

HOW HIGH DO YOU RATE CLIENT SATISFACTION?

By Suzanne Lowe, Managing Director, Talk Mediation

When I was in private practice in about 1999 I expressed my concerns to one of the partners in the firm as to the future direction of the firm. He asked me to attend one of the partners' meetings to voice my concerns. The main point I made was that as a firm we needed to develop the practice to become more cost efficient in delivering a first class service to our clients.

At that point the senior partner turned a deep shade of purple and could barely contain himself as he spat back at me "Good god woman we are a profession not a bloody service!" You will not be surprised to learn that this partner's method of costing a file was to narrow his eyes as he studied the physical being of the file, pick it up and gauge the weight, before dictating a bill to his secretary saying "To our professional charges in connection with the above matter £2,500 plus vat ..."

It is perhaps with the likes of this lawyer in mind that Richard Susskind said "... the law is not there to provide a livelihood for lawyers any more than illness prevails in order to offer a living for doctors." In his book "The End of Lawyers – Rethinking the Nature of Legal Services" he "... calls for lawyers ... and their clients to think more creatively, imaginatively and entrepreneurially about the way in which lawyers can and should contribute to our rapidly changing economy and society."

The reality is that we are trained to be highly skilled craftsmen and not business men and women. The firms that have taken this on board over the years have grown from strength to strength. Nevertheless the rapid change in technology and the demand from clients for more for less means even they now find themselves having to re-evaluate their business models even before Alternative Business Models (ABS) under The Legal Services Act were even considered.

I continued as a litigation solicitor in private practice until 2007. During that time I found myself increasingly focussing on what clients really wanted to achieve when they sought my advice. It was easy (most of the time) to tell them how the law worked, what their prospects of success would be and how much it would cost them; but what did they really want and how deep were their pockets? Many commented that I did not sound like a normal solicitor!

In 2002 I qualified as a mediator and like all newly qualified mediators I was oozing with enthusiasm as to the potential for this form of alternative dispute resolution. Whilst there is no doubt that it is a growth area there is still resistance by litigators to the concept. From my own research I have found that some of the reasons are ignorance as to what it is, closed minds as to the application to their case loads and a wish to remain within the comfort zone of their adversarial training. Last, but by no means least, a fear that it will affect the profitability of a case for the firm.

I spoke to a solicitor recently who was honest enough to say that he did not want to use mediation because he was "clinging on to what little litigation he had left." How long will firms with this mind set last?

Whilst legal practices will undoubtedly have to look to outsource, downgrade fee earning work, review their pricing structures and embrace the technologies of the future they would do well to look at mediation to meet the demands of their clients. The more progressive fee earners have recognised this. The pressure on the legal profession is to deliver greater value to clients for less

cost. Dare I say it - isn't this called client satisfaction? Advising clients about mediation and encouraging them to use it as a first and not last resort should, in my view, be a core component in meeting client demand for value for money.

In March 2011 the government proposed compulsory mediation information sessions in all cases valued at less than £100,000 and an increase to the small claims limit to £15,000. The National Mediation Providers Association have agreed to run a Ministry of Justice (MoJ) endorsed pilot in the Civil Justice Centres in Birmingham, Manchester and London where there is an on call mediator on duty each day, available to give parties information on the use of mediation including costs. The mediators are all members of accredited and MoJ approved mediation providers. This information service is free.

Lawyers should take the initiative and not wait for legislation to impose mediation upon them.

The author of this article, Suzanne Lowe, Managing Director of Talk Mediation is the overall co-ordinator for this pilot. The pilot started in Birmingham on 6 June, Manchester on 4 July and is due to commence in London on 19 September. For further information contact her suzannelowe@talkmediation.co.uk or telephone 01432 344666.