

Guide for External Interveners – A Checklist for Managers

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THE LAW SOCIETY
OF NEW SOUTH WALES

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INTRODUCTION

Appointment as a manager of a law practice entails taking over the management of an existing law practice, including responsibility for all its clients, matters and staff, and its trust account.

Managerships can be lengthy, resource-intensive and time-consuming depending on the reasons for the external intervention into the law practice, the law practice's longevity, size, geographic location, matter profile and the overall state of the practice.

This checklist is designed to help to identify the key issues which arise and to provide some guidance as to their resolution to minimise the resources, time and cost of an external intervention.

The checklist may be read in conjunction with the *External Intervention Procedures Manual* which provides detailed information and guidance about all aspects of external intervention into law practices.

<p>SERVICE OF NOTICE</p>	<ul style="list-style-type: none"> The Legal Regulation Department of the Law Society of New South Wales (“Law Society”) serves the Notice of Appointment of Manager on the former principal of the law practice (when s/he is available).
<p>THE LAW PRACTICE'S AUTHORISED DEPOSIT- TAKING INSTITUTION (BANK)</p>	<ul style="list-style-type: none"> Serve the Notice of Appointment of Manager on the law practice's ADI; Taking over control of a law practice's trust account may present a challenge as ADI staff at branch level may often be unaware of the particular requirements and provisions which apply to trust accounts. Serving the Notice of Appointment directly on the ADI's legal/compliance division can save time and facilitate the process of becoming signatory to the trust account.
<p>THE LAW PRACTICE'S FORMER PRINCIPAL</p>	<ul style="list-style-type: none"> Establish contact with the law practice's former principal (if available) as soon as possible after being appointed and maintain ongoing communication. This will assist in identifying the current matters of the law practice and any particular issues with court/litigation/filing dates and limitation periods or clients.

<p>THE LAW PRACTICE PREMISES AND UTILITIES</p>	<ul style="list-style-type: none"> • Attend the law practice’s premises as soon as practicable after being appointed. • Ascertain whether the law practice’s premises are owned or leased by the (former) principal. • If the premises are leased, contact the lessor as a matter of priority to organise terminating the lease and vacating the premises as soon as possible (if required). • Make any necessary arrangements in relation to the utilities.
<p>THE LAW PRACTICE STAFF</p>	<ul style="list-style-type: none"> • The law practice staff may be able to provide valuable assistance and information about the legal matters of the law practice, including court deadlines and limitation periods, the clients of the law practice and the various software packages and other services to which the law practice has subscribed or for which it has registered. • Notify the law practice staff that, subject to any arrangements the former principal may have made, or any possible sale of the law practice, their employment will cease.
<p>CLIENTS AND CURRENT MATTERS OF THE LAW PRACTICE</p>	<ul style="list-style-type: none"> • Identify all current matters of the law practice. • Give immediate attention to any urgent matters. • Make arrangements to seek the adjournment of any imminent court matters; • Notify all clients of the law practice of the managership and the necessity to engage a new legal representative.
<p>LAW PRACTICE SUBSCRIPTIONS – LEGAL PRACTICE SOFTWARE, ACCOUNTING SOFTWARE, PEXA</p>	<ul style="list-style-type: none"> • Identify all the software and services to which the law practice has subscribed or for which it has registered and the user names and passwords. • Access these services as soon as possible and arrange for any records to be copied and stored so that they can be accessed as needed. • Arrange to discontinue these services as soon as possible.
<p>SECURITY/DEED PACKETS</p>	<ul style="list-style-type: none"> • Locate the security/deed packets of the law practice and the Register for same. • Arrange for another law practice to take over their custody. • Ensure that reasonable attempts are made by the new custodian to notify the clients of the new arrangements for custody of their records.

<p>CLOSED AND ARCHIVED FILES</p>	<ul style="list-style-type: none"> • Locate the closed and archived files of the law practice. • Ascertain whether the former principal is able to arrange for the storage of the archived files. • Arrange for another law practice to take over their custody. • Ensure that reasonable attempts are made by the new custodian to notify the clients of the new arrangements for custody of their records.
<p>RECOVERY OF THE LAW PRACTICE'S COSTS AND DISBURSEMENTS AND OTHER DEBTS</p>	<ul style="list-style-type: none"> • Where possible, send out letters seeking or following-up payment of the law practice's outstanding costs and disbursements. • It may not be possible to cost all matters, especially if the memorandum of costs and disbursements has not already been prepared. • There is a limit to the extent to which a manager can become involved in debt recovery on behalf of the law practice. Often this will be dealt with by the former principal or a deceased principal's estate.
<p>DEALING WITH A DECEASED, INCAPACITATED OR ILL PRINCIPAL'S FAMILY MEMBERS AND ESTATE</p>	<ul style="list-style-type: none"> • Identify any relevant family members. • Identify the executor of a deceased principal's estate. • Explain the reason(s) for the external intervention into the (former) principal's law practice. • Seek assistance, if appropriate and required, such as to locate files of the law practice which may have been stored at the (former) principal's residential address or other property(ies) owned by the (former) principal.
<p>COSTS OF THE MANAGEMENT</p>	<ul style="list-style-type: none"> • Ascertain whether the law practice (or former principal) has the capacity to meet the costs of the Management. • Inform the family members/executor that the Law Society may seek to recover part, or all, of the costs of the external intervention into the law practice from the (former) principal (if available), from the law practice, or from the former principal's estate.
<p>REPORTING REQUIREMENTS</p>	<ul style="list-style-type: none"> • You are required to report to the Legal Regulation Department of the Law Society within one month of appointment, at the conclusion of the appointment and as required.