

LSLA

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Jaggard: Decision "came as a shock"

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Costs committee under fire after rejection of GHR plans

The costs committee of the Civil Justice Council (CJC) has been attacked by litigation solicitors and the Law Society after the surprise rejection of its plans for new guideline hourly rates (GHR) by the Master of the Rolls.

John Bramhall, president of the London Solicitors Litigation Association (LSLA), said that instead of the "normal market-driven or inflationary increase" the committee's report would have paved the way for a "fundamentally different approach" leading to a significant cut in rates.

"The LSLA has consistently believed the market should determine rates and that the CJC committee's model – expense of time plus a seemingly arbitrary pre-determined profit level – was not going to reflect market rates fairly," he said.

Mr Bramhall said Lord Dyson had emphasised "the original intention of the guidelines, as reiterated by Jackson" that the aim of the GHR should be to reflect market rates.

"We will urge the committee to revisit its criteria better to reflect the MR's view that reliable market evidence is needed so that GHRs are a broad approximation of actual rates in the market."

Des Hudson, chief executive of the Law Society, described Lord Dyson's rejection of the costs committee's proposals as "a victory for common sense and for the Law Society".

He went on: "We co-operated throughout this review by providing some of our publicly available research data, and the committee included representatives from the society.

"However, we were clear from the start that our data was not obtained for the specific purpose of a review of the guideline hourly rates. We expressed our concerns about both the relevance of the Law Society data being used in this way and the need for robust and relevant evidence."

Adrian Jaggard, chief executive of Jaggards and the Association of British Insurers representative on the costs committee, said the decision of the Master of the Rolls "came as a shock".

He defended the approach taken by the committee.

"A robust evidence base was established as the key requirement upon which to make GHR recommendations.

"Several sources of data and evidence were called on in the review, including the Law Society, Solicitors Regulation Authority and Chartered Institute of Legal Executives. Data was supplied also by Price Waterhouse Coopers and Jaggards.

"In addition, the committee undertook its own survey to fill in the evidential gaps and benchmark on the pre-existing data. To complement that survey, oral evidence was invited from a number of representative organisations."

However, on further reflection, Mr Jaggard said he appreciated Lord Dyson's reasoning for "doubting the adequacy" of the evidence.

Meanwhile Sue Nash, chair of the Association of Costs Lawyers (ACL), said she was delighted that "the professionalism and expertise of costs lawyers" had been recognised in the report and accepted by the Master of the Rolls.

Lord Dyson agreed with the committee that qualified and regulated costs lawyers should be paid at GHR rates B or C, depending on the complexity of the work.

Ms Nash said this reflected "the effort put in by the ACL to enhance the skills of our members and the work that we have done jointly with our regulator, the Costs Lawyer Standards Board, to ensure robust regulation of our professional standards."

By Nick Hilborne

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