



HOWARD WORTH

CHARTERED ACCOUNTANTS & BUSINESS ADVISERS

legalgroup
news

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LEADING ADVISERS IN THE LEGAL SECTOR

are clients sitting on your money?

Offering clients and customers credit is standard policy and practice in most business sectors. It reduces risk for the customer and can make a service more attractive to prospects and customers.

But legal services, particularly solicitors, are renowned for their casual and undisciplined approach to credit control and management. For many law firms what looks like a 'policy' often turns out in practice to be inadequate or non-existent procedures for carrying out credit checks on new and current clients and a failure to chase late payers. The result is a greater risk of payment delay or default and a potentially damaging strain on cash flow.

The current credit crunch has led to a major cash and credit control wake-up call for many firms, and as a result many are now introducing procedures to identify potential problems before they occur and react quickly when they do.

A simple questionnaire can elicit basic details about a new client such as how long they have been trading, their corporate status and who their owners or main shareholders are. Solicitors are also now more commonly asking for trade references, who are then contacted for their opinion on the client's financial reliability, or banking contacts who can report on the financial health of the business.

Firms are now implementing increasingly businesslike policies that other commercial and professional

sectors have long regarded as a normal part of doing business. By setting credit limits for individual customers they are keeping outstanding debts to a minimum, and by using CRM software they are reducing the credit period to a realistic number of days.

Finance departments are also chasing late payment more urgently. Traditionally, a simple phone reminder has been enough to speed the process up, but many firms are formalising the process, using software to formally flag late payment then suspending services to clients or hiring a credit agency to chase debt. To an extent this is a culture shift for solicitors, who have often been too relaxed about client payment. Gathering information about the methods of credit control used elsewhere and bringing them into legal services has often been slow as a result.

The Better Payment Practice Campaign www.payontime.co.uk is a source of useful advice.

The Solicitors' Profit Improvement Workshop © developed by the UK200 Legal Group, covers areas of credit control, keeping cash flow healthy, WIP, practice management, IT systems and strategic planning. Supported by the Group's benchmarking, valuable performance indicators highlight problem areas, risk assessment to help reduce PI insurance premiums and claims, and identify real opportunities for business growth an increased profits.

www.uk200group.co.uk/legal



Jack could be right!

In March 2008, The Right Honourable Jack Straw MP, Lord Chancellor and Secretary of State for Justice said:

"The Legal Services Act 2007 is a catalyst for more growth in the profession and for the legal services market to flourish...."

This will enable multi disciplinary practices to deliver convenient services, such as conveyancers, estate agents, mortgage/financial advisers and surveyors making the home buying process easier.

"But it is not only about consumer choice..... by permitting different types of lawyers and non-lawyers to work together to provide a range of legal and non-legal services, lawyers will have greater flexibility in structuring their businesses...."

Recent research by GT indicates 69% of solicitors view accountants as their preferred business partner for financial services. The next-generation of independent financial advisers, working on a fee basis with advanced levels of specialist qualifications, are also partnering law firms. We already see how pension issues on divorce, investments for trusts and personal injury damages awards, delivered through complimentary services deliver real value to legal firms.

The SRA already encourages responsible preparations for the setting up of ABSs allowable in 2011. These can include discussions with potential business partners, non-binding agreements, or even entering into flexible contractual arrangements to be activated once the regulatory requirements change.

"ABS will go further still. By opening up opportunities to access external investment, the Act also facilitates the expansion of firms and investment in large-scale projects - IT is just one particular example, but the opportunities extend far beyond that...."



Law firms have a lot at stake if they don't take advantage of the opportunities available both at home and abroad to become much more competitive and financed in different ways. Floatation is an option and particularly attractive to outside capital investors.

Commerce has been radically changed by the Internet. Innovations in the US like www.wired.com recently reported on Richard Granat, a pioneer in 'elawyering'. He doesn't simply provide legal documents for downloading, he offers an online child-support calculator for those going through relatively amicable divorces. He designed a tool to decide whether a Chapter 7 or Chapter 13 bankruptcy was needed, generating legal forms, which may be reviewed by a licensed attorney to suggest, or offer, legal advice over the telephone.

