

# Reduce risk and stress by systematically managing critical dates



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**M**ore than 10 per cent of the notifications and claims received by Lawcover each year arise from systems problems. By and large, those problems stem from delay and ineffective management of critical dates.

Consider the following examples:

- Client A is a plaintiff in a Supreme Court matter. The plaintiff's evidence is not filed in accordance with the Court timetable, the plaintiff's solicitor fails to appear at the next directions hearing, and the defendant applies for the proceedings to be dismissed.
- Client B wishes to make a family provision claim on her father's estate. She sees a solicitor about the claim, but proceedings are not commenced within 12 months of his death.
- Client C is the holder of an option to purchase a property. The property is sold to someone else after Client C's solicitor failed to serve notice of the exercise of the option on the vendor within the time specified in the option deed.

Regardless of practice area, effectively managing critical dates is an essential risk management tool which can reduce stress and decrease the likelihood of an unhappy client or professional negligence claim. Managing critical dates does not have to be a complicated process, but it does need to be done consistently. The following practice tips can help solicitors establish and maintain a clear and consistent approach.

## **Practice tip 1 – Have a system and stick to it**

Whether you keep a paper diary or an electronic calendar it is important to be consistent in the way you keep track of critical dates. Allow yourself plenty of time to act and use clear prompts or alerts for yourself and your team.

An effective way to manage dates is to develop and use a checklist for each type of matter. The checklist will prompt you to identify common critical dates and diarise them. Electronic file management systems with links to calendars are also useful and critical dates are easily shared with your team. Of course, if the system is not followed, or the dates are not checked

## **Snapshot**

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before being entered, then the exercise may prove futile. Be clear about whose responsibility it is to check and enter dates.

## **Practice tip 2 – Identify and diarise critical dates early and often**

As soon as possible after opening a file, identify and diarise any known critical dates. In a transactional matter, the relevant dates may be dates by which conditions need to be fulfilled, or a contract settled. In a litigious matter the relevant dates may be dates by which proceedings must be commenced, for filing of documents, or hearing dates. As the matter progresses new critical dates may arise. One

useful resource to help litigation practitioners identify the correct timeframe for commencing proceedings is Lawcover's Schedule of Limitation Periods in Civil Matters in NSW.

## **Practice tip 3 – Check critical dates when reviewing files**

Whether you are reviewing your own files or those of other fee earners, ensure that part of the review involves confirming whether all critical dates have been accurately identified and diarised.

## **Practice tip 4 – Manage communications and expectations**

Understanding when things need to happen and why will be important to the people working on a matter as well as the client. With Client B above, both the solicitor and client need to be aware that a family provision application needs to be filed within 12 months of the father's death. If the solicitor is waiting on instructions, it should be explained to the client why those instructions need to be given promptly. If the client is unresponsive after a number of contacts, it may be good risk management practice to terminate the retainer and remind the client about the limitation period.

## **Practice tip 5 – Expect the unexpected**

Finally, if you or another solicitor in the firm were in an accident and unable to communicate, would someone be in a position to check whether anything needs to be done urgently on any current matters, and how would they go about checking? **LSJ**