

Insights Guide



BigHand

**How to think
about value-based
pricing in Legal**

What do we mean by value-based pricing?



According to Investopedia*, value-based pricing is the 'methodology of setting prices primarily based on a customer's perceived value of the product or service in question.'

How best to achieve this in legal is the subject of ongoing debate, with the perceived value of "legal services" differing greatly based on the type of work being delivered, and the specific circumstance of the client.

For example, the value of an individual lawyer will be much higher for specific knowledge-based work, built with years of experience working on similarly critical matters, versus lower-value work where the process is often more repetitive.

Likewise, with repeatable work, technology systems and well-honed processes that demonstrate the firm's capabilities for delivering routine services efficiently, become arguably more valuable.

Of course, the true value of legal services is much more nuanced than one or two factors alone and can involve a combination of things like client service, legal expertise, operational effectiveness, the relationship with the client or the critical nature of the outcome – just to name a few.

When looking at where the value shift occurs for your clients, there are three broad categories of work to bear in mind.

We've titled these as Expert Work, Entrusted Work and Efficient Work (although realistically there will be multiple sub-segments within these).

With competitive pressures continuing to rise, it's important for firms to take a step back and ask – is my firm considering how to price each type of work to make a lasting impact on our bottom line, and to mirror the value our clients place on it, rather than our lawyers.

*BLOOMENTHAL, A. <https://www.investopedia.com/terms/v/valuebasedpricing.asp>

Expert Work: with knowledge comes power

Expert Work involves services that are either very large in scope, of significant risk or urgency to the client, or where the scope itself is unknown at the outset. Therefore, the goalposts for this type of work tend to move depending on the client needs (which themselves might change throughout the course of the matter).

A good example would be highly contentious litigation work that is business-critical for the client. The matters are often relatively unique and vague in outcome so therefore difficult to scope, and ultimately require an individual with very specific expertise. The level of complexity also means that the cost of delivery is not usually relevant when pricing this work.

A critical value measure here is the combination of the outcome for the client, and the individual conducting the work. For the client – usually someone in senior management – this work requires not just an expert, but an expert with bona fide credentials and highly relevant experience.

For the firm, that expert will likely be the partner with the confidence to win the case.

How does this effect the pricing of this work? Not uncommonly, firms might fail to see the real value of the individual partner to the client, focusing more on the time spent, than the outcome achieved.

This can result in under-charging for the work, whilst still charging for all the time expended. The person's track-record is a unique selling point and shouldn't be under sold to the client.

Kevin Doolan offers a much fuller explanation but also cites a useful illustrative example in his book 'Mastering Services Pricing', "...this will be comparable to a situation where you have been told you need a difficult and complex operation which carries a serious risk of death. When choosing your surgeon, you need to know the comparative success rates of the alternative practitioners...You won't particularly care about which hospital the surgeon is using or whether they are pleasant to deal with. What matters is the end result."*

One reason for under-pricing this 'win at all costs' type of work, is the increasingly dated way of charging by the person's hourly or daily rate.

Law firms should be bolder in this area of services and trust in the great value your client will see in having a highly experienced partner devoting their time to the matter.

Top tip: Individual branding

Are you investing enough in developing your Partners' individual brand? Their personal experience is what will continue to allow your firm to win this kind of new business, so ensuring that you are giving them plenty of exposure in your marketing is important.

Entrusted work: it's a feel-good thing

Matters that fall into the Entrusted Work category are less urgent or critical than the above but are still of substantial value and size. Some examples are high level M&A and compliance matters. The work might be more repetitive in nature and might be considered 'business as usual' for the client but is still high value.

Often, it comes in the form of lots of important matters that form a continual engagement with the client. Here, cost of delivery starts to have a role in the pricing, particularly with repetitive work. If you can deliver the work at the right cost, it will ensure you are maximizing the matter's profitability.

With Entrusted Work, the value for the client will shift from the individual lawyer, to how good their working relationships and brand association is with the firm as a whole. The successful firm will have an in-depth knowledge of its client's business, supported by a good cultural match, and evidenced with example of where the firm has successfully undertaken similar work.

From the client's perspective, this type of work doesn't necessarily require specific expertise from a partner, but will rely on the overall experience of the departmental team assigned to the work. Seeing as the work is usually long-term, the client will want to be assured that the lawyers understand their business and that they enjoy working with them.

For this level of work, the client will consider price, but it is very rarely the sole deciding factor.

Bear in mind that the more trusted your firm is with the client, the more you can charge for your services.

