

SIX WAYS TO REDUCE YOUR LEGAL FEES

In austere times, there is always pressure to reduce overheads. Lawyers can add value to your business if they provide focussed advice when you need it, but it is important to keep control of the budget for any legal project. Lesley Pollock, a partner in the commercial property team at Henmans LLP, puts forward some suggestions.



Lawyers have a reputation for being expensive, but to get the best value for your money there are a number of things you can do to reduce your legal bills. Some of these require you to plan in advance or to act in a different way, but all can be effective in limiting the time your solicitor has to dedicate to carrying out your instructions, which in turn will have an impact on the fees you have to pay.

An important thing to bear in mind is that most solicitors record their time to each file in units of six minutes. If, for example, your solicitor is acting for you on the basis of hourly rates and a conversation lasts for half an hour, you will be charged for five units at the solicitor's hourly charge out rate. A short letter written by the solicitor on your behalf will usually be charged as one unit. When the matter is invoiced, the fees will be calculated by adding up the amount of units recorded to the file and applying the solicitor's hourly rate. It is easy to see how time can mount up and result in a hefty bill.

Attention to a few straightforward guidelines should mean that you retain control over the amount you are spending and avoid surprises. Here are Lesley's six top tips:

- 1 Clarify the basis of charging at the outset.
- 2 Ensure that the scope of instructions is clear and complete.
- 3 Communicate with your solicitor in a focussed and organised manner.
- 4 When dealing with a transaction such as a commercial lease, ensure that the terms are fully negotiated before the paperwork is drawn up.
- 5 When involved in contentious matters, weigh up the risk and likely cost of the dispute and take a commercial approach to strategy and tactics.
- 6 Consider alternative methods of dispute resolution rather than a court hearing.

The basis of charging

All solicitors are required by our professional rules to provide clients with the best information possible about the likely cost of a matter, both at the outset and as the matter progresses (rule 2.03 of the Solicitors' Code of Conduct). This means that we are obliged to issue a letter setting out the basis of charging.

Hourly rate charging is not the only option available. It is often possible to agree a fixed fee for certain types of work, especially those of a transactional nature, such as a purchase of a freehold property or entry into a commercial lease.

For other legal work where it is not possible to agree a fixed fee, such as advice with an unpredictable outcome, or court work, consider asking for monthly invoices and/or seek to agree an initial ceiling so that your solicitor must seek approval before incurring costs beyond that ceiling. This enables you to keep the legal spend under regular review and gives you the option at any point to decide that you wish to call a halt to proceedings.

At the outset, it is also wise to check whether you have insurance that will cover the legal costs.

Alternatively, some solicitors are able to offer conditional fee arrangements for certain types of contentious work. The initial letter should make it clear whether this is something that can be discussed.

When you receive this important letter, ensure that you are happy that the terms you have agreed are correctly recorded. If there is anything that is unclear, or you wish to explore whether alternative methods of charging are available to you and would be advantageous, the time to raise this is as soon as you receive the letter.

Scope of instructions

As well as ensuring that all solicitors have to agree the basis of charging when instructed, our professional rules also provide that we must identify the objectives in relation to the legal work we are to carry out, agree next steps and identify the work that is to be done (rule 2.02). In other words, the scope of the work we are to do must be clear. This is usually covered, along with the cost basis as mentioned above, in the initial confirmation of instructions letter at the outset of the matter.

When you receive this letter, check the scope of instructions that is set out to ensure that it covers all aspects of the matter and does not omit any work that you need your solicitor to carry out. For

on. This will help to ensure that the points that are likely to need most negotiation are identified at an early stage, which can save your solicitor's time in the long run.

Fully negotiated terms

Above all, making sure that your instructions are clearly expressed is crucial.

A useful example relates to the negotiations that precede entry into a new lease. Usually, the result of the negotiation of terms between the landlord and the tenant is recorded in a document entitled "heads of terms", which is then circulated to notify both parties' solicitors of the agreed terms. The solicitors then work from these heads of terms to agree the lease documentation. However, if there are issues that are important to the parties that are not covered by the heads of terms, this can result in difficult negotiations between solicitors, costing legal fees for both parties that were not anticipated.

