



Ministry of JUSTICE

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25 May 2011

Dear Denise,

Guideline Hourly Rates 2011

As you may be aware, the Advisory Committee on Civil Costs (ACCC) has proposed an earnings related increase to the Guideline Hourly Rates for 2011. The proposal is to increase the rates in line with the Average Wage Index (for private sector industries) which would result in an increase of 2.1% on the 2010 rates. Unless and until the rates are increased, they will remain at those agreed by the Master of the Rolls for 2010.

The proposed approach is consistent with that set out at page 8 of the ACCC's conclusions report completed in March 2010, which can be found on the Judiciary of England and Wales website at <http://www.judiciary.gov.uk/publications-and-reports/guidance/guideline-hourly-rates/guideline-hourly-rates-2010>. I enclose a hard copy of that report for ease of reference. (You may wish to note that the Average Wage Index has been used instead of the (discontinued) Average Earnings Index which was used to calculate the 2010 Guideline Hourly Rates).

The Master of the Rolls has asked that before he makes a decision on the ACCC's recommendation, the ACCC seeks the views of key representative groups. I am

accordingly writing on behalf of the ACCC to ask for APIL's views on the principle of an annual inflation linked increase as recommended in the ACCC's conclusions report.

The Master of the Rolls has also indicated that he would welcome information as to the possible impact of the increased rates on those who would bear the additional costs, or evidence-based justification of the proposed new hourly rates by reference to solicitors' outgoings or level of profit. You are therefore asked to submit any representations on these points. I would be grateful for a reply by 14 June 2011.

I am writing in similar terms to the Association of British Insurers, the Federation of Insurance Lawyers, the Federation of Small Businesses, the Bar Council, the Civil Court User's Association, the Motor Accident Solicitors Society, the National Association of Citizens Advice Bureaux and Action Against Medical Accidents.

Yours faithfully

Mrs Jo Taylor
Secretariat: Advisory Committee on Civil Costs

13 June 2011



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Dear Jo

Guideline Hourly Rates 2011

Thank you for your letter of 25 May 2011. APIL is pleased to note that the Master of the Rolls is currently considering the ACCC's recommendations to increase the Guideline Hourly Rates for 2011. We agree that the approach suggested in your letter is consistent with that set out at page eight of the ACCC's March 2010 report and welcome the proposed increase in guideline hourly rates.

Additionally, APIL has a few comments and suggestions to make in connection with the ACCC's recommendations which we would like to set out here.

Firstly, some clarification: guideline hourly rates reflect the amount recoverable by the successful party from the loser, as set by the court: they are party-party rates. They do not refer to rates agreed between the lawyer or insurer and his or her client. For this reason, guideline hourly rates should be the same for both parties, as they do not affect the private retainer arrangements either party may have with his or her own client.

The difference between party/party rates and solicitor/own client rates are these:

Solicitor/own client rates: for claimant lawyers working on a conditional fee agreement, if the claim fails, the claimant lawyer is paid nothing for the work done. For the defendant lawyer who has an agreed hourly rate retainer from the defendant insurer, if the claim is lost, the defendant still recovers the retainer hourly rate, from the defendant insurer for the work done.

Party/party hourly rates: These are set by the court. If the claimant is successful in his claim, his solicitors are entitled to recover the guideline hourly rates for

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the work done from the losing party. If the claim fails, the defendant's solicitors are likewise able to recover those same guideline hourly rates for the work done, from the losing claimant.

The proposed approach

APIL accepts that the approach suggested in your letter is consistent with that set out at page eight of the ACCC's March 2010 report, although we would add that there is a combination of factors, which affect hourly rates. These include: office running costs (heat, light etc, which are linked to inflation, of course); professional fees such as for the SRA practising certificate; print and paper costs (which are currently rising) and professional indemnity insurance, which last year saw a 56 per cent increase in the average premium paid, as a number of insurers left the market.

APIL is also intrigued as to why the Average Wage Index is to be used, when the MoJ is proposing to increase court fees based on the rate of inflation. We would be interested in hearing from you as to the reasons for the inconsistency between this and the rate to be applied to court fees.

I trust that these observations are useful and that our questions will prompt additional comments from the ACCC and or the Master of the Rolls.

Yours sincerely



Abi Jennings

Head of Legal Affairs