

■ Exploiting price transparency for advantage

Peter Scott

The Solicitors Regulation Authority (SRA) announced in February 2019 a sweep of 500 law firm websites to check compliance with the price transparency rules. Here, Peter Scott carried out his own 'mini-sweep' of a few law firm websites chosen at random to find out how compliant they now are with the requirement for price transparency in relation to certain types of services. From his observations (albeit from a very small number of websites), several themes seem to be emerging

Openness with clients about pricing is not seen as a benefit

Some law firms do not appear to have really embraced a culture of price transparency and are only reluctantly providing pricing information, and even then only doing so in as restrictive a manner as they can get away with.

For example, one firm's website states that the firm is obliged by the SRA to publish certain pricing information. That may be correct, but what impression does that have on clients looking to buy services from that firm? What business would ever say that to its customers? Perhaps the price transparency rules are merely serving to highlight once again the fact that too few law firms are run as businesses.

Being open and clear with clients about pricing is something which clients of law firms respect, and it shows them that their law firm recognises its *worth* to them. For a lawyer, recognising that you have a worth to your clients is vital if you are to build and maintain your *self-esteem*, which is an important factor contributing to not only *well-being* but, importantly, to profitability. Solicitors with high self-esteem are more likely to fully record their time and price for profit.

From what I have observed, it would seem some law firms are burying their pricing information in their 'legal notices', links or similar small print in the footers of their websites and so not making it easy for potential clients to find. That would not appear to be sufficient to comply because the information must be published in a prominent location, which is accessible, clearly signposted and easy for visitors to the website to find.

'Prominent' is defined by the *Oxford Paperback Dictionary* to mean 'jutting out', 'projecting' or 'conspicuous'. If I was a prospective client of a law firm, I would not expect to find pricing information in a legal notice, in a link or in the other small print in the footer of the website, but instead in the main body of the website together with the services which are being advertised.

I suspect, however, that these attitudes may not always be initially driven by law firms (although they are, of course, responsible for their websites). Many law firms use external website designers who are likely to have an extensive knowledge of other law firm websites and so are likely to follow website trends they see developing, with the result that 'bad habits' can become entrenched and multiply. Comments such as the following which have been seen may be encouraging some of the lack of prominence being given to pricing information:

'An item in the website footer is sufficient.'

'There is no need to add it anywhere outside the "Legal Notices" footer.'

'While "prominent" may suggest it needs to be included somewhere else, the uniformity of practice amongst UK law firms would seem to indicate otherwise.'

The prominence or otherwise of pricing information provided by law firms on their websites is now likely to be tested, given the random web sweeps promised by the SRA and the indicative sanction guidelines issued by the SRA in February 2019. See www.sra.org.uk/sra/strategy/sub-strategies/enforcement-practice/transparency-rules.page.

The SRA states in its guidelines that, in considering what action they may need to take, it will consider any mitigating and aggravating factors. Aggravating factors include:

- deliberately or recklessly providing vague, misleading or meaningless information; and
- where information is not in a prominent place, including where the information is disguised or not displayed with the services.

Having now been alerted by these guidelines as to how the SRA is likely to look at pricing information and how it is presented

on websites, law firms should take this opportunity to test with third parties, such as other professionals or friends, the prominence and clarity of what they say on their websites about their pricing, so they can be confident they are compliant.

Law firms will also be well advised to take more seriously the intensive management of their websites to ensure that they are at all times up to date and not misleading.

Lack of pricing skills and self-esteem may be problems

The issues related to pricing transparency, however, go far beyond just management of websites. Law firms need to learn new skills to enable them to profitably scope and cost their work and (having agreed a price) to then manage the work to that price. See, for example, as follows.

Scoping

- What exactly are we going to do?
- Who needs to be involved?
- How are we going to do it?
- When are we going to do it?
- What are we not going to do?
- What will the client need to do?
- What will success look like?

Analysing and pricing-in risk

- Matter risk?
- Client risk?
- Value involved/potential loss?
- Novel work?
- Other risks?

