

CLIENT GUIDE TO CONTROLLING LEGAL COSTS



“Nobody in this country using the ordinary civil courts can afford it”. –
HH Simon Brown QC Head of Costs Pilot scheme - TCC & MERCANTILE COURTS



Jim Diamond Bullet Point CV

- First job age 16, working on a coal lorry delivering bags of coal around Liverpool's inner city housing estates/docklands.
- First job in the Law was an outdoor clerk in a small firm in Liverpool in 1979.
- Started working full time in legal costs in early 80s for a West End of London law firm.
- Started working for a Magic Circle law firm in the mid 80s. During this time, trained in the art of legal budgets. Cases budgeted included multi million pound multi-jurisdictional legal disputes.
- Worked from 1990-1995 for another Magic Circle law firm. During time there dealt with almost all of the contentious costs disputes on cases running into the £100+ million.
- 1998 – published article about defective billing in Legal 500.
- 1999- published article on budget based billing (believed to be first of its type to be published) in Legal 500.
- 2001-2003 Developed a budget software program incorporating a database of hundreds of potential cases (believed to be first of its type).

Jim Diamond Costs Lawyer:

Introduction

The introduction of time recording into the UK legal system in the mid 80s, led to an increase in the level of legal fees charged. The 80s commercial lawyers developed a mentality of “if it's on the clock, I am going to bill it”.

The bean counters took over the financial management of the larger commercial law firms in the 90s and developed computerised legal billing systems. These in effect became a “sausage billing system”. In which the computer picked up all the time and “disbursements” and processed this information as legal bills. For example, internal expenses, such as photocopying, stationary and local phone calls are an expense of running a law firm. These should not be charged for separately. They are certainly not disbursements. The bean counters made millions for these law firms. The top 30 law firms generated over £15 billion of fee income in 2015. The top lawyer rates have recently gone over £1,000 per hour mark.

In 1998, I wrote an article which was published in Legal 500, on the wholesale billing defects of the major legal firms in the 90s. The article, also included an hourly rate survey of top law firms. I have published and referred to this article numerous times in conferences I have spoken at since, not one lawyer has questioned my interpretation of the rules and regulations covering the quantification of legal costs. Not one!

The Centre for Policy Studies, contacted me in May 2015, to draft a report on pricing of City law firms. They approached me as during their research they could not find any information on City law firms' hourly rates, except my annual hourly rate survey. The report “The Price of Law” was published in February 2016. The legal profession have been up in arms since publication. One legal journalist describing it as “The Report hating City lawyers”. Even The Law Society Gazette, published an article under the title “Costs expert slams £1,000 per hour”. The comment section on this article ran to over 50. After I weeded out all the personal attacks, not one lawyer had in fact questioned my statistics in the report. Not one!

The billing systems used by law firms are geared up to make maximum profit. Budget information to clients is generally poor to misleading and risk assessment on the “risk against the reward” of taking legal action is generally non-existent. So I have written this Client Guide to help you get the best deal with your lawyers. I am giving this away FREE. Before you ask, BECAUSE I CAN!



LEGAL BUDGETS & COSTS MANAGEMENT

Budgets come in many forms, but the importance is the accuracy of the information. I always draft budgets on a worst case scenario. So start at the end, i.e. if this matters runs to trial, how long will trial last. Then work backwards. I advised a client when a City law firm sent a budget to them. The partner estimated the trial could last between 10-12 days, I estimated 8 weeks. Two years later the trial was set down for 45 days.

In November 2013, The Law Society co-branded and endorsed my software, protocols and statistics in their publication "Tool Kit on Costs Management". The aim was to assist the law firms in the development of their budgeting skills. In April 2014, I gave a demonstration of my new budget software, at annual conference of the the Civil Justice Section of the Law Society of England and Wales in Chancery Lane, London. I have also given numerous internal seminars on the subject of legal budgets to firms ranging from small firms to the Magic Circle over the last 20 years.

In Conclusion

There is not only a lack of transparency, but a lack of interest or desire in general for law firms to engage in the development of skills in this subject. The 70s attitude of give as little amount of information to the clients as possible still prevails in 2016. "The how long is a piece of string mentality" prevails in the legal industry in regard to giving budget information.