As the World increases its use of internet, tremendous opportunities exist in applying it effectively in the legal profession.

"Firms will be able to reward non-legal staff in the same way as they reward lawyers, making it easier to attract high quality experts to take businesses forward. Firms of the future could have partners that are finance or marketing directors...."

Research by The Legal Practice Group reveals issues of concern to managing partners of progressive law firms include:

- mergers & acquisitions
- business planning
- commoditisation
- change in management
- investment and funding
- brand development and marketing

All firms will be able to attract and reward their own professional staff in areas key to moving their businesses forward. Bringing in the business skill sets lawyers lack and fresh practice management procedures.

".... it provides a radical opportunity for the profession to put itself on a more competitive footing."

The Legal Services Act 2007 is taking legal practices in new directions. Yet the challenging opportunities of the new legal landscape is exciting, and with careful investment and development businesses can be more efficient and profitable. Jack Straw MP may well prove to be correct. The future looks bright for firms that are prepared to be forward thinking.

in brief

Steps to minimise breaches of DPA

The Law Society has published a practice note for legal professionals on the Data Protection Act (DPA) 1998. Aimed at managing partners and practice managers, the guidance covers good practice for compliance with the Act and gives legal professionals advice on how to process the personal data of clients. To read the practice note go to: <http://snipurl.com/jtlz6>

Solicitors are not infallible, says Court of Appeal

The Court of Appeal has ruled that solicitors and barristers do not need to show that they are any more "omniscient or infallible" than other professions, such as doctors or architects, to avoid being found liable for professional negligence. Law firm Pritchard, Joyce and Hinds (PJH) had originally settled a

lawyers provide community services

Despite the recession, opportunities for providing legal services to the public sector, charities and social enterprises remain good and in some cases are increasing.

Doing business with the public sector in particular provides a number of benefits. Contracts tend to be awarded transparently, payments are usually made on time and the legal issues likely to arise are varied and affect local people and communities. Finally, winning public sector clients to a firm's books can be a badge of reliability that can be used in the promotion and marketing of its services.

Public sector organisations use legal services right across the spectrum and range from central Government departments to local authorities, regional development agencies, health authorities and Primary Care

Trusts. They often commission legal advice on retainer (as and when needed) or for specific purposes such as the large scale disposal of property, where specialist knowledge is needed to complement the in-house legal team.

Where litigation is needed, demand for advice involves drafting of papers and gathering evidence prior to hearings, advocacy or dispute resolution, and in the case of trial or committal, instructing barristers. Advice is also needed for prosecutions of benefit fraud, consumer protection, infringements of health and safety, food and environmental legislation.

Complicated employment issues during mergers of academic institutions and other public private partnerships, and for social service agencies in the area of mental health law is always in demand.

Charities and voluntary organisations turn to solicitors to guide them through complex areas of charity law. Forming an organisation, meeting the guidelines and regulations imposed by the Charity Regulators, ensuring events, fund-raising, marketing and employment are all conducted within the law, are some of the areas charities have to ask lawyers to resolve. Non-charitable associations and social enterprises also seek legal advice, particularly on financing, company law and the implications of using volunteers.

The extraordinary growth of the charitable sector has, due to the recession, faltered. Nevertheless, the charities sector continues to grow in sophistication, with the third sector environment presenting complex legal problems, legal advisers are likely to have an increasingly important role in years to come.

negligence claim for £270,000 brought against it by former clients, and had then sought to recover a proportion of the claim from the two barristers instructed in the case. Mr Justice Underhill had in the first instance held that the barristers had been negligent and should pay the solicitors 75% of the claim. However this was reversed by the Court of Appeal who said that Justice Underhill had set a standard which was too high. Lord Justice Sullivan said that he hadn't been persuaded that there were any errors, and if there were "they could not be reasonably described as 'blatant' errors".

A spokesman for PJH said they were not happy with the judgement, but the firm would not be appealing against it.

For more on this story go to: <http://snipurl.com/jtlzo>

streamlining can be good business practice

The recession has led its share of high-profile redundancies among solicitors' firms. The pain is being felt in all departments, with partners, solicitors, and legal executives all affected.

