



Short Minutes Episode 61 - Transcript

Making matters worse

Ineffective file management can have significant consequences both professionally and financially for the solicitor and the client and the case of *The Law Society v Titmarsh* brings this issue into the spotlight.

In this case the solicitor admitted a gross delay in effecting the transfer of land following the death of the registered proprietor. In fact, 14 years had elapsed from when instructions were received to obtain probate of the will and when the beneficiary, who was entitled to the land, died, without the transfer having been effected. To make matters worse, there was a further delay in the administration of the estate of the beneficiary, with 22 months passing without action by the solicitor in circumstances where the solicitor was the appointed executor.

It was stated that the solicitor had a busy general practice and noted that his clients had been quite inactive during the periods where no progress was made in the matter. This begs the question: if a client is unresponsive, inactive, or the matter has lingered for a lengthy amount of time, what is happening with the file?

There are a number of risk management steps that can be taken to avoid problems associated with inactive files:

- Have a file review system in place and use it
- Identify problem files and in cases of inactivity, check in on the file and client at regular intervals
- Consider alternative strategies or options to move the file forward
- If possible, develop a system of peer file reviews and arrange with a colleague to swap 'problem files' on a regular basis. They may notice something that you do not.

Having clear processes in place can help draw attention to inactive matters, critical dates, looming deadlines and disinterested clients. In a busy practice, it is important to prioritise and it is understandably easy to ignore an inactive file while there are more pressing matters at hand. Inactive files can, however, be ticking time-bombs, and ignoring them can have serious consequences.

I'm Glenda Carry

[Council of the Law Society of New South Wales v Titmarsh \[2021\] NSWCATOD 170](#)