

Under pressure: the relationship between risk and stress

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We all know that a person who is well both physically and mentally is more productive and aware than if they are not well.

For the majority of solicitors, stress is part of everyday practice – whether that arises in the conduct of a matter, client demands, deadlines, or the general running of a business. Unfortunately, many of the solicitors Lawcover encounters fail to recognise the close relationship between stress and the increased risk of a professional negligence claim.

Stress as an underlying cause of claims

Stress is a reaction to an inappropriate level of pressure and can lead to errors of judgment, misleading clients, missed deadlines, and a failure to properly advise. Because of the inherently busy nature of legal practice, stress is a risk that often goes unchecked; seen as ‘just part of the job’.

Stress can lead not only to negligence claims, but also disciplinary action. In one recent case, *Legal Services Commissioner v JL Dingwall* [2017] QCAT 76, a solicitor was required to take on a number of matters at various stages for colleagues who were on leave. In these matters, there was no formal handover or detailed notes as to the current status of the matter. During the course of a year, the solicitor made false representations to the clients about the progress of the matters and failed to advance them. The clients eventually brought a claim against the solicitor which resulted in disciplinary proceedings. The solicitor’s clinical psychologist stated that an existing anxiety disorder and mood deficit was exacerbated by a pressured work environment in which the solicitor felt overwhelmed and unable to cope.

Unfortunately, this type of situation is common and demonstrates why stress is an underlying cause of many professional negligence claims.

Manage stress, manage risk

A feeling of ‘not being in control’ is a major source of stress for solicitors and practice staff, and can be minimised with proper support systems and policies in place.

Snapshot

- Stress is an underlying cause of many professional negligence claims.
- The impact of stress on efficiency, productivity and conduct of solicitors has implications for risk management.
- A feeling of ‘not being in control’ is a major source of stress for solicitors and practice staff.

There are a number of practical steps, both on an individual level and at a practice level, that can be implemented to support solicitors in ensuring that a high pressure work environment does not become stressful to the point of causing the solicitor ill health, or cause a client to complain or bring a professional negligence claim.

Practical steps for a practice

Establish practice-wide policies and systems which include:

- formal file handovers;
- diary management and sharing;
- regular file reviews;
- client and internal communication procedures;
- a stress and mental health response plan that includes where to seek additional guidance; and
- promotion of a culture of support and awareness.

Practical steps for an individual

- Review individual responsibilities and workloads;
- Share the workload of colleagues when on leave;
- Implement a system of reporting and dealing with difficulties, and encourage an open dialogue;
- Make sure regular performance reviews cover stress issues;
- Educate staff to recognise and deal with stress in themselves and others.

As with all areas of effective risk management, the benefits will be realised in more than one aspect of practice. As well as minimising the risks which could result in a professional negligence claim, job satisfaction and morale are likely to improve, as well as productivity.

There are real benefits to law practices addressing the stress/risk relationship. The most important asset in a law practice is its solicitors and staff, and when individuals are supported and adequate risk management systems are in place within the practice, stress is reduced and so is risk. **LSJ**

If you or someone you know is having trouble coping, having suicidal thoughts or just needs to talk contact **Lifeline for Lawyers** – **1800 085 062** or chat online at lifeline.org.au/crisischat.