

**CASE LAW  
UPLIFT/MARK-UP**

CASE	% MARK UP
<b><u>Pre CPR Cases</u></b>	
<u>Johnson v Reed Corrugated Cases Ltd. [1992] 1 All E.R. 169 at 184</u>	
“Run of the mill” cases	50%
<u>Loveday v Renton (No. 2) [1992] 3 All ER 184</u>	
Major test case in the whooping cough vaccine litigation. The Trial lasted 65 days and there was voluminous documents	125%
<u>Beck Litigation - 1994</u>	
On the <b>generic bill of costs</b>	150%
On some of the individual Bills where the claim was represented by the co-ordinating solicitors	65%
On some individual Bills where the claimant was represented by other solicitors	100%
<u>East Coast Aggregates v Marie Isabelle Para-Pagan, August 8, 1996 Q.B.D. (Admiralty Division) (unreported) aka <i>Bowbelle</i></u>	
Early stages of complex boat collision in the River Thames in which 51 people were killed.	140%
	150%
<b><u>Post CPR Cases</u></b>	
(but all uplifts based on the old ‘A’ + ‘B’ basis except the ‘TUI’ and MHG cases)	
<u>North Wales Childrens Homes Litigation – Senior Costs Judge Hurst</u>	
A sliding scale over four periods of work was allowed for the <b>generic costs</b>	135% to 160%
<u>Giambrone and others v JMC Holidays Ltd. [2002] EWCH 495</u>	
Group holiday litigation involving some 652 claimants. Many of the claims settled quickly and for low value	
Work done by Grades 1 and 2 in respect of <b>generic work</b>	120%
Work done by paralegals on both <b>generic and individual work</b>	65%

<p><u>Gertrude Clyde and others -v- Thomson Holidays [2002] SCCO - 1 November 2002 - Costs Judge Campbell</u></p> <p>Small holiday group litigation where 14 Claimants were injured when their coach was involved in an accident.</p> <p>Damages were from £500.00 to £8,000.00</p> <p>For all work done by all levels of fee earners</p>	<p>65%</p>
<p><u>AB and others –v- Liverpool City Council and others [2002] SCCO – unreported - Senior Costs Judge Hurst</u></p> <p>A decision on preliminary issues as to costs arising from the North West Child Abuse Cases.</p> <p>269 Claimants were pursuing claims spread between five children’s homes involving three Defendants.</p> <p>Costs were defined as being either individual costs; home generic costs or common generic costs</p> <p>Generic work done by lead partner pre and post CPR</p> <p>Pre CPR work done by other levels of fee earners</p> <p>Grades 1 and 2 for work done post CPR</p> <p>Other grades of fee earners for work done post CPR</p> <p>Co-ordination work</p>	<p>160%</p> <p>112.5%</p> <p>150%</p> <p>75%</p> <p>65%</p>
<p><u>The Claimants set out in Schedule 1 and (1) TUI UK Ltd. (2) Thomas Cook Tour Operators [SCCO 11.08.2005]</u></p> <p>A Group Litigation case relating to holiday makers who had suffered as a result of gastro-intestinal or viral infections contracted by themselves and members of their family whilst on holiday at the Torremolinos Beach Club.</p> <p>Senior Costs Judge Hurst indicated that reliance on the old A + B basis was at an end.</p> <p><i>“The Claimants argue that the guideline rates are composed of a base rate plus a notional 50% uplift for care and conduct. This is not in fact the case. ... all that can be acknowledged is that the guideline rates contain an element for care and conduct. The Precise percentage of that element is not ascertainable.” [paragraph 59].</i></p> <p>The Claimants’ Solicitors were allowed £250.00; £175.00; £150.00 and £100.00 per hour on a case the Senior Costs Judge described as not complex.</p>	<p>Between 5% and 43% on SCCO guideline rates</p>

<p><u>Longcare Group Litigation – November 2005 – Senior Costs Judge Hurst</u></p> <p>Claim for abuse suffered by mentally handicapped adults in a care home run by Gloucestershire County Council. Damages totalling in excess of £900,000.</p> <p><b>Generic work – Conducting fee earner (Grade 1)</b></p> <p style="padding-left: 40px;">Junior Fee Earners</p> <p><b>Individual costs – Solicitor</b></p> <p style="padding-left: 40px;">Junior Fee Earners</p>	<p style="text-align: right;">120%</p> <p style="text-align: right;">75%.</p> <p style="text-align: right;">85%.</p> <p style="text-align: right;">60%</p>
<p><u>Manchester Homes Group Litigation – April 2008 (unreported) – Bury County Court (Regional Costs Judges Duerden)</u></p> <p>Abuse in a number of children’s homes controlled by MCC. Generic costs settled without formal assessment. Initially individual cases settled direct with MCC on schedules. Subsequently MCC instructing costs draftsmen who took a number of common points on each of 10 cases. These were listed to be heard as preliminary issues before the RCJ. Both parties instructed costs counsel and skeleton arguments were filed and served.</p> <p>Negotiations continued to the door of Court and during the morning. The RCJ gave an indication as to his thinking to assist the parties. He placed a considerable emphasis on the client care aspects of dealing with Claimants who had been abused in this way as children and the need for such cases to be handled by those with expertise. The cases were not (as argued) ‘run of the mill’.</p> <p>Agreement reached and endorsed in a Consent Order giving uplift of 17% on Court guideline rates for Grades B and C and 10% for Grade D (although the RCJ stated that it was the rate that should be looked at, not necessarily guideline rates + enhancement). These were specifically for the more straightforward cases within this litigation when a Grade A could not usually be justified. Grade D’s distinguished on the grounds that the responsibility for the case rested with the conducting Grade B or C fee earner.</p>	<p style="text-align: right;">10% (Grade D) and 17% (Grades B &amp; C) on guideline rates</p>

### The Seven Pillars of Wisdom

#### **From Rule 44.5(3)**

The Court must also have regard to:

- (a) The conduct of the parties, including in particular
    - (i) Conduct before, as well as during, proceedings

*and*

    - (ii) The efforts made (if any), before and during proceedings in order to try and resolve the dispute
  - (b) The amount or value of any moneys or property involved
  - (c) The importance of the matter to all the parties
  - (d) The particular complexity of the matter or the difficulty or novelty of the questions raised
  - (e) The skill, effort, specialised knowledge and responsibility involved
  - (f) The time spent on the case
- and*
- (g) The place where and the circumstances in which work or any part of it was done