

# PETER SCOTT CONSULTING

## Briefing Note March 2024

### Failure to record client time - Your biggest cause of lower profitability?

The Law Society's latest Financial Benchmarking Survey just published [Fresh challenges but new opportunities, Financial Benchmarking Survey shows | The Law Society](#).

has the following heading – **“Falling chargeable hours show the importance of time recording”** and comments that *‘It is unclear from the survey why chargeable hours are so low’*.

It is very clear to me why they are so low and in this Briefing Note I will proffer some explanations, together with suggestions as to what law firms can do to increase their capture of time spent on client matters, so as to increase their profitability. However, before looking at why law firms are failing to fully capture client matter-related time, can I ask you to consider these two questions:

***What percentage of total time recorded in your firm in either your last financial year / or the last 12 months, was recorded as ‘non-chargeable’ against ‘admin’ and ‘B/D’ (most law firms have non-chargeable codes for these?)***

***What financial figure would result from taking just 10% of those hours recorded against ‘admin’ and ‘B/D’ and multiplying that figure by your firm’s achieved billing rate during your last financial year / or the last 12 months?***

Your answers to those questions are likely to indicate the problem caused by lawyers not fully capturing all their time spent working on client matters. Indeed, I have found in practice that the impact such information can have on those running law firms, has on occasion been an immediate ‘trigger’ to their taking effective action to deal with the problem. This is because those two non-chargeable codes are often used by lawyers to ‘dump’ client matter-related time, instead of honestly recording that time as client matter-related.

#### **So why are chargeable hours so low?**

**(NB – I don’t use the term ‘chargeable hours’ because it creates the assumption in the minds of lawyers that their client matter-related time is to be invoiced to clients, and as a result, if they think they will not be able to invoice that time, they choose to only record some of their time. Instead I use the term ‘client matter-related time’).**

One major reason was illustrated by the SRA's Workplace Culture Thematic Review referred to in the guidance issued by the SRA in 2022 on the workplace environment, which included this quote from a five years PQE solicitor when discussing chargeable/billable hours targets:

**“It is not conducive in this century to be monitoring an employee's work every six minutes.”**

Clearly it had not been explained to that solicitor the important and valid reasons why lawyers need to fully record their time spent on client matters. This emphasises the need for **education and training** on time recording, and in particular the need for all lawyers to understand **the good reasons** why all client matter-related time needs to be captured.

Let me share with you some **'excuses' often given to me by lawyers for not recording all their client matter-related time**. Do you recognise any of these?

***Time is not relevant to my work as I have agreed a fixed fee with the client***

Fully recording all time is relevant to all work even when done on a fixed fee basis, to enable the firm to know whether the fixed fee is correct, whether the work has been managed within the fixed fee, and if not, to learn to manage work better in the future

***I don't think the client will be able to afford it!***

This is not a decision to be taken by a fee earner on behalf of a client, particularly if your client has already agreed your quote

***I don't think I should record the time I have spent travelling to meet the client***

Why not, if the client has requested the meeting or the meeting is necessary to progress the matter?

***I don't think I should fully charge the time I spent travelling to court and waiting around at the court***

Why not, if it was necessary to travel to court to progress the matter?

***I never record the time I spend supervising fee earners in relation to their work on client files***

Why not? It is time properly spent on progressing the matter for a client.

**NB – time records will evidence supervision**

***I never record time spent doing research because I feel I should know the answer!***

Research carried out in order to better advise a client should be recorded because it is in the interests of both the client and your firm that your advice is correct.

***I am a newly qualified solicitor, and I am not able to do the work as quickly as my colleagues and so I only record some of my time!***

Think about the **'value' of your work to your client**, however long you have been qualified

***I gave a quote to the client, but I have already reached that figure and I don't really want to have to go back and renegotiate (and so I will just not record any more time)***

You have failed to manage the work to the price quoted and fear you will not be able to negotiate an uplift with the client, even though your quote provides for uplifts in certain circumstances.

**NB – your price negotiation skills?**

***I think I have spent too much time on this matter already but can't be seen to have big write – offs (so I will not record any more time)***

You have failed to manage the work to the price quoted, and fear you will not be able to negotiate an uplift with the client, or you are scared of what your Managing Partner / HoD will say!

***The other side have caused so many problems on this matter which have increased my work substantially, but I feel I can't charge the client for this***

This contingency should be anticipated and included in the 'assumptions' when quoting your fee so you can re-negotiate the fee with the client

***The job will not justify all my time!***

This is probably work which you should be delegating to someone with a lower charge out rate

***I was told not to record any time on the matter!***

(said to me by a trainee)

***I don't have enough time to record!***

You need more work!

***I can't remember what I did yesterday!***

Record the time you spend on client matters as you do the work

***Because I am not worth it!***

This reflects a lack of self-esteem, but if you have satisfied clients then **you are worth it – TO THEM**

Where does the time actually spent on client matters but not recorded as such, end up? Unfortunately, it tends to be dumped in certain non-chargeable dustbins ('admin' and 'B/D').

Addressing the above 'excuses' for not fully recording all client matter-related time will help to increase your profitability. If you want to quickly increase your capture of client matter-related time, then remove the ability of fee earners to record 'non-chargeable time' unless they have real non – client related roles to perform or need to genuinely spend time on matters such as training.

It may be that not all matter-related time will eventually be billed to clients, However, even a very small increase in client matter-related time recorded (if invoiced to the client) can result in a substantial increase in profitability – and no fee earners would have to work any harder!

**Do you think that in your firms all your partners and other fee earners would acknowledge that they each fail (for all kinds of reasons) to record at least 30 minutes (just 5 units of time) per day of the time which they actually spend on client work?**

Capturing just an additional 30 minutes of client matter-related time per day by each fee earner could improve profitability over a full year as follows:

There are approximately 220 working days p.a.

30 minutes of matter-related time recorded per day = 110 hours p.a.

Assume you have 30 fee earners.

30 fee earners X 110 hours p.a. = 3300 hours p.a.

Assume an average charge out rate is £250 per hour.

3300 hours X £250 per hour = additional revenue of £825,000

(Do the same exercise assuming 50 / 100 fee earners and average charge-out rates of say £300 / ££400).

**The clear message to partners and fee earners should be:**

***If time spent relates to a client matter, then fully record that time whether or not you think it is to be invoiced.***

In next month's Briefing Note, I will be discussing all the **good reasons** (in addition to improved profitability) why your lawyers should be fully and honestly recording all their client matter-related time.

Good luck with your time recording!

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