

Staying ahead of the risk curve

By MICHAEL HALLIDAY

Lawcover research results, based on our own risk management and claims prevention programs over the period 2005 to 2012, are compelling.

The adage “an ounce of prevention is worth a pound of cure” is attributed to Benjamin Franklin. Today, we tend to use the phrase in the context of health; however, Franklin was writing (under a pseudonym) of the dangers of transporting burning coals between one room in a house and another.

In other words, he was addressing the hazards of fire and providing sound risk management advice: “In the first place, as an ounce of prevention is worth a pound of cure, I would advise ‘em to take care how they suffer living coals in a full shovel, to be carried out of one room into another, or up or down stairs, unless in a warming pan shut; for scraps of fire may fall into chinks and make no appearance until midnight; when, your stairs being in flames, you may be forced (as I once was) to leap out of your windows, and hazard your necks to avoid being oven-roasted.”

The adage is one many accept at face value but often ignore when carrying on our increasingly busy lives. I’ve often wondered how the equation of an ounce of prevention to a pound of cure would measure up if modeled on the basis of professional indemnity insurance and risk management.

Studies of the effectiveness of risk management and claims prevention strategies in the professions have been undertaken for many years, using various models and with varying results. Results are often impacted by a number of variables which to a greater or lesser extent (often depending on the observer) may skew the findings. Those variables have tended to create debate over the validity of the outputs and the efficacy of risk manage-

ment strategies. Nevertheless, there is a fundamental principle that pre-dates Franklin’s example, and that is that, on balance, effort, expenditure or change of behaviour in preventing risk will produce benefits which outweigh the outlay. This is ingrained into our thinking to the extent that any planning we undertake almost instinctively incorporates risk assessment and prevention as part of planning and implementation. Or at least it should.

There are many reasons why busy lawyers will acknowledge the effectiveness of good risk management strategies and tactics but fail to implement them in their own practice. They can include factors such as misplaced confidence (“it will never happen to me”), time pressures or cost. The last is often driven by the desire to quantify the cost/benefit trade-off. That creates a challenge – risk of itself is often difficult to quantify and the ability to quantify the benefits of risk management can be even more so.

Lawcover’s research

This year, Lawcover decided to commission research based on our own risk management and claims prevention programs over the period from 2005 to 2012. Results are compelling.

Methodology

The methodology involved examining our significant data sets of claims and premium data, together with identified firms who have participated in Lawcover’s risk management and claims prevention activities over that timeframe. From this data, consulting actuaries built models based on claim frequency and size and from that various investigations and analyses were conducted.

In particular, the research focused on Lawcover’s Risk Management Education Programs and Practice Advisory Services.

Findings

Research findings indicate that participation by law firms in the Risk Management Education Program may reduce the incidence of significant claims (more than \$50,000) by as much as 14 per cent and provide a reduction in the size of claims when compared to firms who have not participated over the same period.

Similarly, those firms who have availed themselves of Lawcover’s Practice Advisory Services have indicated a falling propensity for claims when compared to those which have not participated.

Another useful research outcome has been the ability to model potential areas of risk for law firms, which provides us with the opportunity to offer specific and targeted claims prevention initiatives and advice to certain ‘at risk’ areas of the profession.

While there can be a degree of uncertainty surrounding modeling of this nature, particularly when it pertains to risk and the effectiveness of risk management activity, we are confident of the findings of the research: relevant, well-constructed and targeted risk management programs for the legal profession can pay dividends in terms of lower claims frequency and size, together with the costs associated with those claims.

Effect on programs

That confidence is reflected in two ways:

□ the provision of discounts on Lawcover professional indemnity insurance premiums to reflect the benefits of participation to the law firm; and



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□ the decision this year to increase our risk management and claims prevention staff and activities through our team in Practice Support Services.

The purpose of the former is to acknowledge our confidence that risk management at Lawcover works. We have compelling evidence to sustain that view. The purpose of the latter is to increase our reach in the provision of workshops, seminars and programs beyond metropolitan NSW and provide more targeted support to the profession.

Lawcover is committed to working with its insured law firms to reduce the incidence and cost of claims – costs that manifest not only in financial terms but potentially in terms of reputation and personal wellbeing. A key platform in this commitment has been the development of claims prevention strategies and programs over many years.

The evidence that Lawcover’s activity in risk management and claims prevention has been paying dividends is important, as we must be prudent in determining the areas in which we choose to spend. There is a clear return on our investment in risk management and claims prevention activity.

The Practice Support Services team will continue to make our skill and expertise available to as many of our insured law firms as possible, making the workshops more accessible, affordable and relevant. □