

Lord Justice Jackson's Review of Fixed Recoverable Costs

Written Evidence from Thompsons Solicitors
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About Us

Thompsons is a UK-wide law firm with a network of offices across the UK, including the separate legal jurisdictions of Scotland and Northern Ireland. As the largest trade union and personal injury law firm in the UK, we specialise in personal injury and employment law for trade union members, their families and private clients. At any one time we will, as a firm, be handling over 50,000 cases.

The firm participates regularly in government consultations, on a wide range of issues relevant to our clients.

Summary remarks

It is now some eight years since Sir Rupert Jackson (“Jackson LJ”) published the Final Report of his Review of Civil Litigation Costs. However, the passage of time and the benefit of hindsight has led Thompsons to the view that the case for fixed costs is now substantially weaker than it then was.

Jackson LJ’s “impression”, as stated in his January 2016 lecture ‘Fixed Costs – The Time has Come’, is that “the profession is now more willing to accept fixed costs than it was in the past”¹. At Thompsons, we cannot share that view, nor, we suspect, do many other claimant personal injury (PI) solicitors.

Jackson LJ’s belief that the case for fixed costs is “steadily gaining ground” contradicts the view, which we would respectfully prefer, of Master Cook that “we must take time to understand how costs management is working in practice and not introduce further change until we have taken the trouble to understand the potential impact of fixed costs on access to justice”².

Master Cook is of the opinion that any expansion of fixed costs should start with a horizontal inclusion of non-personal injury fast track cases and that any further extension of fixed costs beyond the £25,000 threshold should be gradual and initially no more than £50,000. Jackson LJ’s lecture cites the support of the former civil justice minister Lord Faulks, which alerted the audience to the primary impetus for this expansion as Lord Faulks’ insurer-backed, aggressively anti-claimant stance is well known (as illustrated, for example, by the comment that “litigation is very much an optional activity”)³.

Our experience over the past eight years supports the concerns we have had for many years about fixed costs and makes our response – set out below – to Jackson LJ’s current review all the more robust.

Fundamentally, we oppose any move to further extend fixed costs in PI.

We query the motivation for pushing this issue at this time. To do so now would be to ignore much of Jackson LJ’s own logic, set out in his Final Report, and is out of step with a sensible chronology of the reform. Put simply, in the PI field especially, there has been a sequence of fundamental changes to costs recovery since 2013 and, as yet, no attempt by the government or senior judiciary to step back and analyse the consequences of those changes.

¹ Paragraph 2.10

² Page 2, 7 Bedford Row Skeleton Medico-legal Series, *Costs Budgeting v Fixed Costs*, Master David Cook, 18 February 2015

³ House of Lords Debate of 4th March 2015: <http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150304-0003.htm>

The case against fixed costs and extending them further

First, 'fixed costs' is all too accurate a description. Despite assurances otherwise, the regime of predictable costs implemented in 2013 has never been reviewed upwards with inflation or otherwise. These costs have therefore been allowed to reduce in real terms year on year.

This leads to a second, related, point which Jackson LJ should be aware of as it runs contrary to the evidence-led approach he would surely wish to adopt. While we may disagree with the founding principles of the cost regime he recommended in 2009, and primarily the notion that the claimant should suffer a deduction from damages to contribute to the costs, it was at least based on research and evidence. However, after he had finalised his report, the figures he had proposed became open to interference by politicians more interested in listening to the corporate lobbyists of the insurers than looking at the evidence based recommendations of Jackson LJ.

That is a further reason why fixed costs should not be extended and if, once again, our reasoned objections are to be brushed aside, those proposing an extension must insist that this is not allowed to happen again. Over the course of this process, we therefore urge decision-makers to uphold the fundamental importance of an evidence-based approach to reviewing the existing fixed costs regime and when making any recommendations for the future of the regime including its expansion or otherwise. Significant reforms cannot safely be made on the basis of assumption, anecdote and corporate lobbying.

