

The Brief

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- does your Practice
have one?

04 Cash is King!
Keeping cashflow in
your practice!

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your Practice?

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Remain compliant -
take the course!

Essential news for legal professionals



welcome



Wayne Williams
Editor

Welcome to the third edition of the Brief.

In this edition you will find some useful articles on how to manage your firm during the recession. This includes how to manage cash and people.

Cash flow can be affected by the Legal Structure. Those that survive will no doubt move on to be very successful in the recovery. Having the right practice structure will assist that growth to be profitable and also assist cashflow. The article "How should the Modern 21st Century Legal Practice be structured," will I am sure help partners in their discussions on this increasingly important topic. If you need to downsize to take you through the recession then Roger Davies article on "3 options for Employee Cost Down" will no doubt be useful.

Enjoy this edition!

“A handy newsletter specifically designed to help busy legal professionals keep up to speed.”

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Does your Practice have a Legal Aid Franchise?

Do you want to retain this Franchise in the future?

“The LSC will work towards accepting the Law Society’s Lexcel quality assurance scheme as an alternative to the Specialist Quality Mark (SQM)...” *quotation from latest LSC update.*

SO WHAT DOES THIS MEAN TO YOU AND YOUR PRACTICE....?

If you are currently a Legal Aid practice and retain the Specialist Quality Mark of the Legal Services Commission, you will have to obtain and retain the Law Society Lexcel Quality Mark, to enable you to retain your Legal Services Commission franchise.

WHAT SHOULD YOU DO?

You will need to bring your whole practice up to the Lexcel standard, including those categories of law (typically non contentious) that are not currently covered by either quality standard.

WHERE CAN YOU GET HELP?

CPM21 can help you with;
 Identifying areas of your practice that are not compliant with Lexcel
 Upgrading your office manual, client care, and other key procedures to meet the Lexcel standard
 Train you, your staff and fee earners in the requirements and changes to your working practices to meet the standard

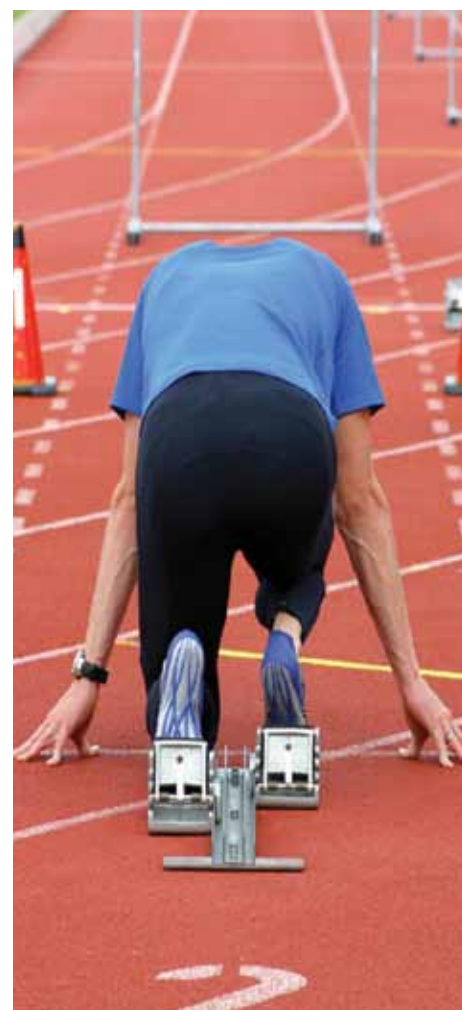
Help set up the infrastructure needed in your practice for Lexcel
 Conduct pre-audits to establish your readiness for the Lexcel audit

CPM21’s Law Society approved Lexcel Consultants have an excellent track record in preparing practices for Lexcel accreditation. Our record speaks for itself - we have a 100% pass rate for practices achieving Lexcel after we have prepared them.

DON'T DELAY

There will be a significant increase in demand for our services in this area as the date approaches.

Call us now to discuss booking your - LEXCEL Readiness Audit or email legal@cpm21.co.uk



Lexcel
 Practice Management Standard
 Law Society Accredited



Cash is KING

It is now generally accepted that the UK economy is in a bitter recession, with businesses of all types closing or contracting in size up and down the land. This article concentrates on cash flow, and what solicitors can do to improve it.

With the banks reversing all their lending policies and calling in overdrafts with little or no notice, this really is a time where cash is king. Cash in the Office account is now one of the most important things to control, yet solicitors practices still manage to ignore the basic steps to ensuring that it is in credit.

