

## **Underdeveloped risk management in law firms - a risk in itself**

*Law firms need to fundamentally change their approach to risk management, several recent incidents show.*

Almost everyone in The Netherlands seems to have forgotten about it already, but less than two months ago the legal world was shaken to its foundations by the fraud at Dutch top law firm Pels Rijcken. As it happened, there was another - but equally big - scandal on the other side of the world. Australia's top law firm MinterEllison took the headlines because of a client-intake conflict involving Australia's Attorney General.

Besides these incidents, at the same time there was panic at many (and not only) law firms because of the Microsoft Exchange security problems. As far as we know, no firms in the Netherlands have been hacked; a lucky escape, so it seems. Still, imagine that all your law firm's confidential data has been taken hostage or is out on the street. That could potentially be the end of your firm. Three major incidents in the same week, that's a coincidence. The fact that they happened is not. The recent hack at the IT provider of nearly one hundred Dutch civil-law notaries proves it. As a result of that hack, those notaries were temporarily unable to work.

The social norm of what is acceptable is shifting, supervisory regulations are becoming stricter and technology more complex. Public reactions - partly due to social media - are now fiercer and more widespread than before. Mistakes are therefore punished ever more harshly and publicly. As a result, incidents like those mentioned above can have a huge negative impact on an office and even threaten its survival.

Lawyers need to take a more fundamental approach to their risk management. This starts with systematically identifying potential risks within the firm and making them open for internal discussion. Experiences from other industries show that it is precisely by discussing these risks, change is possible. Equally important, such changes must subsequently be incorporated in a firm's organization and systems.

Lawyers should look at their risk management from the perspectives of culture, processes, and technology. Unfortunately, all three elements are usually underdeveloped in law firms. They have a relatively decentralised organisation with much decision-making power vested in individual partners. Moreover, there is a traditional divide between fee earners and staff; the power lies with the fee earner. Consequently, a healthy tension between commerce (lawyers and civil-law notaries) and risk management (usually Finance, IT and Compliance officers) is lacking. Moreover, lawyers are not known for their rigid processes and the combination of people-technology is - especially in the legal industry - not a match made in heaven. This must change.



Lawyers compete on the markets of clients and talent. Following incidents like mentioned above, focus is standard on reactions of clients. But impact on talent is at least as important, especially because of the cut-throat competition in the labour

market. Law firms are built on talent. Firms where talented lawyers (from starters to partners) leave because of reputation damage, or for that very reason do not choose them as an employer, have a big problem.

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