The case against fixed costs and their further extension may be summarised as follows:

1. Fixed costs remove the financial incentives on insurers to 'behave' in litigation. Where defendants can run all manner of fanciful arguments with no fear of punishment through increased cost liability, a perverse incentive is created to deny the undeniable and contest the unarguable in order to force claimants' solicitors to incur costs which cannot be recovered. If the application of fixed costs were to be extended, it would have to be done in association with a mechanism allowing for exit to a standard costs regime which is applied routinely (and not just in 'exceptional' cases), to ensure proper, reasonable and consistent costs are recoverable.
2. No business can run sustainably at a loss. Fixed costs in the fast track have not been independently reviewed and that must be the priority now. There can be no case for extending fixed costs until a full evidence based review has been undertaken and lessons learned. If/when such a review is conducted, we are confident it will reveal that the political interference referred to above led to unsustainably low fixed costs in the fast track.

We have conducted an analysis comparing actual costs incurred in fast track cases against the fixed costs recovered in those cases. The actual costs are based on court approved hourly rates and on recorded time. This analysis demonstrates that the fixed costs are already routinely falling a long way short of actual costs incurred (see Table 1 below, and also our comments on proportionality).

Table 1 (see appendix) shows that the shortfall due to fixed costs is between 40% and 60% of the actual costs incurred, with an average overall shortfall of 43%. This will inevitably lead to a situation where cases will either be turned down (reducing access to justice) or clients will be charged the excess (removing free access to justice). This system is rigged against claimants (who will recover less) and in favour of defendants (who pay out less).

It is notable that those fixed costs already applied have elicited changes in the legal services market place. A dramatic squeeze on firms' operating models has led to ever greater consolidation and alternative ownership models which move away from traditional, small and medium, solicitor-owned firms in favour of large, corporate-led entities which may be managed far more aggressively in order to seek swifter, higher returns for corporate investors. This in turn has led to firms going out of business or getting into major difficulties as witnessed in the notorious example of Slater and Gordon⁴.

3. Some unscrupulous lawyers respond to fixed costs by undersettling cases rather than pursuing them rigorously and thoroughly in the best interests of their clients. Such behaviour allows for an unfair competitive advantage to be gained against more professional rivals by the recovery of the same fixed costs for less work done. This is precisely what happened in the miners' compensation schemes where our average damages were up to 300% higher than other major firms⁵.
4. Fixed costs threaten to render many of the more risky personal injury cases, which require more work than the average, uneconomic to run. That would be unjust to victims of, for instance, occupational disease.
5. In personal injury cases, the claimant is always an individual with limited means and the defendant always a large insurance company with substantial financial backing. 'Equality of arms' is fundamental to ensure fairness and access to justice, yet this basic principle is undermined where the costs recovered by the claimant are fixed at a level consistently and significantly less than the costs incurred.
6. Lawyers can already recover no more than their "reasonable, necessary and proportionate" costs. As matters stand in multi track cases, PI claimant solicitors appreciate that if they pursue unrealistic claims they will not recover the associated costs. Equally, defendants know that if their conduct results in additional work being generated, they will have to pay for it. Fixed costs are a one-way street in that respect as the claimant will no longer be paid for such additional work generated by defendants.
7. Fixed costs do not take into account the complexity or importance of PI litigation in the multi track. A personal injury claim for £200,000 typically involves serious or even fatal injuries where the amount of damages recovered can have a life-changing impact. That is in stark contrast to a £200,000 contractual dispute, for example, between two multi-national construction companies, which will be of comparatively trivial concern to the parties. In PI a £200,000 claim can hardly be considered to be within the 'lower reaches of the multi track'⁶. It is quite likely to be a case involving a person forced, by way of example, to retire many years earlier than they planned because of a serious injury.
8. Costs management provides a transparent approach to costs which in turn offers certainty to parties and often encourages parties to settle cases. The court has the opportunity to control costs and to a significant degree influence the course of the case and behaviour of the parties. Court directions are dealt with hand in hand with costs. All parties, but in PI especially defendants, have an opportunity to challenge costs and the work that needs to be done in a case. Master Cook⁷ has recognised that parties are increasingly engaging in costs management and agreeing budgets and that is certainly reflected by our own experience.