There are three basic items that should be concentrated on, whether a practice is trading in a recession or not. These are;

- Payment on Account
- Interim Billing
- Aged Debt Recovery

Payment on Account

There are still firms who only ask for payment on account to cover their planned disbursements, and some senior solicitors still don't like asking their clients for advance payment. When the matter being worked on is likely to take a considerable time, then the practice will not only suffer from a cash flow perspective, but also from a WIP (Work In Progress) perspective. This is because WIP, or unbilled time, attracts tax liabilities, the higher the WIP, the higher the taxable amount. Effectively without payment on account, the practice is allowing the client to treat it as a bank, with a credit facility for its services. But the client isn't the one who has to pay overdraft fees, or take those nasty phone calls from the Bank Manager.

If the practice does not offer a free initial interview for its private work, make sure the client knows this and brings along the appropriate fee to the first interview.

Interim Billing

Another way to improve cash flow is to agree interim billing points, so that the client's bill does not become too large, and the practice is able to keep its WIP level down, therefore minimising its WIP tax liability and smoothing the practices cash flow. Again, some senior solicitors don't like asking clients for this payment, but once again, without it, the client is able to treat the practice as a bank, with a credit facility. A policy should be in place so that once a certain threshold level of WIP is reached, a bill is generated to the client.

Aged Debt Recovery

The final bill has been submitted to the client, so now it is time for the solicitor to forget all about it and get on with the next matter, right? Wrong. This is an area that a lot of practices seem to forget about. It is normal for a client to be offered 30 day terms for payment of their bill, but all too often this stretches to well over 90 days, and can probably stretch into years. Why probably? Most case management systems only list aged debt in 30 day periods, and anything after 90+ days is not listed as say, 120 days. A practice must implement processes to measure aged debt and have recovery methods in place to ensure that the bill is paid promptly. This can have a huge effect on cash flow, especially if the practice pays its VAT when the bill has been raised, as it is carrying that debt until the client pays up.

Sometimes it also pays to have a non solicitor manage this process, however it must be done in conjunction with the solicitor who provided the advice to the client.

The best way to manage the Office account and ensure it is in credit is not to work on any one of these things, but to have a balanced approach for all three.

It must be remembered that any practice managing their cash and billing clients will have to remember that they need to comply with Rule 2 of the Solicitors Code of Conduct 2007, and that their terms of business and client care letters are clear on these points.

For more information on how CPM21 can help your business please email: wayne.williams@cpm21.co.uk or visit www.cpm21.co.uk



CPM21 Would Like To Introduce You To:

"The Practice MoT"

What is the "Practice MoT"

A comprehensive audit typically taking two days where your practice will be reviewed against;

- Solicitors Regulation Authority - Solicitors Code Of Conduct 2007
- Legal Services Commission SQM Criteria
- Health & Safety And Office Physical Organisation
- Lexcel Standard Criteria
- Best Management Practice

At the end of the review, you will receive a comprehensive report outlining what was found and recommendations on how to move into compliance with the standards, or how to improve the practice.

The report will also outline what further support is available from CPM21 to "fine tune" the practice should you require it.

You cannot get this holistic service anywhere else, it is exclusive to CPM21

SO DON'T DELAY - CALL CPM21 TODAY TO TAKE ADVANTAGE OF THIS UNIQUE AND INNOVATIVE SERVICE.



In my last article I wrote about "How Should the Modern 21st Century Legal Practice Be Structured?", and have had a number of enquiries as to advising Legal Practices on restructuring their businesses for the new century and especially as cash flow is now paramount, and the impending changes to the LSC's system of bidding for Legal Aid work.

I will firstly address the cash flow considerations below, and address the entity issues in the next article.

Let us take a 6 person practice, with total tax paid in Jan 09 of £100k and with a further £100K due in July 09, and the same due for the next year. This means that the practice is liable for a further £300K in taxes, unless it does something now to mitigate the situation. This has already been crystallised for payment however it has yet to be paid, but unless there are significant changes, then this will be due on the dates without fail. At the same time the clients accounts profitability has disappeared, and practices are paying higher taxes as they have gone from "boom" last year to (I wont use the term bust!) famine this year.

It would be beneficial to restructure the practice into an entity that would immediately reduce payments on account by up to 85%, and this would be done bespoke to the practice to ensure that all of the personal requirements are met, and this reduction in the payments on account would immediately ease cash flow worries. Then depending on the entity structuring this should also allow for an over all reduction in your total taxes by 25%-75% depending on the amounts of profits and the final makeup of the entity in question, and the manner in which you extract the profits.

