

Will the lesson ever be learned?

Over the last few months I have visited many law firms, met accountants and had discussions with banks and other finance houses.

It is still amazingly apparent that many law firms have not learned the lesson about how much more important liquidity is than demonstrations of profitability.

I have encouraged revenue growth, achievement of billable time standards, billing and gross profit achievement but this cannot be at the expense of cash-flow as without money in the bank irrespective of paper profit, billing and WIP growth unless the cash is in the bank we cannot survive so there is an amazing need for financial capability rather than the ego of growth and usual target achievement or excesses. This applies at a fee earner and partner level.

In the November check list issued in November Cash Management featured quite strongly.

Unfortunately big and small firms have not taken heed and are under pressure from their banks, not having drawings available and in some cases borrowing money to pay their VAT.

The November check list stated:

“Cash Management

For many this is still the biggest challenge.

- *Poor management in this area can adversely affect up to three hundred firms a year and of all sizes*
- *Credit control is essential but too late in the process*
- *Close review of lock up is perpetually essential*
 - *Validation of realisable WIP is perpetually key as unless we are to be paid for it, it is of little value*
- *Time recording is key even on fixed price activity as it is essential that we at least know the cost of something before the next time and we need to compare individual performance and business process*
- *If offering fixed price litigation the what is included is key along with proper change control procedures*
- *Look at your client/file inception procedures to add in the agreement with the client of when they are to pay what; establish this billing profile and bill on time in line with the profile*
- *Include sensible estimates and a client risk assessment (ability to pay) is a good first step for every lawyer in every firm.*
- *To establish, working with your IT people, a means to monitor costs against the estimate to trigger early warnings when an estimate needs to be changed; and be bold enough to do it, making changes clear to the client. Most Practice Management Systems facilitate this now – just make sure it is deployed*
- *Always look at discretionary costs and headcount and the inevitable timing of expenditure”*

And Now

Unfortunately the problem hasn't gone away.

In 2007 the world was a very different place. Because I was a professional lawyer I could call my bank and it was highly likely there wouldn't be too many objections from the professional bank manager to my overdraft being increased.

With the recession and major issues with the banks **that lack of professionalism disappeared**

Certainly now there are people that can potentially bail us out of trouble. Assure Law, Legal 360, our accountants (but it is often an added value service that is lacking) and others but to be quite honest control of this situation is within our own hands.

Thankfully, more of us are delegating accountability to department heads for billing, gross profit, time recording and cash collection as well as business development but so often they do not know what to do themselves or in managing their fee earners.

I would suggest that everyone first of all takes stock. The bare facts.e.g.

As at end of July 2015

Bank Balance	Overdraft £nnk	
Lock Up total	£n million	Department A £ Department B £ Department C £ Department D £
WIP	£n million	Department A £ Department B £ Department C £ Department D £
Outstanding Bills	£n thousand	Department A £ Department B £ Department C £ Department D £
Outstanding Disbursements	£n thousand	Department A £ Department B £ Department C £ Department D £

It is all very well having growing WIP – but is it all recoverable and when?

It is good to know that we have billed – but is it all recoverable and when

You will be potentially stunned by looking at these figures. They should also be looked at by fee earner. There is absolutely no point in having WIP that is unrealisable and not having a good idea as to when. Same applies to outstanding bills.

Imagine being a firm with £2.5million of lock up. Outstanding bills of £500k and a bank putting you under pressure on a £200k overdraft. Crazy stuff as it can so easily be fixed with realism.

Some actions

- Every fee earner should be able to give an update on when or if a client is going to pay a bill
- Every fee earner should be able to advise his manager as to when a matter is likely to close and what it is going to be worth when it does.
- Working files is no different than being a project manager – an end target date, stages through the process, problems that have to be fixed to get back to that end point within time and budget.
- There is no point raising a bill, setting expectations as to cash receipt when it is not going to happen.
- WIP, billing figures and cash forecasts should be adjusted at least monthly to reflect this.
- Many firms are these days discounting WIP over 6 months old in reflecting fee earner performance
- Why pay VAT and tax on figures that are not going to turn into cash? I even had a partner the other evening say that he didn't record all his time to avoid tax – I can see his point but that is not the issue.
- The working capital cycle starts long before the credit control activities and it sits with the fee earner
 - Give an honest appraisal of the work to be done
 - Explain the likely costs and disbursements – by stage preferably – Jackson has shown the way
 - Estimate the % chance of success
 - Confirm all of this with the client care letter
 - Discuss a billing profile with the client to handle the circumstances – size and length of activity, payment at end of case or payment in stages or periods. Money on account
 - If you are lacking the courage to discuss payment and many lawyers do then use the compliance rules – makes the “sensitive” discussion easier.
 - Most systems these days then allow you to set up a payment profile with the automatic generation of a draft bill and the collection of a regular direct debit
 - Check the clients credit limit within the firm – regular clients will not automatically qualify for a summation of estimates because of their circumstances
 - Keep the client up to date with potential amendments to estimates. Failure to do so upsets the clients and their experience and can lead to write offs and poor debt collection
 - Setting the ground rules in most cases is not a turn off for the client – he knows what to expect in terms of service, he knows what to expect in terms of paying bills, he could be offered a choice of payment methodologies. The client will understand the professional approach
 - Time recording – use your electronic system – it gives you a clear history. Clients are not daft and expect you to keep a time record of work being done. The history also gives a platform to discuss potentially higher fees going forward

- Regularly review against cost budgets by stage or the whole file and credit limits. This provides the opportunity to discuss variances with the client
- Billing – make sure you achieve the profile you have agreed with your client
- Be prompt with your bills – bill at the due moment or immediately at the end of the file. Don't leave it to the end of the month as that first access may have been denied. Capitalise on the euphoria moment. If not successful believe it or not he is likely to pay quicker than if he has time to brood
- If you are working on a fixed price deal – even litigation make sure that his expectations of what is included are very clear

Please, please be real. The thing that really matters is the ability to pay the bills, staff wages even your own drawings. It is all in your own hands too.

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