

## **PART 3 THE COURT'S CASE AND COSTS MANAGEMENT POWERS**

### **II Costs Management**

#### **3.12 Application of this Section and the purpose of costs management**

- (1) This Section and Practice Direction 3E apply to all Part 7 multi-track cases except--
- (a) where the claim is commenced on or after 22 April 2014 and the amount of money claimed as stated on the claim form is £10 million or more; or
  - (b) where the claim is commenced on or after 22 April 2014 and is for a monetary claim which is not quantified or not fully quantified or is for a non-monetary claim and in any such case the claim form contains a statement that the claim is valued at £10 million or more; or
  - (c) *where the proceedings are the subject of fixed costs or scale-costs or where the court otherwise orders* [where in proceedings commenced on or after 6th April 2016 a claim is made by or on behalf of a person under the age of 18; or
  - (d) where the proceedings are the subject of fixed costs or scale costs; or
  - (e) where the court otherwise orders.]
- (1A) This Section and Practice Direction 3E will apply to any other proceedings (including applications) where the court so orders.
- (2) The purpose of costs management is that the court should manage both the steps to be taken and the costs to be incurred by the parties to any proceedings so as to further the overriding objective.

#### **3.13 Filing and exchanging budgets**

1. Unless the court otherwise orders, all parties except litigants in person must file and exchange budgets as required by the rules or as the court otherwise directs. Each party must do so by the date specified in the notice served under rule 26.3(1) or, if no such date is specified, seven days before the first case management conference.

#### **3.14 Failure to file a budget**

Unless the court otherwise orders, any party which fails to file a budget despite being required to do so will be treated as having filed a budget comprising only the applicable court fees.

#### **3.15 Costs management orders**

- (1) In addition to exercising its other powers, the court may manage the costs to be incurred by any party in any proceedings.
- (2) The court may at any time make a "costs management order". Where costs budgets have been filed and exchanged the court will make a costs management order unless it is satisfied that the litigation can be conducted justly and at proportionate cost in accordance with the overriding objective without such an order being made. By a costs management order the court will--
- (a) record the extent to which the budgets are agreed between the parties;

(b) in respect of budgets or parts of budgets which are not agreed, record the court's approval after making appropriate revisions.

(3) If a costs management order has been made, the court will thereafter control the parties' budgets in respect of recoverable costs.

### **3.16 Costs management conferences**

(1) Any hearing which is convened solely for the purpose of costs management (for example, to approve a revised budget) is referred to as a "costs management conference".

(2) Where practicable, costs management conferences should be conducted by telephone or in writing.

### **3.17 Court to have regard to budgets and to take account of costs**

(1) When making any case management decision, the court will have regard to any available budgets of the parties and will take into account the costs involved in each procedural step.

(2) Paragraph (1) applies whether or not the court has made a costs management order.

### **3.18 Assessing costs on the standard basis where a costs management order has been made**

In any case where a costs management order has been made, when assessing costs on the standard basis, the court will--

(a) have regard to the receiving party's last approved or agreed budget for each phase of the proceedings; and

(b) not depart from such approved or agreed budget unless satisfied that there is good reason to do so.

(Attention is drawn to rule 44.3(2)(a) and rule 44.3(5) which concern proportionality of costs.)