⁴ <https://www.lawgazette.co.uk/practice/slater-and-gordon-plans-uk-closures-after-493m-losses/5053906.article>

⁵ <http://www.thompsons.law.co.uk/ltext/civil-litigation-costs-review.htm>

⁶ Jackson LJ's speech to the Westminster Legal Policy Forum on 23 May 2016

⁷ Page 3, 7 *Bedford Row Skeleton Medico-legal Series, Costs Budgeting v Fixed Costs*, Master David Cook, 18 February 2015

9. On conclusion of a matter, if the defendants do not agree with any costs claimed, they have the right to challenge them by way of the Detailed Assessment process and can recover their costs of doing so if they make an early offer which is not beaten on assessment. In our experience the defendants engage with this procedure and in our experience a tiny proportion of cases (less than 5%) proceed to a formal Detailed Assessment by the court. To us, this is evidence of an effective, robust system. The cries by defendants that the system is flawed and that we need the simplicity and certainty of fixed costs are, for us, no more than pleas for special treatment by using fixed costs as a means for the *lowering* of recoverable costs.
10. There has been no independent or verifiable evidence produced by the government or the insurance industry that costs in personal injury cases are out of control. Insurers loudly and frequently claim that there is a “compensation culture” but, whenever this has been examined, it has been rejected, for instance in Lord Young’s report⁸. Their claims on costs are no more accurate.
11. It is morally right that when someone has caused injury they should meet not only the compensation for the injury but the full reasonable, necessary and proportionate costs incurred by the victim in obtaining proper damages. This is the basic principle of social justice that “the polluter pays”.
12. Fixed costs undermine the deterrent on employers who are guilty of poor health and safety practice, of having to pay not only compensation to those who they injure but also their victims’ cost of proving negligence in Employers’ Liability (EL) cases. At the extreme, fixed costs may even encourage such employers to make cynical calculations of the financial risk of injury from an unsafe work practice.
13. Fixed costs have always failed to keep pace with inflation despite repeated promises that they will, that ‘this time is different’. The experience of the PI fast track fixed costs further confirms this. These were first considered by Jackson LJ in 2009 based on figures supplied by claimants and defendants from cases conducted in 2007, 2008 and 2009. They were then considered by the government in 2012 and, instead of being increased to reflect inflation, they were substantially reduced due to the corporate lobbying referred to above. They were then introduced in 2013. Now, in 2017, they remain unchanged such that the costs being recovered are now significantly lower than they were in the cases reviewed which dated back 10 years.
14. EL cases are often highly complex even when the quantum of damages is modest. Without robust safeguards and a level playing field in litigation, they are open to being ‘gamed’ by defendant behaviour, including by failing to admit liability within the pre-action protocol period and raising arguments about contributory negligence which need further investigation.

It is also widely accepted, by the Ministry of Justice and the senior judiciary, that EL cases in particular involve an asymmetric power relationship between an injured worker and their employer. The application of fixed costs to EL will give employers and their insurers even more opportunity to put undue pressure on employees who are claimants. EL cases also tend to involve greater input from senior fee earners and less work that can be delegated to paralegals – but fixed costs limit the ability of firms to provide senior support and therefore can contribute to a poorer service provision to firms’ clients.

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60905/402906_CommonSense_acc.pdf

Why now? Why at all?

In his 2009 recommendations, and again in his May 2016 lecture at the Westminster Legal Policy Forum, Jackson LJ stated that fixed recoverable costs must be introduced in the fast track “before we tackle the multi track”⁹ and, later, that “There are a large number of cases in the fast track not involving personal injury [...] We must therefore establish a fixed costs regime for all non-personal injury cases in the fast track”¹⁰.

