

The rotten apple: dealing with a dishonest solicitor

At least one medium-size firm has collapsed under the weight of unsatisfied fraud-related claims, warns **John Gould**



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Although relationships within firms can have their ups and downs, the vast majority of partners in legal practices trust each other and are right to do so. But, sometimes lawyers turn out to be dishonest, and the victim is just as likely to be the firm as its clients. The consequences can be catastrophic.

The signs that something is wrong may be small and subtle. A partner may have an apparently close or social relationship with a client who is not obviously of high integrity.

A partner's private life may be surprisingly extravagant or involve levels of alcohol or risk-taking that are unusual in the firm. There may be evidence of dishonesty in their domestic life. They may evade explaining details of their work. Their financial performance

may be surprisingly good as an individual fee earner, leading to them being left alone. Client relationships may be kept very close. In trivial ways, they may not demonstrate complete propriety.

All this may mean nothing, but the problems of dishonest solicitors I have dealt with professionally include many instances of sudden and unexpected undeniable serious wrongdoing.

For colleagues, disbelief may rapidly turn to anger as the financial and other consequences for the firm become clear.

Systems come under scrutiny and are almost always tightened in case lightning attempts to strike again.

Mortgage fraud

A partner may become involved in mortgage fraud and, faced with huge claims, insurers may seek to avoid indemnifying the firm and not pay without dispute. At least one medium-size firm has collapsed on this basis under the weight of unsatisfied claims. In that case, the innocent partners were rendered insolvent.

Or a partner may raise bogus invoices as disbursements or claim expenses that add up to substantial sums. There are at least two recent examples of

well-known firms losing money, and the partners went to prison.

Dishonest partners may take bribes from their clients' opponents. They may use confidential information to obtain a personal financial advantage. They may use nominees to buy property cheaply from clients.

Tackling wrongdoing

So, how should such situations be dealt with when they arise? The short answer is that there is no easy way. Wrongdoers will often admit their conduct to the colleagues they have failed surprisingly readily – perhaps at some level it is a relief to have been discovered.

After safeguarding clients, the primary concerns have to be the regulatory, financial and reputational interests of the firm. There is little scope for mitigating the damage to the wrongdoer or their family.

Depending on the terms of any relevant agreement, suspension and termination are likely to be required quickly. An immediate report must be made to the SRA. A report to the police is probably appropriate. Insurers must be told.

Evidence must be seized and preserved, including by without-notice court orders in many instances. Unless a freezing order is obtained and

tracing is possible, eventual financial recovery may be poor as the wrongdoer may well become bankrupt. The facts must be established by a formal investigation, including an audit where appropriate.

A restrained statement to staff and a press release to be held in reserve are sensible. Engaging an agency experienced in protecting reputations may be required for larger firms.

All this is likely to be costly, disruptive and distressing, but strong and immediate action will give the best chance of mitigating the damage.

With the benefit of hindsight, there are many firms that wish they had watched for warning signs more closely and tightened procedures earlier. **SJ**



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