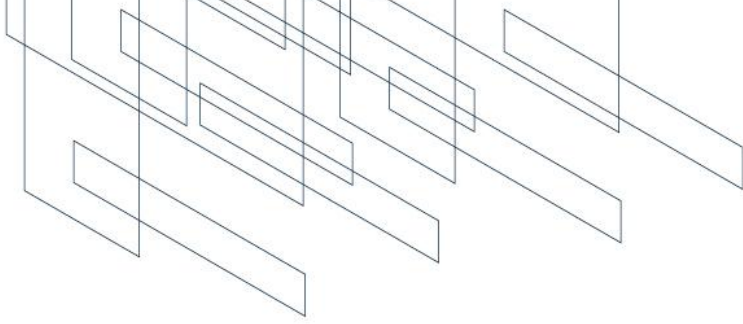




MANAGING EXPERTS' COSTS UNDER THE AMENDED CPR

Robin Orme

PROBYN · MIERS
CHARTERED ARCHITECTS · DISPUTE RESOLUTION



Jackson Reforms and experts' costs – risks for litigators

- **Inaccurate costs budgets**
- **Costs not proportionate**
- **Incomplete recovery of expert's costs**





Managing experts' costs

- **Costs budgets for court approval**
- **Court's permission to instruct expert**
- **Cost control by parties and representatives**
- **Costs recovery: proportionate costs only**



Implications for experts

- **Estimates required of expert's total costs**
- **Monitoring progress and costs incurred**
- **Revising estimates**



Format for estimates - Precedent H

- **Pre-action costs**
- **Issue/pleadings**
- **CMC**
- **Disclosure**
- **Witness Statements**
- **Expert Reports**
- **PTR**
- **Trial Preparation**
- **Trial**
- **Settlement (negotiation/mediation)**
- **Contingent costs (as required)**





Establishing the issues for the expert's report

- **Documents**
- **Preliminary report**
- **Pre-action protocol and pleadings**
- **Team input**
- **Clearer list of issues = more accurate estimate**





Expert's scope of work

- **Agreed for each stage by instructing solicitor and expert**
- **Adequate detail for accurate estimate**
- **Clarify assumptions**



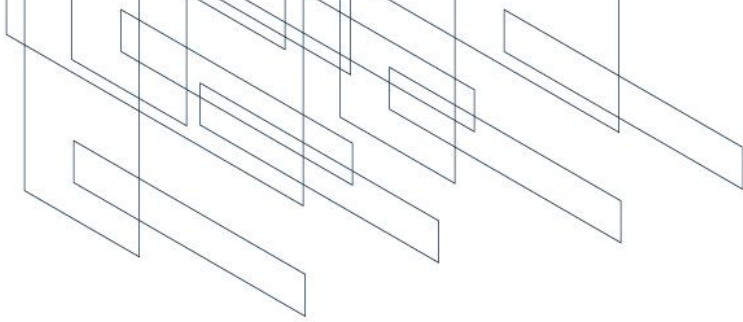
Estimate of time and expenses

- **Allowance for correspondence and telephone and general attendance**
- **Contingency**
- **Expenses**
- **Realistic but proportionate estimate of fees and expenses**



Monitoring the budget

- **Additional instructions**
- **Changes to assumptions**
- **Monitor progress and time spent against estimate**
- **Revise estimate**



Proportionality

- **Costs management an additional cost**
- **Recoverable only if proportionate and within limits in the new rules**





Good Practice for managing experts' costs

- **Clarify the issues**
- **Good communication within the team**
 - **Experts: ask questions**
 - **Instructing solicitors: keep experts informed**
 - **Clients: give clear and prompt instructions**
- **Timetable**
 - **Continuity reduces costs**
 - **Delay and disruption increases costs**
 - **Experts: agree programme for draft reports, comments and revisions (and keep to it)**
- **Documents**
 - **Avoid 'drip-feeding'**

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