



GUIDANCE NOTES FOR LEGAL PRACTICES

Time limits

All dates are important but not all are time critical. Non-critical dates include routine appointments and file reviews. While these dates are important, missing them is unlikely to generate a claim. At all stages of a matter, it is imperative that key dates can be differentiated from routine dates – by anyone in the firm.

Mistakes arising from missed key dates are totally avoidable. Yet such mistakes still account for nearly one third of all claims and two thirds of claims against litigators.

Essential steps

- Recognising that time limits apply
- Researching time limits
- Recording time limits
- Reacting to time limits in good time

Recognition

The most recognisable key dates are those set by statute. Limitation dates are an obvious example. However key dates can be imposed by national or international regulatory bodies, by procedural requirements or by agreement between the parties and these are often shorter or more immediate than statutory dates.

Possible consequences

- Limitation: opportunity to pursue original action lost
- Procedural: right to appeal lost, original action can only be pursued on less advantageous terms
- Hearing dates missed: wasted costs orders, indemnity costs
- Part 36 offer lapses: advantageous settlement terms lost
- Deadline to exchange contracts missed
- Right to review rent, to exercise option or to acquire freehold lost

Time limits affect all fee earners, not just litigators

- Landlord and tenant: notices, counter-notices, renewals, rent reviews
- Probate: tax penalties, late filing of accounts, deeds of variation
- Company/commercial: contractual obligations, filing returns, registration of charges
- Conveyancing: registration within priority period, options to purchase, completion, lease extensions and enfranchisement
- Notifications to SOCA
- Regular monitoring of diary procedures is essential to ensure your system is working

Research time limits

- Identify them at the outset of every case, wherever the instructions come from. Watch out for new instructions received from another department within your firm
- Don't make assumptions – check the facts of the particular case (foreign jurisdiction, unusual contractual terms, capacity or status of your client)

Record time limits

- Record all key dates three times: on the file, in your diary or case management system and in your central or departmental 'back up' diary
- Ensure key dates are recorded as soon as the firm becomes aware of them. Do not wait until you are ready to deal with the file – it may then be overlooked or may already be too late
- Record countdown dates ahead of the final date so that you are aware of approaching deadlines but don't make them too far ahead
- Key dates should be obvious on the face of the file, preferably recorded on a file information sheet. You may not be the next person to pick up your file
- Review dates as the case develops, or if new evidence suggests a different approach
- If you take on a matter from someone else (whether in your firm or not), don't assume your predecessor got it right – review the file and check key dates for yourself
- A system that requires fee-earners to confirm that action has been taken – by signing and returning a reminder – will help, but only if it is monitored regularly

React to time limits

- No diary system can prevent time limits being missed if you do not react to key dates
- Aim to take all necessary action before you reach the final reminder – don't put yourself under unnecessary pressure
- Don't set countdown dates so far ahead that they are disregarded as being unrealistic
- Avoid leaving the issue (or service) of proceedings to the last day – there will be no time to recover if you issue against the wrong defendant or fail to serve at the right address

Diary management

Most people now use electronic diaries but there is still a place for the paper desk diary, there are pros and cons to both. With paper diaries handwriting is often an issue. With electronic diaries you can be stuck if your server is 'down' or if past dates have not been archived. If you use a case management system then you must ensure that diary dates are added to it.

Can you answer 'yes' to the following four statements?

- I differentiate routine and key dates
- My diary system works for me
- My diary can be read – and understood – by anyone else in my absence
- We have a central back-up diary, which generates reminders of key dates

Whether you have a paper or electronic diary:

- Are entries clearly recorded?
- Do all entries identify the client's name, the file reference and an indication of what needs to be done?
- Have you informed the client of important time limits?

The central diary

The central or departmental diary should be used as a follow-up or 'back-up' system.

Each office, department or floor should have its own back-up diary if there is no firm wide system in operation.

- Ensure that the system is user-friendly. A system that generates too much information or is too time-consuming will be as ineffective as having no system at all
- Ensure the procedure is clear and understood by fee earners and support staff alike
- One person (usually a senior member of your support staff) should have specific responsibility for running it, after training on its importance
- Appoint a deputy to cover for this person's absence
- It is essential that the diary is kept up to date
- Everyone should have access to it but with most staff restricted to 'read only' rights
- Reminders should be generated regularly, usually on a daily or weekly basis

Your system should require that every reminder receives a response confirming either that the date has been actioned or that it is still outstanding. Ensure that fee earners are encouraged to speak to their line managers at the earliest possible opportunity if they anticipate any difficulty in complying with a key date.

When relevant action has been taken, key dates need to be checked and marked accordingly.

Review

Regular monitoring of diary procedures is the only way to ensure that the system is working, and that everyone is using it effectively. It is the fee-earner's responsibility to check that diary entries are correct – including when made by someone else. No system can overcome the problem of incorrect data entry.