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UK200Group news
Legal

Forrester Boyd
CHARTERED ACCOUNTANTS

Law firms lack confidence in negotiating fees

Almost 70% of law firms say they lack confidence when negotiating fees. This is according to a study by The Thriving Company, which also found that 40% of firms don't know what proportion of their client relationships are profitable, and 28% don't have any staff with training in pricing approaches.

According to the study, firms expecting to achieve a 10% increase in profitability over the next three years used a value-based pricing approach twice as much as those expecting lower increases, who favoured billable hours.

The study also revealed that law firms believe more training in value pricing would increase profitability, rather than the use of hourly rates or fixed fees. Value pricing, where fees are explicitly based on the known value to individual clients, was used by 14% of firms. Fixed pricing was used by 39%, with 34% using billable hours. Around 58% of senior leaders said they would welcome the introduction of value pricing.

Other ways identified to increase profitability included better use of data and information systems, gaining client feedback and a consistent pricing policy. Over half of firms (53%) said individual matters were priced on a best efforts basis, rather than having a pricing strategy applied across the firm.

Less popular options to increase profitability included training to improve self-esteem, moving major price decisions away from individuals and reducing or ending the use of billable hours.

The study also found that 41% of firms were expecting to increase profitability over the next three years, 24% were expecting it to remain static and 18% were expecting a fall in profitability.
In addition to a lack of confidence when negotiating fees, the main barriers to profitability growth included the risk of staff burn-out (59% of firms) and challenges related to establishing a work-life balance (49%).

The resources spent on recording billable hours and chasing invoices were also a significant barrier, particularly among firms that were expecting lower profitability growth. Firms that were expecting higher profitability tended to adopt a more holistic and less time driven approach to pricing and were much more likely to communicate with clients about the outcomes they wanted to achieve.

The Thriving Company study was based on responses from partners, fee-earners and non-lawyer professionals from 68 law firms of different sizes, based in the UK and internationally.

Read more about the study at:
https://bit.ly/3hQhvVx

Legal sector revenues worth over £40 billion last year

The UK legal sector continues to thrive despite the challenging economic climate. The 11th annual report on the legal services sector, published by TheCityUK, has revealed that in 2021/22 revenue rose by 12.5% year-on-year to £41 billion. The report also found that the legal services sector employs 375,000 people across the UK with two-thirds employed outside of London. Key legal centres include Manchester (with 13,000 employees), Leeds (10,000) and Birmingham (9,000).

The report also found changing patterns of employment, with the number of solicitors working in-house continuing to increase as private practice has seen continued growth. In England and Wales, more than 25% of practising certificate holders (33,370) were working in-house in 2021, up from 28,381 in 2018. Highly regulated sectors such as financial services, pharmaceuticals, telecoms and technology were most likely to have an in-house team.

LawTech was highlighted as a growing sector, with the potential to increase innovation, lower litigation costs and improve the efficiency of the court system.

The LawTech sector currently employs over 7,000 people in the UK, which is predicted to rise to 12,500 by 2026. LawTech centres are based in the north of England and Scotland, with Belfast emerging as a particular hub.

The report indicates that the legal services sector contributed £30.7 billion to the UK economy in 2021/22. Revenue for the UK's 100 largest law firms grew by more than 50% over the last decade.

Read more about the report here: https://bit.ly/3VjplVl

Guardianship advice to lead growth in Wills and Probate market

Growth in the Wills and Probate market will be led by lasting powers of attorney and other guardianship advice. This is according to a new report from IRN Legal Reports, which suggests that an ageing population will underpin strong demand for this type of advice. The number of applications to register a power of attorney in England and Wales increased by 12.5% in the first half of 2022.

However, a lack of resources at the Office of the Public Guardian following Covid has limited the number of applications it can process, although the planned recruitment of 100 new staff should help drive improvements and speed up administration.

According to the report, the Wills and Probate market was worth £2.5 billion in 2022, a year-on-year increase of 5.6%. Further growth of 4.6% is predicted over the three years to 2026, resulting in a market value of almost £3 billion.

The overwhelming majority of businesses providing Will-Writing and Probate services are small firms. However, the report reveals that 'leading volume players' such as Co-op Legal Services, Irwin Mitchell and Slater & Gordon are increasing their share of the market. In addition, the unregulated sector is expected to achieve a greater market share than previously anticipated.

A survey of 616 consumers who had recently used a Will-Writing service revealed that more than half (54%) had used a solicitor and nearly a quarter (23%) had used a specialist non-lawyer. Researchers identified between 40 and 50 online Will-Writing services with a core business of supplying legal documents and templates. Many offered a 'DIY' lasting power of attorney service and some offered checking by a legal professional for an additional cost.

Read more about the report at: https://bit.ly/3BSJXg3

In brief...

Family court backlog reaches 110,000 cases

The Law Society has urged the Government to introduce measures to increase judicial capacity to tackle the backlog of family court cases. According to HM Courts & Tribunals Service figures, there were 110,000 open family court cases in August 2022, of which 85,706 were private law and 24,719 were public law cases. The figures have also revealed that the average time to complete a case in August 2022 was 43 weeks for private cases and 45.1 weeks for public cases. The Law Society said that the Government must reinstate legal aid for early legal advice and ensure that there are enough judges to deal with new and existing caseloads.

