

# How to make an impression

**FORGIVE THE BLUNTNESS**, but it comes from spending three weeks in Australia. The question is: have you ever been sued for professional negligence? If you have, did you wonder why? The short answer may be because you were incompetent. Don't take offence yet. We will come to my own incompetence in a while. The long answer may be more complex.

Next question: when kicking your heels at a crowded airport, weighed down with your heavy carry-on baggage, have you, as I did recently, browsed the business and lifestyle books in the bookshops, and have you noticed the overwhelming number of international number one bestsellers that you have never heard of? Usually their theme is how-to-make-a-million-with-no-effort, how-to-make-a-living-by-only-working-one-hour-a-week or seven-steps-to-assertiveness.

What puzzles me is this: if all those writing the "how to" books were as good as they say they are, why aren't they out on their yachts spending their money instead of writing World #1 bestsellers? And what counts as an international bestseller anyway? Seven sold in Kurdistan, three in Turkey and one in the Seychelles?

## How to go with your gut

With a rising sense of frustration I skimmed rapidly through the titles and if I had blinked I would have missed it, because the book I came across was actually called *Blink* by Malcolm Gladwell.

I read the first chapter to the increasing disapproval of the glum lady behind the cash till who started very obviously looking at her watch every few minutes. I decided I could not put it down. The theme is very simple: many decisions we make are based not on hours of research, consultation with gurus and painstaking investigation; they are made instantly and as often as not are better decisions than those that are taken after long investigation and research.

Its opening chapter concerns a statue of a naked man (known as a kouros) that turned up at a famous museum. Because it was in good condition, there was suspicion that it was a forgery. The museum commissioned all manner of experts to examine it and advise whether they thought it was genuine. Every

expert concluded that it was a genuine relic from several hundred years ago. Accordingly, the museum proudly agreed to hand over millions for the priceless work of art.

Then, so the tale goes, another expert came along and within seconds concluded that it was a forgery and that the museum had paid a fortune for a price-less piece of marble.

And what was different about the second expert? It was simply gut reaction. When analysed, her conclusion was down to recognising patterns. It did not feel right.

The point about *Blink* is that first impressions are not only very important, they are also very accurate and powerful in forming lasting opinions.

I once had a client, a businessman, who consulted me. In our first meeting we got onto the subject of standards and he was very firm that there was not enough honesty in the world and it was a great pity that more people were not straight – and here he leaned forward – "like you and me". I immediately came to the conclusion that the man was a crook.

I then got to know him and did lots of work for him. I came to regret ever distrusting him. Not many years later he was arrested for a massive VAT fraud that had been going on since long before we met. My first impression was spot on. My considered view was not.

First impressions are so powerful that they can be influenced in very subtle ways. If you give someone a list of negative words then introduce them to a stranger, they will be negative towards the stranger.

Advertisers use the same subtlety to induce people to buy their products. The right colour or design of package can nudge a customer to buy one product in preference to another, even though the products are exactly the same.

## How to avoid being sued

And that brings me to being sued. I told you I would get there in the end. According to Gladwell in *Blink*, those who give good care to their clients are far less likely to be sued than those who do not. A study of doctors in the USA revealed that doctors who on average spent just a few more minutes in each



consultation with their patients were considerably less likely to be sued if they made a mistake, even when they were blatantly negligent, than those who did not give that extra care.

I once had an accident-prone partner. He was often missing limitation periods or deadlines. But he was also absolutely charming and all the clients loved him. When he committed a foul-up nobody could bring themselves to make a claim against him.

On the other hand, in my early days as a solicitor I lavished huge care on a commercial client and ran myself ragged to respond to its every demand. It was a finance company and for reasons known to itself it decided to lend on the security of a car crushing plant in Scotland. Knowing even then that you do not touch anything north of the border, I handed over to Scottish solicitors. Unfortunately, the asset was not properly secured and the company lost money when the borrower defaulted. It was the only time I have actually been sued (though I have had a few near misses). It was an unspeakably stressful experience and I would not wish it on anyone.

Which only goes to show: every rule has an exception but, if you want to increase your chances of not being sued, you will undoubtedly find that the clients who worship you – particularly those who fell for you on the first encounter – will forgive you almost everything. Or you could avoid being negligent, but that is asking rather a lot.

The far better solution is to write a number one bestseller on some enticing subject, like *How to Make a Fortune in a Legal Aid Practice by Working Only On Tuesdays*, or *How to Assert Yourself When a Judge is Rude to You and Pulls Funny Faces*.

I am happy to say that I too am now a number one bestseller, because I have received a fan letter from Australia.

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