Business Continuity Planning and Management for Law Firms

NICK BROOK AND CAROLINE POYNTON
Business Continuity Planning and Management for Law Firms

is published by Ark Group
Contents

Executive summary............................................................................................................. V

About the authors ............................................................................................................. VII

Acknowledgements .......................................................................................................... IX

Part One: Effective business continuity planning and management

Chapter 1: The business continuity landscape........................................................... 3

Chapter 2: Putting together a business continuity plan ................................................... 7
  Action checklist............................................................................................................... 7

Chapter 3: Incident management and communication ................................................... 13
  Communication............................................................................................................. 14

Chapter 4: Technology and business continuity............................................................ 17
  Storage and Server virtualisation .............................................................................. 17
  Cloud disaster recovery............................................................................................... 17
  Data deduplication ....................................................................................................... 17
  Mobile devices in the workplace .............................................................................. 18

Expert view 1: Back to the boardroom – The rise of strategic BCM .................................. 21
  High expectations ........................................................................................................ 21
  Reputation .................................................................................................................. 21
  Communication .......................................................................................................... 21
  Supply lines ................................................................................................................ 22
  Black swans ............................................................................................................... 22
  Resilience .................................................................................................................... 22
  Balancing objectives ................................................................................................. 22
  Governance and standards ......................................................................................... 23
  BCM is not enough .................................................................................................... 23
  Resilience as a board issue ....................................................................................... 24

Expert view 2: Effective crisis management for law firms ............................................... 25
Part Two: Case studies

Case study 1: Duncan Cotterill Lawyers – Facing up to the unimaginable ................. 31

Case study 2: Expert insight – Practising resilience ...................................................... 37
  Operations – strategy – resilience ........................................................................... 37
  The stress points ...................................................................................................... 38
  Resilience in practice ............................................................................................... 39
  Future planning ........................................................................................................ 39
  The disaster scenario ............................................................................................... 40

Case study 3: Allen & Overy LLP – BCP trends and developments ......................... 41
  Business continuity in practice .............................................................................. 41
  BCP foundations ................................................................................................. 42

Case study 4: CMS Cameron McKenna – Preparing for the Olympics ..................... 43
  Background to the Olympics ............................................................................... 43
  Planning for resilience ......................................................................................... 44
  Lesson learned ...................................................................................................... 45

Case study 5: Clifford Chance LLP – Business continuity planning in a global context 47

Case study 6: Service quality and reputation management strategy ....................... 49
  Develop a better understanding of where service quality is failing ...................... 49
  Understand touch points to manage perception and reputation ......................... 49
  Be responsive and responsible ............................................................................ 50

Case study 7: Mills Oakley – Brisbane Floods 2011 .............................................. 53

Case study 8: Minter Ellison – A BCP in action ...................................................... 55

Afterword .................................................................................................................... 59

Appendix: Infographic ............................................................................................... 61

Index ............................................................................................................................ 67
‘SOLICITORS’ PRACTICES need effective business continuity management (BCM) so they can handle their clients’ business if something goes wrong’ – The Law Society practice note sounds simple enough, and indeed, business continuity plans can and do work. But while the application of this advice can pose challenges (from who is responsible for the plan to testing the plan in action) within a law firm, but none of these are insurmountable. The expectation of clients to ensure that their own business continues, despite what is happening to their law firm, is increasing. Although no firm is immune to disaster, type and intensity can vary, as do the resources to ensure continuity of business by firms. The changing nature of the threat landscape also means that plans must be adaptable and at the very least have provision for a variety of issues, disasters and their solutions. The phrase ‘be prepared’ has never been more significant.

This report provides practical advice on developing, testing and maintaining a business continuity plan (BCP) against a background of increasingly demanding regulatory and client expectations, and a new international standard. It is particularly aimed at firms who may not have dedicated business continuity resources or the expertise in their firm to develop a plan.

Planning for business continuity is not difficult but it does require time to plan and practice, engagement at all levels of the firm and the need to implement changes as they occur. A business continuity plan gathering dust on the shelf (or in the electronic archive) is almost as good as not having one. The plan is to assist the firm in its objective of providing ongoing client care rather than an administration burden. It is not an exercise in disaster management itself.

Indeed, client scrutiny is increasing. Clients are now expecting firms to be active in business continuity. Tenders are increasingly asking about the nature of tests of the plan, rather than the obligatory ‘do you have a business continuity plan?’ question.

The increasing flexible nature of the workplace and the workforce poses solutions and challenges to business continuity. While business continuity grew out of disaster recovery and being an IT responsibility, it is now a firm issue rather than an IT or facilities one. All support functions have a role to play. In fact, all staff and partners have a part to play to ensure not only can they handle their client business when things go wrong, but in doing so, they are securing their livelihood and jobs.

