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Super simplify —

client files, electronic communications, and privacy

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What will we cover today?

- Current climate about electronic transactions and privacy
- Latest changes to commercial law affecting electronic transactions
- Privacy Act and Code requirements about electronic communications and storage
- Practical tips for client on-boarding and dealing with electronic documents

CLIMATE





TEST YOURSELF: IT'S QUIZ TIME!

Questions 1 & 2

Quiz time

1. On 1 September 2017 something happened to the *Sale of Goods Act 1908*, *Illegal Contracts Act 1970*, *Contractual Remedies Act 1979*, and *Electronic Transactions Act 2002*.

What was it?

What impact did it have on you?

2. True or False? If the New Zealand Police request a copy of client information that you hold, you have to provide that information.

Contract and Commercial Law Act 2017

- What is the purpose of this Act?
- What does it say about electronic transactions?
- Can you meet legal requirements electronically?

IT'S QUIZ TIME AGAIN!



Questions 3 & 4

Quiz time

3. True or False? You can store client information for a maximum of 7 years only.
4. If you have stored client information with a third party provider, and the provider accidentally discloses or releases it, can you be held accountable?

Bonus question: What can you do to prevent this happening, or limit your legal exposure if this happens?

Code requirements

- Code of Professional Conduct for Authorised Financial Advisers
 - *Code Standard 12: Keeping information*
 - *Code Standard 13: Record retention*
- These can all be done electronically

The Privacy Act 1993

- What is it all about?
- How is it relevant to you?

Dealing with electronic documents

- Storage
- Security
- Back-ups
- Destruction



FINAL QUIZ QUESTION!

Question 5

Quiz time

5. What is the name of New Zealand's anti-spam law?

CAN-SPAM Act 2003

Unsolicited Electronic Messages Act 2007

Unsubscribe and Consent Act 2006

Spam Act 2002

Client on-boarding

- Are you or your clients swamped with paper? E.g.
 - Client applications
 - Prescribed information under FAA (i.e. primary and secondary disclosure statements)
 - AML: Identity and verification records
- Can the law help you in this situation?

CASE STUDIES



Case Study 1 – request for client information

1. You assisted Joy a client take out a life insurance policy. At the time of application there was a separate policy owner (who was not the life insured).
2. Joy, the insured, passed away a few years later. The claim was accepted and the claim proceeds were paid to the policy owner.
3. Now a lawyer for Joy's estate has requested information such as: a copy of the insurance application; to whom the claim was paid; and how much was paid out.
4. The lawyer has said that as the administrator for the estate of the life insured (Joy) they are entitled to the above information.

Can you, or must you, provide the lawyer with this information? What issues arise under this situation?

Case Study 2 – client recruitment competition

1. You have come up with a great idea to drum up business and acquire new clients. You'll run a competition where current clients and other contacts enter a draw to win an iPad if they provide some details and sign-up to your email distribution list.
2. Also, you went to an event at the town hall last week and exchanged business cards with many people. You knew some of them already, but you met plenty of new faces (your purse or wallet is bursting with business cards!)
3. So, you decide to invite those contacts to enter the competition too.

What are the legal issues to think about?

What steps can you take to reduce the possible legal risks when running this competition?

Key take away points

- You can simplify client interactions using electronic communications
- When dealing with important electronic documents, make sure you store them securely, with appropriate back-ups
- Follow the Code requirements and the Privacy Act