JIM DIAMOND -FURTHER CAREER HIGHLIGHTS.

2003 Produces Costs Management retainer agreement on behalf of the world's leading investment bank for use with magic circle law firms.

2005 Presents views on legal budgets and costs management to the Judiciary at the Judges and Costs Judges forum at the Royal Courts of Justice.

2009 Panel member at Commercial Litigation Association's Annual Conference with Lord Justice Jackson, as a fellow speaker, presenting for first time his report of his Review into Costs of Civil Litigation.

2013 Software, statistics and protocols on costs management produced for a joint venture with The Law Society in The Tool Kit on Costs Management for the legal profession.

2016 Paper written for Centre for Policy Studies (Think Tank) on "The Price of Law".



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JIM DIAMOND COSTS LAWYER

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1. Pro Forma “Client Terms and Conditions” when instructing a law firm or amending the retainer with an existing law firm.
2. Q&A and Risk Assessment Form.
3. Simple Form budget.
4. Detailed Budget. This follows the Budget “Form H” This software has added features such as a cash flow forecast, and budget/actual costs, tighter with a variety of useful graphs.

For a FREE copy of the word version of this document.

For a FREE copy of the Simple Form Budget.

For a FREE copy the Detailed Budget.

Simply e-mail me at jim@jimdiamond.com.

CLIENT GUIDE TO CONTROLLING LEGAL COSTS RETAINER

INITIAL RETAINER/ BUDGET INFORMATION

The purpose of the document is to clarify the issues in regard to the billing procedures/legal costs. The agreement in regard to legal costs will ultimately benefit both client and law firm. It will also reduce substantially the uncertainty regarding the level of on-going legal costs. The following are guidelines only and do not constitute specific legal advice:

1. I/we accept _____ (law firm's) standard conditions of conditions to retain their legal services. However we require _____ (law firm) to accept my/our additional conditions in regard to billing/legal costs. These terms if in conflict _____(law firm's) standard terms and conditions, supersede them.
2. We require _____ (law firm) either before instructions or as soon as practicable to complete the Q&A and Risk Assessment Form. We accept this as non-binding between the parties and is a useful guideline for us decide if I/we wish to instruct you. We do not expect to be charged for the work in completing this document.
3. On accepting instructions to act on my/our behalf we require the Simple Form budget to be produced. We do not expect to be charged more than 1 hour of time for production of this document. On matters in which a dispute is likely not to exceed £250k (amount can vary up or down) the Detailed Budget shall be produced. We do not expect to be charged more than 3 hours of time for production of this document.
4. I/we expect to receive the budget within 14 days of _____ (law firm) being retained.
5. I/we may consent to a reasonable extension of this time period to an agreed time scale if necessary.
6. I/we will not be responsible for any of _____ (law firm) legal fees until the budget has been agreed.

7. I/we will expect an update on the budget and risk assessment within 14 days of any significant changes/issues in the case/matter which may cause an increase in the budget of 10% or more or affect the risk assessment.
8. I/we will not be responsible for any of _____ (law firm) further legal fees, until the increased budget/revised risk assessment has been agreed.

BILLING PROTOCOL

9. I/we require a detailed narrative to be included with the bill, so I/we can consider the work for which I/we are being asked to pay.
10. I/we require a copy of the material pages from the computerised time ledger to be attached to all bills rendered to me/us.
11. I/we require a copy of all disbursements vouchers/receipts (over £100) to be attached to all bills render to me/us.
12. I/we will make payment on the bills rendered on the basis they are accepted by(law firm) as payments on account and form part of a final agreed amount. They will not be classified as standalone (otherwise known as statute) bills.
13. I/we if we ultimately disagree with the final amount of the legal bills, I/we or ____ (law firm) can commence a Solicitors Act 1974 Assessment _____ and you _____ (law firm) consent to “if any legal costs are reduced in these proceedings then the legal costs of the costs proceedings will be payable by _____ (law firm). To clarify this, you ____ (law firm) consent to the exclusion of 70 (9) Solicitors Act 1974 –i.e. the “1/5th rule”.