For small businesses struggling to collect debts it may be worth considering changing to the cash accounting scheme for VAT purposes. If annual turnover is less than £1.35 million then a business may use the scheme. Under the scheme the business will not be liable for VAT on invoices it raises, until it receives the cash. This can be a significant cash flow advantage for some businesses. As there are a number of conditions applicable and it may not suit every business, you should seek specific advice. In the instance using a figure of £15k per month, if this were able to to buy one months Vat, it would benefit the cash flow by £15K, and if it were a whole quarters, then it would add an additional £45k cash flow saving to go along with the expected £300K saving on payments on account.

This 1/3 of a Million cash flow injection could be the difference between redundancies and expansion in this current climate, and whilst it does not address the profit distribution question, which is a separate issue, it does address the most pressing issue which is concerning solicitors at present, cash flow.

Also under the current climate the value of goodwill, intellectual property, stock and work in progress may need to be written down in value. Such write downs, and possible bad debt write offs will all serve to reduce profits. Whether a sole trader, partnership, or a limited company there may be a case to consider changing the business year end to help reduce tax liabilities quicker or carry back trading losses to reclaim tax paid in the past.

The recent pre-budget report has increased the use of losses for businesses by allowing up to £50,000 of trading losses to be carried back a further 2 years on top of the current 1 year carry back. If you own a commercial property which is worth more than £250K or has had this much spent which takes the total cost over this amount, then it is possible to arrange a Cap Allowances Audit to see how much of the building can be designated for this, and it is typically 25%, so on a property worth £400, there would be a £100k cap allowance claim to be made, with up to 50% being used either in the current year, or even being used to go back a year, and reclaim some of the tax already paid by the practice.

This is all a highly complex area and the above must not be taken as any form of advice, merely an indication of what we can be offered as legal practitioners.

If you would like to know more then please look at our website in the first instance, then either call CPM21 directly who will inform us or contact us directly:

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Email: enquiries@elitefsg.co.uk
www.elitefsg.co.uk



More
Focused

Cash & Keeping/Expanding your Legal Services Commission Contract

It is easy to frown upon the poor “legal aid department” in the firm in good times. However, in more difficult economic times the “guaranteed” regular monthly payment from a solvent LSC creditor can make the difference between survival and extinction. Many Conveyancing and private Litigation departments have downsized over the last year but there is still a demand for legal aid lawyers and paralegals.

If you have an LSC contract, therefore, you may wish to treat it with a little more tender loving care as far as management and growth is concerned.

The payment routines of the LSC have continually improved over the last year with weekly as opposed to monthly payment runs and one off lump sum payments to help legal aid firms ride the recession.

If you therefore have a legal aid contract and were thinking of letting it go, you may want to think again.

In a recession the number of unemployed increases and hence does the number of eligible clients. Legal Aid has always run in a counter-cyclical pattern to the general economy and the flow of privately-funded clients.

If therefore you have a legal aid contract and want to retain it, you should have some KEY DATES in your “key dates diary”.

SEPTEMBER 2009 - Civil Bid Round - all Family, Social Welfare, Employment, Community Care, Immigration etc

If you fail to bid and bid in line with the minimum matter start requirements then you are likely to lose your contract by April 2010.

Don't leave it until July, August and the holiday season.

You need to start planning now.

Some key matters to address in your plan:

- Do you have enough category supervisors? - you will need 1 for every 4 fee earners.
- How many matter starts? - see the minimum bid levels in each category table below.
- In which procurement areas will you bid? - you need a permanent office in each bid zone in order to qualify to bid in main categories of law e.g. family.
- Will you have enough fee earners to bid for that number? - see LSC Max per fee earner table below.
- Note the LSC's current position on allowing consortia bids - no consortia bids for Family, only the Social Welfare Law cluster of HOU, WB, DEB - see LSC update on consortia dated 13th April 2009 www.legalservices.gov.uk/docs/civil_contracting/090413UpdateonConsortia.pdf

We will deal with Crime and BVT for 2010 in the next edition when the LSC's position becomes clearer.

