



# In the nick of time

The news is full of horror stories about law firms going under, but if firms act as soon as they find themselves in trouble – and even before – they could avoid becoming just another statistic. Nick Jarrett-Kerr gives his 12 top tips for financial recovery



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**F**ive years into the downturn, there seems no end in sight to the economic gloom. As many have already said, we are living in an age of the ‘new norm’. Every week or so, yet another law firm goes to the wall or undergoes an intervention by the Solicitors Regulation Authority, and many predict this trend will continue and perhaps even accelerate.

So what can you do to avoid finding yourself in the unenviable position of choosing between closure, merger or intervention? If you find your law firm is struggling, taking early action can make all the difference to lead you to financial recovery. In this article, I offer 12 ‘rescue remedies’ for firms in the early stages of financial trouble. They are aimed mainly at financial efficiency and hygiene, and at least some of them should also be taken seriously by all firms, even those not in any current financial difficulty, as I have found few firms that are managed optimally.

## 1 IMPROVE CASH MANAGEMENT

The first step is a general one. It sounds obvious that firms should manage cash tightly, and many have taken steps already to tighten up working capital and cash management, generally by better controls on receivables (work-in-progress (WIP) and debtors) and by improved cashflow planning. However, many lawyers to whom I have spoken recently are still not as assiduous as they might be in going through their WIP reports or chasing clients up for payment. The ‘Pareto Rule’ (that 20% of the effort will result in 80% of the gain) is a double-edged sword here, as the final few percentage points of gain often take an enormous amount of effort, but those points can make all the difference for a struggling firm.

The client-to-cash cycle starts at the time of the first conversation or interaction with a potential client, so at the commencement of any matter, concentrate on the terms of engagement by ensuring that matters of financial administration – such as money on account and interim billing – are well covered wherever possible. It is an old truism that the best way of improving working capital is from within the firm rather than from external cash injections, so all efforts to improve and speed up the client-to-cash cycle are worth heavy investment.

Outgoing cash should also be managed carefully. Sole practitioners are all too aware that lack of available cash quickly affects their ability to pay their mortgages, so are often more prudent about the control of expenditure than larger firms, where partners can fall into the trap of assuming that other

partners will carry the financial burden. Drawings levels for equity partners also need regular review, and may need adjusting downwards.

## 2 MONITOR AND MANAGE PRODUCTIVITY

Some firms or departments carrying out mainly fixed-fee work have stopped doing time-recording. This is a mistake. The original purpose of time-recording was both to capture the cost of doing work and to monitor the effort being put in by lawyers. These purposes remain. Although there are other ways of monitoring the productivity of lawyers, I still feel that – absent significant and sophisticated tools to monitor units of production, such as the number of houses conveyed or mortgages processed – time-recording remains the most important. The firm’s utilisation statistics enable it to consider overall capacity, as well as the efficiency of individuals.

Generally, lacklustre utilisation statistics within the profession demonstrate that, despite rounds of redundancies, many



law firms remain over-lawyered for the level of fees currently generated. In a flat economy, it is difficult to increase revenues, so firms must address and then keep under constant supervision the number and mix of staff at all levels, and consider reducing hours or salaries, or making redundancies. Poor time-recording practices may also provide evidence of individual instances of underperformance which may need to be considered under step seven below.

### 3 SPEED UP

Some years ago when I was a managing partner, one important institutional client asked us to restrict the number of active cases handled by any one lawyer working on its matters. This required our firm substantially to reduce fee-earner workloads. We found that lawyers quite liked the comfort of having a high number of cases under their control, and were often fearful that reduced caseloads might lead to them running out of work. However, the change had two very positive results. The first was the fairly obvious truth that, with smaller workloads, each case tended to get processed and dealt with much quickly.

And that meant we got paid quicker. Cases that remain piled high on lawyers' desks, with substantial delays and reduced response times, irritate clients and slow up the payment cycle. The second was that the most efficient lawyers tended to gain the most from internal work referrals, and quickly saw their efforts appreciated by clients, and so were never in any danger of running out of work.

All firms, and especially those in

financial trouble, should therefore consider the optimum workloads for any fee-earner in any given work type, and carefully manage those workloads. Work cycles can also be speeded up by developing and monitoring internal management information on response times and complaints of delay, so as to spot evidence of inefficient working or over-working.

There is also a behavioural aspect which needs to be carefully addressed. This is because lawyers, and particularly partners, tend to 'hog' work which ought to be delegated or referred; their desire for self-protection and inclination towards sticking to their comfort zone means they value developing and maintaining a large book of business and matters within their control. If firms are to become truly efficient in the way matters and engagements are processed, the firm's leaders need, sensitively and firmly, to address and tackle any work-hogging tendencies and practices within the firm.

### 4 SAVE ON STAFF COSTS

In my view, the job of controlling a firm's overheads is iterative and never-ending. It is not enough to say that the firm went through a cost-saving exercise last year so this does not need to be revisited. Given the low volumes of business being transacted, overheads need constant attention.

Recent surveys show that staff costs in UK law firms are still the highest element of expenditure, and have typically reached as much as half of many firms' turnover. Law firms which are beginning to struggle must therefore look urgently at their support staff to fee-earner ratio. In some firms, support staff still outnumber fee-earners, and I recently heard of a secretary who both refused to work for more than one lawyer and who felt that walking to the photocopier was beneath her – she was convinced that that is what a junior is for. Firms could move on to step nine below or make redundancies, and could also consider outsourcing typing, reception and some back-office services, as well as sharing services with other local firms – this could include other resources such as libraries.

### 5 MAKE OTHER SAVINGS

Signs of waste are also still evident in other areas. I have yet to be convinced, for instance, that the huge amount of money spent by the profession on brochures, leaflets, calling cards and newsletters has provided any form of meaningful return.

