

SUCCESSION PLANNING IN LEGAL PRACTICE CHECKLIST



THE LAW SOCIETY
OF NEW SOUTH WALES

Sole practitioners, sole principals of incorporated legal practices, and sole principals of unincorporated legal practices ('sole principals') are particularly vulnerable to disruption if they are suddenly unable to manage their law practice.

The key to minimising the cost of an external intervention is to plan for the possibility that you may unexpectedly become unable to continue in legal practice and to manage your law practice accordingly so that, if another legal practitioner is required to take over its management at short notice, the transition will proceed as efficiently and expeditiously as possible.

This checklist has been prepared to assist with this important process.



ACTION	COMMENT	DETAILS
Law Practice ID	What is your law practice ID?	
Law Society Membership Number	What is your Law Society membership number?	
Have you nominated a personal representative and an alternate personal representative?	<p>The nomination form can be accessed here. It is also reprinted at the end of this document.</p> <p>At least one of your nominated personal representatives (NPR) should be younger than you are.</p>	
Who can be your nominated personal representative and alternate?	<p>Both your NPR and Alternate must have the relevant qualifications and the capacity to run a law practice such as yours.</p> <p>They must:</p> <ul style="list-style-type: none"> have a good working knowledge of, and experience in, your area(s) of practice; hold a principal's practising certificate; be authorised to receive trust money; and be able to step into your role at short notice 	
What if I do not nominate anyone?	<p>It may become necessary for the Law Society to identify another legal practitioner to be appointed as Principal to take over the running of your practice. In some cases, it may be necessary for Council to make an appointment of a Manager under s334 of <i>Legal Profession Uniform Law (NSW)</i> (Uniform Law).</p> <p>The appointment of a person, either as Principal or Manager, unfamiliar with the law practice could cause delay and disruption in the handling of matters and generate significant costs for your law practice..</p>	
Have I discussed with the nominee what can the nominee do, and what are my wishes for my law practice?	<p>The nominee will, once officially appointed as principal of the law practice or as manager by the Council of the Law Society (Council), have full authority to run the law practice, including managing the trust account, in accordance with the Uniform Law.</p> <p>It is important that you work with your nominees in advance to define precisely what your wishes are in terms of running the law practice and/or disposing of the practice, including custody of any safe custody documents and of the archived and closed files of the law practice. It is the Law Society's preference that another law practice take over custody of any safe custody documents and of any archived and closed files.</p>	



<p>Next steps if I become ill, injured or die?</p>	<p>Your NPR (or Alternate) should contact the Law Society’s Licensing and Registry Department (Registry) as soon as practicable to explain your circumstances and to provide written notification that they are willing and able to take control of your law practice.</p> <p>If the Law Society becomes aware that you have died, or that you are no longer able to manage your law practice, it will contact your NPR. If the NPR cannot take control of your law practice, your Alternate will be contacted and asked if they are able to take control of your law practice as per their arrangement with you.</p>	
<p>How does the Nominee take control?</p>	<p>When your NPR (or Alternate) are required to take control of your law practice, the Professional Standards Department (PSD) will verify that they are able and appropriately qualified to manage your law practice, having regard to their professional experience, reputation, and disciplinary record.</p> <p>If satisfied of these matters, steps will be taken to appoint the person as Principal of the practice in consultation with your estate.</p> <p>In some cases it may be necessary for PSD to recommend to the Council that it appoints your NPR or Alternate as a Statutory Manager of your law practice.</p> <p>In the event that neither your NPR (or Alternate) are in a position, or able, to be appointed as Principal or as a Statutory Manager the Council will be required to commence an external intervention at the expense of your law practice, you and/or your estate.</p>	
<p>Have you agreed remuneration with your NPR?</p>	<p>There is nothing in the Uniform Law to prevent you from entering into a private remuneration agreement (‘agreement’) with your NPR (or Alternate).</p> <p>Where a nomination is made, it will be a matter for you and your nominees to determine remuneration.</p> <p>The Law Society will not receive, register, store, adjudicate or otherwise become involved with your agreement with your nominee insofar as it relates to remuneration for your NPR.</p>	

