Completing Phase Assistance

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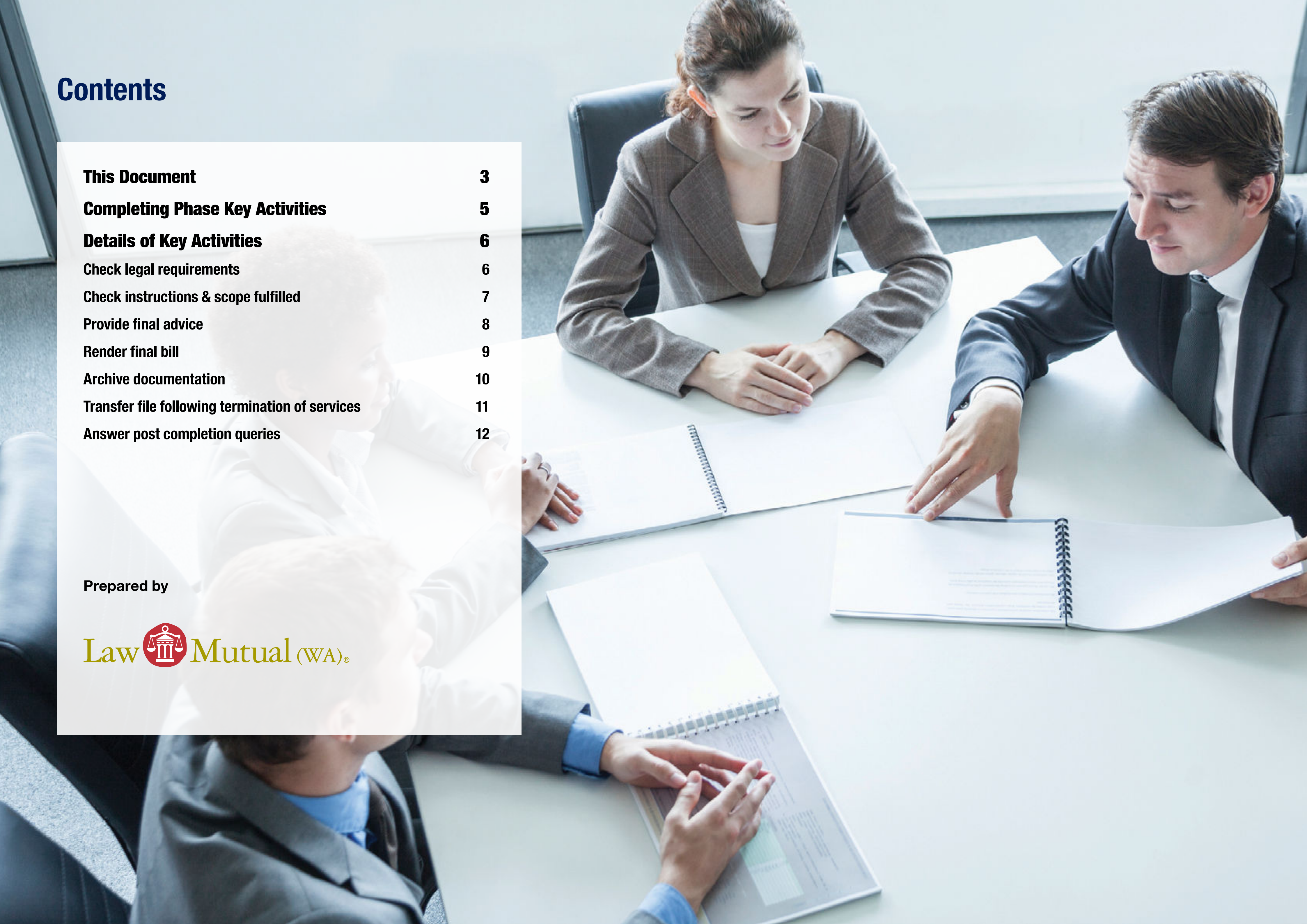

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This Document

This document assists legal practices to meet the Requirements of Law Mutual's Matter Management Guidelines that apply to the Screening Phase of a Matter.

There are four key phases in the management of a Matter:

1. Screening	Reach in principle decision to accept or reject instructions
2. Engaging	Achieve shared understanding and binding agreement on scope, costs & fees and services
3. Providing	Deliver agreed services to professional standards and to client satisfaction
4. Completing	Confirm completion of agreed services and respond to post completion developments

To achieve required outcomes, a legal practice must undertake certain Key Activities.

Law Mutual's Matter Management Guidelines provide the Key Activities for each phase and Key Activities that should be conducted during All Phases.

For each Key Activity this document sets out:

Requirement	the specific action that should be taken
Tasks	detailed activities that must be done to meet the Requirement
Guidance	detailed activities that it is recommended be undertaken to meet the Requirement
Controls	management mechanisms to ensure that the detailed activities are consistently carried out to required standards
What could go wrong	examples of what could go wrong if the detailed activities are not carried out to required standards

There are four different types of Controls. The following table provides comments on each type.

