

Advice on the run



The pressure associated with providing last minute advice, or advice on the run, can easily lead to an oversight and a consequential claim. Legal practice is an area where significant time pressure is the norm and in this environment, it's important to acknowledge that work done quickly is work that carries risk.

Two recent Lawcover claims shine a light on the risks associated with providing advice on the run.

Claim 1

A solicitor met with a client to prepare an urgent Will as he was due to travel overseas within 48 hours. The client's son also attended the meeting and the details of the proposed Will were obtained in his presence. The Will was executed quickly the next day. However, in having the Will executed, the solicitor failed to verify the instructions of the previous day. When the client subsequently passed away, it became apparent that the Will had not been prepared in accordance with instructions and a claim was made against the solicitor by a disadvantaged beneficiary.

Claim 2

A solicitor was contacted to act urgently in establishing a family trust in regards to an imminent property purchase. Under time pressure, the solicitor proceeded based upon limited information. The trust ultimately failed and the solicitor was joined to proceedings on the basis that he did not advise as to the risks and the adequacy of security for the loans involved.

When under time pressure, it can be tempting to cut corners. Both claims could have been avoided by taking some simple steps:

Claim 1

- ▼ Keeping a clear record of client instructions
- ▼ Checking those instructions prior to having a Will executed.

Claim 2

- ▼ Ensure access to all relevant material prior to providing advice
- ▼ Confirm that the area of advice is within your scope and retainer
- ▼ If outside of your scope or retainer, advise the client to seek independent legal advice and make notes reflecting this.

Solicitors face time pressures and are driven by tight deadlines. The more urgent the task, the higher the risk of error, regardless of how straightforward it may seem.

While it can be tempting to assist a client when time pressures are a factor, solicitors must ensure that they have an appropriate opportunity to provide their services with a high level of care.

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