It is also always a good idea to run the heads of terms past your solicitor before they are finally agreed, because the solicitor may be able to identify issues that are not covered but still need to be agreed. The solicitor might query issues that are not usually agreed in the current market, advise you of the legal position and clarify your instructions.

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example, if you are a tenant taking a new lease, do you need to carry out fitting out works to make the premises suitable for your occupation? If so, you are likely to need a licence for alterations to be granted by the landlord (and any superior landlord) as well as the lease itself. Failure to include the licence for alterations in the scope will mean this aspect of the work will not be covered by the cost basis and you will need to agree the fees for it at a later date.

Communication

As already mentioned, your solicitor will usually be costing the work done on a time basis. If you remember this, you can help us by making sure that all discussions, whether at meetings or on the telephone, are kept focussed and to the point. Time preparing in advance for such discussions is always well spent.

Consider whether there is anything you can effectively do yourself rather than asking your solicitor to do it on your behalf. Usually this will be an administrative task, such as making sure that full addresses and other contact details are supplied in writing.

Taking a commercial lease as an example, your solicitor will usually show you the draft at an early stage. Take the time to read and digest it and point out any difficult issues to your solicitor early

Tell your solicitor what are the most crucial deal breakers in any transaction before they start the legal work, and what drives the deal from your point of view.

Again, taking a commercial lease as an example, this is a lengthy document covering all kinds of issues that may arise during the life of the lease. Some of these are likely to be more important to the tenant than to the landlord and vice versa. Knowing the negotiating position before the draft is prepared can be very valuable to the solicitor. An experienced commercial property solicitor should be able to work with their opposite number to achieve a successful outcome to the negotiations. The ideal solution is to see the deal done, for the benefit of both parties, striking a balance so that both parties are happy with the end result.

Commercial approach

Going to court can be very expensive. It is almost always unwise to litigate about principles, which at best may result in an expensive pyrrhic victory. Sometimes disputes cannot be avoided and in those circumstances it is crucial to ensure a commercial approach is taken to assess the benefit of pursuing your position. Your solicitor should be able to guide you through this, but they will need your assistance.

Your solicitor will need early and full access to the relevant documentation behind any dispute. Without this, the full picture cannot be seen, and time can be wasted if an assessment of risk is taken in ignorance of some of the available evidence.

It is essential for your solicitor to be able to establish both what is the negotiating gap between the parties, and what is the reason for the gap. It is also important to identify early on what your settlement parameters are. The correct approach to strategy and tactics can only be taken if these are known. Strategy and tactics are critical to a cost-effective and commercial approach to resolving contentious issues.

Alternative dispute resolution

When involved with a dispute that is unable to be settled by negotiation between the parties, going to court is not the only way of resolving a dispute. It is worth exploring the other possibilities with your solicitor. Depending on the type of matter, there are a range of options and these can include PACT (professional arbitration on court terms), mediation, early neutral evaluation and ombudsman schemes.

In certain situations, such as recovery of commercial tenant arrears where the landlord

wishes to forfeit the lease, there are various methods available, such as peaceful re-possession. Again your solicitor will be able to advise you of the most cost-effective options.

Cost-effective approach

Our lawyers at Henmans LLP are all specialists in their own fields, and we can provide a high quality cost-effective service at very competitive rates. Our approach is to provide commercial, practical and clear advice in a friendly manner by skilled lawyers with the relevant experience, who will work with you to achieve the right result. Whoever we act for, our approach is professional rather than confrontational. We know that both parties in a transaction have the same aim: to see the deal done. The best solution is found by exploring points of common interest as well as resolving any contentious issues by negotiation, while always ensuring that our clients benefit from the best advice on their legal position. We like to use common sense solutions and you can help us to help you by observing the guidelines set out above.

Please visit our website for more information www.henmansllp.co.uk. Contact Lesley Pollock on 01865 781000 or Lesley.pollock@henmansllp.co.uk for commercial property matters.