structure where the head of department provides the first level risk management, and the risk issue is escalated to the risk manager in the appropriate case.
6. *Practices are encouraged to maintain a risk register to record the risk assessment data listed in Standard **D2.2**.* Whatever the documentation, the Risk Manager must have ready access to the data.
7. The factors to be considered in the risk assessment procedure **must** include:-
  - (a) The type and complexity of work;
  - (b) The efficiency and adequacy of the internal systems and resources for the type and value of work – e.g. technical skills and experience of principals, fee-earners and support staff, capacity of human resources, and the use of standard procedures, checklists and monitoring tools (manual or computerized);
  - (c) Attitude towards risk of the management and the supervisors responsible for each area of work;
  - (d) Any external factors – e.g. change of legal processes or requirements.
8. The practice has the discretion to decide on the detail to which it defines cases which fall within or outside acceptable parameters.
9. At the conclusion of a matter, the fee-earner **must** conduct a final risk assessment in relation to the matter and notify the practice's overall Risk Manager if the final assessment differs from the initial assessment, and provide a written explanation for this difference. This forms part of the data that is considered during the annual review of risk.

10. Where applicable, sole proprietors, who carry out the risk management role, **must** also record that the final assessment differs from the initial assessment.

11. The annual documented review of risk assessment data may form part of the Business Planning process under Standard **A1**.

12. Sole proprietors **must** be responsible for the risk management of their practice and for ensuring that the practice implements the procedures and systems set out in Standard **D2.2**.

## **D2 - Method of Assessment**

1. The assessor checks for documentation of the role and responsibilities of the risk manager and documentation of risk assessment procedures.

2. The assessor conducts interviews to verify if the documented procedures are carried out consistently in the practice.

3. Examples of Typical Documentation Reviewed by Assessor:

(a) Office Manual

(b) Management Structure or Organizational Chart (for role of the risk manager)

(c) Job description (for the responsibilities of fee-earners)

(d) Risk Management Policy

(e) Client Acceptance Policy

(f) Risk evaluation / Risk assessment procedure

(g) Records of risk evaluation

(h) Risk assessment documentation maintained and reviewed by practice's Risk Manager.

4. Questions to be considered:

(a) What information has the practice used as a basis for its assessment of risk?

(b) How is the risk assessment data updated?

(c) Is the risk management policy clearly understood by all staff?

### **D3. CLIENT CARE**

Practices shall have written procedures to ensure compliance with the relevant sections on solicitors' costs information and client care provisions as set out in the Legal Profession (Professional Conduct) Rules and provide for clear and regular communication with clients, third parties and the court, as necessary, in relation to costs.

#### **D3 – Objectives**

To ensure that practices institute procedures that enables them to comply with their obligations in Part III of the Legal Profession (Professional Conduct) Rules.

#### **D3 – Guidelines**

The practice **must** inform clients in writing about the fees and payments of the engagement as prescribed in Rule 35 and 36 of the Legal Profession (Professional Conduct) Rules.

#### **D3 - Method of Assessment**

1. The assessor checks documented procedure, and case files, where possible.
2. If the assessor does not have access to case files, he will interview and question a sample of relevant personnel on the above procedures and about their files. Confirmation by a fee-earner to an assessor that a procedure has been implemented on a particular case file(s) is acceptable.
3. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Policy on fees
  - (b) Client care letters, fee agreements or arrangements
  - (c) Costs Information Checklist
  - (d) Documented acknowledgement by client of information provided
  - (e) Office Manual.
4. Questions To Be Considered:
  - (a) What is the practice's approach to informing clients about fees? Are all fee-earners using this approach?
  - (b) Are clients given appropriate information about costs at appropriate and relevant times?

