

# Internal Crime – the forgotten risk?

You've probably heard of Brody Clarke, the former solicitor employed by a Sydney CBD law practice who was jailed in 2019 for stealing more than \$8 million from clients to fuel his gambling addiction. A subsequent case, which was brought against the law practice alleging it was vicariously liable for Clarke's fraud, was settled amidst allegations of supervisory failings.

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But what of the risk of internal crime, where an employee commits a crime against their employer?

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In its 2020 *Report of the Nations*, the Association of Certified Fraud Examiners (ACFE) reported that occupational fraud – fraud committed by employees against their employer – is one of the costliest forms of financial crime.

Equally as concerning as the Brody Clarke case was the jailing earlier this year of a former employee of the National Australia Bank (NAB) for her role in a multi-million dollar invoicing scam. Carried out over four years, the scam funded lavish international holidays for the employee and her extended family including chartering

a jet and a yacht, as well as buying property and a luxury car. The scam, which evaded internal auditing by NAB, was eventually brought undone by a whistleblower.

Although the NAB case is an extreme example, the risk of internal crime should not be overlooked by law practices. This can be a particular issue for small to medium sized practices, where longstanding relationships can be abused by trusted employees. Compounding this risk, small businesses implement anti-fraud controls at a much lower rate than their larger counterparts. ACFE data demonstrates that there are clear opportunities for small businesses to increase their protection against fraud.

The best way to combat internal crime risk is by reducing the pressures and opportunities that may give rise to employee fraud. While many risk mitigation measures may seem obvious, they are well worth revisiting and need not be costly:

- ▶ Ensure proper supervision of staff
- ▶ Encourage a positive risk culture where employees speak up when they see something which seems "off"
- ▶ Lead by example by implementing, and adhering to, appropriate policies and procedures

- ▶ Segregate duties, particularly in relation to payments, so that no one person is responsible for a complete transaction from start to finish and introduce additional internal controls to improve security

- ▶ Depending on the size of your business, consider internal protocols and policies which encourage honest conduct and incident reporting e.g., a code of conduct, an anti-fraud policy, compliance incident reporting procedures and a whistleblower policy

- ▶ Conduct fraud training for employees as well as managers.

Also remember, not all fraud can be prevented. According to the ACFE, it is likely that some type of employee fraud will eventually occur, even in the most secure organisations, making quick detection crucial to limiting damage. Look out for red flags – a fraud perpetrator's job performance will often suffer while a scam is taking place. ACFE research indicates that 85% of fraudsters displayed at least one behavioural red flag while committing their crimes.

Living beyond their means has been the number one warning sign of internal crime in every ACFE study since 2008.

Additional red flags include:

- ▼ Financial difficulties
- ▼ Unusually close association with a vendor or customer
- ▼ Control issues or unwillingness to share duties
- ▼ Irritability, suspiciousness and defensiveness
- ▼ A 'wheeler-dealer' attitude
- ▼ Divorce or family problems.

Last but not least, protect your practice by ensuring that it has an appropriate level of insurance cover under a standalone fidelity insurance policy or as part of a business pack or management liability policy.

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