



Short Minutes Episode 62 - Transcript

Messaging Minefield: Managing Risks in Online Interactions

The continued rise of chat apps, social media and messaging as a method of staying connected has seen solicitors employ these tools with increasing frequency to communicate with clients, and it carries significant risk.

Recently, a claim was made against a law practice alleging inadequate advice. The solicitor with carriage of the matter had provided all advice via WeChat using her personal account. When the solicitor left the practice she erased the WeChat app on her phone, which, in turn, erased all the firm's correspondence with the client.

The firm had no systems in place to ensure it could extract and retain a complete record of instructions and advice. As well as making it difficult to defend a claim, this lack of a client file potentially placed the principal solicitor in breach of the Conduct Rules which contain an obligation to retain client records. Other risks of using chat apps for client correspondence include potential breaches of confidentiality, privacy breaches and potential waiver of client legal privilege.

When considering whether to communicate with clients on a chat app or social media, solicitors should:

- Keep in mind that if staff are using their own devices, access to most of these services usually occurs via their personal account which is out of the control of the legal practice
- If and when staff are using their own devices, the firm should implement security protocols including processes covering the extraction of communications for the firm's own record keeping purposes
- To the extent possible, secure or lock down chat groups to limit the risks of inadvertent waivers of privilege when unrelated parties join the group
- Schedule regular updates and backups of chat apps and messages so that communications can be retrieved in future.

I'm Elissa Baxter

[*Cyber Security Snapshot - Protect your Email, Chat Apps, Messaging and Social Media*](#)