

Under pressure

Urgent advice needed

The very real pressures of providing advice ‘on the run’ in our time poor lives as solicitors can lead to simple oversights. Work done in a hurry is work that carries risk; this scenario was highlighted in two claims.

Claim 1

The solicitor took instructions from a father and son for the purpose of urgently preparing the father’s Will before he travelled overseas. The details of the proposed Will were obtained in the presence of the son and the Will was quickly executed the next day. When the father 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. Upon investigation, it became clear that the solicitor, in rushing, did not take clear instructions, or check them, before the Will was executed.

Claim 2

The solicitor was instructed to provide urgent advice on a family trust scheme in respect of an imminent property purchase. Working on an urgent basis, the solicitor provided advice that was based on limited information. The scheme ultimately failed, and the solicitor was joined to proceedings on the basis that he did not properly advise on the risks associated with entering the scheme or on the security for the loans. On the evidence available, it was clear the solicitor did not have access to all the relevant information prior to providing the advice.

Most solicitors face time pressures in running matters to strict court timetables and tight deadlines. Solicitors need to be aware that the more urgent the task, the higher the risk that errors can be made. They must ensure that there is sufficient opportunity to provide considered advice and conduct all matters with a high level of care. If instructions reveal that the time available to deliver your advice or services is restricted, consider limiting your retainer and communicate clearly with the client to manage their expectations.

Detailed files notes should always be recorded and, if resources are not available to complete the work in short timeframes, the client should always be informed.