

Risk Management for Professionals You should Never Walk Alone: Life In A Silo

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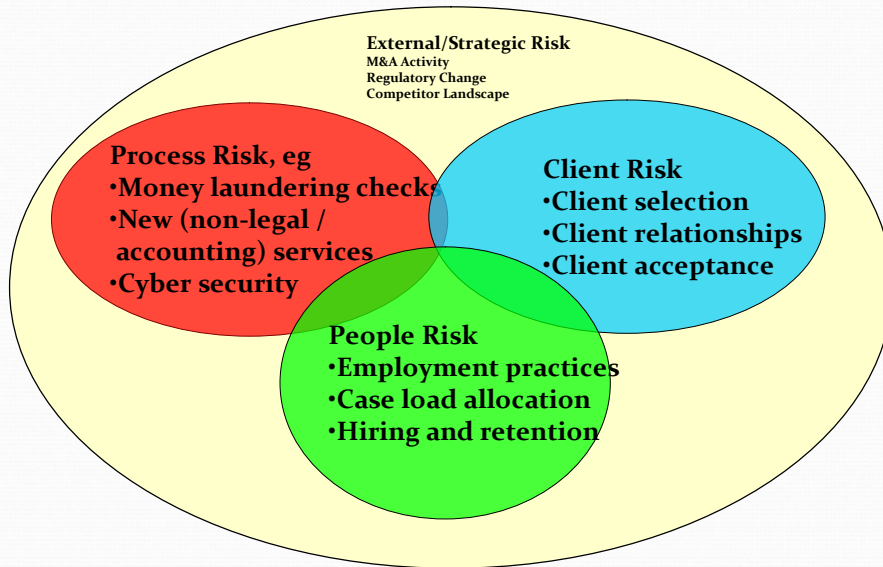
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You are in a profession which provides
Legal, Insurance, Accountancy, Architectural etc.

First and Foremost You are in a Business

What categories of risk exist within the commercial world today?



How Are Firms Organised?

“The secret of all victory lies in the organisation of the non-obvious”

Marcus Aurelius AD 121-180, Roman Emperor

- Specialist Departments
- Specialist Persons
- Alphabetical Split
- Geographic
- Matrix Management



Organisation of the Firm

- Departments
- Speciality
- Multi-skilled
- Teams
- Client Decision
- Partner Led

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Is there an absence of;

- **Supervision**
- **Control**
- **“Interest”**
- **Work Measurement**
- **Case Review**

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Management of The Firm

- Leadership
- Light
- None
- Dictatorial
- By Accident
- Teamwork
- Business Plan
- Financial Plan

“Management of the many is the same as management of the few. It is a matter of organisation”. Sun Tzu, Chinese General

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Partnerships

Types of Partner

- Active
- Equity
- Salaried
- Dormant
- Dominant
- Apprentice
- Subservient
- Part-time
- Junior

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Problems

- What are the partners doing?
- Who are the partners clients?
- How well do you know your partners?
- Beware of partners and their spouses with expensive tastes/hobbies
- Communication
- No forum for communication
- The big case syndrome
- The big client syndrome
- Uneasiness with the case
- Optimism

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When Friends Fall Out

- Is the partnership fitting?
- Is the firm a group of sole practitioners who simply share the same name?
- something goes wrong - a feeling of being let down
- 'I am not really a partner I just did the conveyancing'
- Beware of predators
- The dominant partner
- the large fee earning partner
- Votes
- Surprises

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Solutions

- Register of cases/clients with opportunity to review and avoid conflicts
- Select and deselect clients
- Partner review meetings
 - Activity, Fees earned, Cash flow, Bad debts, Problem cases, profit
- Partners are human beings
- Peer review
- Encourage discussion, advice seeking, confession
- Avoid levels of partners
- Avoid 'everything's great, let's have a party'

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- Review the partnership agreement
- Ensure partners are aware of responsibilities
- The name on the letterhead vs. the burden
- Formal partners meeting which are minuted
- Balance score cards
- Activity funnels
- Review management accounts monthly
- Partners – allocation of profits, losses and draws
- Partners to control and be knowledgeable of firm's finances
- Partners course / away day with external facilitators

"Few men are born brave; many become so through training and force of discipline" Vegetius 4th Century AD, Roman Writer

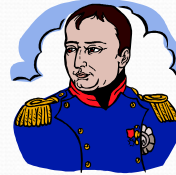
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Who Owns The File?

Who Owns The Client?

Who Owns The Problem?

“Soldiers generally win battles; Generals get credit for them”. Napoleon



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Are There Silos?

- Is the Partnership one in name only?
- Are the Partners real?
- Do they get involved in managing the Practice?
- Do they know what is going on in the Practice?
- Is there a Practice within a Practice?

**There can be silos in any Practice and at any level
How well does the firm know its clients and colleagues?**

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Silos

A few examples:

- Banking
- Insurance
- Government
- The Media

Busy places which do not like bad news.