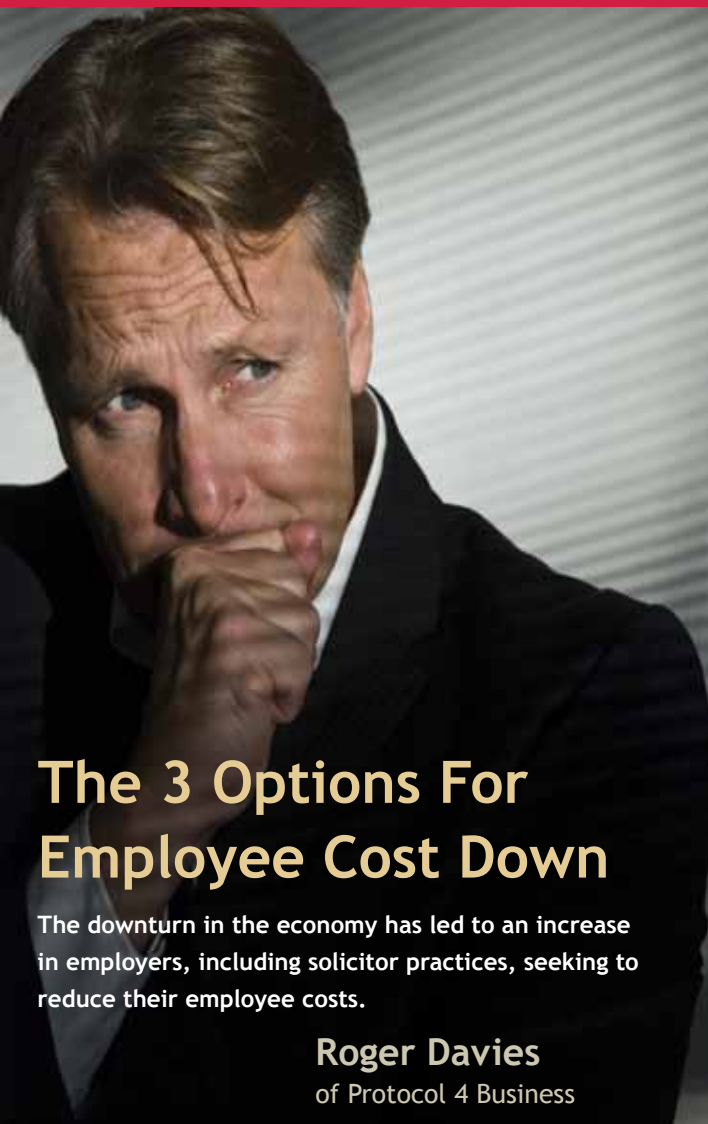
MIN MATTER START TABLE

Category Group	Sub Category	Minimum Legal Help Bid Size
Family	Private	100
	Public	5*
Child Abduction		N/A
Family Mediation	Family Mediation	N/A
Social Welfare Law	Debt	100
	Welfare Benefits	100
	Community Care	20
	Employment	30
Mental Health	Mental Health	30
Immigration & Asylum	Asylum (where provided with immigration)	100
	Immigration (where provided with asylum)	50
	Immigration only service (where no Asylum starts awarded)	100
	Asylum only service (where no immigration starts awarded)	100
Low volume categories	Actions against the Police etc (Police claim)	20**
Action against the Police etc (abuse in care claim)		30**
Clinical negligence		N/A
Consumer (professional negligence)		15**
Education		30**
Personal Injury		10**
Public Law		15**

* Providers bidding for public law children work who represent children only within this category of work will not be required to meet this minimum new matter start size, as they will be instructed upon the issue of proceedings. All public law children providers will be required to bid for a minimum of 10 Certificated Work matters.

MAX NMS PER FEE EARNER TABLE

Max Number of NMS per FTE	Categories
150	Family Private
250	DEB/WB/HOU & Consumer
200	Community Care, Employment, AAP
100	Mental Health, IMM & Asylum
180	Education, Public Law
230	Personal Injury



The 3 Options For Employee Cost Down

The downturn in the economy has led to an increase in employers, including solicitor practices, seeking to reduce their employee costs.

Roger Davies
of Protocol 4 Business

In general there are three main ways in which employers can seek to reduce their employee overhead costs. These are; redundancies, lay-off or short time working; and a reduction in salaries.

Each of these options presents their own problem and own set of hurdles over which an employer will need to jump in order to avoid any potential legal claim. This article is based on the assumption that there are no collective agreements in place (an agreement between trade union and employer) and that any redundancies will involve less than 20 employees.

