

# Fixed fee menu pricing in the legal sector

A research report

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# Fixed Fee Menu Pricing in the Legal Sector: A Research Report

## Overview

A period of unprecedented change in the legal sector has presented both challenges and opportunities to legal services providers – both “traditional” law firm and new model providers.

Pricing innovation is at the forefront of change with one particular “hot topic” being the changing appetite to the traditional model of billing – the hourly rate – and the move to fixed fee pricing and the cost certainty it gives clients.

In a buyer’s market – and it is a buyer’s market – can firms afford to neglect client demands for fixed fees, particularly requirements for pre-set or “menu” pricing?

OMC Partners, commissioned Isential to examine pre-set fixed price legal services in the UK. Isential Services undertook in-depth 1:1 interviews with more than 50 Top 100 law firms and leading in-house teams.

## Executive Summary of Findings

1. In-house lawyers want to see far more fixed fee “menu” pricing particularly for recurring, similar scope work such as real estate work - licences and permits of all types, simple leases and commercial conveyances, reports on title - minor disputes and debt claims, commercial contracts, security reviews and secured lending, and straightforward M&A transactions.
2. Clients believe law firms - experts in delivering legal services, after all - *should* be able to calculate pre-set fixed fee prices for a wide range of work types. The fact that they are not is disappointing their clients.
3. Fixed fee “menu” pricing scares law firms, as the risk of getting it wrong lies with the firm. With the hourly rate, the client bears the risk.
4. A common obstacle to pre-defined pricing, cited by both in-house lawyers and law firms, was a lack of understanding by law firms of their historical costs of carrying out standard matter work, as well as inconsistent approaches to delivering the work.
5. There is an increasing trend in tenders and panels to require menu pricing.
6. The benefits are reduced price risk and reduced admin time for in-house lawyers, releasing them for more valuable work. For law firms, the benefits are reduced scoping, estimating and pricing effort – no need to reinvent the wheel for every job – plus confirmed recoveries.
7. Looking forward, menu pricing has started with more straightforward work types, moving progressively up the complexity scale.
8. Firms who respond, particularly to client demands for menu pricing, will – quite simply – win more work. Those who don’t respond, will not!

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## 1. First, some definitions...

Hourly rates	Pre-set “menu” fixed fees	Bespoke fixed fees	Capped fees
Fees charged on a cost per hour of work basis.	Fees set at a pre-determined price for broadly specified pieces of work.	Fees are set <i>after</i> scoping, quoting and agreeing a cost upfront with the client for a piece of work.	Fees will be no more than a set ceiling price.

## 2. Main Findings

### First, a statement of the blindingly obvious

- First and foremost clients want value for money and the pricing mechanism – hourly rate, cap, fixed fee - is only one part of that.  
**“Receiving value for money is a major driver for us; we are under cost pressure and need to demonstrate value for money to the business.”**  
General Counsel, FTSE 250
- Clients expect quality as a matter of course and 90% of in-house lawyers reported that improved cost certainty and clarity on the work itself needs to improve.

### An alternative to the hourly rate

- Law firm respondents reported that 84% of matters were still being delivered on the traditional hourly rate basis, although more than half indicated that clients expected other pricing options to be available - especially fixed fees.  
**“Hourly rates suit very bespoke work (expert advice and opinion) but not necessarily many other types.”**  
Head of Legal, FTSE 250
- Respondents - law firm and in-house- both reported that law firm culture (being wedded to the chargeable hour) was an obstacle to experimenting with alternative pricing mechanisms and fixed fees.  
**“Clients – from Mrs Smith to Coca-Cola - want fixed fees on every matter in every area.”**  
Managing Partner, Top 100 law firm
- Respondents - law firm and in-house- both reported that law firm culture (being wedded to the chargeable hour) was an obstacle to experimenting with alternative pricing mechanisms and fixed fees.  
**“Solicitors still think in hourly rates.”**  
Business Development Director, Top 20 law firm
- Respondents - law firm and in-house- both reported that law firm culture (being wedded to the chargeable hour) was an obstacle to experimenting with alternative pricing mechanisms and fixed fees.  
**“I’m not interested in hourly rates; they don’t assist me with cost certainty. Fixed fees do.”**  
Head of Legal, FTSE 250

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### Fixed Fee “Menu” Pricing

- All in-house lawyers interviewed saw value in more fixed fee “menu” pricing for smaller routine matters to help them reduce time spent scoping work and checking bills, allowing them to better manage their time and focus on more complex work.

