

# Practice Management Tools

## PRACTICE CONTINGENCY PLAN

### BACKGROUND

Death, serious illness or injury can incapacitate a principal unexpectedly and have major ramifications for the day-to-day operation of a law practice. Practice contingency planning allows you to anticipate unexpected events like this, and put arrangements in place ahead of time to protect client interests, ensure minimum disruption to your law practice, reduce the need for regulatory intervention, and avoid undue stress on family and friends.

In recognition of the particular vulnerability of sole practitioners and sole directors of ILPs (**sole practitioners**) to sudden disruption, the VLSB+C has developed a [policy](#) to encourage all sole practitioners to appoint another legal practitioner (**personal representative**) and alternate to manage the affairs of your law practice if you are suddenly unable to fulfill your duties.

The implementation of the policy is monitored by the VLSB+C, with all sole practitioners being asked to nominate your personal representative and alternate as part of your online practising certificate renewal.

### CHECKLIST FOR SOLE PRACTITIONERS

An ideal personal representative and alternate is someone who you know well, perhaps a longstanding personal practitioner friend or trusted local practitioner, who is familiar with the areas of law in which you practise.

You may consider a reciprocal arrangement with another sole practitioner. Although this may present difficulties if either of you has insufficient time to devote to another practice in an emergency.

To assist you to select a personal representative and alternate, the LIV recommends you have regard to the following non-exhaustive considerations:

#### PLANNING

##### Skills & attributes of my proposed personal representative / alternate

Does s/he:

- have a principal practising certificate?
- have PI insurance coverage that permits them to act as my personal representative / alternate?
- have the necessary substantive law expertise and experience to service my clients?
- have the skills to use my law practice accounting and client management systems and software?
- maintain ordered client files and records?
- have a professional style, manner and approach to clients and staff that is consistent with mine?
- have a temperament that is suited to picking up the management of my law practice at short notice, including dealing with potentially disgruntled clients and worried staff?
- enjoy good health?
- reside or practise in a location that is geographically proximate to my law practice?

Is s/he:

- authorised to receive trust money (if applicable)?
- prepared to disclose their complaints history to me, including current investigations, adverse disciplinary findings and determinations, and restrictions placed on their practicing certificate?
- prepared to disclose their claims history to me?
- prepared to disclose their most recent statement of trust money and external examination report to me?

## **EXECUTION**

### **Practicalities**

Have I:

- obtained agreement, including the terms of the arrangement, from my proposed personal representative / alternate to manage the affairs of my law practice at short notice if I am unable to?
- provided my key staff, next-of-kin and executor with the names and details of my personal representative and alternate, the circumstances in which they are authorised to act, and the scope of their authority?
- advised the VLSB+C of the names and details of my personal representative and alternate?
- advised my bank manager of the names and details of my personal representative and alternate, the circumstances in which they are authorised to act, the scope of their authority, and set up one or both as signatories to my law practice accounts?
- told my personal representative who my alternate is, and vice versa?
- told my personal representative / alternate where I keep a duplicate set of keys to my law practice, mailbox, safe?
- told my personal representative / alternate where the law practice registers of files, safe custody documents and deeds, financial interests, undertakings and conflicts of interest are stored?
- provided my personal representative / alternate with a list of all my staff and their personal contact numbers?
- provided my personal representative / alternate with an overview of my law practice's mail, phone, computer, records management and trust accounts systems, including how to access relevant logins and passwords?
- undertaken a conflict check with my personal representative and alternate?
- obtained 'key person insurance' to cover the cost of employing and training someone to replace me as a key person in the law practice if I suddenly die or am incapacitated?

## **REVIEW**

### **Annual follow up**

Have I:

- provided my personal representative and alternate with updates about changes to any of the above in the last 12 months?
- obtained updates about changes to any of the above from my personal representative and alternate in the last 12 months?
- provided my key staff, next of kin, executor, bank manager and the VLSB+C with updates about relevant changes to any of the above in the last 12 months?