Type	Comments
Knowledge	**How principals ensure people know and understand the method to meet a Requirement** People must know and understand the method to meet a Requirement. This might be done via: • training or mentoring (suitable where the method is variable and/or nuanced e.g. method for managing client expectations) • documentation and tools (e.g. procedures, checklists or templates – suitable where the method requires completion of specific tasks) • embedded via business rules into IT systems (e.g. IT system does not allow invoicing until conflicts check completed)
Role clarity	**How people know what aspects of the method they are accountable or responsible for, and what aspects lie outside their authority** Where people work together, role clarity ensures that the method is implemented by defining who is accountable for an outcome; this is usually a principal or senior lawyer, who is also accountable for: • each task that leads to the outcome; and • limits of authority, i.e. who cannot do certain tasks without approval Confusion over who is accountable or responsible leads to errors. Key accountabilities and responsibilities should be documented.
Motivation	**How principals motivate people to follow the method through leadership, culture, performance review and other mechanisms** Mechanisms to motivate lawyers to implement the method include: • demonstrated leadership (i.e. walking the walk) • recognising performance, especially for important tasks that typically go unrecognised e.g. good scoping prior to engagement • aligning performance metrics with the method; i.e. measuring more than billable hours
Assurance	**How principals have comfort that the method has been followed** Principals should ensure relevant checks, reviews and sign off for higher risk activities: • an assurance control might be as simple as requiring initials against a checklist on the file. • some Requirements are so critical for protecting the legal practice that principals require assurance they have been met in every Matter e.g. conducting a conflicts check or ID check.

Controls will vary depending on the size and resources of the legal practice.

In this document:

means a task is considered essential to the effective management of a high risk activity

** means a Toolkit related to that control is available on the Law Mutual website. A toolkit will usually contain:

- further details of Tasks
- templates

Completing Phase Key Activities

Completing Phase key Activities are as follows:

- Check legal requirements met Review deliverables and outcomes against instructions and client engagement agreement
- Check instructions & scope fulfilled
- Provide final advice
- Finalise billing
- Archive documentation
- Transfer file (if required)
- Answer post completion enquiries

Details of Key Activities

Check legal requirements

Area	Description
Requirement	• Review file to ensure compliance with relevant procedural and regulatory requirements
Tasks	• Establish clear accountability and sign off for checking each file • Provide access to legal references to complete the check
Guidance	• Develop checklists of procedural and regulatory requirements for standard Matters undertaken by the legal practice
Controls	• **Knowledge**: File Close-Out Procedure includes “check procedural and regulatory requirements met” • **Role Clarity**: A senior lawyer should have accountability for ensuring legal requirements have been met • **Motivation**: No specific requirement • **Assurance**: The senior lawyer should check to confirm compliance with legal requirements
What could go wrong	• Non-compliance with a procedural or regulatory requirement prejudices the client

Check instructions & scope fulfilled

Area	Description
Requirement	• Review deliverables and outcomes against instructions and client engagement agreement
Tasks	• Ensure client engagement agreement and all instructions are documented on file • Read client engagement agreement and all instructions rather than rely on memory
Guidance	• Ensure all instructions and agreed deliverables are easy to find on the file • Confirm with client there are no unfulfilled instructions or deliverables before providing final advice
Controls	• **Knowledge**: File Close-Out Procedure includes "check instructions and scope fulfilled" • **Role Clarity**: A senior lawyer should have accountability for ensuring instructions and scope are fulfilled • **Motivation**: No specific requirement • **Assurance**: The senior lawyer should check the engagement agreement against deliverables
What could go wrong	• Failure to follow instructions • Breach of client engagement agreement

Provide final advice

Area	Description
Requirement	• Explain to the client the outcome of the Matter and the reasons and implications for the client
Tasks	• Explain any further step the client should take and any deadlines for action • Provide final advice in writing
Guidance	• Ensure the client understands any lead times and court processes required to meet deadlines • Explain how the client's objectives in instructing the legal practice have or have not been achieved and the reasons
Controls	• **Knowledge**: ○ File Close Out Procedure includes "Final letter of advice" ○ Final letter of advice templates for standard Matters undertaken by the legal practice • **Role Clarity**: A senior lawyer should have accountability for ensuring the client understands how instructions have been followed and any next steps to undertake • **Motivation**: No specific requirement • **Assurance**: A senior lawyer should review and sign any final advice written by a junior lawyer
What could go wrong	• The client is confused or dissatisfied as to how his instructions have been followed and/or the Matter completed • The client is inadequately advised as to his next steps and is prejudiced as a result

