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Secretary to the Civil Procedure Rule Committee
c/o Access to Justice Policy Division
Ministry of Justice
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By email only: CPRC@justice.gov.uk

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Dear Mr Poole

CPRC survey on pilot summary assessment of costs forms

We urge the Civil Procedure Rule Committee to reconsider the reasons behind the introduction of the new summary assessment of costs forms, and what the changes are designed to achieve. We appreciate that with the introduction of the electronic bill of costs, there is a push for other aspects of the costs procedure to be made electronic. We also appreciate that there will be costs savings because the form is now self-calculating. A move to simply putting the existing N260 form into an electronic format, however, would have been preferable.

We do not believe that the additional information required in the pilot forms is necessary, nor will it assist the court in any meaningful way. At interim application stage, the forms will not be particularly useful in helping the courts with any budgeting decisions further along the line. It is also unnecessary and unhelpful to provide the level of detail required by the forms in fast track cases – trial judges are unlikely to want to spend a great deal of time on costs, and will be more inclined to make awards on interim costs based on the overall picture of what has been presented to them, and what feels right. Lord Woolf, when first introducing his reforms, stated that a summary assessment of costs at the end of a fast track trial should take no longer than five minutes, with judges taking a broad brush approach. The amount of information presented to the judge in the piloted forms will mean that summary assessment in fast track cases will take much longer. The key point is: what is summary assessment supposed to be, and will this form assist with it? We are of the view that it will not.

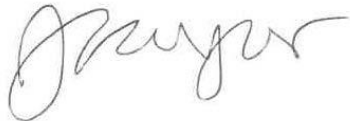
There is also the potential for more disputes to arise between the parties due to the additional information that is now required.

We are also concerned that, as well as being unnecessary, the additional detail required in the new forms will adversely affect smaller firms that do not have a case management system and associated costs drafting software. While we accept that firms that have a case management system can upload the information into the new forms without spending much, if any, additional time, those practitioners that do not have access to that technology must spend additional time and effort completing the forms, or paying costs draftsmen to do so.

As above, judges will be required to spend a greater amount of time dealing with summary assessment. If the forms are to be compulsory, there would need to be a reflection of this additional time spent both pre-trial and in court, in any costs awarded in a fast-track case. The length of trials will also likely have to be extended to accommodate going through the more detailed documents, and further judicial training is likely to be necessary.

We hope that our comments prove useful. Any queries about this response should be directed to Alice Taylor, alice.taylor@apil.org.uk in the first instance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alice Taylor', written in a cursive style.

Alice Taylor

Legal Policy Manager

APIL