The disciplines and skills developed for project management are now being successfully adapted by many firms to their legal work. Those firms which have mastered legal project management skills and have now put them into practice are the firms which will have no hesitation in being open with their clients about pricing. They regard it as a way to build their competitive advantage over rivals.

Understanding what solicitors can charge for

Very often, when I ask solicitors whether they know what they are entitled to charge for (for example, under s.3 of the Solicitors (Non-Contentious Business) Remuneration Order 2009), I am met with the response, 'I don't know'. Training in such matters should be mandatory in all law firms.

Self-esteem

Likewise self-esteem can play an important part in helping lawyers to be more open with their clients about pricing. Self-esteem is how we see and think about ourselves and in particular how valuable we think we are to others.

If law firms lack self-esteem or are not good at scoping and costing work, they are then unlikely to have the confidence to state clearly on their websites how they price their services.

Price transparency should be about providing value for money, not just about price

The price transparency rules seem to focus too narrowly on the requirement to show only prices in relation to certain services, whereas the way in which clients arrive at their buying decisions may be based on very different criteria – price usually

being only one factor on which the decision may depend. Too many law firms seem not to understand this, as they continue to discount prices in an effort to undercut their rivals.

The following are some of the factors that client perception surveys, carried out with clients of law firms, indicate drive client satisfaction (and thus repeat instructions):

- response times;
- keeping commitments and meeting deadlines;
- keeping clients informed of progress;
- care and attention;
- ability to communicate knowledge;
- personable and likeable people;
- quality of people overall;
- billing as expected; and
- adding value.

And the following are those factors which client perception surveys indicate as likely to determine the choice of law firm:

- skills and technical expertise;
- level of specialism required;
- consistent delivery and results;
- speed and responsiveness;
- resources (size and depth);
- relationships;
- approachability and accessibility; and
- fee levels.

I have noticed that the websites of several firms which focus on 'consumer' services, approach pricing in a more open way, by focusing on many of the above factors and making a virtue out of complying with price transparency to engage with potential clients with a view to proactively selling their services. These law firms understand that their clients want not just information about pricing but, more importantly, to know how the firm can provide clients with the value for money services which they tell them they want.

The idea of value for money was brought home to me very clearly a few years ago when I carried out a client survey for a law firm. One client, when commenting on the law firm, said *'They always try to sell to us on price, but what we really want is to have a good job done at a reasonable price.'*

The core issue for clients now, as shown by many client perception surveys, is how to add the value that clients care about. The following quote from Bruce Christensen illustrates this:

'Lawyers must understand that client perceptions of value may have nothing to do with the hours it takes to do the work.'

Clients tend not to buy on price alone, as shown by the factors listed above which influence buying decisions. 'Value for money' is a mental attitude in the minds of clients, created by a combination of the results/solutions clients obtain on the one hand and the amount they pay the law firm for those results/solutions on the other. A client may actually be paying what is by any standards a very large fee, but if the client considers he or she has received a great result, then the client is likely to consider that he or she has received value for money. 'Worth every penny!' is the kind of remark often heard.

To do this successfully, law firms will need to know the answers to these questions.

- What will their clients want from them in the future?
- What determines their satisfaction levels?

- Do their clients consider their law firm is adding value in a way that matters to them as clients?

Some law firms clearly do understand this and use it to their advantage, as the quote from one law firm's website when explaining the firm's pricing makes clear:

'We understand that our clients require both value for money and price certainty from their lawyers. We also understand that clients buy outcomes and solutions (not hours) and expect efficient and cost effective delivery of those outcomes.'

Law firms should not shy away from complying with the price transparency rules. Instead, they should not only comply with the rules and prominently show their pricing but use price transparency to build their competitive advantage. Above all, if they want to build sustainable businesses then they should think about how they can provide their clients with value for money.

Peter Scott is director of Peter Scott Consulting, advising on compliance and practice management issues for law firms.