“In war, truth is the first casualty”

Aeschylus C525-456 BC, Greek Playwright

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- *‘We have just uncovered a fraudulent binder for GSIS used by a Guernsey Broker that has taken in millions in aviation premiums over 9 years.’*

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Have You Any Nodding Donkeys?

Colleagues?

Clients?



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A Few Questions

- How is your performance measured?
- How is the Firm's performance measured?
- If you have a work related problem, to whom do you refer it?
- Does your firm take up references?

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General Advice

“Do not touch anything unnecessarily. Beware of pretty girls in dance halls and parks, who may be spies, as well as bicycles, revolvers, uniforms, arms, dead horses, and men lying on roads – they are not there accidentally”.

1930's Soviet Infantry Manual

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Advice to Young Professionals

Don't



- be unlucky
- be an ostrich
- abuse clients
- fall in love with clients
- leave files on the No.38 bus
- succumb to temptation
- break the law
- be indiscreet
- alienate colleagues
 - within and without the firm
- Scipio Africanus -v- Hannibal
- promise more than you can deliver

“Above all, I shall see to it that the enemy will not be able to drop any bombs”

Hermann Goering (German Military Leader, 1893 – 1946)

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Good file management is like oxygen - you don't notice it when it's there

Few indemnity claims are caused by professionals who have insufficient professional knowledge; most are related to human factor issues such as:

- Failure to take proper instructions
- Failure to record instructions
- Inadequate communication with client
- Incorrectly interpreting or missing key information on file
- Bending to pressure from client / lack of assertiveness

“When other Generals make mistakes, their armies are beaten; when I get into a hole, my men pull me out of it”.

Arthur Wellesley, Duke of Wellington

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Protect your Practice

Look at the things beneath your feet and then to the things above your head

- **Review office procedures**
- **Embed good file management**
- **Good communication**
- **Client selection**
- **Clear policy on undertakings**
- **Use retainers**
- **Know your limitations**
- **Training – CPD**
- **File Reviews**
- **Know your Professional Indemnity Policy**

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Fraud

Why?

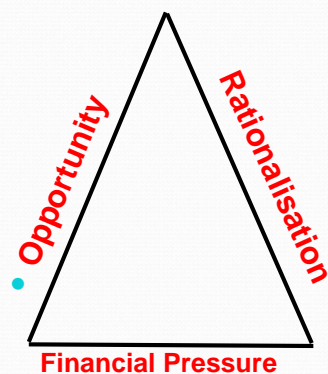
1. "A wise man will make more opportunities than he finds" – Francis Bacon

Bacon

2. Lifestyle/status
3. Opportunity
4. Dissatisfaction
5. Workload
6. Failure to make adequate enquiries into client affairs
7. Rationalisation

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The Fraud Triangle



- developed by criminologist Donal R. Cressey.
- 3 factors that contribute to an employee committing fraud

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In the 1980's a slightly different theory came out using a study conducted by Richard Hollyer and John Clab.

The study found that employees were motivated to commit Fraud because of dissatisfaction at work.

1. Conditions Unfair
2. Poor Pay
3. Unequal Treatment
4. Post Merger Blues
and
5. Jealousy/Poor Pay/Poor Standing in comparison to clients/colleagues – the football referee!!!

Fraud

Preventing fraud is simple, but not easy:

Do you have a system of checks? e.g. 2 signatories for a cheque

Monthly reconciliation of bank statements

Do you have unsupervised accounts staff?

Does the partnership operate in silos?

File reviews and spot checks

Monthly management accounts/monthly fees expenditure

All partners must be aware of the finances of the firm

Fraud

Cont'd

Robustly manage the firms financial affairs

References for all employees

Workflow measurement

Working “longer hours” unsupervised

Stress

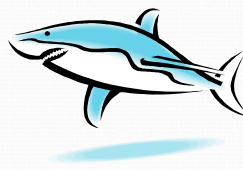
Hospitality Registers

Knowing your clients

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Client As Animals - as described by Professionals

- Jackal
- Donkeys
- Wolves
- Rat
- Racehorses
- Grey Hounds
- Sharks
- Owls
- Dogs



- Snakes
- Vultures
- Tigers
- Mice
- Spiders
- Sloth
- Sheep
- Hyenas
- Zoo animals locked in cages



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Retainers

- **What** will you do?
- **When** will you do it?
- **How** will you do it?
- **Who** will do it?

Sometimes

- **Why** will you do it?

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Retainers cont'd

- Fee scale
- Client responsibilities
- No surprises

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Complaints

- Regulations require you to have and publish a complaints procedure.
- Who reviews complaints?

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Complaints Procedure

- A senior person to handle.
- A follow-up with the client

Lessons to be learnt from complaints.

- Are complaints lurking awaiting to become claims?

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The contents of this presentation and the accompanying notes reflect the views of the presenter . The contents and notes are not intended to be a full and authoritative statement of the practice relating to any of the issues covered.

It is recommended that you take appropriate advice in the instance from your professional advisers such as solicitor, accountant, insurance broker as appropriate to your circumstances .