#### **D4. MATTER COMMENCEMENT**

Practice shall establish a written procedure for taking instructions which ensures that fee-earners will:-

- (a) Record and confirm the following matters in a letter of engagement :-
  - i. Who the client is;
  - ii. The purposes for which the firm has been instructed and the scope of the services offered;
  - iii. The client's instructions and objectives;
  - iv. A clear explanation of issues raised and the advice given (including discussing with client whether the likely outcome will justify the expense or risk involved and, if relevant, the risk of having to bear an opponent's costs);
  - v. Action to be taken by the practice and likely time scale;
  - vi. Strategy decided upon and any case plan;
  - vii. The name and status of the person dealing with the matter, the name of the person responsible for its overall supervision (if different), and whom to contact about any problems with the service provided;
  - viii. Any potential conflicts of interest and any issues of client confidentiality;
  - ix. The responsibility and what is expected of the client;
  - x. Information on fees and disbursements in compliance with Standard **D3**.
- (b) Be responsible for:-
  - i. Ascertaining if there is any conflicts of interest;
  - ii. Informing the client, with confirmation in writing, of the costs issues referred to in **D3**;
  - iii. The identification of key dates for each matter and recording them in the file and in the back-up system;
  - iv. The assessment of whether the practice falls within the acceptable risk level or is being exposed to any unusual degree of risk, record this as a note in the file, and, where necessary, notify the Risk Manager.

#### **D4 - Objectives:**

To ensure that practices:-

- (a) Have a standard procedure for taking instructions from clients at the commencement of a case;
- (b) Manage the communication between the fee-earners and clients to ensure that clients' instructions and objectives are clearly understood;
- (c) Start managing risk from case inception.

#### **D4 - Guidelines**

1. The Standard ensures that both the fee-earner and the client have a common understanding of the matters set out in Standard **D4 (a)**.

2. Every client **must** be given written confirmation of the items listed in Standard **D4 (a)**, unless an exception applies – for instance, in the case of a regular client for whom repetitive work is done, or in case of urgency where it is not practical to provide full information (but the fee-earner should nevertheless have made written record of the communications with the client) or where particular sensitivity is required in handling a matter.

3. Practices may use standard terms or letters of engagement or deal with the elements required by Standard **D4 (a)** in more than one letter.

4. Where the letter of engagement contains an agreement as to cost, the letter of engagement must be signed by the client in order to comply with the provisions in the Legal Professional Act.

5. *Practices are encouraged to implement documented procedures and standard letters for non-acceptance of a client or matter.*

6. Where the matter has a case plan, the practice **must** periodically review and update the case plan, and the client **must** be informed of such updates throughout the conduct of the matter. The fee-earner may advise the client of the case plan in a letter. For more complex cases, the case plan may be a table showing the likely sequence of events and projected time scale.

7. *Practices are encouraged to provide clients with information on feedback procedures, in particular, who they can contact to provide feedback on how their matter was handled. Practices are further encouraged to have written procedures to ensure that complaints made by clients are investigated and that appropriate action is taken.*

#### **D4 - Method of Assessment**

1. The assessor will check documented procedure, and case files, where possible, to confirm the existence of these procedures and that they are being applied throughout the practice.

2. Assessors may ask fee-earners to explain the key dates that apply in their particular areas of work, to ensure that these are reflected in the documented procedures.

3. If the assessor does not have access to case files, the assessor will interview and question a sample of fee-earners about the above procedures and about their files. Confirmation given by a fee-earner to an assessor that a procedure has been implemented on a particular case file(s) and that he has applied such procedures to his cases is acceptable.

4. Examples of Typical Documentation Reviewed by Assessor:

- (a) Office Manual
- (b) Checklists
- (c) Letters of engagement
- (d) Attendance notes
- (e) Evidence of procedural review in the light of a complaint
- (f) Responses made to clients and evidence of corrective action taken
- (g) Office risk records or risk registry
- (h) Diary systems.

5. Questions to be considered:

- (a) What procedures are followed at the commencement of the case? What information is collected or recorded?
- (b) Has the client received confirmation in writing? Have the items in Standard **D4 (a)** been detailed?
- (c) Have the key dates been identified and recorded? Are they in the back-up system?
- (d) How does the practice ensure that clients know the name and status of the person responsible for the day-to-day conduct of the matter?
- (e) Has the degree of risk been assessed by the fee-earner?
- (f) Has unacceptable risk assessed been recorded in the risk registry or central file held by the Risk Manager?
- (g) What procedure is followed upon receipt of a complaint and how are complaints recorded?
- (h) What procedures are followed to identify the cause of a complaint?
- (i) Has corrective action been taken, when necessary?

