

Case Study

Anna is a sole practitioner with a busy general practice. Real estate conveyancing constitutes approximately 10% of Anna's practice. Anna primarily works in the areas of general litigation, and wills and estates. Until very recently Anna had two legal assistants to assist her; Max, who has been at the firm for 10 years and her second, Luca provided her notice of retirement but has agreed to help train their replacement.

Scenario 1

Anna's has entrusted the real estate files to her assistant Max, who has worked for her for about 10 years. Max had been trained by a "good real estate paralegal" who used to work for her. Communications on all real estate matters are directed to Max's real-estate email inbox and though Anna has access rarely if ever looks in that email. Anna signs the cheques when needed but Max mostly manages the remainder of the file.

1. Has Anna complied with the direct supervision requirements in the Code? Why or why not?
2. What risks does this create from a liability perspective? How could these be mitigated?
3. What risks are there to the client? How could these be mitigated?

Scenario 2

Anna requires additional support for her other areas of practice, Max has a friend that is looking for a job that he thinks would be a great replacement for Luca. Max told Anna that his friend completed some diploma program recently but is not sure what it was in. Anna would like to get someone in ASAP to ensure they can be trained by Luca who is retiring.

1. What steps or processes should Anna implement to ensure their competence before hiring?
2. What process should Anna implement in the training process and ongoing supervision of the new hire?
3. How might the supervision of the employee be different after 5 years?

Scenario 3

Anna has inadvertently double booked herself and has asked Max to attend to a new client meeting in her place tomorrow. Anna has told Max that new client would like a Will and Power of Attorney and would like to discuss potential Small Claims matter against a contractor. Max has attended a few intake interviews with Anna to take instructions for Wills and Powers of Attorney and there are precedent questionnaires that Max can use. Max has been through the Small Claims process twice before on personal matters, including once against a contractor. Anna has asked Max conduct the initial interviews and to go over the standard retainer agreement for the action against the contractor as well as the fees for a standard Will and Power of Attorney.

1. Has Anna complied with the direct supervision requirements in the Code in asking Max to take this meeting and the instructions she provided? Why or why not?
2. What should be communicated to the client in advance of the meeting?
3. What is the extent of Max's role in relation to the two legal matters?