

CONFLICT OF INTEREST CLAIMS AND PI PREMIUMS

Raise one and you raise the other.

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With research confirming that approximately 80% of all insured NZ firms experienced a hike in their PI premiums in the last 12 months it is safe to assume the claims rate is on the rise. Enquiries in the London insurance market confirm poor risk management at the core of the problem and poor conflict management is well up there among the causes.

Some firms paid less for PI insurance last year, which is a clear indication some firms are either doing something right or were just plain lucky. So what can be learned about conflict management?

The rules are pretty clear and set out in 'The Rules of Professional Conduct 2nd edition', Rule 1.03. states: "A practitioner must not act or continue to act for any person where there is a conflict of interest between the practitioner on the one hand, and an existing or prospective client on the other hand." This is pretty straightforward but the commentary is far from helpful and makes no day to day practical suggestions on how to apply the rule. Whilst a one-size-fits-all approach may not eliminate conflict there are simple tests that can and should be applied every time a new matter arises or a client issues instructions.

LegalBestPractice has developed a number of straightforward processes designed to reduce claims rates, confirm all aspects of the solicitor-client engagement/disengagement process and define the confidentiality requirements of staff and partners. A brief description follows:

1. Conflict avoidance evaluation comprises a short test involving Y/N answers to a series of questions. The results indicate the quality of current policies and provide an indication of any suboptimal performance, together with recommendations on future corrective actions.
2. Client engagement/disengagement. Our methodology defines the relationship between solicitor and client and identifies the person or team appointed, the basis for charging, the desired and/or anticipated outcomes, ownership of the file, complaints procedure, termination of instructions and more. It is in widespread use.
3. Confidentiality protocols for staff/partners covering information, documents and knowledge management during and after employment/partnership

If readers would like further details please contact us at co-jones.pmf@clear.net.nz All are straightforward to use and apply – the hard part is monitoring compliance!

Whilst we cannot promise to reduce your premiums we can ensure you use best practice procedures designed to accelerate cash-flows, increase client satisfaction and retain clients.