## **D5. PROGRESS OF A MATTER**

Practices shall have written procedures to ensure that:-

- (a) Information on the following is given to the client in writing as promptly as possible:-
  - (i) Progress of the matter (or reasons for lack of progress) at appropriate intervals;
  - (ii) Changes in the action planned to be taken in the matter, strategy or case plan, its handling (including fee-earner in charge) or cost;
  - (iii) Cost information at least once every six months and timely reference is made to the client when an agreed limit on costs or stage in progress is approached;
  - (iv) Any circumstances which will or may affect the degree of risk involved or cost benefit to the client of continuing with the matter, or which may impede the progress of the case;
  - (v) In litigation matters, information about adverse costs orders is given to client immediately as payment may be required forthwith;
- (b) Timely and appropriate responses are made to correspondence and telephone calls to client, and that appointments with client are kept;
- (c) The risk assessment responsibilities required of fee earners as set out in Standard **D4(c)** continues during the conduct of a matter.

### **D5 – Objectives**

To ensure that practices keep clients informed on the progress of matters throughout the conduct of the case.

### **D5 – Guidelines**

1. Fee-earners **must** be responsible to inform their clients in writing of the progress of their case.
2. They **must** also comply with any reasonable requests made by the client. A client **must** be advised in writing when and why a request is not considered to be reasonable. An unreasonable request may be one that falls outside the agreed arrangements in the letter of engagement.
3. The practice **must** have a policy and practice for client correspondence, and telephone calls to be dealt with promptly, and for appointments made with client to be kept, unless there are good and sufficient reasons why this cannot be done, and such reasons are documented in the file.
4. *It is recommended that the practice's Office Manual provide for acceptable response times to letters and telephone calls as part of the practice's client care policy.*

## **D5 - Method of Assessment**

1. The assessor will check written procedures, and case files, where possible, to confirm the existence of these procedures and that they are being applied consistently across the practice.
2. If assessor does not have access to case files, the assessor will interview and question a sample of fee-earners concerning the relevance of the above procedures and about their files. Confirmation given by a fee-earner to an assessor that a procedure has been implemented on a particular case file(s) and that he has applied such procedures to his cases is acceptable.
3. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Office Manual
  - (b) Client Correspondence
  - (c) Attendance notes / case histories
  - (d) Diary systems
  - (e) Case management systems, if applicable
  - (f) File check lists
4. Questions to be considered:
  - (a) What is the practice's approach to keeping the client informed?
  - (b) Does the practice normally give regular progress reports and at what intervals?
  - (c) What action does the practice take if there are changes in the action planned? Or to the cost?
  - (d) What is the practice's policy on response to letters and telephone calls?

## **D6. MATTER CONCLUSION**

D6.1 Practices shall have written procedures to ensure that at the conclusion of the matter, the practice:-

- (a) Reports to the client on the outcome and explains any further action that the client is required to take in the matter and what (if anything) the practice will do;
- (b) Accounts to the client for any outstanding monies;
- (c) Returns to the client the original documents and other property belonging to the client, if required (except for items which are by agreement to be stored by the practice);
- (d) If appropriate, advises the client about arrangements for storage and retrieval of papers and other items retained;
- (e) Advises the client whether it should review the matter in the future, and if so, when;
- (f) Conduct a final risk assessment of the matter.

D6.2 Practices shall have written procedures to ensure that they properly store and are able to track original documents or property belonging to clients, and closed files.

### **D6 - Objectives**

To ensure that practices have a standard procedure for concluding a matter properly.

### **D6 - Guidelines**

1. *To ensure compliance with this Standard, it is recommended that the practice provides a standard matter conclusion checklist to ensure that appropriate actions are taken at the conclusion of a matter.*

2. The tracking procedure for client's property and closed files may include a check-in / check-out and return procedure. The fee-earner who may authorize the access and return of such items **must** be a principal or the supervisor or the fee-earner responsible for the matter to which the documents or property belongs.

This requirement on the storage of original documents or client's property also applies to items received by the practice at the beginning and during the conduct of the matter.

3. The fee-earner **must** advise the client of the events that would prompt the review of the matter in the future (e.g. a divorce or marriage may require the preparation of a new will).

