

THE 7 DEGREES OF PROGRESSIVE COMPLIANCE

From exposure to opportunity

GOVERNANCE & CARE

7. DEMONSTRATING CLIENT CARE

Confidence in compliance and a deep understanding of regulatory requirements means you are able to focus on the long-term care of their clients.

Opportunity

- Objectivity and professionalism maintained
- Mutual trust is 'a given'
- The client relationship is lengthened
- Competitive advantage is achieved
- The firm's reputation grows through successful clients

EXAMPLE: The Engagement Letter is positively introduced, even prior to formal engagement and is easily understood by all stakeholders in the relationship

6. SETTING EXPECTATIONS

Engagement Letters are seen as a tool to encourage collaboration. Greater efficiencies achieved and both parties are better protected

Opportunity

- Trust grows as a direct result and disputes are avoided
- Potential issues are identified at an early stage
- The client relationship is strengthened as all parties know what to do, by when and why.
- Clarity leads to firm-wide understanding and greater collaboration

EXAMPLE: Clearly communicating filing deadlines for all appropriate services as well as deadlines for submission of information to you

5. MANAGING MUTUAL RISK

Risks are seen as shared risks and the importance of a professional relationship is raised as the Engagement Letters start to become shared assets

Opportunity

- The foundations of trust are laid
- Professional body oversight is not the driver
- An authentic relationship further reduces risk
- Huge time savings are achieved
- An enhanced reputation ensues

EXAMPLE: Communicating the start date of each service so as to establish when the specific responsibilities pass to the incumbent firm

MUTUALLY FOCUSED

Focused on protecting all parties. Clear language is used. The value is in strengthening the relationship at the start and throughout.

RISK MANAGEMENT

4. MANAGING PRACTICE RISK

Requirements of a professional body are met and basic risk management is demonstrated with Engagement Letters of excessive length and complexity, due to lack of understanding

Neutral

- Minimal demands made by professional body
- Protection against legal claims
- Professional indemnity claims minimised
- Possible time-costs of investigation
- Threats to reputation minimised
- Engagement Letters not user-friendly
- The client doesn't feel valued and respected

EXAMPLE: The use of legalese and superfluous paragraphs in the Engagement Letter damages the client relationship from the start

INTERNALLY FOCUSED

Focused on protecting the firm. Complex legalese used. The value is in limiting liability at the end of the relationship.

COMPLIANCE

3. TECHNICAL COMPLIANCE

Aware of most of the requirements and broadly meeting regulatory obligations but ineffectively using standard templates due to knowledge or time constraints.

Exposure

- May trigger complaints
- Possible financial costs of investigation
- Definite time-costs of investigation
- Litigation through the courts
- Claims on professional indemnity policy

EXAMPLE: Errors in some parts of the Engagement Letter undermine the most useful aspects, and the agreement becomes flimsy and unreliable.

2. SURFACE COMPLIANCE

Off-the-shelf Engagement Letters exists as a tick-box exercise. Appears compliant at first glance but firm never finds time to remedy shortcomings because it's not seen as a priority.

Exposure

- Triggers complaints
- Financial and time costs of investigation
- Possible sanction
- Loss of reputation
- Litigation through the courts
- Professional indemnity policies may become void and if not, claims are likely

EXAMPLE: Firm has the Engagement Letter signed by one person but fails to obtain the consent of data subjects to handle their personal data

1. NON COMPLIANCE

Thankfully very rare. Firm is in a position of ignorance and shows a failure to maintain professional awareness

Exposure

- Triggers complaints
- Financial and time costs of investigation
- Possible sanction and loss of reputation
- Litigation through the courts
- Professional indemnity policies may become void
- Right to practise threatened

EXAMPLE: Firm is totally unaware of their obligations, and Engagement Letters are incomplete or non-existent. (The firm feels there is a mountain to climb.)

