

Lockton Solicitors

Guide to Key Dates



Introduction

A common cause of claims against law firms is a failure to meet / adhere to Key Dates on a client matter. As with most issues that give rise to claims and complaints, firms can take a number of simple steps to help prevent issues arising. This then helps to avoid complaints and / or claims and as a consequence, less fee earner time is spent dealing with these matters. In turn, this should improve staff morale and a better claims experience for firms. This means that less money is paid out on claims by insurers and the firm's insurance premium less likely to be adversely affected.

Whilst many dates may be relevant to a client matter, a Key Date is one which is important or material and which, if missed or forgotten, is likely to lead to the client suffering a loss or prejudice. For example, expiry of statutory limitation periods, missing court dates or the dates by which stamp duty land tax must be paid before a penalty is imposed. Missing a Key Date can lead to a client making a complaint, the firm having to make a claim for loss or be subjected to possible legal action and / or suffering reputational damage.



Why is it so important to comply with Key Dates?

It should be self-explanatory to all of us why it's extremely important that Key Dates are not missed on client files. However, we set out below a number of the reasons why:

- The two Codes of Conduct for firms and solicitors require both to act in the best interests of their clients (see Principle 7). In addition, Rules 3.2 and 3.6 of the Code of Conduct for Solicitors, RELs and RFLs (COCS) provide that the service we provide to clients is competent and delivered in a timely manner and by individuals competent to carry out their roles. Rule 4.2 of the Code of Conduct for Firms places a similar obligation on firms
- Clearly, in order for a firm and solicitor to be able to discharge these obligations, both will need to ensure that they record and meet all Key Dates
- As mentioned above, if a Key Date is missed, it could have all sorts of other adverse consequences for a client and for a firm. For example, missing the expiry of a statutory limitation period may mean that a client is no longer able to seek redress for a matter, such as breach of contract. Similarly, if SDLT is not paid within the required period, a client could incur a significant fine
- Your firm may be subject to a formal complaint from the affected client. This could lead to a client taking legal action against the firm where they have suffered loss or damage, although a firm is likely to want to try and settle the matter out of court
- The firm may have to make a claim for loss to its insurers, which may lead to an increase in its insurance premium. Numerous claims could lead to firms having difficulty in obtaining renewal of cover
- Both the firm and fee earner may also suffer reputational damage if the issue is made public
- If a fee earner is absent from the office or leaves without notice, files will need to be dealt with at short notice by other fee earners. Ensuring that Key Dates are clearly recorded means that these will not be missed by the new fee earner and will help ensure a smooth transition.

What we can do to help ensure that we don't miss Key Dates

Firms should put in place a Key Dates policy which should be made available to all relevant staff. The section below sets out the information that should be contained in the policy. It is important that the policy clearly sets out the process for staff to follow to ensure that Key Dates are recorded and stress the importance of and rationale for doing so.



What to do next

We recommend that firms take the following steps:

- Appoint an appropriate person to be responsible for producing your Key Dates policy, if the policy is not already in place
- Appoint an appropriate person to be responsible for identifying, collating and recording the common Key Dates in each department at your firm
- Prepare your Key Dates policy: We recommend that the policy include the following information:
 - An overview of the importance of recording Key Dates
 - A table / schedule at the back of the policy setting out the common Key Dates by work type for each department at your firm
 - The procedure for recording Key Dates at your firm. This should include a requirement for Key Dates to be recorded (i) on the client file, (ii) in the fee earner's own work diary and (iii) in a central Key Dates diary (as a backup system). The policy should set out how this will be achieved at your firm – for example, some firms may have a case management system that allows for dates to be recorded electronically and for automatic reminders to be sent out to fee earners
 - If your firm does not have the ability to send electronic date reminders, the policy should provide details of the person responsible for reminding those dealing with files of upcoming Key Dates (and details of their deputy if absent)
 - The policy should also state that the recording of Key Dates on files will be checked as part of the file review process
 - Details of the named contact in each department to assist with any Key Date queries
 - What will happen in the event of non-compliance with the policy. For example, if Key Dates are repeatedly missed by a fee earner, the fee earner may be subject to disciplinary action.
- **Training:** Once the policy has been finalised, training should take place for all relevant staff on the policy. This should explain to staff the importance of following the policy and the potential risks to the firm of non-compliance and run through the procedure to be followed to identify and record dates. Training should take place at the time of staff induction and then refresher training should take place [regularly][at least annually][Please amend as appropriate for your firm]
- **Policy review and monitoring:** Appoint an appropriate person to be responsible for reviewing and auditing the processes that are put in place, to ensure that they work effectively. Any changes should be notified to the person responsible for compliance. The person appointed should keep appropriate records documenting the review and audit process.

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