4. The fee-earner **must** conduct a final risk assessment in relation to the matter and notify the practice's overall Risk Manager if the final assessment

differs from the initial assessment, and provide a written explanation for this difference. Refer to Guideline 9 of Standard **D2**.

### **D6 - Method of Assessment**

1. The assessor will check documented procedure, and case files, where possible, to confirm the existence of these procedures and that they are being applied throughout the practice.
2. If the assessor does not have access to case files, the assessor will interview and question a sample of relevant personnel about the above procedures. Confirmation given by an individual to an assessor that a procedure has been implemented on a particular case file(s) is acceptable.
3. Examples of Typical Documentation Reviewed by Assessor
  - (a) Documented procedures
  - (b) Checklists
  - (c) Office Manual
  - (d) Attendance notes
  - (e) Safe custody register
  - (f) Closed files register
4. Questions to be considered
  - (a) What procedures are followed at the conclusion of a matter? Is all relevant staff aware of them?
  - (b) Are clients informed about the outcome of a matter? Are clients advised of any further action that may need to be taken?
  - (c) Does the practice account to the client for any outstanding monies?
  - (d) Are clients advised on storage?
  - (e) If applicable, are clients advised when they should review the matter?
  - (f) How do fee-earners update the risk manager at the end of the case?

## **D7. FILE MANAGEMENT**

Practices shall have written procedures to ensure that:-

- (a) They are able to identify, track and trace all documents, correspondence and other information relating to a matter and that these are properly stored and are readily accessible;
- (b) The status of the matter and action taken can be easily checked by other members of the practice;
- (c) Documents are arranged in the file in an orderly way;
- (d) Key information is shown clearly on the file which will include details of any undertakings given on behalf of the practice.

### **D7 - Objectives**

To ensure that practices adopt an orderly, methodical approach to file and document identification, traceability, storage and retrieval.

### **D7 - Guidelines**

1. This Standard applies to both live and archived matters.
2. To satisfy this Standard, practices **must** have procedures in place to ensure that:-
  - (a) Any document, correspondence or information can be identified and linked to a matter even if such documents are stored in a different location from the file (e.g. physical evidence, title deeds, architectural plans), and that all documents and files relating to a single matter are traceable.
  - (b) Information on matter status and action taken can be easily checked.
3. *In relation to electronic documents and files, practices are encouraged to have documented procedures to ensure that such documents are stored in an organised fashion that facilitates efficient search and retrieval (e.g. proper use of network drives, folders and sub-folders), including:*
  - (a) A uniform naming convention for documents and housekeeping rules for managing electronic documents, including archiving electronic records;
  - (b) Policies and practice for the use of external storage by its members, such as floppy diskettes, USB keys, ZIP drives, CD-Rom (Refer to Standard **B3.3**), to ensure that original documents are not taken away from the practice's system and that corruption of documents (e.g. by viruses) can be controlled.

4. *The practice is also encouraged to record its policies on the use of password protection for electronic documents generated by fee-earners and support staff, especially for access and for modification. Instead of using password security for electronic documents, the practice may use the network security system. (Refer to Standard **B3.3**)*

5. The method of organising each file can be chosen by the department, and may vary between departments. However, the organisation of the matter file **must** be orderly and methodical i.e. documents are arranged in such a way to facilitate easy checking of matter status and action taken by someone other than the person handling the case as part of file review (as well as for the File Review process under Standard **D8**) or if a case needs to be handed over to someone else for action. Such necessary information might come from attendance notes, action lists and correspondences with the client on the file.

6. Key information under Standard **D7 (d)** **must** be shown clearly on the file including, in particular, details of undertakings given by the practice for the matter and risk issues. Other types of key information to be shown on the file may include any case plan or synopsis, time records (as appropriate and unless they are readily accessible in a computerized system), financial transactions (unless they are readily accessible in a computerized system), list of documents, court orders and key dates.

7. Generally, the file **must** be organised and maintained in such a manner that the status of a matter or action taken can be readily established by someone other than the fee-earner handling the matter.