Like all employers, law firms have a specific responsibility to ensure lay-offs are carried out legally and ethically. As well as managing the outplacement process sensitively and efficiently, firms have needed to pay special attention to limiting any reputational damage caused by a perceived drop in standards of service to clients.

Many firms have seen cut backs in administrative services but the need for bookkeeping, marketing, human resources and IT doesn't go away during a recession. Whilst outsourcing is not new in legal firms, it is being increasingly used in a bid to cut costs and streamline the practice. Outsourcing whole departments may be seen as a temporary solution,



but the more strategic firms are viewing this as a longterm partnership and selecting a service provider can take weeks of preparation.

In broad terms, the legal sector is undergoing fragmentation. Improvements in communications, liberalisation of the profession, and greater client power to switch firms are all pushing lawyers to specialise and devolve non-legal work with external providers. Outsourcing and Offshoring in a Recession <http://snipurl.com/jtykh>

The Law Society practice note for laying off legal staff is available at: <http://snipurl.com/jtykq>

Legal Services Act changes Solicitors' Accounts Rules 1998

In preparation for the introduction of Legal Disciplinary Practices (LDP's) and firm-based regulation by the Solicitors Regulation Authority (SRA) significant changes were made to the Solicitors' Accounts Rules 1998 (SAR's) on 31 March 2009 that will, quite literally, affect everyone working in a firm of solicitors.

With the introduction of LDP's, from 31 March 2009, it is possible for a partner in a practice, a member of a Limited Liability Partnership (LLP) or a director of a company to be a person other than a qualified solicitor, reports Richard Lane from

Legal Finance Professionals Ltd. Consequently, changes to the SAR's were necessary to bring the regulation of non-solicitors under the control of the SRA. In fact, amendments to the Administration of Justice Act 1985 and the Solicitors Act 1974 resulted in changes being made to the SAR's which were much wider in scope with the result that all employees within a practice are now subject to the SAR's. The SRA can instigate an investigation against any non-solicitor employee which could result in that individual being rebuked or fined. However, the SRA have stated that they will be proportionate and targeted in the manner in which they seek to exercise these new powers. That said, all individuals working within a firm, regardless of whether or not they are solicitors, can expect to be investigated and referred to the Solicitors Disciplinary Tribunal where they are responsible for serious breaches of the SAR's or acts of dishonesty involving clients' money.

The Legal Services Act has abolished the concept of a 'controlled trust', so all money held by a practice will be either client money or office money. This has significant implications for the payment of sums in lieu of interest under Rule 24 of the SAR's. Prior to 31 March 2009, controlled trust money was excluded from the interest provisions as there was a common law obligation to account for all interest earned on controlled trust funds regardless of whether those funds were held in a separate designated deposit account or in the firm's general client account. This is no longer the case and the same interest provisions apply to all clients' money, including money previously defined as 'controlled trust money'.

Rule 28, which allowed any client of a firm to apply for an 'interest certificate' where they believed they were entitled to receive either interest or a sum in lieu of interest but had not done so or were



unhappy with the amount they had received, has been repealed. Few solicitors will welcome the alternative remedy - clients are now encouraged to make a complaint to the Legal Complaints Service (LCS) where they believe that interest or a sum in lieu of interest was due but not paid or the amount paid was insufficient. As complaints about interest are dealt with as service complaints, these could prove to be costly both in terms of the time it will take to deal with the complaint and in the amount that a firm could be instructed to pay to a client if the complaint is upheld. Guidance issued by the LCS for solicitors states, "Where the client has not been advised that the rate to be applied is lower than they might be able to obtain we will apply either the court basic rate or the rate that your bank offers, whichever is the highest." The court basic rate is currently 0.3% - considerably higher than many solicitors are able to obtain on clients' money held in a client bank account at the present time!

Other changes include the introduction of more flexible, risk-based provisions for the delivery of Accountants' Reports which enable the SRA to demand that a firm submit a report where they believe it is in the public interest to do so and the introduction of a mandatory whistleblowing duty on reporting accountants.

Further information from www.sra.org.uk/accounts-rules



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www.uk200group.co.uk

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