

QUALITY

What are the benefits of having a risk management strategy? Will implementing quality-control systems affect your professional indemnity insurance and help your bottom line? Noelle McDonald has the answers

Systems for quality control are documented processes that will help manage and, in particular, minimise the risk exposure to potential claims and/or complaints from clients or third parties. To be effective, systems have to be communicated and understood – but must be also utilised – by staff. They should be reviewed and updated on a continuous basis. Some of the more obvious benefits from implementing quality-control systems are that your professional indemnity insurance premium will be kept low and that your practice will become more efficient in delivering a consistent high quality of service. You will also improve your marketability and competitive advantage – for instance, you will increase your success in tendering processes and panel reviews. Quality controls applied across the board will result in increased uniformity, consistency and transparency between departments.

One size may not fit all

How should you go about implementing new quality controls and how do you convert the non-believers? How do you incorporate systems to meet your firm's needs?

It is important that you don't set standards that staff can't meet. You should try to build in procedures that are easy to carry out and that create little interruption to daily work routines.

Initially, you may find some resistance from staff – for instance, many will argue that have more important things to do, like looking after clients. The general perception will be that all this 'compliance stuff' is just another box-ticking exercise that leads to less time fee-earning. New roles will have to be filled, for instance, compliance officer and money-laundering officer. Staff should be reminded of the importance of having compliance systems and the consequences or penalties that can be imposed by the Law Society if a client or third party makes a compliant or a claim.

Six of the best

The following are some risk-management and quality control systems that can be easily implemented as part of an overall risk-management strategy.

1) *Client care/terms of engagement.* A comprehensive 'terms of engagement' letter can cover all compliance issues required by law – for instance, money laundering and data protection. This letter may also set out a limitation on liability in accordance with section 44 of the *Civil Law (Miscellaneous Provisions) Act 2008*. As solicitors will be aware, they are entitled to limit their level of cover, the minimum now being €1.5 million as per the 2009 *Professional Indemnity Insurance Regulations*. Client care policies and procedures can also be incorporated into the terms of engagement, for example, complaints procedures, billing and invoicing, scope of work, applicable law, contact, termination clauses, email policy, and requirements under section 68 of the *Solicitors Act* to provide an estimate of expected costs. The Law Society also has available a template 'terms of engagement' that can be tailored to each law firm's needs (see 'Precedents for practice' in the 'Best practice and guidance' section of the Law Society website – www.lawsociety.ie/Documents/committees/guidance/Precedent%20Letter.pdf).

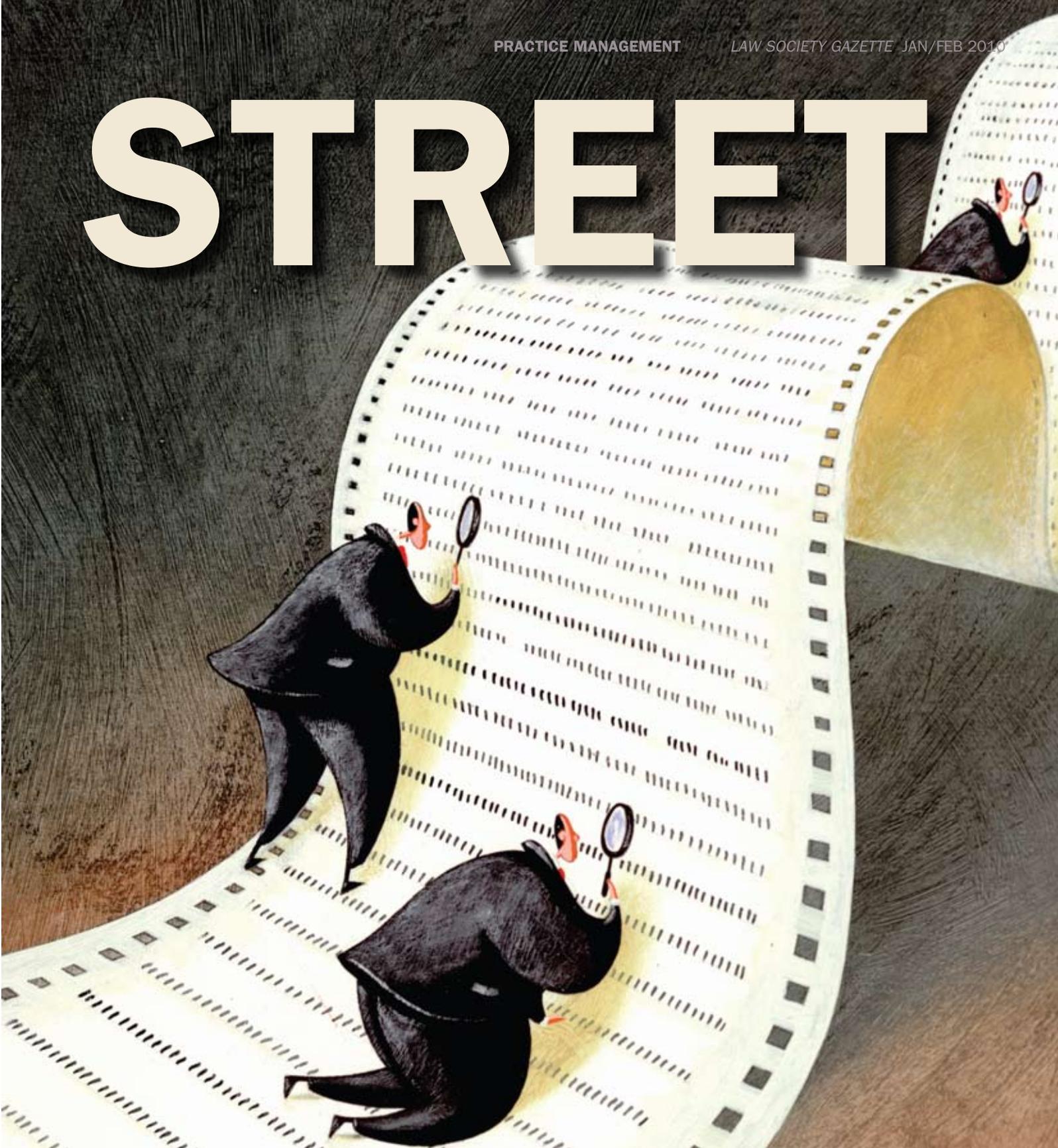
2) *Complaints policy and complaints register.* A formal complaints system will ensure that complaints are dealt with in an efficient manner. A complaints register will record centrally all types of complaints made and how long each complaint took to be resolved. The register can be reviewed annually to assess trends, which in turn will enable you to take preventative action to eliminate similar complaints occurring in the future. In the North, it is legal requirement under the *Client Communication Practice Regulations 2008* to have a complaints policy and maintain a central complaints register to record the history of all written complaints by clients, including details of how those complaints were resolved. Britain has similar guidelines under rule 2 of the *Solicitors Code of Conduct 2007*.