In the Final Report¹¹ Jackson LJ said that following implementation of fixed fast track costs there must be a period of evaluation before consideration be given to fixed or scale costs in the lower reaches of the multi track. By his own logic, Jackson cannot *now* justify extending fixed costs to the multi track unless and until the work of applying fixed costs to the fast track is complete (and even then there would need to be a period of evaluation before any expansion were considered desirable). A narrow focus on PI to the exclusion of other types of case is unjustifiable.

We fail to see the justification for any expansion in fixed costs at this point in time, and certainly not in PI. That position might be different after a considered objective review of the consequences of the recent introduction of fixed costs but, as outlined, no such review has taken place.

Similarly, budgeting affects the majority of multi track cases. Yet, just a few years after budgets were implemented, the proposal is to put the multi track through yet another dramatic change. We would urge that, until budgets have properly bedded down and we can assess how they are working (see also our comment on proportionality, below), any such change must be premature.

That of course acknowledges that there are still some teething problems with budgeting despite the fact that just over 18 months ago, Jackson LJ asserted that “The first and most important conclusion to be drawn from the experience of the last two years is the same as that which was drawn from the pilots. Costs management works.”¹² Furthermore, Jackson LJ’s concluding prediction was “...within ten years cost management will be accepted as an entirely normal discipline and people will wonder what all the fuss was about.”¹³

The Portal has already undergone a huge vertical and horizontal extension to create a regime that captures over 95% of all PI cases¹⁴. To now seek to pursue a further set of changes that will only affect a tiny minority of cases (1%), is perverse and would fail any basic cost-benefit analysis.

Even if it could be justified, there should be no additional application of fixed costs until a proper review of the efficacy of the current portal system has been carried out. Above, we applaud Jackson LJ’s previously rigorous use of evidence to support his recommendations, yet here he risks doing away with that by recommending changes before we properly understand how similar changes have worked in the past (and, therefore, how effective future changes may be).

⁹ Paragraph 2.6 of the WLPF lecture

¹⁰ Paragraph 2.8 of the WLPF lecture

¹¹ Chapter 16, paragraph 2.10 of the Final Report, Jackson LJ

¹² Paragraph 2.1 of his Harbour Lecture ‘Confronting Costs Management’ (13 May 2015)

¹³ Paragraph 10.6

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/581388/whiplash-impact-assessment.pdf page 39

The quest for certainty

An important part of Jackson LJ's case for fixed costs revolves around certainty¹⁵. Yet the need for certainty applies far more to non-PI cases. In PI, the defendant insurers already have certainty because the large basket of cases which each runs allows for an accurate overall assessment of average costs, while, for the claimant side, in the light of conditional fee agreements (CFAs) with standard deductions for success fees together with qualified one way cost shifting (QOCS), injury victims have certainty without the need for fixed costs.

These points do not apply to non-PI cases where many litigants are uninsured and where QOCS is not applicable. Briggs LJ similarly recognised in his report¹⁶ that PI must be excluded from his vision of an online court for claims up to £10,000.

While certainty is a laudable aim, the quest for certainty makes the point for the application of fixed costs in areas other than PI.

What is 'proportionate'?

In his January 2016 lecture, Jackson tells us that the amendment to CPR Part 44 with the adoption of his own definition of 'proportionate costs' in Rule 44.3 (5) is an example of improvements in recent years¹⁷. Yet our view is quite different and is held up by two cases¹⁸ (one of which is due to be heard at the Court of Appeal in October 2017) which demonstrate the problems with this new approach for the claimant side. It is telling also that this is the first case the Court of Appeal will consider the 'new' proportionality Rule.

