

## **Case studies**

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#### **Lack of independence**

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### **Related resource**

Examples below should be read in conjunction with the [Risk Outlook 2018/19 \[https://update.sra.org.uk/archive/risk/outlook/risk-outlook-2018-2019/1\]](https://update.sra.org.uk/archive/risk/outlook/risk-outlook-2018-2019/1).

### **Example 1**

#### **Solicitor facilitates high yield investment fraud**

The following case illustrates how solicitors can facilitate criminal activities by failing to maintain their independence.

Mr A was a sole practitioner, specialising in commercial law. Mrs B, a director of an investment fund ('the Company'), had been a client of his firm for five years.

Mrs B's initial instructions were for Mr A to draft and negotiate contracts. He later started accepting large sums of money from third parties into the client account.

The third parties were clients of the Company, who wanted to take part in seemingly lucrative investment schemes based abroad. On Mrs B's instructions, Mr A sent them letters printed on headed paper, outlining the scheme and providing assurance that his status as a regulated solicitor ensured their funds would be protected while held in the client account.

Almost a year later, Mr A came to realise that the investment schemes described to third parties were unrealistic. The Company was using their investors' funds for other purposes. However, Mr A continued to act for the Company.

We became involved after a client of the Company reported he had lost all of his savings, having invested in a possibly fraudulent scheme involving Mr A.

Our investigation revealed that Mr A had compromised his integrity and his independence. Mr A had ignored the warning signs set out in our 'Fraudulent financial arrangements' notice. The Company had specifically targeted Mr A so it could use his status as a regulated solicitor to lend legitimacy to its fraudulent investment schemes.

We intervened into Mr A's practice and referred him to the SDT. Mrs B and the Company were referred to the police.

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## **Example 2**

### **Law firm uses improper referral arrangements**

The following case illustrates how solicitors can lose control over their firms by entering into improper business arrangements.

Mrs A was the managing partner of a small firm, specialising in personal injury law.

Mr Z, the owner of a claims management company and a medical reports agency, approached her with a business proposal. He suggested they help each other by referring clients to one another. Mrs A agreed, and the relationship proved lucrative for both parties.

Mrs A felt her firm would be able to process more cases with better technology, and asked Mr Z for a substantial loan to help fund a new IT system. Mr Z agreed and provided the funds.

After this Mr Z began to take an active role in the management of the law firm. He would sometimes work from Mrs A's office, using the firm's computer systems. Mr Z would also use the firm's letterhead paper to send correspondence to clients of the claims management company.

A month later, an employee of the law firm sent an anonymous report to us. The employee raised concerns that Mrs A was allowing Mr Z too much say in the running of her firm.

Our initial investigations appeared to confirm that Mrs A had improper referral arrangements in place, and that Mr Z's role in the firm meant it was operating as an ABS without authorisation. Our investigation continues.

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## **Example 3**

### **Vulnerable solicitor manipulated by client**

The following case illustrates the risk of allowing your independence and integrity to be compromised by a client.

Mr A was a partner in a City firm. He had been suffering from stress for some time due to working long hours and marital difficulties. After divorcing from his wife, he started experiencing financial difficulties.

Mr A discussed his mental health with a friend who suggested he may be suffering from depression. The friend said he should consider taking some time off work.

However, Mr A felt he had no option but to keep working. He was afraid that asking for time off for depression would be seen as a sign of weakness by the other partners.

Soon after, Mr A began working on a legal matter for a new client, Ms Z. The two became close. Ms Z confided that her company was in trouble, and she needed £20,000 to save it. Mr A offered to provide a loan from his own money.

Over the next few months, Ms Z asked for more loans. Mr A felt unable to refuse.

Once he had used up the little savings he had, he started giving her funds from the firm's client account.

When preparing the annual accountants' report, the firm's accountant found a shortfall of £80,000 on the client account. He traced this back to Mr A. The matter was reported to us.

When he appeared before the SDT, the judge acknowledged that Mr A had been in a vulnerable state of mind at the time, and Ms Z had taken advantage of this. However, he had misused client money and so was struck off and ordered to pay costs.

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## **Example 4**

### **Solicitor attempts to mislead the court and a third party**

The following case illustrates the serious nature of misleading, and the importance of solicitors behaving in a way that maintains the trust the public places in them.

Mr A was an experienced solicitor in a small, regional firm, acting for the claimant in a personal injury case.

He failed to provide medical evidence to the court when due. The court ordered that the claimant would be barred from using medical evidence in the claim if it was not provided within a set period. As the deadline

approached, Mr A was reminded by the opposing firm that the medical evidence was still outstanding.

Mr A prepared letters to the opposing firm and the court, claiming to enclose copies of the medical evidence. He dated the letters with a date one day before the deadline. He retained these copies on his file and, when chased by the opposing firm, sent these copy letters to them claiming to have sent them on time.

Mr A's supervisor saw the opposing firm's letter. She checked the firm's case management system, which records the dates on which documents are created and modified. She found that the two letters had both been created three days after the day Mr A said they were. In light of the evidence, Mr A admitted backdating the letters.

The firm dismissed Mr A for gross misconduct and reported the incident to us. When the case went before the Solicitors Disciplinary Tribunal, Mr A was struck off the Roll for dishonest conduct and ordered to pay costs.

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## **Example 5**

### **Solicitor fabricates case to have client acquitted**

The following case illustrates how single-minded pursuit of what is perceived as clients' best interests can lead to serious failures to uphold professional standards.

An undercover reporter posed as a prospective client facing criminal proceedings. He approached a solicitor for representation.

The solicitor and client arranged a first interview. During the interview, the client confessed to being guilty of all charges, but stated he wanted to plead 'not guilty'. He asked the solicitor what he should say and do to ensure he is found innocent of all charges.

The solicitor crafted a knowingly false explanation of events for the client to use in the criminal case. He even offered to arrange a false witness if the client paid him the sum of £25,000.

Unknown to the solicitor, the undercover reporter had recorded the entire interview.

In the following criminal charges, the solicitor received a custodial sentence for attempting to pervert the course of justice. When the case went before the SDT, he was struck off the roll of solicitors and ordered to pay a fine.