**“[I want] to be given a menu of services rather than having a law firm tell us ‘we can do whatever you tell us to do’; they need to take a more active customer care role taking the pain away from customers.”**  
Head of Legal, FTSE 200
- 93% of law firms and all in-house lawyer respondents indicated that menu pricing was most suited to repeatable work where the tasks are similar on each matter - examples given were real estate work - licences and permits of all types, simple leases and commercial conveyances, reports on title, commercial contracts, minor disputes and debt claims, security reviews and secured lending, and straightforward M&A transactions.
- However, such menu pricing was offered only extremely rarely – less than 5% of matters.
- In terms of offering clients menu pricing, 80% of law firms believed that their inability to scope work properly in order to remain profitable was an obstacle.

**“Lawyers always say that the work is too difficult to price – I think there is a real opportunity to increase the types of work that can be attended on a fixed fee.”**  
Client Relationship Director, Top 100 law firm
- Over half of law firms – 53% - indicated that the risk of incorrect pricing was a serious impediment with fixed fee menu pricing. Law firm preference was to essentially pass cost risk back to the client through using hourly rates.

**“If we don’t get scope right it can be expensive, we take the risk with this type of approach.”**  
Business Development Director, Top 30 law firm
- This surprised in-house lawyers who saw law firms as being the experts in delivering and pricing repeat work i.e. law firms, not clients, should be capable of understanding the true cost of for instance of drafting a lease or preparing a letter before action.
- 87% of in-house lawyers – wise to the hourly rate dynamic – reported a desire to appease *their* own business clients through passing cost risk back to firms by requesting fixed fees, particularly menu pricing which they could show to their business clients before any instruction is even given.
- This challenge around cost risk is not insurmountable. One law firm respondent who focusses on menu pricing as part of its business model indicated that pricing was not about getting each individual matter exactly right; *rather it was about getting the portfolio right.*

**“When it comes to pricing, you need to accept that you win some and lose some. What’s important is keeping on top of costs, meeting market demands and being ‘up’ overall,”**  
Director, Fixed Fee ABS

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- Finally, the ability to unbundle legal processes was cited as an obstacle to firms pricing services with certainty. Two firms however who had decomposed repeatable work into its constituent parts cited greater confidence when pre-setting pricing

**“[Many firms] are not unbundling services in any sophisticated way.”**  
Director of BD, Top 10 Scottish law firm

### Mixed appetite to Capped and Bespoke Fixed Fees

- In-house lawyers viewed capped fees with mixed feelings:
  - The main benefit cited was that capped fees provided a maximum exposure to what fees would be (and an occasional “pleasant surprise” should they be less than the cap)
  - However, the main weakness cited by over a third of in-house lawyers is that the clear mechanism for estimating the cap was still driven by the hourly rate culture rather than experience and judgment
- In terms of bespoke fixed fees, whilst in-house lawyers indicated that these are of some value in redressing the cost risk balance in their favour, bespoke fixed fees are, according to several GC participants, essentially a fixed estimate scoped using hourly rates and subject to caveats and exclusions

**“They bring control cost and give me certainty; additional savings over and above those offered by a fixed fee is a bonus.”**  
Head of Legal, FTSE 200

**“Typically these are an estimate of hours multiplied by the hourly rate with carve outs about what isn’t in scope and a buffer on top in case [firms] get their estimate wrong. This doesn’t really help me demonstrate cost value to my stakeholders”**  
General Counsel FTSE 350

