

Welcome

Welcome to this edition of **wkforensic**. In this issue we concentrate on two increasingly useful aids to help resolve major disputes – Forensic Accounting and Expert Determination. Both can be invaluable tools in the right situation and on this page we discuss some of the areas where these two disciplines may apply. On the second page we highlight a recent case study in which Wilkins Kennedy has assisted in resolving a dispute quickly, fairly and very cost-effectively.

When the going gets tough, you don't always need to get nasty

In today's challenging business world, disputes of all sorts can arise – with customers, suppliers and even professional partners and representatives. And when the going looks like it could get tough – it may well be time to consider calling in Wilkins Kennedy's forensic accountancy expertise.

Particularly when the issue is complex, our forensic team can provide clarification of vital evidence for those people who will assist you in court or for those guiding you in prospective litigation such as solicitors, barristers and insurance companies. Mediation or expert determination are other areas of alternative dispute resolution where our qualified team can be of assistance.

How can forensic accounting help you?

Whether it's a serious case of personal injury, criminal fraud, a business dispute, ancillary relief in divorce proceedings, an insurance claim or professional negligence, our forensic team will undertake to assist with clarifying the evidence, and make recommendations either to the legal team or whoever is representing your case.

The Wilkins Kennedy team includes a number of highly trained and experienced professionals – many of whom are members of The Academy of Experts, accredited under the Cardiff University Bond Solon scheme for expert witnesses, or the Expert Witness Institute; organisations that are totally independent and work to the very highest standards of impartiality.

Expert Determination – often the most cost-effective alternative to litigation

Expert determination is a methodology of settling disputes that is speedy, cost-effective and final. Working to strict rules recommended by The

Academy of Experts, the process calls on the services of an expert who has been highly trained in the subject of contention and is appointed by both parties to resolve the dispute.

Because of his or her independence, impartiality and technical expertise in the subject, both sides agree to be bound by the expert's decision or recommendations which are enforceable by law.

A broad scope of issues

The range of Forensic Accounting services offered by Wilkins Kennedy is extremely wide and covers most areas of business and even many areas of private life:

Business and Commercial such as:

- Mediation
- Disputes between business partners
- Shareholder petitions
- Employment disputes
- Expert determination
- Consequential loss or business interruption
- Diversions of trade
- Commercial property disputes
- Business and share valuations
- Contract disputes

Insurance Claims

- Mediation
- Claims evaluation
- Investigation of fraudulent claims
- Loss of profit / consequential loss
- Professional Negligence
- Auditors / accountants / tax negligence
- The financial impact of negligence
- Fee disputes

Personal injury and clinical negligence

- Mediation
- Fatal accident claims
- Loss of partnership profits
- Loss of earnings and benefits
- Schedules of earnings
- Loss of pension rights and tax relief
- Sub-contract calculations service

Matrimonial and family issues

- Assessment of real earnings
- Evaluation of financial standing
- Release of capital
- Tax implications of divorce
- Investigations
- Pensions splitting
- Duxbury calculations
- Valuation of businesses and unquoted shares

Criminal offences

- Theft Act offences
- VAT and Revenue investigations
- Confiscation orders
- Money laundering
- Drug trafficking
- Director's disqualification

See how forensic accounting can help with complex business disputes

Please take a few moments to read through the case study overleaf to get a better understanding of how expert determination can resolve complex issues – and to see just how much time and money they could save your organisation in the event of a major dispute. And of course if you would like to know more about the Wilkins Kennedy range of services and how this can help your business, simply contact your local Wilkins Kennedy office who will put you in direct touch with an expert in your subject.

It certainly pays to **think ahead**

Expert determination can save your business a lot of money – not to mention grief!

In one recent example, Wilkins Kennedy was contacted by two firms of solicitors in the Midlands, after viewing our website, to enquire about expert determination services. Each solicitor was acting for opposing parties in a dispute which concentrated on the value of net assets for a company sold to one party by the other.

The Sale and Purchase Agreement had made provision for the use of an Expert Determiner in the event of dispute but both firms of solicitors needed to agree on which firm and which Expert to use. Our Expert Determiner was chosen from a shortlist of 3 firms.

The dispute by way of value, concentrated on trade debtors. Among the numerous other points which were at issue was the value of stock at the date of completion, the value of non-trade debtors and various creditors including staff bonuses.

Time for an expert appraisal

A letter of engagement was agreed and signed by both parties in advance of the Expert Determination process commencing with an outline of hourly charge out rates so there would be no unexpected cost surprises.

Interviews with both parties were arranged, but in the presence of their solicitors or representatives in both cases, and minutes were taken of each meeting separately.

The definitions of invoiced sales, bad and doubtful debts, retentions in relation to ongoing and completed contracts and the recognition date for all these in the context of the Sale and Purchase Agreement and 'best practice' were all considered.

Evidence from independent third parties was obtained where this was deemed to be of assistance in determining the dispute, including independent industry advice relating to how technical specifications had changed over time, and all correspondence throughout the process was copied to both firms of solicitors to ensure impartiality.

To help resolve the issue as quickly and cost-effectively as possible, our Expert Determiner undertook a careful, in-depth review of the Sale and Purchase Agreement plus all the correspondence and contracts.

Our Expert Determiner carefully calculated the value of the net assets at the date of completion and wrote to the solicitors with his/her findings including a note of the financial consequences on both parties.

The determination was legally binding on both parties and had the advantage of saving the cost of further solicitor's time, barrister's fees and court costs – not to mention loss of sleep on the part of the parties!

How to call in an expert

Choosing the most appropriate expert can have a crucial effect on the outcome of a dispute. Wilkins Kennedy have a number of Experts throughout our office network in a wide range of specialisms bringing our experience to bear in assisting clients, business partners and contacts alike in finding the quickest, simplest and most cost-effective way to resolve a dispute.

To find out more, simply contact your nearest Wilkins Kennedy office or call Adam Merrett on 020 7403 1877, or email him at Adam.Merrett@wilkinskennedy.com



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