

## Business Disputes – its time to take a different perspective

*Try PLS (Proportionate Legal Solutions)*

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As well as being April's Fools Day, 1st April 2013 was also "J-Day" - which heralded the introduction of the much awaited and anticipated Jackson Reforms: these were reforms that have been in the offing for the last couple of years following in-depth analysis of the Court system and procedure by Lord Justice Jackson and which will have a major impact on businesses should a dispute arise. Andrew Knight, Head of Dispute Resolution at Taylor Walton solicitors discusses how litigation can now be funded, how it is conducted and how the costs of litigation will be dealt with.

The Jackson Reforms are significant for a number of reasons, but in principle the Reforms are aimed at:-

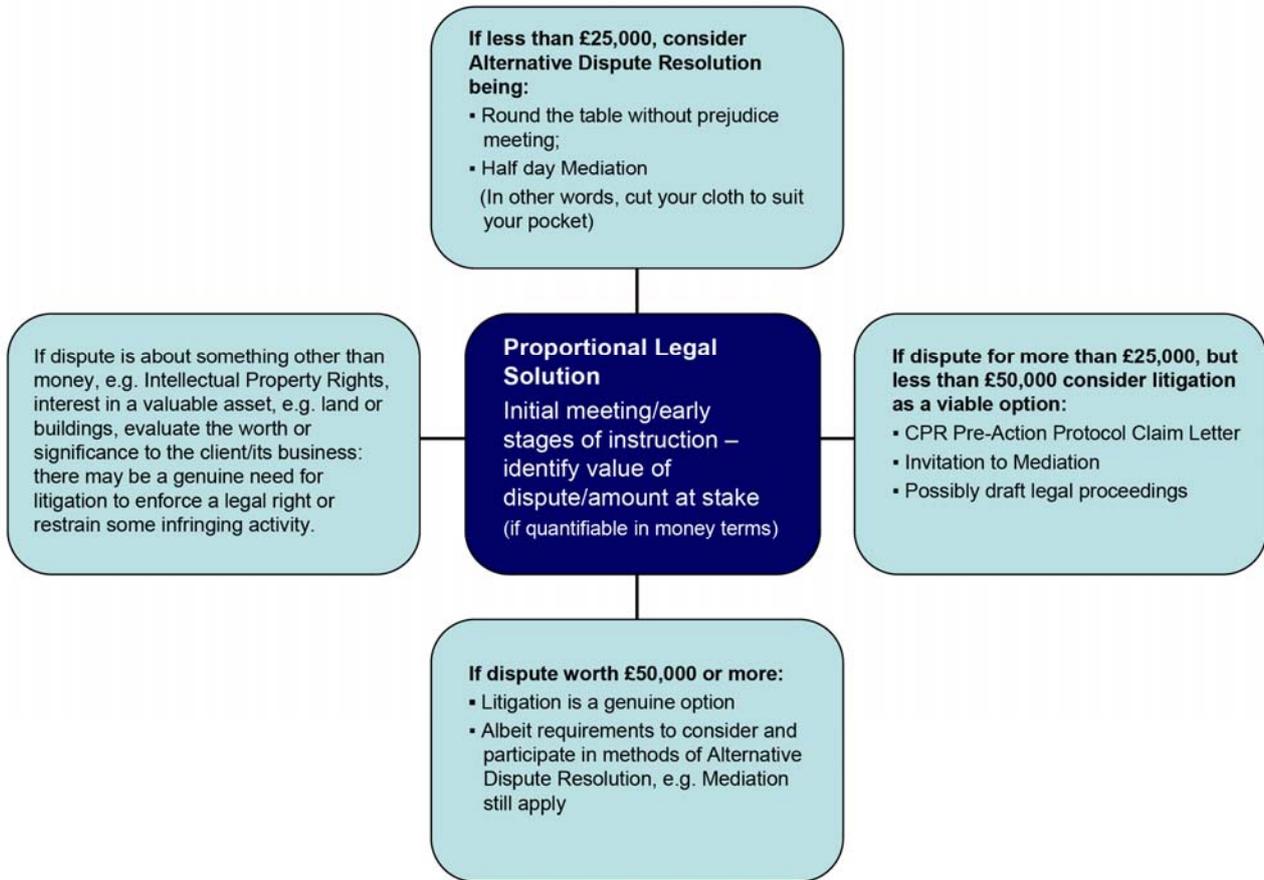
- Giving the Courts much greater power and control over costs - not only the amounts that parties to litigation spend but also the amounts they are entitled to recover from their opponent.
- The Courts having a supervisory role in relation to costs and budgeting - the Courts are to work with litigation lawyers to approve and sanction the level of costs which the lawyers say the legal proceedings will cost.
- Introduction of new funding vehicles such as Damages Based Agreements and third party funding arrangements.

What this means in practice is that never before has there been a greater emphasis on monitoring how much a piece of litigation will cost and ensuring that the costs that are incurred are proportionate to the dispute. Flexibility in funding litigation is now key.

We recognise first and foremost what has become increasingly more important in recent years - and never more so with "J-Day" - which is to try and find a cost effective or, as we like to say, "Proportionate Legal Solution" (PLS) for a particular dispute.

To set PLS in context, it's useful to borrow an analogy from the marketing industry. Marketing professionals will tell you that when seeking to win new business from a series of prospects they may elect to "qualify out" a particular prospect, because they realise the chances of winning business from that prospect are slim; alternatively, they simply do not want work from that business.

This process of "qualifying out" is also equally applicable to commercial disputes and assessing which mechanism is most suited to effectively resolving the dispute. Using our extensive experience of commercial disputes, we are able to provide advice, through PLS, on the most appropriate method of resolving a dispute. As a result, the diagram below shows the benefits of PLS by looking firstly at the disputes by reference to value.



The purpose of this "different perspective" to business disputes is to try and assist a business (typically an SME) with a plan which confronts head on the owner manager's concerns about escalating or spiralling legal costs. This is a particularly pragmatic approach borne out of a clear understanding of how expensive disputes can be (especially in litigation) and the need to bring closure to certain issues.

*Andrew Knight is Head of Commercial Litigation at Taylor Walton LLP, which has offices in Luton, Harpenden and St Albans and provides effective legal solutions to businesses and individuals across Bedfordshire, Hertfordshire and the South East. Andrew can be contacted on 01582 731161 or email [andrew.knight@taylorwalton.co.uk](mailto:andrew.knight@taylorwalton.co.uk)*

Taylor Walton has produced a guidance note on litigation procedure which sets out a general overview of the litigation process in England and Wales under the Civil Procedure Rules (CPR) and which takes into account the civil litigation reforms that came in to force on 1 April 2013. It includes information about the steps to be taken before a claim is commenced, but it is not a comprehensive explanation of litigation procedure. If you would like a copy please email [andrew.knight@taylorwalton.co.uk](mailto:andrew.knight@taylorwalton.co.uk)

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