

# Introduction

*Everything is, so to speak, commerce or negotiation in life.* (ANTOINE PECQUET, SENIOR FRENCH DIPLOMAT, 1737)

## The rising importance of fee management

No skills are as critical to the career of a professional service provider (lawyer, accountant, consultant, etc) as those involved in handling clients. Most professionals are focused on the quality of their ‘technical’ skills and are, at best, ‘blissfully unaware of their incompetence’ in the non-technical areas, especially fee negotiation (Thompson, 2009). This works to their detriment, as for reasons I shall outline in this book, most clients will take quality as a given and will therefore choose professional service providers on the basis of non-technical attributes.

When professionals do consider non-technical skills those involved in winning new clients are generally seen as the most ‘sexy’, followed at some distance by those involving retaining existing clients. Those involving pricing, negotiating and project managing are mostly ignored, or worse still avoided like the plague. Yet these are the skills that will have the biggest impact on the financial performance of that individual as well as his or her firm. I call this collection of skills ‘fee management’.

Fee management, ie the set of skills involved in pricing, negotiating and managing fees during the course of an assignment, is highly relevant on a daily basis. Those professionals best able to apply these skills will have daily opportunities to strengthen their relationships, win more work and improve their financial performance. Fee management has been and still is badly neglected within many professional services firms (PSFs) and by individuals. Peter Hill, in his excellent book *Pricing for Profit* (2013) demonstrates how pricing is the single most important influencing factor on any firm’s profitability and how,

with relatively simple measures, profitability can be increased without necessarily providing clients with a worse deal. PSFs, along with many other firms, simply do not invest the time and effort required to establish truly optimal pricing processes or structures.

There are many complex reasons for this but all too frequently one is resignation to the belief that little can be done about it. Such pessimism is misplaced as the results of our work with many PSFs have shown over the years. As a consequence of this neglect PSF firms either do not bill fees commensurate with the value they deliver, or their clients are unhappy with the fees they are charged. Either way, relationships between PSFs and their clients fail to reach their full potential in economic, professional and personal terms.

Some may consider this just an unfortunate aspect of the complexities of commercial life but the ramifications for individual professionals can be dramatic in terms of both career and personal life. All too often we find professionals having to 'defend' or justify their fees to their clients. These professionals are often poorly supported by their firms, have received little or no training to help them deal with such situations, and anyway find the concept of having to defend the merits and value of their work abhorrent and akin to engaging in the 'mentality of the bazaar' (probably more indicative of their 'mentality of the bizarre'). Engaging in market-style bargaining is something most observers would consider diametrically opposed to the typical personality profile of a professional.

As a result of this and because of the 'dilemma of goals' (Rubin and Brown, 1975) between getting a good fee and risking the client relationship, something we will refer to in Chapter 7 as the 'love versus money conflict', many professionals will try to avoid fee management. When avoidance is no longer an option these professionals become incredibly stressed when having to discuss fees with their existing or prospective clients. This stress will affect their personal health and the way the negotiation is handled, further undermining the client relationships (Hardy, 2008).

It is a curious paradox that many professional service firms and professionals are not at all professional when it comes to managing their own businesses. The contrast between their approach to

‘billable’ client work and ‘non-billable’ activities such as strategy, pitching, marketing, client management and everything relating to pricing, negotiating and invoicing is even more curious when considering that these activities would, if properly undertaken, help professionals become more successful, win more work and get paid better.

Of all the non-billable activities, most professionals find fee management, ie setting, getting, keeping and collecting the fees they are worth, to be the toughest and most discomfiting. The most important reasons why this is the case relate to the need for professionals to build trust with clients when being selected for the work. Not surprisingly many find this a challenge at the best of times, never mind in the context of a potentially contentious fee negotiation. This book will explore these and other reasons for professionals’ reluctance to engage constructively and with energy in fee negotiations and, more important, provide the reader with strategies and techniques to mitigate these challenges.

