

## RISK MANAGEMENT AND CLAIMS PREVENTION

By Simone Herbert-Lowe



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The Lawcover risk management column usually identifies specific risks or claims-related war stories for lawyers and guidance about how best to avoid a negligence claim. This time, however, with many eligible insured law practices recently receiving a Policyholder Rebate, it is timely to take a broader view of Lawcover's risk management and claims prevention activities and to recap the benefits those provide. Without apology, Lawcover promotes its risk management and claims prevention education as working in the best interests of its insured law practices, their clients and the legal profession generally.

We have again commissioned actuarial analysis to examine the benefits of our risk management education workshops on participating law practices. The results provide compelling evidence that reduced severity and frequency of claims by up to 15 percent on average is achieved by those law practices. Participants in the Lawcover Practice Advisory Service activities show an immediate and dramatic decrease in propensity for claims of alleged negligence.

It is a given that greater awareness of risk factors in practice enhances the quality of the relationship between lawyers and their clients, which we know is a key factor in predicting claims. If law practices continue to engage with our risk management activities, the evidence points to continued downward pressure on the incidence of claims against law practices and, as a consequence, on the cost of premiums year on year.

### Proven outcomes

Between 1987 and 1992, there had been a steady increase in the number of claims against law practices in NSW, with principals of law practices facing a 40 per cent chance of receiving a claim over that five-year period. As a consequence, Lawcover retained external consultants to conduct an investigation after more than 1,000 notifications were received in 1994 alone. The research culminated

### Snapshot

- The incidence and cost of claims against Lawcover insureds has reduced markedly.
- Policyholder Rebates have been made to eligible insured law practices as a result of better than anticipated claims trends over recent years and improved company performance.
- There is evidence that the better than expected claims outcomes are the result of a more risk aware legal profession.
- Lawcover's RMEP activities have been a key contributor in achieving these outcomes.

in a comprehensive analysis on the causes of professional negligence claims against law practices, and recommended strategies to combat this increase.

Arising from that investigation, a number of risk management and claims initiatives were introduced. Over the years, these initiatives have been regularly updated, expanded and increased in number. Lawcover's website provides full details of these programs, however a few examples are:

### The Risk Management Education Program

The Risk Management Education Program (RMEP) includes a series of workshops designed for principals to highlight individual and practice risks known to cause professional negligence claims. Since the inception of these workshops in 1995, attendance has been associated with significantly lower frequency and claims size for participating law practices. The RMEP workshop content is regularly revised and updated and the workshops

currently offered are: 'All about the Client'; 'All about the Matter'; 'All about the Communication'; 'All about the Business'; and 'All about the Dollar'. The RMEP workshops recognise what at first glance is obvious; that a successful law practice is one that is most likely to have positive relationships with its clients and therefore less likely to be the subject of a claim.

### Practice Advisory Service

Law practices that have had at least one substantial claim, or that have been identified as potentially higher risk than peers, may be invited to participate in a practice visit and assessment by a Lawcover risk management consultant. While acceptance and participation by the law practice is voluntary, the majority welcome the opportunity. The service is at no cost to the law practice.

Our data shows that law practices participating in a practice advisory visit invariably experience a dramatic and almost immediate fall off in the incidence of claims.

### Risk Briefings and Claims Prevention Seminar/Roadshows

Risk Briefings, which are two-hour sessions addressing specific areas of practice that give rise to a disproportionately high number of claims, are popular with busy lawyers and provide tips and information to assist in the practice of law in risk prone areas.

The One Day Claims Prevention Seminar which is held annually in Sydney, is always over-subscribed and similar smaller roadshows are offered throughout the year in suburban and regional areas.

Lawcover invests in risk management and claims prevention activities because we have the evidence that it works. They also contribute to some additional benefits for insured law practices:

## Premium discounts for participating practices

Lawcover data shows that participation in its risk management and claims prevention activities leads to fewer claims and lower costs associated with claims. It is appropriate that this is recognised by a premium discount regime for participating law practices. The premium discount regime has recently been revised to reflect the latest outcomes of the review. Discounts range from 5 per cent to 12.5 per cent and apply for one policy year initially, with the option of maintaining the discount in future years through the completion of at least one eligible 'maintenance' activity per year.

## Policyholder Rebate

Lawcover has recently issued a Policyholder Rebate (\$15 million) for 2016 to eligible insured law practices. This follows an earlier Policyholder Rebate (\$23 million) issued in 2014.

The Policyholder Rebates have arisen from better than anticipated claims

trends over recent years and improved company performance. Our analysis provides compelling evidence that those better than expected claims outcomes are the result of a more risk aware legal profession and that the Lawcover RMEP activities have been a key contributor in achieving these outcomes.

## Reduced premiums

Since 2012/13 the target premium pool has been reduced by almost 15 percent. The premium pool for 2016/17 has been maintained at the same level as 2015/16, in spite of continued growth in the number of insured law practices and solicitors. For the vast majority of insured law practices, premiums on a like-for-like basis have decreased markedly since 2013.

## Lawcover's commitment to the legal profession

By our corporate structure Lawcover is a part of the legal profession and our commitment extends to the objective that Lawcover operates within a framework which is in the best interests

of the legal profession and consumers of legal services.

By working with the legal profession and focusing on good legal practice for good legal outcomes, we have achieved success in addressing risk factors in legal practice and reduced claims frequency and severity.

For further information please see: [renewals.lawcover.com.au/OnlineWeb/PSS/Course/CourseRegistration](http://renewals.lawcover.com.au/OnlineWeb/PSS/Course/CourseRegistration) **LSJ**

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## Position Available

### Legal Practice Consultant

Lawcover seeks to employ a senior lawyer to join its specialist risk management team. The successful candidate will have at least 25 years' experience as a partner/principal of a small or sole practitioner law practice and experience in managing a legal practice with an emphasis on administration and business management.

The role will be varied and will focus on providing advice on the efficient management and administration of a law practice including providing guidance and education on practice management risk. Intrastate travel will be involved.

The responsibilities of this role will include:

- visiting law practices to identify and educate on practice risk
- presenting at seminars and conferences on risks and risk mitigation strategies
- preparing written analysis of risks and the management of these
- advising on risk mitigation with a view to improving practice integrity
- preparing articles for publication on practice, risk management and best practice
- Experience/interest in legal practice risk is desirable

This is a rare opportunity for a senior lawyer seeking a rewarding career whilst also enjoying a good work/life balance. For a confidential discussion on this unique opportunity, contact Michelle Adler, Human Resources Manager on (02) 9286 8811 or email [madler@lawcover.com.au](mailto:madler@lawcover.com.au).