

A man in a dark suit and tie is shown in profile, looking out a window at night. He has his hand to his chin in a thoughtful pose. The window shows a blurred cityscape with lights from buildings.

# Internal Business Risks

A Self-Diagnostic Checklist for Law Firms

**Walker Clark, LLC**



# WALKER CLARK Internal Business Risks Self-Diagnostic

Business Advisors and Counselors to the Legal Profession

How strong is your law firm's governance and management foundation? Will it support your efforts to maintain and improve profitability and business performance?

The most dangerous business risks to law firms come from within. Law firms seldom fail to achieve their business goals because the lawyers are stupid or lazy, nor because clients are unpredictable. In most cases, a firm fails because its governance and management structures have failed the firm. When a crisis or opportunity arrives, these structures do not provide the support that any business needs to respond.

This checklist helps you to identify and prioritize what your firm needs to do to manage your business risks more effectively. It does not attempt to list every "best practice" or program detail that successful law firms use. Instead, it focuses on 50 basic structures needed by any law firm with more than two or three lawyers. What are the ones in your firm that pose the greatest business risk? Which ones should your firm address first?

---

The Internal Risk Self-Diagnostic asks you to evaluate each diagnostic point from three different perspectives:

## ◆ Need for improvement

The purpose of the self-diagnostic is not to find all possible improvements, but instead to focus on the fundamental management structures that pose the greatest risk. How well is the firm doing now with respect each diagnostic point? There is always room for improvement; but is a management policy or procedure failing to meet your firm's needs? Is it holding your firm back? Or is it functioning adequately for now?

## ◆ Time required for improvement

If improvement is needed, can it be done quickly or will it take months to complete? As a general rule, it is wise to focus first on those improvements that can be accomplished relatively quickly. They often provide the best return on investment.

## ◆ Resources required for improvement

How much will it cost to manage this risk better? Use your own definitions of "high," "moderate," and "minimal." What constitutes a "high cost," in terms of money and partner time, in your firm? Consider not only financial resources – such as external advice and support or salaries for additional employees – but also equally valuable resources such as partner or shareholder time. The external costs can be less than you expect. The internal costs are frequently much more.

# Sample

financial management	need for improvement				time required for improvement			resources required for improvement			total score		
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	1 to 3 months	30 days or less	High	Unknown	Moderate		Minimal	
17 Does each lawyer have a specific fee production goal for the fiscal year?	12	8	4	1	1	2	3	4	1	2	3	4	1
18 Does the firm have documented policies and procedures governing fee discounts, reductions, and write-offs?	12	8	4	1	1	2	3	4	1	2	3	4	20
19 Does the firm regularly monitor and report on unbilled work in progress and unbilled disbursements?	12	8	4	1	1	2	3	4	1	2	3	4	11
20 Has the firm documented responsibilities for monitoring and follow-up on accounts receivable?	12	8	4	1	1	2	3	4	1	2	3	4	14
21 Are financial reports distributed regularly to partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	1

If the "need for improvement" is "satisfactory for now," there is no need to rate "time required" or "resources required."

If the "need for improvement" is "unknown," indicate how long it would take to find out the status of this diagnostic point.

If the "need for improvement" is "unknown," the "resources needed" are usually also unknown.

governance and decision making	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
1 Are the firm's corporate documents (partnership / shareholder agreement, partnership deed, bylaws, etc.) complete and up to date?	12	8	4	1	1	2	3	4	1	2	3	4	
2 Has the firm documented the rights and obligations of partners/ shareholders with respect to capital contributions?	12	8	4	1	1	2	3	4	1	2	3	4	
3 Does the firm have written position descriptions for key leadership roles such as Managing Partner, Senior Partner, Finance Partner, and Marketing Partner?	12	8	4	1	1	2	3	4	1	2	3	4	
4 Does the firm require partners to disclose financial interests in order to prevent conflicts of interest?	12	8	4	1	1	2	3	4	1	2	3	4	
5 Do the firm's corporate documents clearly and completely describe which decisions require a formal vote by the full partnership / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	
6 If the firm has multiple classes of partners / shareholders, do the corporate documents completely describe the rights, obligations, and privileges of each class?	12	8	4	1	1	2	3	4	1	2	3	4	
7 Does the firm have a formal procedure by which employees may present issues, concerns, or grievances to the firm's management?	12	8	4	1	1	2	3	4	1	2	3	4	