PSFs and professionals looking for support and ideas in the broader fee arena can find a plethora of materials on pricing, dealing with procurement, matter or project management and fee negotiation. Unfortunately, little of this material is written specifically for PSFs and some of it is actually not appropriate for a professional service firm, particularly in those professions that are subject to regulation or codes of conduct. PSF management and professionals consequently have had to find their own ways to adapt key principles and processes for their businesses – with varying degrees of success.

This book addresses this gap and provides practitioners and PSFs with an overview of the key issues as well as practical guidance on how best to price, negotiate and manage fees. It will help you as a professional to become more profitable and effective in your dealings with clients.

## **Joining the dots – the ‘golden triangle’**

What my colleagues at the Møller PSF Group and I have seen is that few PSFs have found ways to connect the dots and create an aligned

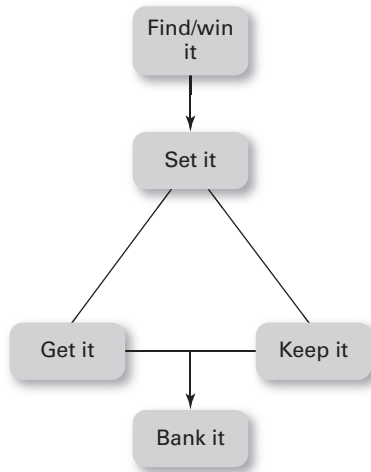
approach to fee management, ie bring pricing, structuring, negotiating, project management and profitability management (including controlling and finance) under one roof to provide a consistent framework. This failure to generate a coherent approach has become particularly apparent in the post-2008 environment where clients have become increasingly keen to get value for money from their professional advisers and more sophisticated in getting it. This begets the question ‘Why?’ Why have PSF management not been able to get their houses in order? I believe that one of the fundamental reasons is that few professionals and their management teams have fully understood the connection between all elements of fee management and the skills required by professionals to deliver them.

To understand how this can be achieved it is useful to think of fee management as three connected but distinct areas:

- 1 *setting* the fee (price and structure);
- 2 *getting* the fee (negotiation); and
- 3 *keeping* the fee (project fee management).

This is preceded by activities required to *win* the work and followed by activities to *get paid*. I refer to this model as the ‘golden triangle’. *Setting* is concerned with determining what an appropriate fee for a particular piece of work should be and will depend on many factors. This is covered in Chapters 2 to 4. *Getting* is about engaging with the client to reach agreement on the fee and the framework that governs it; this is covered in Chapters 7 to 13. *Keeping* is about implementing the fee arrangement and managing it when projects or matters take on a life of their own (which most invariably do). This is covered more extensively in Chapter 14.

The critical point is that these three activities are distinct but also heavily interdependent. There is no point setting a fee if there is a snowball in hell’s chance of agreeing this with the client. Why bother engaging in a protracted fee negotiation when at the first instance of change everything has to be renegotiated or, worse still, unmanaged scope creep is allowed to kill the profitability of a project? On the other hand, why fight hard for a high headline rate (and risk losing the instruction) if you are very confident that the project will change

**FIGURE 0.1** The broader context of the golden triangle

over time, creating the opportunity to charge additional, higher margin fees?

Experience has shown that solid fee negotiation skills serve as the lynchpin holding the triangle together. There are a number of reasons for this. They include the tendency of many professionals to quote low to win the business. By so doing they give up potential profit as well as weaken their hand for when there is additional work from the client. Another reason is that a lack of confidence in one's abilities to engage and negotiate constructively with clients reduces the chances of exploring opportunities for delivering better work or being more creative. Finally, the same techniques needed to agree a fee at the start of an instruction are needed to manage an ongoing project or instruction. Again, confidence and competence in handling clients in this respect will greatly contribute to generating a positive outcome for all involved – including the client.