The first hurdle in any redundancy process is to demonstrate that a redundancy situation actually exists. To achieve this, an employer will normally need to demonstrate that there is less work of a particular kind at a particular location. Any attempt by an employer to use the redundancy process as an excuse to dismiss problematic employees will incur the wrath of an employment tribunal and will be recognised as a sham redundancy. Central to a fair redundancy procedure will also be the requirement to engage

in meaningful consultation and to select fairly based on, wherever possible, an objective selection criteria. Any redundancies (of the non-collective kind) initiated prior to April 6, 2009 will also have to comply with the statutory dispute resolution procedures. As part of a fair redundancy process employers will also have to consider alternative employment and explore alternatives to compulsory redundancy, for example by considering implementing voluntary redundancies, reduced hours and early retirement.

The downside of a redundancy process is that often, in particular where employees have long service, the resultant financial benefits to an employer which stem from a redundancy programme will take some considerable time before they are felt. A long serving employee, under the statutory redundancy entitlement, could walk away with up to 30 weeks pay, with an additional 12 weeks' notice period.

Due to the potentially long-term pay-back time for redundancy costs, employers are increasingly looking at the option of short-time working and lay-offs as it has the advantage of being able to provide immediate financial savings and also enables an employer to maintain its workforce in preparation for any forthcoming upturn in the economy. In order for an employer to either lay-off or place an employee on short-time working it must either have the agreement of the employee, or there must be a contractual right to such layoff or short time working. Alternatively, there must be clear custom and practice over a long period of time where employees have been laid-off or placed on short-time working, without their usual pay.

Where an employer has a right to implement short time working or layoffs, an employee is entitled to a payment of £21.50 per day for the first five days lay-off or short-time working during any three-month period. It should also be remembered that after four weeks' continuous layoff an employee is entitled to apply to be made redundant. The process for application, and agreement or otherwise, is complex and specific advice should be sought on this issue, if you find yourself in this position. Where layoff is not continuous, an employee may apply to be made redundant where a short time working arrangement has existed for any 6 weeks within any 13 weeks period.

In addition to the immediate financial benefit of short-time and lay-offs, employers are also increasingly considering the option of reducing employees' wages. As a general rule, an employer is only able to reduce the salary, or hourly rate, of an employee where there is a contractual entitlement to do so. Even then, this right needs to be exercised reasonably. In the absence of such a contractual right an employee will need to be consulted and accept the proposed variation.

Practical tips for negotiating such a variation would include agreeing a timescale over which the reduction will last; trading a temporary increase in holiday entitlement; and 'guaranteeing' that there will be a moratorium on redundancies for a particular period of time. Only in exceptional circumstances should an employer embark on a process to forcibly reduce salaries or hourly rates where there is no contractual right to do so.

In order to more fully implement such a reduction in salary or hourly pay, an employer would first need to demonstrate a sound business reason for such a proposal, followed by full consultation with all those employees affected. If such consultation should fail to bring about a negotiated settlement an employer is able to serve notice on an employee with an offer to re-employ on the new terms, with the reduced salary. The notice period to be served upon an employee would be the longer of the contractual notice or statutory notice. The real danger with such a forced salary reduction is that an employee has the right to refuse to be re-employed on the new terms and is able to bring a claim for unfair dismissal. On this basis, it is suggested that only in exceptional circumstances should a forced reduction in salary be implemented.

Whilst understandably, employers are acting quickly to reduce overheads due to the current economic woes, care needs to be taken to ensure that skilled workers are retained for post recession recovery. In many instances layoffs, short-time working and salary reductions will deliver quicker financial benefits for the employer, will retain skills in-house and ultimately will generally be favoured by employees over the alternative option of redundancies.

Forthcoming CPD Courses from CPM21

CPD Accredited Courses offered by CPM21 at recession-busting prices!**FREE ONE DAY SEMINAR** (5 CPD Hours)**CARDIFF – 22nd June – How to survive the recession?**

- Is your partnership/LLP structure the best form to survive and prosper?
- How might I significantly improve my cash flow by changing my structure?
- How should I be planning for the recovery?
- How do I improve my cash flow now?
- Should I downsize or grow? - controlling staff capacity and cost/expenses

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- How to work with and help supervise others

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(*maybe you can slip in a game of golf before or after the course!*)

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- How to deal with the ever-challenging Bank Manager telephone call
- How to make a profit

Courses held in : London, Reading, Bristol, Cambridge, Cardiff, Swansea, Carmarthen, Aberystwyth, Llandudno, Manchester, Birmingham, Leeds and York.

Contact us for more information on dates and venues legal@cpm21.co.uk



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