IT is another area where the increasingly sophisticated and complex sets of hardware, software, applications and systems sometimes bear a cost that can be disproportionate to their benefits, particularly in firms where partners still treat their computers as little more than toys. While it can be difficult to make savings in relation to existing IT contracts, it is sometimes possible – as with library costs – to rationalise some of the firm's subscriptions and new items of expenditure. Additionally, repairing old equipment rather than replacing it may not be the best long-term solution, but often produces the best short-term results.

Even a series of smaller interventions, such as turning the heating down by a degree or two, can accumulate significant savings if enough such initiatives are implemented.

### 6 TARGET BUSINESS DEVELOPMENT

Healthy firms seek to position themselves better, and by competitive endeavours, to





increase their market share in a legal market that still exceeds £20bn in England and Wales alone. Even in the new norm, there is no reason why firms should not improve their overall revenues; if they can do so without incurring additional overheads, increasing revenues remains the best strategy for recovery.

Increasing fee income generally needs aggressive sales efforts and high marketing and promotional expenditure, but there are other routes to business development. One is to use the firm's client database as effectively as possible to follow up or keep in touch with clients who may be able to give them more work. Another is to get partners involved – too many avoid personal face-to-face sales opportunities and are happier writing an article or promotional leaflet than picking up the phone to potential clients or referrers. There is no doubt that, while some work does come from sitting around waiting for the phone to ring, even more work comes from targeted business development efforts.

All firms, but especially struggling ones, should require every partner and senior lawyers to produce, execute and comply by personal business development plans. One common theme among the 'best of breed' professionals I have spoken to (legal and otherwise) is the maintenance of a to-do list in some shape or form, containing lists of contacts, referrers and potential clients for follow-up, accompanied by an assiduous and disciplined approach. Some partners even make sure that their week's work is not done unless they have made a dozen or more phone calls or other 'touches'.

## 7 EMPOWER ASSISTANTS AND ASSOCIATES

It is not just partners who can contribute to the revival of a law firm in difficulties. Assistants and associates can provide the firm with a powerful forward impetus, if they can be encouraged to network in their own professional peer group, learn more about the industry or client type in their sector, and proactively develop their own career and client base.

You could do this by getting them involved in marketing initiatives and giving them allowances of time for business development activities. Some firms have also benefited from giving assistants and associates a bonus or 'commission' for client engagements which they introduce.

## 8 TACKLE UNDERPERFORMERS

Underperformers can bring a firm down, if not addressed in good time. When the majority of partners are working hard to help keep the firm afloat, it is quite unfair if their efforts are undermined by others. The firm's high performers are also the ones who can most easily find opportunities elsewhere if the firm's issues are not addressed; their departure can be the straw that breaks the camel's back. It is therefore an absolute imperative – rather than a luxury – to tackle underperformance early, especially when a firm is struggling.

To remedy underperformance, you need to start with measures to improve performance and rehabilitate the underperformer. Careful coaching or mentoring may involve a financial investment that a firm is reluctant to make, but often brings about a multi-fold return. Ejection should be a last resort, reserved for if the situation is irreparable.

## 9 RENEGOTIATE CONTRACTS WITH SUPPLIERS

Ultimately, a troubled law firm – or any other business – will make such voluntary arrangements as it can with its creditors in relation to its debts in order to avoid bankruptcy. A firm that is not yet in an advanced state of financial difficulty can nevertheless enter into informal discussions and negotiations with landlords, banks and other creditors to extend or vary repayment arrangements or business terms. Many longstanding relationships for stationery and other

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utilities can also be revisited to see if better deals can be arranged with existing or new suppliers.

## 10 REDUCE SALARIES RATHER THAN HEADCOUNT

It is difficult to tell how many firms in the UK have so far negotiated salary cuts with members of staff; these matters are seldom publicised. In Ireland, there is some evidence that, following austerity-driven public sector pay and contracting cuts, a number of law firms negotiated pay cuts with staff, so there is a precedent in the legal profession. Staff would generally prefer to keep their jobs with less pay or fewer hours, than to be made redundant.

If you do decide to go down this path, you must be transparent throughout any discussions and negotiations about the state of the firm's finances and its plans for recovery; many firms are reluctant openly to do this, not least because of the possible effect on morale and the potential for the firm to become a self-fulfilling prophecy of failure.

## 11 REVIEW UNPROFITABLE PRACTICE AREAS

For some firms, the term 'general practice' effectively means 'every practice'. This can result in a collection of practice areas that make no sense strategically or economically. During good times, firms can afford to sustain such practices because they break even, but during economic downturns, non-core can be a mill stone that can drag down profitability and scupper attempts to reduce overhead costs.

A struggling firm needs to consider where it makes its money and what it is really good at, and concentrate on those areas. That means reviewing all its practice areas and considering hiving off or closing down unprofitable ones. Unless taken very seriously by committed firms, fringe personal injury practices, weighed down by traditionally high levels of working capital and beset by civil justice reforms, are worthy candidates for closure. Pre-recession diversifications by some generalist firms into specialist areas of commercial and corporate work have also often proved unsuccessful and need reviewing now to avoid further losses accumulating.

## 12 STAND FIRM

There is an old but true adage that, for a business to make profit, 'money in must be more than money out'. This simple truism should lead firms in financial trouble to try their best both to increase revenue and to reduce overheads. These 10 steps are not exclusive – there may be many other revenue-winning or cost-saving initiatives that could be attempted.

All this is, of course, much easier said than done. Partners at troubled firms may be stressed out and at times demotivated or depressed by financial woes. However, revival is within their grasp if they are prepared painstakingly and thoroughly to work through steps like those I have outlined, and apply the lessons that they learn.



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