Read more about the backlog at:
https://bit.ly/3hOyxTO

Lawyers must understand cryptoassets

Industry experts have warned that all lawyers should have a basic understanding of cryptoassets, as the introduction of new regulations could increase the volume of litigation in the sector. A number of new regulations have already been proposed, such as extending the remit of financial regulators to cover promotions for all cryptoassets. In addition, there is expected to be a large number of cases where the underlying dispute is linked to cryptoassets and blockchain, meaning lawyers working across all sectors and specialisms will need to understand them.

Read more about the warning at:
https://bit.ly/3PLgj2h

Expert witnesses would refuse highly contentious cases

Half of expert witnesses would refuse to act or give evidence on highly contentious cases, such as those involving transgender issues. This is according to a survey of 635 expert witnesses by training provider Bond Solon, which revealed that concerns about their safety or reputation are key reasons why they would refuse to give evidence. A number of respondents also called for stronger measures to support and protect their mental health and wellbeing. The survey has indicated that 54% of expert witnesses plan to increase their rates due to rising inflation, while 88% believe the court system is underfunded and 89% think legal aid rates should be increased.

Read more about the survey at:
https://bit.ly/3BTu4WQ

Call for measures to improve public access to courts

The House of Commons Justice Committee has published a report setting out recommendations to ensure judicial processes are open and transparent. Recommendations include requiring HM Courts & Tribunals Service to develop a single digital portal where the public and media can access full information on court proceedings, along with a comprehensive review of access to court documents. In particular, there should be less reliance on commercial legal publishers for lawyers wanting to access court rulings.

Read more at:
https://bit.ly/3VzXvEB

Wait time for county court trials at all time high

Figures published by the Ministry of Justice have revealed that the time between issue and trial for fast and multi-track claims reached 75.5 weeks in Q3 2022. This is an all time high and 4.8 weeks longer than in Q3 2021. The time between issue and trial in small claims also reached a record high of 51.6 weeks in Q1 2022, before falling slightly to 51.2 weeks in Q3 2022. The figures indicate that although wait time has increased significantly due to the impact of Covid-19, a sustained period of increasing receipts had caused delays prior to the pandemic.

Read more about the figures at:
https://bit.ly/3VdTCF2

Legal aid reforms put criminal justice system at risk

The Law Society has warned that the Government's legal aid reforms are reckless and put the future of the criminal justice system in jeopardy. In response to Lord Bellamy's independent review into criminal legal aid, the Ministry of Justice has announced a £138 million package of reforms, including £85 million for legal aid payments. This means that although an independent review recommended a 15% increase in fees, solicitors have only received an increase of 11% for criminal legal work. According to the Law Society, solicitors face a real-term cut in fees and firms will struggle to stay open while losing money on legal aid work.

Read more about the reforms at:
https://bit.ly/3WH5rou

Many law firms overestimate their value to buyers

Many law firms looking to be bought may be overestimating the value they think they have. Industry experts have warned that many firms have little to no profitability, and owners could actually be earning less than fee-earning staff, meaning there was little value to any potential buyer.

Sole practitioners, in particular, have little value, as client relationships tend to be with them personally. Economic uncertainty and the number of people looking to exit law firms are driving down multiples used to set the price of firms. Niche firms in specialist areas of law such as intellectual property, employment, contentious probate or partnership law would have higher multiples and value, as there are fewer of them with higher barriers to entry in those markets. However, high street firms will have less value as they are more numerous, and if one is priced too high a buyer can easily find another firm elsewhere.

Net-asset value or EBITDA (earnings before interest, tax, depreciation and amortisation) are the main two methods used to value law firms, replacing the concept of 'super profits' (net profit less notional salaries and notional interest on capital).

However, some consolidators such as Knights are moving towards a turnover based approach, paying a multiple of between 0.8 and 1.3 for firms that fit within their growth strategy.

Another factor affecting the market is the rise of the 'fee-sharing' model offered by firms such as Keystone. While previously, lawyers would either become an equity partner or leave to set up their own practice, this model allows lawyers to operate on a fee-sharing basis under a recognised brand without having to set up their own firm. However, this could potentially cause more succession problems for the profession.

Read more about the webinar here:
https://bit.ly/3YLfpqp

SRA plans for income-linked fines 'excessive and unjustified'

Solicitors Regulation Authority (SRA) plans to change the way in which it fines law firms and solicitors have been criticised by the Law Society. The proposed changes would allow the SRA to issue fines of up to 5% of a law firm's turnover in cases of misconduct. Responding to a consultation on the plans, the Law Society claimed that fines of this size would be excessive and provide no extra deterrent against misconduct. They also warned that turnover was not a reliable indicator of a firm's profitability, or of its ability to pay a fine. Currently, the maximum fine that the SRA can impose is £25,000.

The consultation also included plans to take solicitors' incomes into account when fining them on an individual basis. For minor misconduct, solicitors would face fines of 2% of their income, rising to 161% for the most serious misconduct. This would mean that a solicitor earning £500,000 could face a fine as high as £805,000.

According to the Law Society, fines based solely on income would be unfair, since they would not take into account individuals' financial responsibilities and their ability to pay.

As well as criticising the potential size of fines, the Law Society also expressed concerns about the accountability and transparency of the enforcement process, and about the independence of SRA adjudicators responsible for issuing fines. Under the current proposals, adjudicators would have unrestricted access to the records of solicitors under investigation, which may prejudice their findings.

They would also have discretion to prevent solicitors from being present when witnesses were interviewed, which the Law Society believes to be unfair.

Read more about the plans at:
https://bit.ly/3GebxHe

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