

Establishing Effective File Reviews and Audits

COMPLIANCE



Law



Audit



Standards

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Introduction

File Reviews and Auditing within law firms is a subject that, for many, is uncomfortable as it is a diversion of valuable resource and time consuming.

It is not uncommon for the file review process to fall into a 'tick box' exercise with the supervisor going through the motions to hit an auditing number rather than actually spending quality time on the review. Whilst this cannot be acceptable, it is also understandable. A firm that has adopted this approach not only puts itself at risk from the Solicitors Regulation Authority but also their Insurers.

The Strategic Partner (TSP) works with both law firms and professional indemnity insurers and as a result see, at the front line, how firms engage with the file review process with mixed results.

What is clear is that those firms that have directed file reviews to focus on what is important and do not audit to 'hit numbers' have a significantly improved risk profile that is actively demonstratable to external influencers.

In this article, we seek to provide firms with an insight into how they can manage or adopt their file review/auditing strategy. Additionally, how firms can effectively direct resource and, importantly, review what is important with a significant diversion of supervisors' time and meets the requirements of the regulator and Insurers.

With Insurance premiums continuing to increase and the SRA engaging with more firms than ever before, the need to get this right is paramount.

A structured and effective file review and auditing programme is central to a firms approach to risk, compliance and regulation



1. The Detail

- **How to Review** – A standardised approach to file reviews is always more effective. For many types of law, a generic audit form can be created. It provides direction and structure. For more bespoke areas of law, such as property, a more specific audit form can be generated to direct the auditor on key issues to consider and focus on key supervision touchpoints. Audit forms provide structure, direction and, importantly, focus and, in our view, are a must.

Decide what the audit is looking at. Is this a process and procedure audit or a technical audit? The former will be quicker and more general, whereas the latter will be more intensive and specific on a technical area and require experience to undertake the review.

- **When to Review** – File reviews should be undertaken at regular intervals, and the size of the firm, the type of work it performs and the number of fee earners, including their experience, will dictate when and how often file reviews should take place.

In some areas such as property, a monthly file review is appropriate (and a requirement of CQS) but other areas and those which are not driven by an accreditation review can be spread out. When TSP is engaged with a larger firm, we tend to operate a quarterly file review process to ensure sufficient time between audits for issues to be addressed and rectified. In our experience, reviews at an increased frequency tend not to be as effective as analysing results and taking rectification action is not always practical between audits.

For smaller firms, particularly those with a handful of fee earners, an annual review or probably 6 monthly is appropriate.

A firm must look at their infrastructure and the work they perform and build a file review process that will be appropriate, taking into consideration the need and resource. Including external resources and outsourcing can also ensure that file reviews are completed in line with the overall strategy.



- **What to Review** – This is the essential question. A random selection of files does not always work. Whilst a random audit will mean that auditors could pull any files, the reviews are often not as random as was intended.

It is our view that file reviews should be targeted, along with some selected at random. An effective file review process should include the following: -

- **High risk matters** – review and focus on the files that have been identified as high risk in your risk assessments. The firm should have a high risk register identifying cases which have hit this categorisation. These files should be front and centre of the audits. It is not a problem auditing the same file multiple times if this file is high risk.
- **Closed Matters** – a sample of closed files is always important to confirm that matters have been resolved effectively.
- **Random selection** – as already highlighted, a random selection of files is helpful, it means that there is complete impartiality to the file selection, but they have to be truly random.
- **Targeted matters** – review files that have a potential issue or are at critical stages. For example: -
 - No time posting for 90 days.
 - Aged client balances.
 - Matters set down for trail.
 - High risk (referred to above).
 - Complaints (to follow up to ensure the matter is now on track).
 - Complex, key, or difficult clients.
 - Trainees and juniors – making sure the less experienced staff are well supervised.

A firm should understand the makeup of its work and files, with the ability to direct audits to important stages and touchpoints to ensure the correct files are being reviewed.

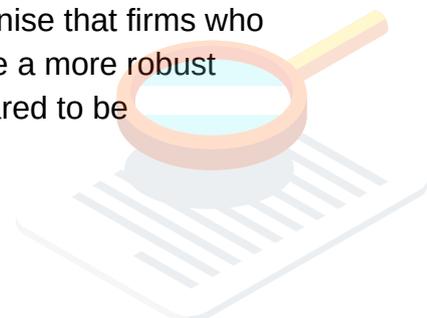
Also, consider how many files should be seen. A department with high volumes, low complexity or value may have more files looked at instead of a high value complex department that will need to review fewer files. It typically follows that these fee earners will handle fewer cases and are probably senior in their own right.



- **Who Should Review** – Decide on who should undertake a file review is important to ensure the right people are looking at the issues within their own experience. For example, a compliance manager can undertake reviews focused on processes and procedures as they will be crosschecking policy implementation. However, a technical audit will require the auditor to have good experience of the area of law to ensure they understand the legal advice and case strategy. Directing the resource will ensure the audit process is more successful.
- **Integrate into the Culture** – File reviews should be part of the firm's culture, they should be understood, expected and respected. A fee earner should not be concerned about a file review but welcome input and this should be seen as central to the firm's supervisor strategy and sit alongside the learning and development programme.
- **Rectification Action** – When a file review has identified action to be undertaken to rectify any issues, ensure it is followed up. You cannot assume that because an audit has picked something up that the fee earner will action this. Set a time frame for the actions to be completed and follow up to ensure they have been completed. It may be appropriate to include the file in the next file review or to place a matter under direct supervision. Audits are there to spot and rectify issues, but the job is not complete until the action has been taken.

Ensure as part of the strategy that follows ups and diary control is implemented.

- **Report and Analyse** – Too often, audit results are not reported on and analysed. Following each audit, it is essential to prepare an overview and summary, with a report of the type of audits, the issues and trends seen, the actions and output, and the auditor's expectations. Discuss file review output at senior level to understand any issues and implement the required changes to process or training.
- **Independent File Reviews and Audits** – The use of external auditors can be of significant support to firms. The reason to outsource file reviews is that the reviews get done! They are entirely impartial and will be reported on independently. An outsource file review partner, such as TSP, will ensure the reviews occur on time and according to your strategy. Both the SRA and Insurers recognise that firms who submit themselves to independent reviews are often seen to have a more robust approach to risk management and assessment as they are prepared to be challenged.



2. Our Services

The Strategic Partner has developed effective solutions to firms to establish bespoke and relevant PCP's, we train the staff, we help the firm with their AML regulation 18 risk assessment, we provide the independent audit function and can work with the firm to guide and advise their staff on an ongoing basis as an outsourced compliance function (If needed)

Our solutions start from as little as £250 a month. Links to our brochures are as follows:-

<https://www.thestrategicpartner.co.uk/law-firm-support/regulation-and-compliance-including-aml/>

<https://www.thestrategicpartner.co.uk/law-firm-support/compliance-administration/>

These are comprehensive packages set at affordable prices for all firms.

Get in Touch

For more information about our Risk, Regulation & Compliance Services including file reviews and audits, you can call us on 0203 911 9710 or you can email us at info@thestrategicpartner.co.uk.