If we continue with the medical analogy, this work is similar to laser-eye surgery. The procedure is not very complex, so you are less likely to research individual practitioners, and more likely to place value on the reputation, or brand, of the clinic. Your budget is important, but there is probably some wiggle room if it means choosing a clinic you know you can trust.

Going in with a low offer won't necessarily help you win this type of work. It might do the reverse. Instead, if a firm believes they are the right fit for the client, they should be confident in holding their price. If the client also believes that your firm is best for the job, but you are out of their budget – your relationship should give you the chance to negotiate where necessary, in good faith.

Peter Hill summarizes this point well in his book 'Pricing for Profit', "Many diverse factors determine whether a quote is successful. The supplier / customer relationship has a big influence as people will often pay a premium where trust is high."

Top tip: Networking for relationship building

Identify the lawyers in your firm whose skills lie in 'relationship building' and task them with networking and building strategic relationships with prospect clients to improve your chances in winning this type of business.

Efficient work: another day, another dollar

It's here that we start to enter the land of commoditized legal services. Efficient Work is of lower value, highly repetitive in nature, and is likely to form part of the day-to-day business function of the client.

Examples can include recurring contract reviews, property transactions and commercial agreements. It is at this end of the market that pricing sensitivity increases, competition is fierce and law firm efficiency is paramount.

Just because this work is lower value doesn't mean it can't be incredibly profitable, however. Many law firms see their biggest profits occur here, in fact lots of firms specialize in playing solely in this space. What is vital, is being fully equipped to deal with these matters in a highly efficient way.

Technology, people and processes all need to be aligned to deliver the slickest service to impress potential clients and maximize the bottom line. Cost of delivery is vital here - trying to deliver a low-cost service with a high-cost delivery organization will lead to a loss-making business.

Pricing low cannot work without delivering low, and for some, that might mean a culture shift is required. The client will usually be well versed in this arena, with the ability to advise on processes that have been successful with similar work in the past.

With this level of involvement, it's inevitable that they will shop around for a good price.

It's no wonder then, that fixed fee agreements are most likely to be used when pricing this work.

Bear in mind that the client's procurement department will often control the purchasing of these services. Procurement teams will be less likely to stay loyal to a current supplier and will be primarily concerned with obtaining the best price and most efficient service to deliver this highly predictable work.

This doesn't mean that you can't offer some added value to help you stand out, however. In fact, added-value (in the eyes of the customer) will be, by definition, the difference.

A great summary of this comes from the book 'Winning Alternatives to the Billable Hour', "The opportunity here is for lawyers to be armed with the appreciation of the price-sensitivity issue of commodity work and to craft an approach that is a win-win for both the lawyer and the client.

This does not mean a price war of reckless underbidding that does not benefit the lawyer in the end. But it may mean highlighting the other values that the lawyer provides."

Top tip: Added value

What extra value can your firm provide as leverage to win low-value legal work? Can you offer your legal expertise for training purposes, offer to speak at client conferences, or offer to keep clients informed of any relevant legal industry news? Offering added value will help you to stand out from competitors and stick in your client's mind as a trusted advisor.

So what's the diagnosis?



For value-based pricing to work in legal services, the first step is for firms to understand the client's perception of their value when delivering varied types of legal services.

We've explored the value of individual partner experience for high-risk Expert Work, and why this is often under-priced due to law firm's pre-occupation with time spent on the matter, rather than the outcome delivered.

Likewise, for Entrusted Work, it seems that trust is a pawn often underplayed in the pricing game. The more the client trusts your firm, the more you can charge for these matters, and the relationship should then be strong enough to encourage pricing negotiation if necessary.

In the fiercely competitive world of routine work, cost is everything. Firms need to be able to support low pricing with low delivery costs – but how many firms are successfully offering added value to stand out from the crowd?

Although we outline three categories, another important step for firms will be to determine whether they need two, three, four or more categories to proactively view and execute an appropriate pricing strategy.

Law firms should be spending time with customers to explore and understand their value, and ultimately assist them in articulating it. If they don't, other firms will be. The very process itself will create a deeper relationship.

As Pauline Doohan explains in 'Pricing Legal Services', "Lawyers need to fully appreciate that the relative value of legal services to a client often bears no relation to what they might perceive the work to be worth. Understanding the relative value of legal services to the client will be fundamental to reaching a pricing solution that represents value for money in the eyes of the client and ensures the firm is in with a chance to win the work."*

For more information on BigHand's solutions, please email: inquiry@bighand.com

*Doohan, P (2015) Pricing Legal Services. <https://www.ark-group.com/product/pricing-legal-services#.XXd63ChKiUk>