



# Legal Sector Breakfast Briefing

Thursday 29 November 2012

## Measure what matters



# Legal Sector Breakfast Briefing

Welcome

**David Hannon**

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# Legal Sector Breakfast Briefing

Introduction

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Wednesday 27 June 2012

8.00am	-	Arrival and breakfast
8.30am	-	Welcome
8.35am	-	Briefing – Measure What Matters
9.30am	-	Q & A
10.00am	-	Close



Measure what matters – to build stronger financial performance and to achieve financial stability under OFR

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# The scope of our session today

1. Understanding the '**financial stability**' requirements of the Code
- 2. Measure what matters** – to identify and deal with your priority financial challenges

# 1. Understanding the requirements of the Code of Conduct regarding financial stability

Good financial management has for the first time become a compliance requirement

## **Outcome O (7.4) – Code of Conduct**

*"you maintain systems and controls for monitoring the financial stability of your firm ...*

*and take steps to address issues identified"*

Do you have systems and controls for monitoring the financial stability of your firm?



Acting in the following ways may tend to show that you have achieved these outcomes ...

**IB (7.2)** – controlling budgets, expenditure and cash flow

**IB (7.3)** – identifying and monitoring financial .... risks including ....credit risks and exposure ...

## **Outcome 0 (10.3)**

*"you must report to the SRA promptly any material changes to relevant information about you, including serious financial difficulty"*

## **‘material’?**

Guidance Notes to Rule 8 Authorisation Rules provide, in relation to a failure to comply:

(x) In considering whether a failure is “material” and therefore reportable, the COLP or COFA, as appropriate, will need to take account of various factors, such as:

- **the detriment, or risk of detriment, to clients**
- **the extent of any risk of loss of confidence in the firm or in the provision of legal services**
- **the scale of the issue**
- **the overall impact on the firm, its clients and third parties.**

Acting in the following ways may tend to show that you have achieved these outcomes ...

**IB (10.2)** – actively monitoring your financial stability and viability in order to identify and mitigate any risks to the public

**IB (10.3)** – notifying the SRA promptly of any indicators of serious financial difficulty .....

**IB (10.4)** – notifying the SRA promptly when you become aware that your business may not be financially viable to continue trading as a going concern .....

## Examples from the Indicative Behaviours which may mean you are not achieving the financial stability outcomes

**IB (10.3)** – notifying the SRA promptly of any indicators of serious financial difficulty, such as inability to pay your professional indemnity insurance premium, or rent or salaries, or breach of bank covenants

**IB (10.4)** – notifying the SRA promptly when you become aware that your business may not be financially viable to continue trading **as a going concern**, for example because of difficult trading conditions, poor cash flow, increasing overheads, loss of managers or employees and / or loss of sources of revenue.

# 'Going concern'?

- Did the SRA intend to use '**going concern**' in its technical accounting and audit sense, as defined by company law, and if so, what could be the implications of that for law firms?
- "going concern" refers to the firm's ability to continue functioning as a business entity
- the firm is a going concern, meaning it will continue in operation for the foreseeable future and will be able to realize assets and discharge liabilities in the normal course of operations
- If not intended to be used in its technical sense, then what does it mean?

## **“Going concern” basis for an LLP or a company?**

*“In preparing these financial statements the management team of the LLP have carefully considered the application of the going concern concept.*

*The LLP meets its day to day working capital requirements through overdraft and practice management facilities which have all been renewed until [       ]*

*The forecasts and projections of the business, taking account of reasonably foreseeable changes in trading performance, indicate that we should be able to operate comfortably within the level of our facilities.*

*After making enquiries, the management team has a reasonable expectation that the LLP has adequate resources to continue in operational existence for a period of no less than 12 months from the date of signing the financial statements. Accordingly, we continue to adopt the going concern basis in preparing the annual report and financial statements”*

## Companies and LLPs?

The management team of the LLP have carefully considered the application of the going concern concept. **Are their considerations documented?**

What about banking covenants – have they been adhered to or is the firm in breach?

Are the forecasts and projections of the business reasonable, do they adequately reflect foreseeable changes in trading performance, market conditions, does the cash flow forecast place undue reliance on reducing debtors via improvements in collections or improved growth in fees. What are the implications for funding the business?

Does the management team have a reasonable contingency plan to ensure that the LLP has adequate resources to continue in operational existence for at least 12 months from the date of signing the financial statements?



# Who should be responsible for financial stability?

- FD?
- COFA?
- COLP?
- All owners of the business?
- All of the above?

## 2. Measure what matters

Review financial measurement and reporting

*“If you cannot measure it, then you will not be able to manage it”*

Are you measuring what matters?