3) *Undertakings register.* This is an area that has become a high priority for professional indemnity insurers and is a risk management system that most insurers may require in the future. Where no such register exists, this may be considered when calculating premiums. It is important that you can show that a central register exists and that it is reviewed on a regular basis.

MAIN POINTS

- Risk management and quality-control systems
- Recognised professional standard accreditations
- Six simple strategies

STREET



4) *File audits.* All staff, both junior and senior, should be subject to file audits. This is another way of picking up whether there are any staff who are experiencing difficulties with their files and whether more supervision and support is necessary. Problems can be resolved quickly through file audits. Junior solicitors need more supervision, as they are more likely to pick up bad habits or make mistakes. Giving structural support in a systematic way will result in better file management, which will lead to a higher

turnover. File audits should focus on danger spots to ascertain if a file is being managed adequately or whether there are missed limitation dates or service/registration dates. Is there a good record being taken of attendances with clients and legal advice given? Has a terms of engagement letter been sent to the client? Have all money-laundering documents been obtained and undertakings discharged?

5) *Account checks.* Regular account and costs reviews are a good way of monitoring accounting controls.

ACROSS THE WATER

In Britain, there are many recognised professional standard accreditations that incorporate a number of quality controls systems, such as 'Lexcel' and 'Investor In People'. There are also international accreditations, such as the ISO 9001:2008, which is the recognised international standard for a quality management system, regardless of what the user organisation does, its size, or whether it is in the private or public sector. The standard provides a tried-and-tested framework for managing an organisation's processes, so that they consistently turn out 'product' that satisfies customers' expectations.

Checking that it works

- 1) The standard requires the organisation itself to audit its ISO 9001:2008-based quality system to verify that it is managing its processes effectively and to check that it is fully in control of its activities.
- 2) The organisation may invite its clients to audit the quality system, giving them confidence that the firm is capable of delivering services that will meet their requirements.

- 3) The organisation may also engage the services of an independent quality system certification body to obtain a certificate of conformity – extremely popular in the market-place because of the perceived credibility of an independent assessment.

Reducing product liability exposure

According to one American legal expert in compliance issues, however, any quality management system will benefit from building risk-management preventative law principles into their QMS. "This means using the ISO 9001 platform to address product liability exposure and taking steps to reduce that exposure. Failure to do that means that the company's QMS becomes a platform for supporting a product liability lawsuit."

The choice is clear and simple, he says, but requires extra effort and, consequently, will be ignored by most firms. Quality managers do not see this as their responsibility and senior managing partners, chief financial officers and corporate counsel, generally, can be oblivious to the legal opportunities and threats presented by their QMS.



Practice management is like a box of chocolates – just make sure you don't end up with all the dodgy orange ones

Circulating monthly account reports to all fee earners is the only way to ensure that all client and office accounts are reviewed, deeds have been stamped in time, and that balances are sent to clients so that files can be closed off in a timely fashion. Failure to manage disbursements will result in an accumulation of bad debt. Good invoicing procedures will improve cash flow.

6) *Business continuity plan.* Often, insurers will want to know if a business continuity plan exists – in other words, what procedures will be used in the event of a disaster. For instance, if there is a fire, where will the

firm relocate, who is responsible for ensuring staff safety, what steps will be taken to minimise the time it will take to have your firm operating again, and so on?

There are many benefits to be gained from implementing quality-control systems, which should result in your practice being in the best possible position if faced with having to defend any potential claim or complaint. **G**

Noelle McDonald is a solicitor and the risk management/quality control compliance officer at the Dublin law firm O'Rourke Reid.

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