



Points to Consider when Formulating a Disaster Recovery Plan

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The Law Society hopes that the following information will assist members to formulate an appropriate Disaster Recovery Programme should a devastating event occur. The Avian Flu virus, imposition of quarantine orders, fires, flooding to your office, IT breakdown, or internet virus are examples of events which could have a serious impact on your business. Members are encouraged to investigate whether there are any areas of their practice that could benefit from a review of preventative measures.

The following information is intended to be “*food for thought*”, and should not be considered prescriptive.

A. Disaster Recovery Plan

1. Primary Objective: Continuation of Business

The following points, which are not exhaustive, have been prepared to enable members to formulate appropriate risk mitigation strategies to minimize the affect of unforeseen events that can seriously disrupt their practices. Disaster can occur at any time and members should take the opportunity to formulate plans to match the needs of their own practices in order to minimize the impact of events over which they have no control. It is not the scale of the event but the impact on the business that should be reviewed.

2. Test run

Once a Disaster Recovery Plan has been formulated it would be prudent to conduct a test run so that any faults can be analysed and the plan can be modified. If the plan remains theoretical and a disaster occurs it will of course be too late to deal with any shortcomings, thus extending the time your business will be out of action. It would be

prudent to try and review the plan every 6 months taking into account useful feedback from your staff and to accommodate changes which may have taken place within the business e.g. new software applications, changes to key members of staff etc.

3. Events which may disrupt the practice

Events that may affect your office can include the following:

- Office fire
- Physical destruction of the office
- Severe water damage from typhoons or water sprinklers
- Outbreak of SARS and other diseases listed in the Schedule of the Quarantine and Prevention of Disease Ordinance (Cap.141)
- Computer virus
- Act of terrorism
- Acts of God

4. Avian Flu/SARS

The following websites provide advice and up to date information on the risk of an Avian Flu pandemic; it would be prudent to assign a member of staff to monitor the sites on a regular basis. This could help your firm to assess the risk profile of your firm and focus your attention on refining your disaster recovery plans:

World Health Organisation

www.who.int

Center for Disease Control and Prevention

www.cdc.gov

Hong Kong Centre for Health Protection

www.chp.gov.hk

The Department of Health has prepared contingency plans in case of an influenza pandemic. The Government has put into place a response system depending on the seriousness of the situation.

Members are encouraged to:

Visit the website, review and download the following documents for future reference:

- **“Influenza Pandemic Preparedness Kit”**
Please refer to the sections on “*Practical Tips*” and “*8 Steps to Protect Yourself*”
- **Pamphlet on “Preparedness Plan for Influenza Pandemic”**

The firm should review its policies and make an assessment of trigger points which would result in the implementation of the firm’s contingency plans:

- establishing the chain of command within the office
- imposition of quarantine measures
- the wearing of masks together with a policy for proper disposal of used masks
- adequate supply of cleansing materials in the office: soap, disinfectant and bleach, etc.

5. Disaster Recovery Measures

The objective of your plan is to enable your business to resume essential business operations as soon as possible after a potentially disruptive event. To formulate your plan, a review of the immediate, intermediate and extended recovery needs of the practice should be conducted.

The firm’s records are vital and there are several measures which should be adopted to enable the firm to resume business as soon as practicable. Ideally, your firm’s Disaster Recovery Plan should be stored off-site, in more than one safe location where it can be easily retrieved. Key management personnel should be given a copy of this document.

6. IT capabilities of the practice

Can your IT recovery programme securely store the firm’s essential records and survive a catastrophic event?

How much data loss can your practice tolerate?

How can your IT system facilitate and support the recovery process?

B. Risk management programme:

1. The following recovery strategies should be considered:

- Installation of operation software to enhance the running of the practice e.g. integrated programs for filing, accounts etc.
- Adoption of a centralised filing system to reduce risk, and improve the retrieval capabilities of important documents such as the office diary, which records upcoming completion dates and court hearings etc.
- Updating of the database of the firm's current files together with details of the assigned fee earners at least once a month
- Scanning and storing all correspondence, incoming and outgoing electronically.

2. Back up

- Consider the benefits of implementing an appropriate system for backing up the firm's work on a daily basis, including all operating files and accounts data.
- Store the back up tapes and office operation software at a separate and secure location

3. Accounts and Banking information

Store the following at a separate and secure location:

- Duplicate set of Office accounts
- Duplicate set of Clients' accounts
- Spare set of bank books and cheques
- List of Bank Accounts
- Contacts of the bank officers

4. HR Information

Store the following at a separate and secure location:

- Contact details for all employees
- Health insurance details for all employees
- Immigration information for overseas employees

5. Computer Viruses

Consider maintaining a set of back up tapes of your firm's data:

- for the last month of each year
- the latest month of the current year
- for the last 7 days of the current year

C. Establishing an Emergency Office

1. Plan of Action

Communication is very important. The Plan of Action and a list of contact details should be prepared, disseminated and discussed with key personnel. Firms could consider preparing emergency contact cards with this information.

Assign discrete tasks to key personnel and give clearly defined tasks; staff should be aware of each other's responsibilities. By providing clear instructions, management can reduce stress levels and promote an efficient response.

2. Emergency Office Space

In cases where the practice can no longer operate from the current office premises, contingency plans should be made to source alternative office space.

“Buddy System”

Consideration could be given to provisional arrangements with fellow practitioners to operate a “**Buddy System**” and use any empty space within their offices in order to restore the vital operations of your practice. Details of such arrangements should be sent to the Law Society to enable notification to be circulated to the membership. This will enable time sensitive transactions to be conducted.

3. Solicitors' Accounts Rules (“SAR”)

If the firm's accountant falls ill the firm must ensure compliance with the Solicitors' Accounts Rules. Consider contingency plans to employ a temporary accountant in order

to comply with Rule 10 SAR. However care should be taken not to employ an accountant acting from the firm's auditor as this will result in a conflict of interest for the accounting firm.

4. Legal Stationery

A supply should be set aside for use in an emergency. It would be useful to prepare a soft copy of the firm's letterhead so that plain paper can be used if necessary.

5. Informing Clients

The contingency plan should include plans to inform clients of the event affecting the practice and provide contact details as soon as possible by email, text messaging, or even fax, especially in relation to those matters which are time sensitive e.g. conveyancing completions and court hearings. Select staff to inform particular clients.

6. Provisions in Agreements

In order to protect the firm in the case of a disaster, a standard contingency clause, for example in conveyancing transactions to "suspend time from running", could be drafted and included in your documents.

Members may wish to consider the following points when drafting such a clause, which are provided as examples only:

- **Imposition of an Isolation Order under the Quarantine and Prevention of Disease Ordinance (Cap.141) making it impossible to**
- **gain access to the firm's offices**
- **gain access to the property**
- **Suspend time from running until expiration of the Isolation Order**
- **Agreement on when the suspension of time expires**
- **Agreement on the time for performance of completion of a conveyancing transaction**
- **Automatic suspension of time upon the happening of a specified event such as a fire or flooding arising from a typhoon**

D. Disclaimer

This paper has been prepared to assist members in organising their thoughts in relation to a Disaster Recovery Plan. The purpose of such a plan is to minimise the impact of an unforeseen event on members' practices. It is, however, the responsibility of each individual member to consider the needs of their practice, and its ability to cope with an unexpected and potentially devastating event.

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