How can it be fair for a successful claimant to see dramatic reductions in costs recovered following a highly discretionary judicial interpretation of what is 'reasonable'? In the case of *May v Wavell*, for example, the claimant, Dr May, was left around £140,000 out of pocket despite succeeding in his claim.

The point here is that judges' understanding of proportionality is still changing. Therefore it is too early to decide how to apply the new test of proportionality, certainly until the Court of Appeal has ruled on the case in question and provided further guidance. It follows that it is too early to understand how effectively budgeting is working as proportionality plays a fundamental part in costs management. We have only now reached the stage where courts are considering how costs management and proportionality tie in with final Detailed Assessment as reflected in the recent case of *Merrix*¹⁹.

Again, we would urge Jackson LJ that fixed costs must learn to walk before they can run! In his hurry to secure agreement for his recommendations by the government, he risks implementing changes which are not based on a clear understanding of the current system. This unseemly rush to get things through contradicts his own more cautious approach extolled in the IPA lecture: "Reform is best done incrementally, so that we can see how it is working out."²⁰

¹⁵ Paragraph 2.13 of the IPA lecture

¹⁶ Final report of Lord Justice Briggs' Civil Courts Structure Review, 27 July 2016

¹⁷ Paragraph 2.3 of the IPA lecture

¹⁸ *BNM v MGN Limited* [2016] EWHC B13 (Costs) & *May & Anor v Wavell Group Plc & Anor* [2016] EWHC B16 (Costs); and *May & Anor v Wavell Group Plc & Anor* [2016] EWHC B16 (Costs) (16 June 2016)

¹⁹ *Merrix v Heart of England NHS Foundation Trust* [2016] EWHC B28 (QB),

²⁰ Paragraph 5.1

What the data tells us

If, despite this reasoned case, the unseemly rush to fixed costs is to continue, we have calculated what they should be, based upon Thompsons' budgets approved by the courts²¹. See the 'Table of proposed fixed costs' below. As with other fixed costs these are legal costs only (including solicitor and counsel) and do not include VAT or disbursements.

Details of the raw figures on which these are based can be found in the Appendix at Tables 2 and 3. The table of costs below is based on the accepted principle of budgeting that phases are budgeted for and that work will be ongoing in a number of these phases at any one time such that, on settlement, the appropriate costs recovery will be 100% for the phases completed and an appropriate amount or percentage for those which are ongoing at that time.

On this basis we have included the negotiations/ADR phase in all cases (reduced to 50% in the case of pre-action settlements) as negotiations and ADR will by definition have been concluded in a settled case. As work on disclosure, witness statements and expert evidence starts from the outset, we have provided for 25% at pre-issue stage, 50% post-issue, pre-CMC, 75% post CMC, pre-PTR and 100% by PTR.

Table of proposed fixed costs

	Band 1	Band 2	Band 3	Band 4
Pre-issue	£13,165	£13,165	£19,074	£38,408
Post issue, pre-CMC	£24,454	£24,454	£38,705	£70,838
Post CMC, pre-PTR	£32,642	£32,642	£49,810	£96,408
Post PTR, pre-Trial	£46,534	£46,534	£68,095	£132,305
Post Trial	£56,882	£65,149	£88,512	£174,592

What needs to happen if fixed costs are introduced

If, contrary to our reasoned case, there is to be a rush to more fixed costs in PI, there must also be a more strictly-governed field of play in PI litigation.

We call for:

- Compulsory pre-action settlement discussions;
- Claimants' Part 36 offers with teeth to include additional damages;
- Unambiguous rules to ensure compliance with pre-action protocols and to enable consistent enforcement of those rules by the courts;
- A reversal of the burden of proof where the protocol response on liability is delayed;
- Streamlining of the litigation process by simplifying the procedures for directions and witness statements.

²¹ Save at the trial stage, bands 1 and 2 have been amalgamated to eliminate anomalies as these figures are, necessarily, based on the small number of cases with approved budgets. As we stress above, cost budgeting has been in place for only a fairly short period of time and, as the pressure on court resources means that there is usually considerable delay in cases coming to the CMC, the majority of cases are settled before budgets are approved.