#### **D7 - Method of Assessment**

1. The assessor will examine the procedures for both live and archived files.
2. The assessor will check documented procedure, and case files, where possible, to confirm the existence of these procedures and that they are being applied throughout the practice.
3. If the assessor is unsure whether a file meets the requirement that the status of the matter can be easily checked by other members of the practice, another member of the practice working in the same area of law may be required to explain the status of a colleague's file. This will also apply to the electronic documents for the matter.

If assessor does not have access to case files, then the assessor will interview a sample of fee earners about management of their files and key information. Confirmation given by an individual to an assessor is acceptable.

4. Examples of Typical Documentation Reviewed by Assessor:
  - (a) File storage / retrieval systems
  - (b) Documented procedures for document and file identification, storage and traceability
  - (c) Office Manual
  - (d) Documented file management instructions
  - (e) File index

- (f) Action Lists (e.g. facilitate the checking of matter status)
- (g) Case Files
- (h) Computerized case management systems and/or document management systems.

5. Questions To Be Considered:

- (a) What procedures exist to ensure that all documents can be identified and traced?
- (b) What is the procedure in the case of archived files?
- (c) How are files with multiple parts identified?
- (d) What steps are taken in relation to items stored away from the file (e.g. tapes, X-rays?)
- (e) How can the status of a matter be checked? Will another fee-earner be able to check the status of a matter by reviewing the file?
- (f) How are documents arranged on the file?
- (g) Is key information clearly shown? Are details of any undertakings noted and how are they noted?

## **D8. DELEGATION, SUPERVISION AND FILE REVIEW**

D8.1 Practices shall have written procedures for the delegation and supervision of the conduct of casework and these will include:-

- (a) Matters to be taken account in delegating casework;
- (b) Availability of a supervisor to guide and assist others;
- (c) Appropriate procedures to allocate work in relation to the qualifications and experience of fee-earners and their workloads;
- (d) Arrangements for the management of case files to be reviewed periodically;
- (e) A record of the review to be kept on the case file and in a central record;
- (f) Arrangements to ensure that any corrective action identified is carried out promptly.

D8.2 Supervisors must have the requisite level of experience of the work that they are required to supervise and be able to guide and assist others.

### **D8 – Objectives**

To ensure practices implement effective procedures for the supervision of cases.

### **D8 – Guidelines**

1. The practice **must** specify the matters to be taken into account when delegating casework. This may include the following:

- a) Experience, skill and competencies of the fee-earner to handle particular type of work;
- b) Current workload (Refer to Standard **B1.2**);
- c) Past performance;
- d) Personal career objectives;
- e) Personal circumstances;
- f) Holidays or other planned absences from the office.
- g) The availability of support staff

2. The practice shall appoint supervisor(s) for each major category of work. Supervisors must be able to guide and assist fee-earners and support staff in the delivery of legal services to clients. This means that supervisors must have:-

- (a) The required experience in the work area supervised (Standard **B1.2**);
- (b) Sufficient time to fulfil their supervisory functions including:-
  - i. Meeting with fee-earners and support staff to discuss casework;
  - ii. Monitoring the workloads of and the type of work assigned to fee-earners and support staff to ensure that they are within the individual's capacity (see Standard **D1(c)**).

3. Appropriate supervisory arrangements **must** take into account the experience of the individual in relation to the job and the length of time the individual has been with the practice –for instance, experienced staff may require less supervision than new recruits or less experienced staff.

4. A supervisor may supervise more than one category or area of work. There may be more than one supervisor in each area and, in this case, personnel must be clear about who is supervising their work.

5. The practice may also adopt other procedures to ensure appropriate supervision of caseworks. Options include:-

- (a) Checking incoming mail (including emails);
- (b) Signing outgoing mail and checking outgoing emails;
- (c) Regular review sessions with a supervisor, covering:-
  - i. New cases taken on, and discussion of “case plans” in complex cases;
  - ii. Progress review for current cases;
  - iii. Evaluation of outcomes of completed cases;
  - iv. Consideration of training needs in relation to legal knowledge and skills;
  - v. Risk assessment issues.

6. The practice **must** ensure that the case files are periodically reviewed. File reviews **must** cover the following aspects:

- (a) Legal and tactical advice is correct;
- (b) Procedural compliance;
- (c) That work accords with the engagement letter and that client's expectations should have been met.