An actual disaster is the real chance to see how the plan fares. It is the time to implement the plan; not try and locate it and read up on who does what. This is coupled with getting the business back to normal, maintaining client relationships, managing the firm’s reputation in the local community and ensuring business gets back on its feet. There will be learning experiences from any disaster. These should be seen as opportunities to modify the plan and bring a
more robust approach to business continuity. It is also important to have adequate support in place for those who are exposed first hand to the disaster.

Business continuity is about planning for the unexpected, including events that cannot necessarily be controlled or sometimes even anticipated. Terrorism has always been seen as a threat, however, in relation to law firms this has been indirect, as it affects those centres where law firms are based rather than targeting the firms themselves. And severe acute respiratory syndrome (SARS) and pandemics, once in the top three of threats, seem like a distant memory.

Recently, we have seen diversity of unexpected events including natural disasters such as the Japanese tsunami in 2011; the Christchurch earthquake (New Zealand) in 2011; the Brisbane floods (Aust) also in 2011; and Hurricane Katrina (US) in 2005. Technology disasters can also cause major disruption to business, as can civil unrest and extreme weather conditions.

In terms of expected events, the Olympic Games and the Commonwealth Games occur every four years somewhere in the world.

This report reviews the threat landscape and explains what firms must do, to ensure they have best-practice business continuity plans in place. Standards for business continuity are also changing as are the requirements of the England’s Solicitors Regulation Authority. There are several ways to develop a business continuity plan and there are some key areas to consider when doing so.

This report also covers how to tackle an incident and describes the support needed in doing so. Expert views and case studies from the following contributors cover a variety of business continuity plans and strategies:

- Andrew Hedley, from Hedley Consultants;
- Katherine Holloway of Press Alert;
- Sam Clark of Clifford Chance;
- Mills Oakley – Brisbane Floods 2011;
- Duncan Cotterill Lawyers – Facing up to the unimaginable;
- Visor Consultants – Crisis, risk and business continuity management;
- Allen & Overy LLP – BCP trends and developments;
- CMS Cameron McKenna – Preparing for the Olympics; and
- Minter Ellison – A BCP in action.
About the authors

**Nick Brook** is head of facilities and business continuity at UK-based firm Mills & Reeve LLP. Prior to this Nick’s role at PricewaterhouseCoopers involved delivering scenario-based exercises and working on a proof of concept for business continuity software. Nick has worked in facilities for over 17 years across two countries and various sectors including transport, insurance, finance and professional services.

In the lead up to the London 2012 Olympics, Nick spoke on business continuity planning for the Olympics at Ark Conferences’ Risk Management for Law Firms conference (December 2011) and has had articles published in *FM World* (the magazine of the British Institute of Facilities Management) and *Managing Partner* magazine, based on his experience of the Sydney 2000 Olympics.

Nick was also a member of the New South Wales State Emergency Service in Australia, an emergency and rescue service dedicated to assisting the community. It is made up almost entirely of volunteers.

Nick Brook can be contacted by e-mail at: nick.brook@mills-reeve.com.

**Caroline Poynton** is a business journalist, with particular expertise in the legal sector. Before going into freelance journalism in July 2007, she was for six years editor of *Managing Partner* magazine, an Ark Group publication dedicated to senior management in the legal profession. Since working as a freelance journalist, she has written numerous features, as well as in-depth reports, not only on the legal profession, but also on corporate communications and business management generally.

She has also worked as a freelance editor on publications including Ark Conference’s *FD Legal* and *First Comment* published by recruitment firm First Counsel. Caroline has published several reports with Ark Group, including *Business Continuity and Disaster Recovery for Law Firms* (2008), *Managing the Evolution of Libraries and Information Services* (2008), *Attracting and Retaining Talent in the Post-Recession Legal Profession* (2010), *Strategic Development for Practice Group Leaders* (2010) and *Change Management for Law Firms* (2011).

Caroline can be contacted by e-mail at: carolinepoynton@sailfishmedia.co.uk.
Acknowledgements

Nick Brook
The world is full of knowledge and I am thankful for the contributions from all of the experts who have kindly written case studies for this report. Thanks to my editor at Ark Group, Evie Serventi, for the guidance and advice throughout the process. To Katherine and Laetesha – thank you for giving me the time to do this.

Caroline Poynton
I would like to thank all those who kindly contributed case studies and expert views to this report including Peter Ahrens, Martin Caddick, Sam Clark, Janice Fredric, Kathryn Holloway, Peter Power, Clive Restall and Jeff Tam.