professional compensation	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
8 Are the rules and procedures governing the compensation of lawyers documented, published, and followed?	12	8	4	1	1	2	3	4	1	2	3	4	
9 Are the specific factors that determine profit distributions to partners / shareholders documented and published to all partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	
10 Does the firm have a policy and procedures to provide financial rewards and incentives for extraordinary performance?	12	8	4	1	1	2	3	4	1	2	3	4	
11 Has the firm's compensation system been reviewed by the partners / shareholders and updated, if needed, within the past five years?	12	8	4	1	1	2	3	4	1	2	3	4	
12 Does the firm have documented policies and procedures to set the compensation of experienced lawyers who join the firm directly as partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	

planning	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
13 Does the firm have a formal, written business plan?	12	8	4	1	1	2	3	4	1	2	3	4	
14 Does the firm have a formal process to develop the business plan every year?	12	8	4	1	1	2	3	4	1	2	3	4	
15 Are there business plans for each major practice area or practice group in the firm?	12	8	4	1	1	2	3	4	1	2	3	4	
16 Does each partner / shareholder have an individual business plan?	12	8	4	1	1	2	3	4	1	2	3	4	
17 Does the firm have a strategic plan, strategic goals, or strategy to guide business performance over the next three to five years?	12	8	4	1	1	2	3	4	1	2	3	4	

financial management	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
18 Does each lawyer have a specific fee production goal for the fiscal year?	12	8	4	1	1	2	3	4	1	2	3	4	
19 Does the firm have documented policies and procedures governing fee discounts, reductions, and write-offs?	12	8	4	1	1	2	3	4	1	2	3	4	
20 Does the firm regularly monitor and report on unbilled work in progress and unbilled disbursements?	12	8	4	1	1	2	3	4	1	2	3	4	
21 Has the firm documented responsibilities for monitoring and follow-up on accounts receivable?	12	8	4	1	1	2	3	4	1	2	3	4	
22 Are financial reports distributed regularly to partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	

marketing	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
23 Does the firm have a partner / shareholder or other manager who is formally responsible for the firm's marketing function?	12	8	4	1	1	2	3	4	1	2	3	4	
24 Does the firm have a written marketing plan?	12	8	4	1	1	2	3	4	1	2	3	4	
25 Does the firm have a marketing database to track sales opportunities with current and prospective clients?	12	8	4	1	1	2	3	4	1	2	3	4	
26 Does the firm have documented policies and procedures to develop, review, and present formal proposals to prospective clients?	12	8	4	1	1	2	3	4	1	2	3	4	
27 Does the firm provide or arrange for marketing and sales skills training for partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	
28 Does the firm have documented policies and procedures to support cross-marketing of all of the firm's services?	12	8	4	1	1	2	3	4	1	2	3	4	

client relations management	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	M-High	Unknown	Moderate	Minimal	
29 Does the firm conduct a thorough conflicts check before accepting a new client or matter?	12	8	4	1	1	2	3	4	1	2	3	4	
30 Does the firm have and follow documented procedures to evaluate the credit worthiness of a new client before accepting the engagement?	12	8	4	1	1	2	3	4	1	2	3	4	
31 Does the firm deliver to each client a formal engagement letter, or similar document, that records the agreed terms and conditions of the engagement?	12	8	4	1	1	2	3	4	1	2	3	4	
32 Does the firm have published client service standards in areas such as availability and responsiveness?	12	8	4	1	1	2	3	4	1	2	3	4	
33 Has the firm conducted a formal client satisfaction survey of its major clients within the past three years?	12	8	4	1	1	2	3	4	1	2	3	4	
34 Has the firm designated a partner / shareholder to be responsible for the firm's relations with each major client?	12	8	4	1	1	2	3	4	1	2	3	4	
35 Does the firm have written policies and procedures governing fee disputes?	12	8	4	1	1	2	3	4	1	2	3	4	
36 Does the firm have a written plan to prevent and recover from the loss or destruction of client files and documents?	12	8	4	1	1	2	3	4	1	2	3	4	