# Establish an **'audit trail'**

*“If you cannot demonstrate compliance we may take regulatory action”*

- Measure what matters
- Report effectively
- Train your people
- Take advice if issues arise

What is the purpose of financial measurement and reporting?

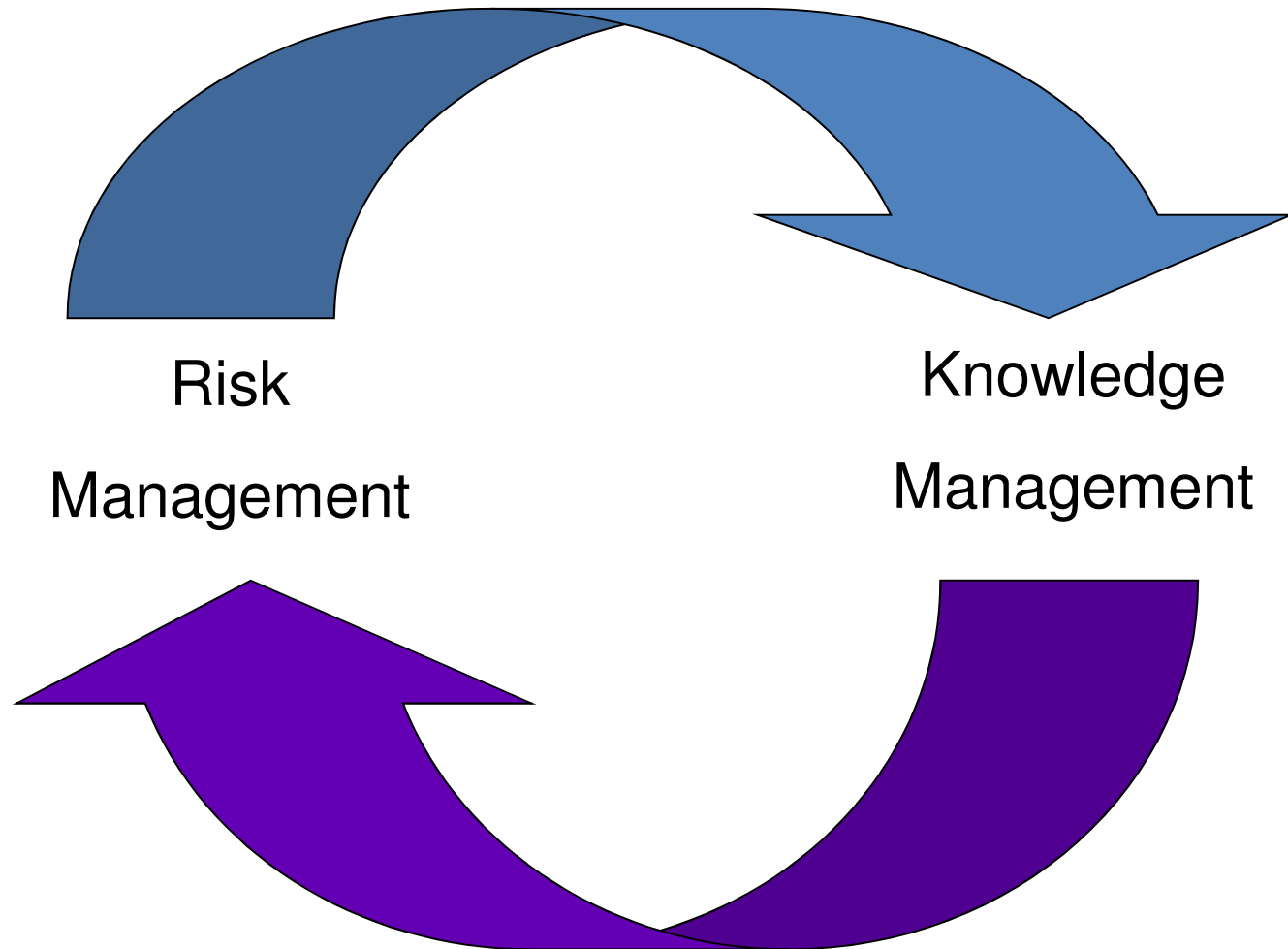
**To provide clear information to those running the business to enable them to:**

- Know what is happening / will happen in the business
- Make decisions based on sound knowledge
- Take effective **action**

# Financial measurement and reporting

- creates **KNOWLEDGE**
- manages **RISKS**

# Risk and Knowledge Management



Financial measurement enables a  
business to manage **performance**



What do you measure?

What do you report on?

**Is your financial measurement and reporting helping or preventing you achieving your objectives?**

Do you produce data or information?