Readers of this book should expect to gain a greater understanding of the key principles involved in fee management and how to apply them. Although the book cannot replace experience gained from practice or attending programmes such as the Møller PSFG High Impact Fee Negotiation Workshop, it will help readers and their firms gain valuable insights and improve their personal and collective

performance. I hope the book will also contribute to the personal and institutional wellbeing of professionals and their firms and help build better, more robust client relationships.

## The world of PSFs is changing

We live in an age of increasing transparency and faster communication. Technology, the internet and social media are rapidly changing established working practices and the way in which service providers and clients or potential clients work with each other.

Increasingly, commercial success will not just be determined by those able to deliver the best work (quality) but also by those best able to deliver the work (efficiency). Both require professionals to be highly competent in communicating with existing and target clients. This communication will not just be a question of telling but also of understanding counterparts, responding and knowing how to best convey messages rather than just focusing on their content.

This book, in particular the chapters covering fee negotiation, will demonstrate how fee negotiation is just another, albeit more challenging, form of client communication and that those able to develop their fee management skills will reap a number of key benefits including:

- better rates and profitability;
- more work;
- raised client appreciation of the work delivered;
- better client relationships through better expectations management; and
- improved joint problem solving.

Many professionals worry about applying these skills, especially with important clients, for fear of antagonizing them and ending up with neither the business nor the relationship. This is often because they confuse haggling and arguing with robust and constructive negotiating. This book seeks to demonstrate that a professional can get both 'love' (the relationship) and 'money' (profitable rates). In fact the book will demonstrate how a well-conducted fee negotiation is likely to strengthen relationships, as both sides will know clearly

what the future will hold and what will happen when circumstances change.

### ***Swimming with dolphins or sharks***

Another way in which the world of PSFs is changing is that clients have become increasingly proactive, some would say aggressive, in managing their professional service costs and relationships. As I will show in Chapter 1 clients have taken a number of different institutional routes to this, with some focusing their efforts on building strong relationships with a small number of providers and others looking to commoditize and dis-intermediate the provision of professional services. I also believe that there has been a change at the personal level in the way that individual clients work with their professional advisers. Individual clients can increasingly be divided into two broad categories (with some variations in between): dolphins and sharks.

Dolphin clients may be shy to start with, tend to be careful what they say or promise and take their time to get used to a service provider. Such individuals will take care of their advisers, helping them when help is needed. They can be trusted when making promises because they genuinely value their professional service relationships.

Dolphins still have their needs, ie they will still need to see good value, want to get the best prices, want their advisers to deliver quality work and meet deadlines and budgets. They will want clarity about the rules of engagement otherwise they won't work with you. One can, however, openly discuss mutual interests with dolphins, have sensible conversations about the long term and take risks in terms of upfront investment or short-term concessions in return for medium- or long-term benefits. Dolphins are worth their weight in gold. Unfortunately dolphin clients are a declining breed with the rise of procurement and greater sophistication of client buying processes. If you have a dolphin client I strongly recommend protecting and cherishing such a relationship and doing everything to nurture it. Dolphin clients are not as rare as unicorns but are a lot less common than many professionals would like to think.

Sharks on the other hand are very happy to get into the water with new advisers, in fact the faster the better. They do so not because they enjoy instructing new advisers but because they enjoy taking a bite at

the first possible opportunity (or sooner), just for the fun of it or to test their adviser's mettle.

Shark clients will become even more exited if they smell blood, ie get concessions just from grumbling. With some this can easily lead to a feeding frenzy where they become even more demanding, outrageous and unreasonable simply because they can – ie their professional service providers let them. Shark clients tend not to care about the long-term impact of their actions on their adviser relationship because they don't care for one. For sharks, advisers are a penny a dozen and should be used and abused as much as possible, that is what they are there for – besides, it's fun. Really good sharks have perfected the art of making their first or early bites painless or even give the impression that the professional is gaining major advantages, but by the time they are done, their constant sniping, hammering and nibbling will have caused real damage to the service professional or firm, usually in the form of haemorrhaging profits and good will.