Render final bill

Area	Description
Requirement	• Render final bill and, where required, provide monies owed to the client in a timely manner
Tasks	• Maintain bookkeeping records for each client and Matter • Track and record time and expenses for each Matter • Provide sufficient detail in final bill
Guidance	• Manage client expectations regarding cost • Invoice regularly prior to final bill • Consider whether any aspect of the final bill should be discussed with the client prior to sending it • Create clear accountability for drafting, approving and sending final bill • Set time requirement for sending final bill
Controls	• **Knowledge**: ○ Bookkeeping software ○ Billing procedure ○ Final bill template ○ Accompanying letter template • **Role Clarity**: A senior lawyer should have accountability for the client accepting the final bill and being paid any monies owed • **Motivation**: No specific requirement • **Assurance**: The senior lawyer should review and approve the final bill and monitor timely payment
What could go wrong	• Failure to account for monies owed • Dispute with client over final bill or monies owed

Archive documentation

Area	Description
Requirement	• Archive the file and return client documents
Tasks	• Maintain clear record of which documents on the file belong to the client • Archive documents (hard and digital) in a secure location • Maintain archive in a manner that enables documents to be found and accessed • Take copies of original documents returned to the client • Have client confirm in writing that documents have been returned
Guidance	• Client documents are those which the client has provided to enable the legal practice to advise on and conduct the Matter. They might be soft or hard copy documents • Manage risks to security and integrity of archived documents when: ○ moving office or changing location of archive ○ changing software or storage servers for digital documents ○ merging with or acquiring another legal practice and its archive • Ensure that client confidentiality and privacy are protected when returning documents
Controls	• **Knowledge**: Archiving, return and records management procedure • **Role Clarity**: A senior lawyer should confirm that all client documents have been returned and copies kept by legal practice • **Motivation**: No specific requirement • **Assurance**: The senior lawyer should monitor return and archive of documents
What could go wrong	• Client documents are not returned to client • Archived documents are lost, destroyed or unavailable when required • Loss of useable trail • Breach of client confidentiality or privacy

Transfer file following termination of services

Area	Description
Requirement	• Where the legal practice's services are terminated prior to the conclusion of the Matter, it should: ○ communicate to the client and relevant stakeholders that it has ceased acting ○ provide reasonable and just grounds for the decision to terminate (if termination by the legal practice rather than client) ○ render a final account and return documents
Tasks	• Communication to client and relevant stakeholders should be timely and in writing • Reasonable and just grounds for the legal practice's decision to terminate should be communicated in writing
Guidance	• Circumstances that may provide reasonable and just grounds for termination include: ○ a conflict arises where you cannot act ○ the client does not provide the legal practice with instructions when required ○ the client does not accept the legal practice's advice and exposes it to unacceptable risk ○ the client asks the legal practice to act in a way that would be unethical or illegal ○ the client does not pay the legal practice's accounts within the time specified (see the Law Society's Ethical & Practice Guidelines 2019 section 14.3) • Consider obtaining the advice of counsel if uncertain as to whether the grounds for termination are reasonable and just • Note that, in some circumstances, a failure to terminate services may place the legal practice in a conflict of interest i.e., the legal practice makes an error in its advice or representation and continues to act for the client in an effort to rectify its earlier error
Controls	• **Knowledge**: File transfer checklist • **Role Clarity**: The decision to terminate services should be made a senior lawyer and approved by the managing partner/director or principals • **Motivation**: No specific requirement • **Assurance**: A principal should review and approve a decision to terminate services
What could go wrong	• Legal practice terminates without reasonable and just grounds or at a time that unfairly prejudices the client (e.g., immediately prior to trial) • Client does not understand the effect of the termination and continues to rely on the legal practice to act on their behalf • Inadequate or delayed return of documents prejudices client

Answer post completion queries

Area	Description
Requirement	• Provide required information and assistance recognising that the legal practice no longer acts for the client
Tasks	• Confirm by email to the client the request for information and assistance, the legal practice's response and the basis on which that response is given • If the query requires the legal practice to provide legal advice or representation, the legal practice should treat the Matter as a new engagement
Guidance	• Explain to the client the limits to action and advice the legal practice can provide without entering into a new client engagement agreement • Identify for the client any new issues where they may want to seek legal advice
Controls	• **Knowledge**: ○ Contemporaneous Notes Toolkit ** ○ Training on post completion enquiries • **Role Clarity**: ○ A senior lawyer should have accountability for communications with former clients ○ A senior lawyer should decide whether to enter into a new engagement agreement with a former client • **Motivation**: No specific requirement • **Assurance**: A senior lawyer should review any information or assistance provided to former clients to confirm that the information or assistance do not constitute legal advice or representation
What could go wrong	• In responding to a query or request from a former client, the legal practice inadvertently returns to a client lawyer relationship • The former client does not understand that the legal practice is no longer acting on their behalf

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