### Reducing Admin Time

- A distinct advantage of fixed fees cited by in-house lawyers was the significant impact on reducing billing “admin” time i.e. reviewing time narratives and then querying/negotiating the fees to obtain better value
- In-house lawyers reported that in the case of pre-set fixed fees further admin time could be saved as there is no involved scoping exercise required
- Currently online matter management tools offered by firms are still predominantly geared up towards the review-query-amend of hourly rate time entries – not good use of in-house lawyer time

**“I don’t want my team reviewing invoices. It’s a waste of time. The benefit of a fixed fee price is I can forget about that. What I want to see is how much progress is being made on each matter.”**  
Head of Legal, FTSE 200

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- 70% of law firms reported that there is increasing demand from clients for online systems to focus more on matter progress rather than billing.
- However less than half of the law firms surveyed – 47% - admitted to being able to offer such an online matter management system

### 3. Who is driving the agenda in terms of pricing?

- All law firms reported clients becoming more demanding in cost reduction and cost certainty.
- 100% of in-house respondents report that law firms are not offering a sufficient range of pricing options and, more worryingly, those options have to be requested, pushed for or demanded by the in-house team i.e. they are not offered willingly by firms.

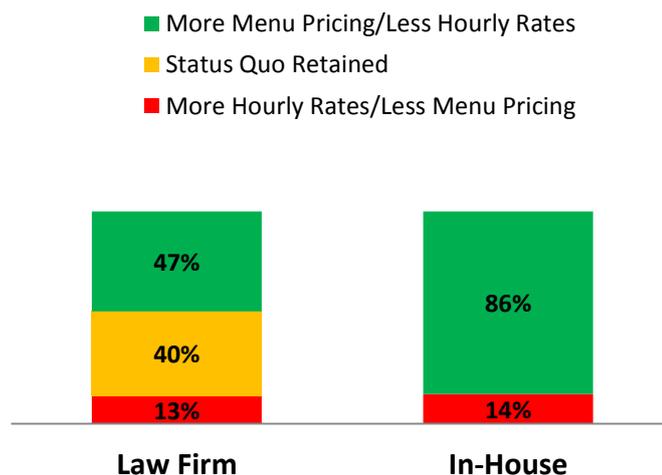
**“Across the board law firms have realised that they have to change – some just don’t know how. We are now using a broader range of firms to obtain the best bits of each.”**  
General Counsel, FTSE 250

**“[Fixed fees] are not offered enough by law firms, we have to drive it. I would like to see more of it!”**  
General Counsel, FTSE 250
- 70% of GCs remarked that they are not “bean counting” but the commercial reality to their own business clients is greater attention to, and, rigour and discipline around cost.

**“We're not trying to rip [law firms] off but want a relationship that works for both of us, a fair price for the work, not a ridiculous price for work done by a paralegal charged at partner rates.”**  
Head of Legal, FTSE 200

### 4. So what does the future hold?

- 86% of GCs and 47% of law firms see hourly rate pricing coming under further pressure from menu pricing in the next 12-24 months.
- However, 40% of law firms see the use of menu pricing remaining static during the same period.
- Only 14% of in-house respondent and 13% of law firms see the use of hourly rates increasing in the next year or two.
- However, 67% of firms thought that finding ways of adding value to pricing will increase their prospects of winning work.



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- In-house lawyers reported that work will become increasingly menu priced and law firms will be compared to one another on the basis of cost and the breadth and depth of options available on the “menu”.
- A number of in-house lawyers and law firms indicated that work (and financial success) would be won on the back of offering a greater range of menu pricing options.

**“I want long term law firm relationships but that is changing where firms cannot offer or deliver what we need. We are more open to looking at other firms who can.”**  
General Counsel, FTSE 200
- Menu pricing will progress from more straightforward work types moving progressively and rapidly up the complexity scale.
- In-house lawyers reported that those firms who don't get to grips with and meet client demands for menu pricing will lose out.

**“To offer fixed fees firms will have to get to grips with understanding their costs – this will be a significant challenge and will not be a quick change.”**  
General Counsel, FTSE 250

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