7. The practice **must** determine the appropriate frequency of such reviews and whether all selected sample files should be reviewed. The file review **must** be followed up with a feedback session with the fee-earner(s) responsible for the day-to-day running of the file.

8. The review **must not** be carried out by the fee-earner who has day-to-day control or responsibility of the matter unless the practice is a sole proprietor, but may be carried out by the supervisor who has overall control of the matter, or a member of the staff reporting to him. The practice may adopt different review procedures for substantive and procedural reviews.

9. If a sole practitioner is the only fee-earner and has legally experienced support staff, the process of client care and case management may be reviewed by the support staff member or a legally trained colleague (even if he practices a different branch of law). However, the sole proprietor must carry out a review of the substantive advice given as objectively as possible.

10. If the sole proprietor practises alone, he **must** carry out the whole of the periodic review of case file procedure. The use of a checklist will assist in demonstrating an objective approach.

11. These procedures must also apply to case work undertaken by a locum solicitor.

### **D8 - Method of Assessment**

1. The assessor will check written procedures and records of file reviews carried out (if applicable).

2. The assessor shall interview individuals to verify if supervisory procedures are clearly understood and implemented and that file reviews are being carried out.

3. The assessor may be able to check the central record of file reviews if he is not able to have access to case files.

4. Examples of Typical Documentation Reviewed by Assessor:

- (a) Management Structure or Organizational Chart which identifies named supervisors
- (b) Documented review procedures
- (c) Central record of files reviewed
- (d) Office Manual
- (e) Case files.

5. Questions to be considered:

- (a) What are the arrangements for supervision of casework?
- (b) Are fee-earners clear about who is supervising their work?
- (c) Has the client been told who is supervising the matter?
- (d) What are the arrangements for file review?
- (e) Is feedback given to the fee-earner following file reviews?

## **D9. THIRD PARTY SERVICE PROVIDERS**

Practices shall establish written procedures for using external counsel, consultants and expert witnesses ("third party service providers") in supplementing the services provided by the practice. These procedures shall include the following:-

- (a) Use of clear selection criteria based on expertise, experience, credible recommendations and availability;
- (b) Where appropriate, consultation with the client in relation to the selection, and proper advice to the client on the choice of third party service provider;
- (c) Maintenance of records (centrally or by department) of third party service providers used;
- (d) Providing instructions which clearly describe what is required;
- (e) Checking of opinions and reports received to ensure that they adequately provide the information and advice sought;
- (f) Payment of fees.

### **D9 – Objectives**

To ensure that the practice uses third parties services providers effectively and that the third party service providers have the relevant skills, knowledge and experience to assist the clients.

### **D9 – Guidelines**

1. To satisfy this Standard, the practice **must** have established written procedures for the selection of all third party service providers.
2. The practice **must** maintain records of counsel and expert witnesses used which shall be available to other members of the practice. This should not function as an exclusive list of those approved for use since third party service providers may be chosen by reputation or recommendation.
3. It is advisable that the fee earner keeps a record (e.g. attendance note) evidencing that the fee-earner has checked the opinion or report provided by the third party service provider.

### **D9 - Method of Assessment**

1. The assessor will check written procedures, and case files, where possible, to ensure that counsel and experts appointed appear in the practice's records of third party service providers.
2. If the assessor does not have access to case files, the assessor will interview a sample of fee-earners about their files involving third party service

providers. Confirmation given by a fee-earner to the assessor that a procedure has been implemented on a particular case file is acceptable.

3. Examples of Typical Documentation Reviewed by Assessor:
  - (a) Documented procedures
  - (b) Record(s) of third party service providers
  - (c) Office Manual
  - (d) Attendance notes (discussion with client about the choice of service providers)
  - (e) Case files.
  
4. Questions to be considered:
  - (a) Has the practice established clear criteria for selecting third party service providers? Is this used in all cases?
  - (b) Are all fee-earners aware of the selection?
  - (c) Does the practice maintain records of the third party service providers used?
  - (d) Can the practice demonstrate that, if appropriate, the client has been consulted in the selection?
  - (e) Is the adequacy of reports checked? Who is responsible for this?
  - (f) Is there an established procedure for the payment of fees?