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Appendix

Table 1. Fixed costs cases closed Jan - 31 December 2016 by damage band

Fixed costs cases closed Jan - 31 Dec 2016 by damage band

Portal Cases		£1k - £10k	£1k - £10k	>£10k and <£25k	>£10k and <£25k
		Non-Trial	Trial	Non-Trial	Trial
EL/PL Portal Costs	Ave Hrs Per Case	11.17	16.50	19.91	17.20
	Ave Counsel Fee	-	420	-	-
	Ave Damages per case	-	-	-	-
EL/PL Portal Costs	Ave Actual Costs Per Case	£1,374	£2,528	£2,507	£2,202
	Ave Fixed Costs Per Case	£900	£1,400	£1,800	£2,100
	Shortfall of Fixed Fees Against Actual Costs (£)	-£474	-£1,128	-£907	-£1102
	Shortfall of Fixed Fees Against Actual Costs (%)	-34%	-45%	-36%	-5%

RTA Portal Costs	Ave Hrs Per Case	12.34	26.68	30.38	-
	Ave Counsel Fee	-	197	-	-
	Ave Damages per case	-	-	-	-
RTA Portal Costs	Ave Actual Costs Per Case	£1,509	£3,944	£3,902	-
	Ave Fixed Costs Per Case	£500	£1,000	£800	-
	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,009	-£2,944	-£3,102	-
	Shortfall of Fixed Fees Against Actual Costs (%)	-67%	-73%	-79%	-

Ex-portal Fixed Costs Cases

Work type	Measure	£1k - £5k	£1k - £5k	£1k - £5k	£1k - £5k	£1k - £5k	£5k - £10k	£5k - £10k	£5k - £10k	£5k - £10k	£5k - £10k	£10k to £25k	£10k to £25k	£10k to £25k	£10k to £25k	£10k to £25k
		Pre Issue	Post Allocation/Pre Listing	Post Allocation/Pre Listing	Post Listing/Pre Trial	Trial	Pre Issue	Post Allocation/Pre Listing	Post Allocation/Pre Listing	Post Listing/Pre Trial	Trial	Pre Issue	Post Allocation/Pre Listing	Post Allocation/Pre Listing	Post Listing/Pre Trial	Trial
EL/PL Fixed Costs	Ave Actual Costs Per Case	£2,455	£4,800	£8,204	£10,988	£15,229	£3,936	£5,959	£9,707	£12,491	£16,823	£4,281	£8,208	£13,142	£16,173	
	Ave Fixed Costs Per Case	£1,445	£3,204	£4,158	£5,206	£8,083	£2,118	£4,114	£5,289	£6,822	£7,060	£3,037	£5,826	£7,634	£9,127	
	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,010	-£1,602	-£4,046	-£5,781	-£9,146	-£2,187	-£1,844	-£4,418	-£5,868	-£9,783	-£1,245	-£2,382	-£5,518	-£7,046	
	Shortfall of Fixed Fees Against Actual Costs (%)	-41%	-33%	-49%	-53%	-60%	-48%	-31%	-46%	-47%	-58%	-29%	-29%	-42%	-44%	
RTA Fixed Costs	Ave Actual Costs Per Case	£2,051	£4,330	£8,124	£7,626	-	£2,868	£9,090	£7,062	£10,623	-	£3,690	£7,455	£11,102	£14,284	
	Ave Fixed Costs Per Case	£858	£1,775	£2,338	£3,150	-	£1,415	£2,930	£3,310	£4,323	-	£2,538	£4,572	£5,198	£8,382	
	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,193	-£2,555	-£5,786	-£4,476	-	-£1,441	-£6,160	-£3,752	-£6,201	-	-£1,193	-£2,883	-£5,904	-£5,901	
	Shortfall of Fixed Fees Against Actual Costs (%)	-58%	-59%	-70%	-58%	-	-50%	-67%	-53%	-58%	-	-31%	-39%	-54%	-56%	

