

## TIME LIMITS

All deadlines are important but not all have serious consequences if they are overlooked. Examples of non-critical dates would include routine appointments and routine forward review dates for particular matters. While these dates are still important, missing them is unlikely of itself to generate a negligence claim. At all stages of a matter, it is essential that key action dates can be differentiated from routine dates - by anyone in the firm.

Mistakes that arise from missing key action dates are totally avoidable. Yet such mistakes account for a large proportion of all claims, particularly those where commercial property is involved.

### Essential steps

- Recognising that time limits apply
- Researching time limits
- Recording time limits
- Setting countdown periods to give you (and others) advance warning of approaching deadlines
- Reacting to time limits in good time

### Recognition

The payment of premiums and the service of notices in relation to break notices or business lease renewals are obvious examples. Key dates imposed by regulation or by agreement between the parties are equally important – and the time for compliance is often quite short and easily overlooked.

### Consequences

- Deadline missed: opportunity to pursue matter lost, such as a rent review
- Procedural: losing the right to appeal a planning decision, for example
- Hearing: an expert witness fails to attend court, so the trial has to be rearranged causing a wasted costs order
- Right to exercise an option or to acquire freehold lost or only possible at a higher cost

### Research time limits

- Identify time limits at the outset of every matter, wherever the instructions come from. Watch out for new instructions received by a colleague.
- Don't take short cuts or make assumptions - check the facts of the particular matter (local factors, unusual contract terms, the capacity or status of your client)
- Make sure you know what time limits apply on each matter

### Record time limits

- Record all key dates three times: on the file, in your diary or property management system and in a 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

- Key dates should be obvious on the face of the file, preferably recorded on a checklist. Always work on the basis that you may not be the next person to pick up the file
- Constantly review such dates as the matter develops, particularly in the light of new instructions
- 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 - can be very effective, 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

## Diary management

Electronic diaries are no better or worse than paper diaries. They are just different. There are advantages and drawbacks to both. Handwriting is often an issue in paper diaries. You can be caught out if diary entries are not shared, if your server is 'down' or if entries are made against the wrong date in an electronic diary.

### Can you answer 'yes' to the following?

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

## 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 key dates?
- 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 supervising partner 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. Using a different colour to show dates that have been actioned can work well

## Central diaries

- A 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

## 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 all diary entries are accurate and up-to-date – even those made for them by someone else. No system can overcome the problem of incorrect data entry.