How do you **use** the financial information you produce?

In a law firm what needs to be measured  
- and why?

# Examples of **what matters**

- How can we measure the financial performance of each part of our firm?
- How profitable / loss making are each of our clients?
- Which parts of our firm generate good cash flow or soak up cash?

Do you measure things which **do not need to be measured** in order to run you business

- more effectively?
- more profitably?
- to generate more cash?

Do you / your people use everything you  
measure / report?

If not – why do you measure it / report it?

**Is there anything you should  
measure which you do not currently  
measure and report on?**



# **Your key performance indicators?**

# Test your KPIs

- Why do we produce this information?
- Does it tell us what we need to know about our business?
- What does it not tell us about our business?
- Do we ever use this information?
- If not then why do we produce it?

# **Real time or historical information?**

For example

- billings
- input

**Hard copy or available on line?**

# **Frequency of reporting?**

**NB - inaccurate reports destroy credibility**

## **Who needs what?**

How far do you disseminate financial information in your firm?

- and for what purpose?

# Financial education and training

*“I don’t have a clue about the financial reports I receive”*

- What do you want each partner / fee earner to financially manage?
- What do they need to know to be able to do this?

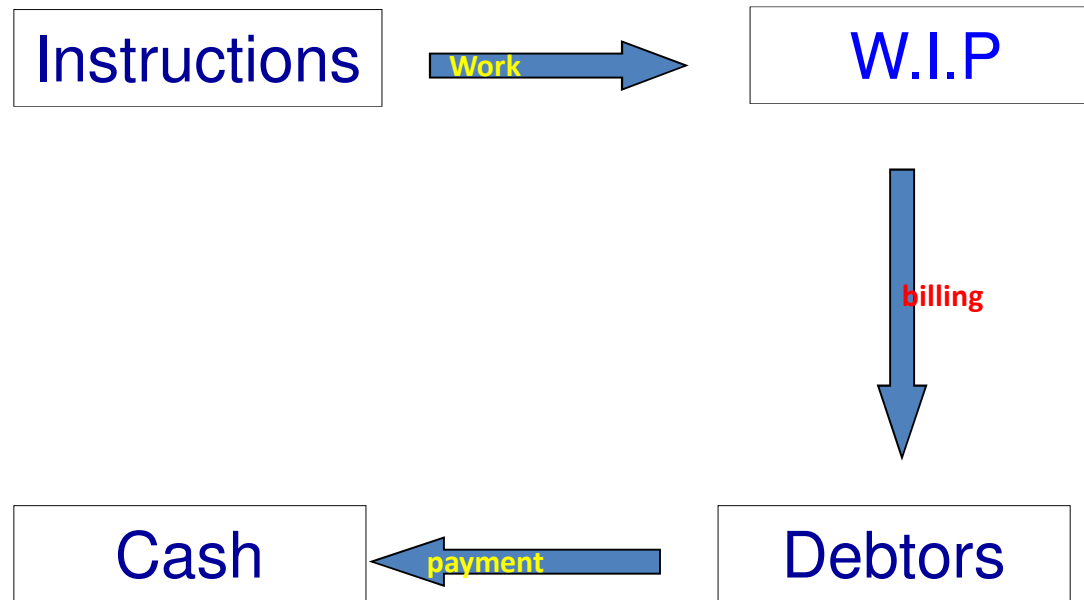


Do your partners / other fee earners have financial knowledge gaps?

Do they understand why you provide them with financial reports?

Do they understand why you are asking them to take a certain action?

# Take control of your cash management – to maintain financial stability



# Cash management priorities

- taking instructions
- Managing the WIP
- Managing debtors

Above all – manage partners!

**Adopt zero tolerance and partner accountability instead of this .....**

*“That’s a great idea ...for the rest of you!”*



# Take appropriate advice, act on it and document it

**NB** – COLP's and COFA's responsibilities

**Outcome O (10.1)** – you ensure you comply with all the reporting and notification requirements in the Handbook that apply to you

**Indicative behaviour IB (10.5)** – notifying the SRA of any serious issues identified as a result of monitoring referred to in IB (10.1) and IB (10.2) and producing a plan for remedying issues that have been identified

# Responding to an approach from the SRA?

1. Admit nothing!

2. Respond with:

Thank you for your call and I note your concerns. Obviously I will need to discuss this with my financial team and my accountant. I will respond to you once I have had their responses.

3. Contact your accountant and explain the phone call and get their professional input on refuting the comments from the SRA.

# Establish an **'audit trail'**

*“If you cannot demonstrate compliance we may take regulatory action”*

- Measure what matters
- Report effectively
- Train your people
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Any questions?



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Conclusion

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