SUMMARY

EL/PL	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,883
	Shortfall of Fixed Fees Against Actual Costs (%)	-40%
RTA	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,507
	Shortfall of Fixed Fees Against Actual Costs (%)	-40%
TOTAL	Shortfall of Fixed Fees Against Actual Costs (£)	-£1,788
	Shortfall of Fixed Fees Against Actual Costs (%)	-43%

Table 2. Multi Track Approved Costs

Multi Track Approved Costs

	BAND 1 £25,000 - £50,000	BAND 2 £50,000 - £100,000	BAND 3 £100,001 - £175,000	BAND 4 £175,001 - £250,000
Pre action Profit Costs	£5,425	£4,346	£7,130	£9,249
Pre action Counsel	£455	£367	£604	£3,075
Pre action Total	£5,880	£4,713	£7,734	£12,324
Negotiations / ADR Profit Costs	£4,628	£3,616	£6,213	£14,123
Negotiations / ADR Counsel	£3,660	£3,386	£5,249	£10,942
Negotiations / ADR Total	£8,288	£7,002	£11,462	£25,066
Issue/statements of case Profit Costs	£4,619	£3,370	£9,196	£12,039
Issue/statements of case Counsel	£892	£694	£2,195	£1,088
Issue/statements of case Total	£5,511	£4,063	£11,391	£13,127
CMC Profit Costs	£4,171	£4,435	£4,693	£10,050
CMC Counsel	£810	£795	£568	£1,456
CMC Total	£4,981	£5,230	£5,261	£11,506
Disclosure Profit Costs	£2,406	£3,009	£3,882	£6,938
Disclosure Counsel	£116	£95	£0	£0
Disclosure Total	£2,522	£3,104	£3,882	£6,938
Witness statements Profit Costs	£4,368	£4,860	£5,125	£8,760
Witness statements Counsel	£290	£267	£180	£1,034
Witness statements Total	£4,658	£5,127	£5,305	£9,794
Expert reports Profit Costs	£6,038	£7,799	£10,526	£36,375
Expert reports Counsel	£662	£168	£733	£1,096
Expert reports Total	£7,006	£7,922	£13,249	£37,471
PTR Profit Costs	£1,542	£2,805	£1,515	£5,300
PTR Counsel	£845	£704	£727	£1,514
PTR Total	£2,387	£3,508	£2,242	£6,814
Trial Preparation Profit Costs	£4,182	£4,714	£6,435	£7,605
Trial Preparation Counsel	£763	£2,111	£1,133	£1,661
Trial Preparation Total	£4,945	£6,826	£7,568	£9,266
Trial Profit Costs	£5,100	£6,869	£9,799	£20,960
Trial Counsel	£5,248	£11,746	£10,619	£21,327
Trial Total	£10,348	£18,615	£20,418	£42,287
TOTAL	£56,526	£65,979	£88,512	£174,592