performance management	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
37 Does each lawyer in the firm have a set of individual performance goals?	12	8	4	1	1	2	3	4	1	2	3	4	
38 Does the firm conduct regular, periodic evaluations of all partners / shareholders, lawyers, non-lawyer fee earners, managers and staff?	12	8	4	1	1	2	3	4	1	2	3	4	
39 Does the firm have documented policies and procedures governing the content and delivery of performance evaluations?	12	8	4	1	1	2	3	4	1	2	3	4	
40 Does the firm have documented policies and procedures to address unsatisfactory performance?	12	8	4	1	1	2	3	4	1	2	3	4	
41 Does the firm have documented policies and procedures to respond to mental illness, issues of substance abuse, or temporary physical disability of fee earners and staff?	12	8	4	1	1	2	3	4	1	2	3	4	

career management	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
42 Are the eligibility requirements and selection criteria for promotion to partner / shareholder defined, documented, and published to all lawyers in the firm?	12	8	4	1	1	2	3	4	1	2	3	4	
43 If the firm has multiple levels of associates, are the eligibility requirements, selection criteria, and procedures for advancement defined, documented, and published to all lawyers in the firm?	12	8	4	1	1	2	3	4	1	2	3	4	
44 Does the firm have documented policies and procedures to support the professional development of each fee earner?	12	8	4	1	1	2	3	4	1	2	3	4	
45 Does the firm have a formal, documented program for mentoring of junior lawyers and fee earners?	12	8	4	1	1	2	3	4	1	2	3	4	
46 Does the firm have documented policies and procedures governing the retirement of partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	

quality assurance	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
47 Does the firm have written policies and procedures to ensure awareness of, and compliance with, laws, regulations, and professional ethics governing law firms in each jurisdiction in which the firm practices?	12	8	4	1	1	2	3	4	1	2	3	4	
48 Does the firm have documented procedures to ensure an adequate review of the professional quality of work prepared by junior fee earners and staff?	12	8	4	1	1	2	3	4	1	2	3	4	
49 Does the firm have documented procedures to respond to questions, concerns, or complaints by clients about the professional quality of the firm's work?	12	8	4	1	1	2	3	4	1	2	3	4	
50 Does the firm have a formal procedure to identify and eliminate the most frequent causes of errors in work prepared for or delivered to clients?	12	8	4	1	1	2	3	4	1	2	3	4	

## setting priorities

financial management	need for improvement				time required for improvement				resources required for improvement				total score
	Failing to meet our needs	Unknown	Needs improvement, but not critical	Satisfactory for now	More than three months	Unknown	1 to 3 months	30 days or less	High	Unknown	Moderate	Minimal	
17 Does each lawyer have a specific fee production goal for the fiscal year?	12	8	4	1	1	2	3	4	1	2	3	4	1
18 Does the firm have documented policies and procedures governing fee discounts, reductions, and write-offs?	12	8	4	1	1	2	3	4	1	2	3	4	20
19 Does the firm regularly monitor and report on unbilled work in progress and unbilled disbursements?	12	8	4	1	1	2	3	4	1	2	3	4	11
20 Has the firm documented responsibilities for monitoring and follow-up on accounts receivable?	12	8	4	1	1	2	3	4	1	2	3	4	14
21 Are financial reports distributed regularly to partners / shareholders?	12	8	4	1	1	2	3	4	1	2	3	4	1

Any score above 16 indicates a top priority for immediate attention.

- 16 to 20 Fix this now! Making this a high priority for the next 90 days will produce substantial returns on your investment of time and resources.
- 12 to 15 This should be a priority for the next six months.
- 6 to 11 This is an opportunity for improvement over the next 12 months, if other priorities permit.
- 1 to 5 Improvements are always possible; but focus your time and attention on other issues.

Your firm needs some answers about this issue. Investigate it during the next six months – or sooner.

## next steps

Now that you have identified your most significant internal business risks, what should you do about them?

A good next step is to contact Walker Clark, LLC. We will review the results of your checklist and will provide a brief written commentary on them at no cost or obligation to you or your firm. If there are any areas in which we can be of assistance, we will propose how we can help your firm to clarify your priorities, undertake a more in-depth analysis of your internal risks, and address them through an action plan that will fit the unique needs and resources of your firm.

For more information contact:

Norman Clark  
Principal Business Advisor  
email: [nkclark@walkerclark.com](mailto:nkclark@walkerclark.com)

Walker Clark, LLC  
[www.walkerclark.com](http://www.walkerclark.com)

telephone: 1-239-466-8370  
direct telephone: 1-239-297-7808  
fax: 1-239-415-3614  
skype™ walker.clark.llc