Billing Procedure and what can be charged

14. I/we should not be charged by _____ (law firm) for the following:
 1. Research on legal procedure and/or research on law with which a competent lawyer should be familiar in his/her field.
 2. Time spent dealing with administrative matters/tasks such as photocopying, billing, accounts etc.

3. Photocopying, fax, any internal stationary, internal charges and local telephone calls both landline and/or mobile calls, unless of exceptional in nature.
4. Any disbursements that are likely to cost over (agree a figure) say between £100/£500 must be agreed in writing first by me/us. If such consent is not obtained than the disbursement cannot be later charged to me/us.
5. Any local travel.
6. Any overseas flights and hotel accommodation should be agreed by us in writing prior to the same being incurred.
7. No-one other than the principal fee earner working on the case/matter should attend any meeting, conference, hearing and or trial. To deploy other fee-earners requires prior explanation in writing and my/our written consent obtained. If such consent is not obtained the extra work/fees arising cannot be charged to me/us.
8. A full list of fee earners, their qualification and respective hourly rates should be included in the initial budget information. No lawyer/fee earner who was not included in the initial budget can be billed to us without our specific consent in writing given prior to them working on the case/matter.
9. If a change of personnel is required to work on the case/matter then any read-in time etc is not to be charged to me/us without our specific written consent given prior to them working on the case/matter.

General

15. Time should ideally be on the basis of agreed hourly rate or an agreed fee. However, I/we understand most law firms in fact bill on the basis of a unit of time worth 1/10 of the agreed hourly rate. This may lead to inaccurate time/billing system. So I/we will expect a discount on the recorded work in progress figure. This discounted figure should be increased if the case/matter shows the substantial use of heavy e-mail communications.

16. The time recording should have sufficient narrative for me/us to consider whether the time spent is reasonable in regard to the task in hand. If no narrative or very limited narrative is provided we reserve the right not to pay any of the individual time claimed.
17. Internal conferences should be kept to an absolute minimum and if charged for must address a substantial issue or issues. Internal conferences for supervision purposes should not be charged.
18. I/we require on 7 days' written notice the ability to instruct a competent professional person to audit the law firm's file of papers on this and all my/our matters.

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Q&A AND RISK ASSESSMENT FORM

1. **Identity of parties and details of their legal advisors:-**

Name of Parties (legal representatives)

Claimant [represented by _____]

v.

Defendant [represented by _____]

2. **Nature and brief summary of case highlighting any complexities:-**

3. **Value of claim:-**

£ _____

4. **Details of retainer i.e. client care letter, standard hourly rates etc:-**

Partner hourly rate £ _____ SCCO guideline rates £ _____

Assistant Solicitor hourly rate £ _____ SCCO guideline rates £ _____

Trainee Solicitor hourly rate £ _____ SCCO guideline rates £ _____

Paralegal hourly rate £ _____ SCCO guideline rates £ _____

Discounted offered on rates in _____ %

5. **Estimate**

(a) To issue proceedings £ _____

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(b) To Mediation £ _____

(c) To Trial £ _____

(d) Trial £ _____

6. Estimated trial length and dates:

(a) No of _____ days for trial.

(b) Court proceedings to be issued _____ Months

(c) Trial likely to commence in _____ Months

(d) In the _____ Court, _____ Division, in _____ (location)

7. How many counsel do you intend to instruct:

(a) QC _____ (who) _____ Hourly rate £ _____

(b) Junior _____ (who) _____ Hourly rate £ _____

8. Witnesses (both factual and expert)

(a) No of _____ factual witnesses

(b) No of _____ expert witnesses

Witnesses for other side

(c) No of _____ factual witnesses

(d) No of _____ expert witnesses

9. How the case is to be funded:-

Private paying retainer _____

Are you looking for Litigation funding/ATE Insurance? _____

CFA/DBA _____

10. Do you require any assistance in relation to third party funding/ATE insurance?

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11. Risk Assessment

What in % chances of success on this case % _____

What in ball park figures is size of settlement/compensation £ _____

What in ball park are legal costs in worst case scenario (our side) £ _____

What in ball park are legal costs if unsuccessful worst case scenario £ _____

What is the risk against reward of running this case £ _____

12. Miscellaneous matters

_____ signed

Dated this _____