

A view from the SCCO

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First half

Matters other
than
proportionality
and budgeting



LASPO Issues 1 - Assignments

CFAs

- Jones v Spire Healthcare
- Budana v Leeds Teaching Hospitals NHS Trust

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ASSIGNMENT DONE!

LASPO Issues 2 - ex Legal Aid

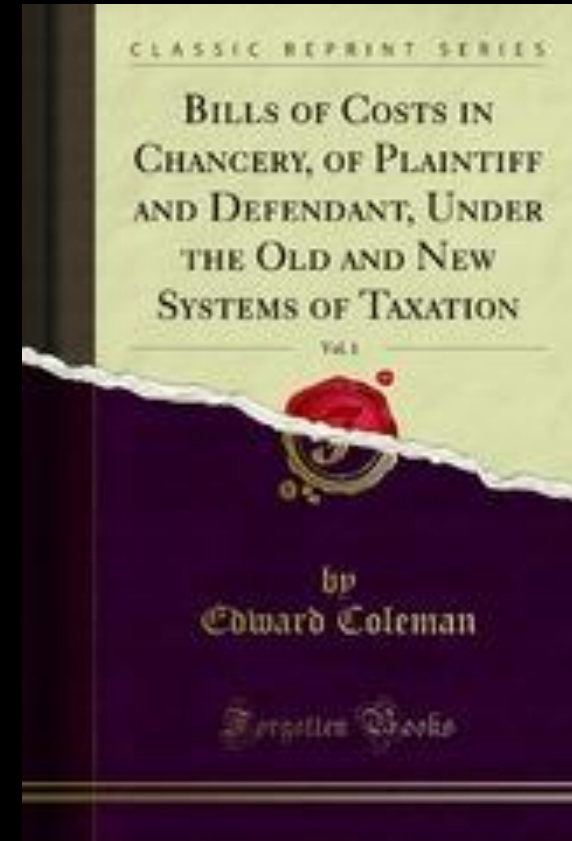
Legal Aid to CFA

- Surrey v Barnet & Chase Farm NHS Trust etc
- Hyde v Milton Keynes Hospitals NHS Trust



Paperless Assessments

- Electronic Bills
 - Voluntary Pilot
 - Mandatory?
- Paperless Offices



Group Listing at the SCCO

- Listing as a judicial function
- The aim
- Group listing in practice
- The effect of phasing?



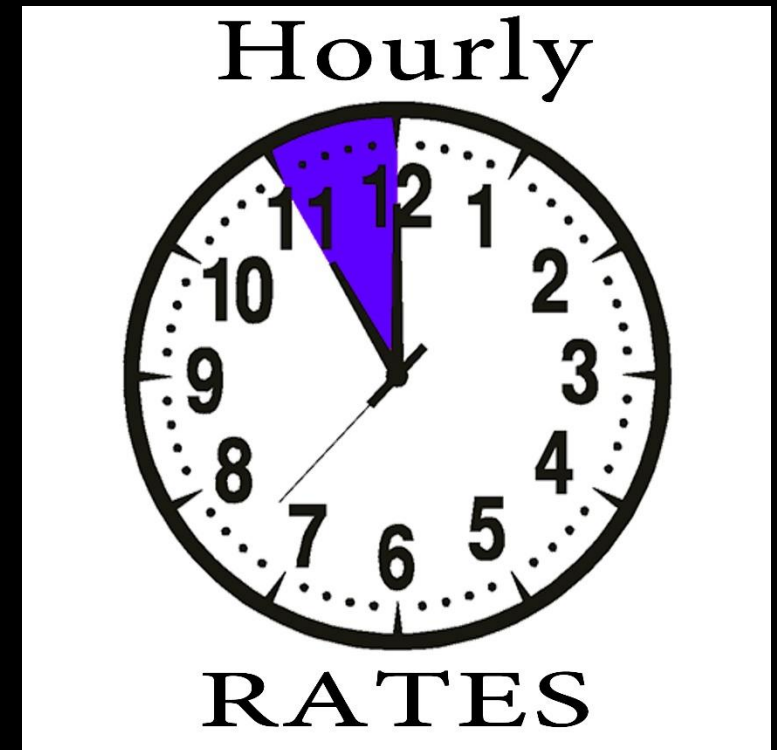
Provisional Assessments

- When – CPR 47.15
- Suitable cases
- Inconsistency in practice
- Post provisional hearings
- Part 36 Offers

A large, bold, green capital letter 'P' is centered on a white square background. The letter is thick and has a slight shadow effect, giving it a three-dimensional appearance. The white square is set against a black background.

Hourly rates

- GHR summary / detailed?
- Expense of time
- Annual increases
- Once and for all?



Second half

Proportionality
and
budgeting



Please ...
don't make
me budget!

Proportionality

- Lownds v Home Office
- CPR 44.3(5)
- Topping & tailing



Proportionality 1 – stepping back

C recovers damages of £25,000

C seeks costs of £200,000

Cs reasonable costs are £100,000

How much are the proportionate costs?

- Sums in issue
- Value of any non monetary relief
- Complexity
- Additional work caused by opponent
- Any wider factors

Proportionality 2 – Additional liabilities

BNM v MGN Ltd

King v Basildon NHS Trust

JMS Decision

Supreme Court

Frost & Ors v MGN

Plevin v Paragon Finance Ltd

Murrells v Cambridge
Univ NHS Foundation
Trust

Court of Appeal

Catalans v Espley-Tyas

Savings Advice Ltd v EDF
Energy Customers Plc

Proportionality 3 – CMOs

What do you do on detailed assessment? (Merrix / Harrison)

Option 1 - Allow the costs claimed as long as they are within the budget?

Option 2 - Assess the costs of each phase and apply the budget as a soft cap?

Option 3 - Steer a middle course?

Proportionality 3 – CMOs

Witness statements phase

CMO £20k (assumption 3 witnesses + 2 for opponent)

(1) Phase just begun

Bill claims £8.5k but only 2
witnesses
(and 0 for opponent)

(ii) Phase completed

Bill claims £18.5k but only 2
+ 2 witnesses

Proportionality 3 – CMOs

Witness statements phase

CMO £20k (assumption 3 witnesses + 2 for opponent)

(1)Phase just begun

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Proportionality 3 – CMOs

Transferring decisions from incurred costs assessment

Experts' phase – Multiple f/es' attendance disallowed at conferences

Hourly rates – C's hourly rates reduced from £400 to £300

Concessions?

Proportionality 3 – CMOs

Assessment choices

- Option 1 – allowing unreasonable costs because they are proportionate
- Option 2 – renders detailed assessments considerably longer than they were previously
- Option 3 – inevitably involves inconsistency between judges in exercising their discretion / judgment

Proportionality allows unreasonableness?

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