

Investing in efficiency

Nigel Williams on what personal injury firms need to do to survive in a post-Jackson legal landscape



The Jackson Reforms that took effect from 1 April 2013, especially impact personal injury (PI) firms, who can no longer use 'no win no fee' conditional fee arrangements to recover success fee from losing parties. Referral fees too have been banned, amid concerns of the high cost of civil litigation, rising insurance premiums, increasing numbers of claims and the perception of a "compensation culture", where people are encouraged to claim for minor or even fictitious injuries.

PI firms face serious challenges. Without being able to recover legal costs from the losing side, profitability in PI cases is falling, making the financial position of many firms untenable. The Solicitors Regulation Authority has identified at least 1200 firms who face financial difficulty and hence require supervision. This situation is prompting many claimant firms to diversify and look for new revenue streams.

There is also a desperate consolidation drive taking place as PI firms look to merge with larger organisations. Some analysts predict that the number of small law firms in England and Wales could halve in the near future.

PI firms must develop a strategy to deal with the changing landscape or risk termination. Cost budgeting and optimised business efficiency is vital to profitability. Exploiting the right technology is a reliable way of achieving these goals.

Cost budgeting

The new way of working requires litigating parties to exchange detailed budgets in writing, extending to at least five A4 pages for matters that exceed £25,000. This 'Precedent H' encompasses costs for various activities including pre-action, issue of proceedings and pleadings, disclosures, witness statements, expert reports, pre-trial review, trial and settlement discussions through to contingency provision. Accurately estimating the anticipated costs across the litigation process at the outset of a case is a difficult exercise. While some processes and the corresponding costs will be common and repetitive, others vary based on case complexity. Given the volume of PI cases a firm handles, manual cost budgeting is extremely time-intensive, costly and inefficient.

Furthermore, the ability to accurately estimate budgets is dependent on many factors – an in-depth understanding of the variety of costs involved, time that could theoretically be spent on each versus actual time spent, cost of outsourcing partners, cost of evidence gathering, preparation time required and so on – and then modelling the time estimates to arrive at an accurate and profitable figure. Technology such as a flexible case management system can help firms to establish processes to automate measurement and budgeting, and support continuous quality improvement.

Business efficiency

Optimising resource allocation is key to increasing profitability and

adopting business process automation and workflow is a tried and tested approach. West Midlands-based law firm Higgs & Sons is an example of an organisation that proactively devised a strategy to achieve business efficiency, ahead of the implementation of the Jackson Reforms. Last summer the firm embarked on a premeditated project to assess its processes, pain points, market conditions and potential impact of the Jackson reforms to gain clarity on the state of the business and the direction the firm wanted to take. A combined IT and PI team identified nine core business processes that were proving to be bottlenecks and substantially re-engineered those processes in the firm's case and matter management system.

The results have been staggering.

Previously it could take the firm up to two hours to complete the letter of claim process. Re-engineering the process has reduced the time down to just 15 to 20 minutes, increasing overall through-put by 63%. All this is positively impacting the firm's profitability – increasing volumes and lowering costs. Now Higgs & Sons undertakes business process reviews on a three-monthly cycle – such is the pace of change in the PI sector.

Technology and efficiency go hand-in-hand

One of the key objectives of the Jackson Reforms is to strip out bureaucracy and costs, so it is essential that firms adopt a joined-up approach.

Adopting legal process management (LPM) is an obvious option. It is the application of project management skills to legal matters and

tasks, to provide a best-practice framework to ensure a structured approach to scoping, planning, pricing, executing, communicating, monitoring, tracking and completing legal matters.

LPM is embedded in top 200, consumer law firm Bott & Co via its case management system. Through its exploitation of technology, Bott & Co achieved a turnover of £11.8 million in financial year 2012-2013, which equates to £160,000 per head of staff.

Technology has further enabled Bott & Co to use its PI knowledge to diversify into a new area, offering consumers compensation for delayed and cancelled flights with the launch of Bott Aviation. The firm recovered over £500,000 in compensation for over 1000 passengers on about 400 separate flights in the first six months. The firm has issued over 500 sets of court proceedings in the small claims courts in the UK jurisdiction against airlines. The team comprises just five people.

A firm's choice of system in any volume business will play a major role in helping them achieve efficiency. A technology platform that seamlessly encompasses legal and business processes; and can keep pace with market and legislative changes should be the selection criteria.

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