GUIDANCE NOTES FOR LEGAL PRACTICES

File Management

Adopt a common approach to file management across the whole firm. Files must be maintained in a neat and orderly fashion to reduce risk. Remember that you may not be the next person to pick up a file – it could be a colleague or it could be produced to your insurer, your regulator or a judge

File organisation

- Correspondence must be in date order
- Date and number successive drafts and dispose of any duplicates
- One copy of a final document should be kept, duly made up with relevant dates and details of execution/signing
- Consider keeping all financial vouchers in date order on a separate clip together with statements
- Keep your files to a manageable size. If there is more than one file relating to a matter, make sure all files are cross referenced and clearly marked as such
- Electronic files must be capable of cross reference to paper files
- If using exclusively electronic files, use sub-files and folders to identify correspondence
- Always open a new file for a new matter
- Where using paper files, change the file colour each year. This will assist in identifying old files from a visual inspection. Alternatively, use different colours for different types of work
- Annex a case plan to the front of the file. This can set out each stage of the transaction, (e.g. deeds obtained, local search submitted), which can be ticked off and dated when achieved
- Any undertaking (other than in routine conveyancing) should be marked clearly on the front of the file and recorded in the firm's Undertakings Register, and marked off when discharged

File reviews should include a section on whether files are kept in good order, show a continuous chain of correspondence/communication and state whether case plans or schedules are up to date.

Filing

Searching for lost files, papers and documents wastes considerable time, effort and money. Misplacing such items also exposes the firm to the risk of a claim. It does not instil confidence in a client to be told that their file has been mislaid. These risks apply not only to current files, but also wills, deeds and other documents stored on behalf of clients, and closed files.

- Adopt a uniform system of filing across the firm. Avoid individual fee earners having their own eccentric or unintelligible filing systems
- Searching for lost files costs time and money – and exposes the firm to the risk of a claim
- Designate responsibility for filing to appropriate secretarial or clerical staff and ensure that it is done on a regular basis
- Establish a system to keep track of all files, for example use a file control card which is placed with the file at the outset. When a file is removed from its proper place, the file control card should replace it, marked with the name and date of the person who has removed it
- Set up a system to index all documentation (e.g. wills and title deeds) held on behalf of clients and include procedures in respect of: – responsibility for the documents/ effects – checking in and checking out documents and effects (especially wills) – providing secure storage areas
- Always ensure that you obtain receipts from the recipients when documents are sent out and leave your care and control. These receipts should not be destroyed

Storage of valuables

- Be very careful about storage of valuables on behalf of clients, and avoid taking on this responsibility where possible. A bank safety deposit box or the client's own premises are usually more suitable than your office
- If you do undertake storage of valuable items, make sure that:
  - you have adequate and secure storage facilities for such items
  - an inventory is prepared of such items and agreed with the client
  - you have adequate insurance cover

Storage of closed files

The cost of storage and the increased volume of work have made it imperative for firms to have a policy on file destruction and disposal.

- Archive files promptly to avoid loss or damage prior to storage
- Use checklists to ensure that the client and office account are clear and that the client has been informed of all developments
- Check all files to remove original documents and any duplicate copies
- Mark the file clearly with the earliest date for destruction
- Ensure that your records system will enable you to retrieve the file if needed
- Have a strict policy to ensure that your records are updated to show if the file is removed, even temporarily, or if anything is added to/removed from it

When files are due for destruction, make sure this is carried out safely by a reputable organisation who will guarantee that the files will be shredded, burned or otherwise rendered illegible. Your duty to keep your clients' affairs confidential is continuous, and files must not be sent to municipal waste centres or recycling centres.