Table 3. Cumulative Totals: Pre & post Issue

Cumulative Totals: Pre & Post Issue

	BAND 1 - Settlement Pre Issue)	BAND 1 - Settlement Post issue, per CMC	BAND 1 - Settlement Post CMC, per PTR	BAND 1 - Settlement Post PTR, per Trial	BAND 1 Post Total £25,000 - £50,000	BAND 2 - Settlement Pre Issue	BAND 2 - Settlement Post issue, per CMC	BAND 2 - Settlement Post CMC, per PTR	BAND 2 - Settlement Post PTR, per Trial	BAND 2 Post Total £50,000 - £100,000	BAND 3 - Settlement Pre Issue	BAND 3 - Settlement Post issue, per CMC	BAND 3 - Settlement Post CMC, per PTR	BAND 3 - Settlement Post PTR, per Trial	BAND 3 Post Total £100,001 - £150,000	BAND 4 - Settlement Pre Issue	BAND 4 - Settlement Post issue, per CMC	BAND 1 - Settlement Post CMC, per PTR	BAND 1 - Settlement Post PTR, per Trial	BAND 4 Post Total £175,001 - £250,000	
(imperson % of phase costs recoverable)	100%	100%	100%	100%		100%	100%	100%	100%		100%	100%	100%	100%		100%	100%	100%	100%	100%	
Pre action Total	£5,530	£5,530	£5,530	£5,530	£5,530	£5,530	£5,530	£5,530	£5,530	£5,530	£7,733.90	£7,733.90	£7,733.90	£7,734	£12,333.80	£12,333.80	£12,333.80	£12,333.80	£12,333.80	£13,324	
(imperson % of phase costs recoverable)	50%	50%	75%	100%		50%	50%	75%	100%		50%	50%	75%	100%		50%	50%	75%	100%		
Negotiations / ADR Total	£9,481	£9,481	£11,457	£13,432	£13,432	£9,481	£9,481	£11,457	£13,432	£13,432	£13,465	£13,465	£16,331	£19,196	£19,196	£24,857	£24,857	£31,123	£37,389	£37,389	
(imperson % of phase costs recoverable)		100%	100%	100%			100%	100%	100%			100%	100%	100%			100%	100%	100%		
Issue/statements of case Total		£14,558	£16,534	£18,509	£18,509		£14,558	£16,534	£18,509	£18,509		£14,558	£16,534	£18,509	£18,509		£14,558	£16,534	£18,509	£18,509	
(imperson % of phase costs recoverable)		50%	100%	100%			50%	100%	100%			50%	100%	100%			50%	100%	100%		
CMC Total		£17,086	£21,589	£23,565	£23,565		£17,086	£21,589	£23,565	£23,565		£17,086	£21,589	£23,565	£23,565		£17,086	£21,589	£23,565	£23,565	
(imperson % of phase costs recoverable)		25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%	
Disclosure Total	£10,155	£18,434	£23,612	£26,261	£26,261	£10,155	£18,434	£23,612	£26,261	£26,261	£14,436	£29,427	£35,894	£39,730	£39,730	£26,591	£26,591	£47,205	£60,959	£68,960	
(imperson % of phase costs recoverable)	25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%		
Witness statements Total	£11,355	£20,834	£27,211	£31,060	£31,060	£11,355	£20,834	£27,211	£31,060	£31,060	£15,762	£32,080	£39,873	£45,036	£45,036	£29,040	£29,040	£33,102	£68,305	£78,754	
(imperson % of phase costs recoverable)	25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%		25%	50%	75%	100%		
Expert reports Total	£13,165	£24,454	£32,642	£38,302	£38,302	£13,165	£24,454	£32,642	£38,302	£38,302	£19,074	£38,705	£49,810	£58,285	£58,285	£38,408	£38,408	£70,838	£96,408	£116,225	
(imperson % of phase costs recoverable)		100%	100%	100%			100%	100%	100%			100%	100%	100%			100%	100%	100%		
PTR Total				£41,025	£41,025				£41,025	£41,025				£60,527	£60,527				£133,039	£133,039	
(imperson % of phase costs recoverable)				100%					100%					100%					100%		
Trial Preparation Total				£46,534	£46,534				£46,534	£46,534				£68,095	£68,095				£133,305	£133,305	
(imperson % of phase costs recoverable)				100%					100%					100%					100%		
Trial Total					£56,882					£65,149					£88,512					£174,592	
TOTAL	£13,165	£24,454	£32,642	£46,534	£56,882	£13,165	£24,454	£32,642	£46,534	£65,149	£19,074	£38,705	£49,810	£58,095	£88,512	£38,408	£38,408	£70,838	£96,408	£132,305	£174,592