Any hopes a shark can be converted into a dolphin through great client service are illusionary. Sharks will revert to type sooner or later and usually sooner – after all they had a great time, enjoying the snapping and usually generated (short-term) benefits for themselves or their firm.

I cannot overemphasize the need to know your client and be clear on whether you are about to get into the water with a dolphin or a shark and to prepare accordingly. If you are about to swim with a dolphin, enjoy it but work at it. Protect the relationship, engage in give-and-take and look at the long term, building trust, taking calculated risks and engaging in joint problem solving.

If you are about to swim with a shark (and we all have to at some point) be careful. Don't expose yourself or your firm to unnecessary pain and risks. Be ready to snap back and don't feel guilty about this. Remember it is about survival of the fittest or most disciplined. The only way to deal with sharks is to remind them of the benefits you can deliver and the consequences for them of not working with you. With sharks we advocate taking every penny you can get, because they will try to take every penny they can from you and, anyway, future business will go to the adviser they can most chew up or that will deliver the most service or value at the lowest cost.



Sometimes it is easy to tell the dolphins and the sharks apart. Often it is not and their true nature may only become apparent as a project develops. It is worth remembering that procurement individuals are not automatically sharks and that in-house contacts are not automatically dolphins.

## **Structure of the book**

This book provides the platform for bringing order to the chaos and confusion surrounding fee management and will help professionals and their firms understand the key elements and actions needed to manage this area better.

Chapters 1 to 6 provide an overview of the broader issues and look at institutional factors such as drivers and contributors to profitability; pricing and value; structuring alternatives; dealing with procurement processes and how to embed good fee management practices and processes within a PSF.

Chapters 7 to 13 cover the individual perspective, including how to prepare for a negotiation; how to open the negotiation process with credibility and confidence; how to trade concessions and how to bring a negotiation to an effective close. These chapters also look at how to add more value by applying a creative approach to negotiating and at some of the most common tactics likely to be encountered in the course of a fee negotiation. A solid basis in negotiation techniques will facilitate creativity on pricing structuring and matter management and will in the process also strengthen relationships. Chapter 14 concentrates on managing PSF projects profitably.

### ***Tips for using the book***

The chapters have generally been written on a standalone basis but to avoid too much repetition I have cross-referenced where a relevant but not central issue is covered in greater detail:

- Those looking to prepare for specific pending negotiations should start reading Chapters 7 to 13. Chapter 5 looks at

dealing with procurement, an ever increasing negotiation challenge for professionals.

- Those looking for help with their approach to pricing should look at Chapters 3, 4 and 5.
- Those with management responsibilities seeking some ideas on the institutional aspects of fee management will probably want to start by taking a look at Chapters 2 to 6 and 14.

This book will help professionals and professional service firms regain the initiative in managing their client relationship and profitability. I look forward to feedback from those who have applied the principles and techniques set out in this book.

### ***Note on language used in this book and sources referenced***

I have used the terms ‘practitioner’ and ‘professional’ interchangeably to help with the flow of text. I don’t distinguish between the two terms and both refer to the individual facing the challenge of fee management. Likewise the terms ‘partner’ and ‘senior manager’ should be taken as synonyms. Broadly speaking and unless stipulated otherwise, I have in mind the individual who is answerable to his or her client and his or her employing organization and who is expected and authorized to take decisions on fees and work assignments.

Finally, I am well aware that different professions have different terms for their work. Lawyers talk about matters or instructions, consultants about projects. For the purpose of this book I have used the terms ‘instruction’, ‘project’, ‘assignment’ and ‘work’ as synonyms. Nevertheless it will be helpful to understand the special issues common to PSFs; these are described in the following chapter.

For those interested in looking at some of the underlying research or alternative views cited I have either included original references or more recent ones I thought most readable or useful.

As a coach/consultant and trainer I greatly appreciate feedback and any experiences readers wish to share with me as a consequence of reading this book. I can be contacted at [info@psf-fees.com](mailto:info@psf-fees.com). For additional resources go to [www.psf-fees.com](http://www.psf-fees.com).