<p>Have you executed a will?</p>	<p>Should you become incapacitated, otherwise unable to continue in legal practice, or die, your executor should immediately notify Registry at the following email address: registry@lawsociety.com.au</p> <p>The Registry will record the details of your NPR and Alternate on your law practice's record.</p> <p>You should inform your executor of the name of your NPR (and Alternate) and, if possible, notify your executor of your plans for the future management and/or disposition of your law practice should you no longer be able or available to manage it.</p>	
<p>Have you appointed an attorney and an enduring guardian?</p>	<p>You should inform your attorney and enduring guardian of the name of your NPR (and Alternate) and, if possible, notify the attorney and enduring guardian of your plans for the future management and/or disposition of your law practice should you no longer be able or available to manage it.</p>	
<p>Notifying your staff</p>	<p>Have you notified the other staff in your law practice of the name(s) of your executor/attorney/enduring guardian/nominated personal representative/alternate personal representative?</p> <p>Have you notified the other staff in your law practice of your plans for the future management and/or disposition of your law practice should you no longer be able or available to manage it?</p>	
<p>Accessing systems via passwords and details</p>	<p>Are the account details and passwords of your legal and accounting software readily accessible by the staff of your law practice and/or or by your executor/attorney/enduring guardian/nominated personal representative/alternate personal representative?</p> <p>Are the account details for your office, business, and trust accounts readily accessible by the staff of your law practice or by your executor/attorney/enduring guardian/nominated personal representative/alternate personal representative?</p>	
<p>Do you have a register of all your current matters and readily accessible details of all court and filing dates and limitation periods?</p>	<p>Rule 93(1) of the <i>Legal Profession Uniform General Rules 2015</i> (NSW) provides that a law practice must maintain a register of files opened.</p>	



<p>Do you have a list of all your archived and closed files and details of their location?</p>	<p>The list of archived and closed files should be readily accessible to the staff of your law practice and to your NPR .</p> <p>Ideally, upon the winding-up of your law practice, another law practice should take possession of the archived and closed files, especially if this law practice has taken carriage of any current matters and possession of any safe custody documents.</p> <p>If your law practice is taken over by another law practice, all the archived and closed files, and safe custody documents should be taken into this other law practice’s possession.</p>	
<p>Do you have a register of undertakings?</p>	<p>If so, who maintains the register?</p>	
<p>Do you have a register of all your safe custody documents?</p>	<p>Rule 94(1) of the <i>Legal Profession Uniform General Rules 2015</i> (NSW) provides that a law practice must maintain a register of safe custody documents.</p>	
<p>Are your trust account records accurate and current?</p>	<p>Note that sections 147(2)(b) and (c) of the Uniform Law provide that the law practice must keep the trust records in a way that at all times discloses the true position in relation to trust money received for or on behalf of any person and in a way that enables the trust records to be conveniently and properly investigated or externally examined.</p>	
<p>Do you have a complaints register?</p>	<p>If so, who maintains the register?</p>	
<p>Forms</p>	<p>Change in details Solicitor NPR and Alternate</p>	
<p>Useful Contacts</p>	<p>Registry: registry@lawsociety.com.au Trust Accounts Department: tad@lawsociety.com.au Professional Standards Department: psd@lawsociety.com.au LawCover: lawcover@lawcover.com.au Solicitor Outreach Service (SOS): 1800 592 296</p>	



NOTIFICATION OF A NOMINATED PERSONAL REPRESENTATIVE AND AN ALTERNATE FOR SOLE PRINCIPALS OF LAW PRACTICES



Use this form to notify the Law Society Registry (registry@lawsociety.com.au) of your nominated Personal Representative and an Alternate. Please ensure that your nominees have agreed to be nominated by you.

Your nominees must:

1. hold a principal of a law practice practising certificate; and
2. be authorised to receive trust money.

You must advise your nominees that:

1. their details (as nominees) will be recorded on your law practice ID;
2. in the event of your incapacity or death they will be contacted by the Law Society of NSW; and
3. at the discretion of the Law Society Council they may be appointed under Chapter 6 of the *Legal Profession Uniform Law (NSW)* to manage and or, wind up your law practice.

SOLE PRINCIPAL'S DETAILS

Name:	LSID:
Name of law practice:	Practice ID:
Address of law practice:	
Phone number of law practice:	
Signature of sole principal:	

SOLE PRINCIPAL'S NOMINATED PERSONAL REPRESENTATIVE (NPR) DETAILS

Name:	LSID:
Name of law practice:	Practice ID:
Address of law practice:	
Phone number of law practice:	
Signature of NPR:	

SOLE PRINCIPAL'S ALTERNATE NOMINATED PERSONAL REPRESENTATIVE (ANPR) DETAILS

Name:	LSID:
Name of law practice:	Practice ID:
Address of law practice:	
Phone number of law practice:	
Signature of ANPR:	