

COSTS REVIEW – APIL SURVEY

CASE NO.

FIRM NAME

CASE REFERENCE

Questions

1. Nature of claim

- Motor accident
- Employer’s liability (non disease)
- Employer’s liability disease as defined by CPR45 and PD45
 - Asbestos
 - Mesothelioma
 - Bilateral Pleural Thickening
 - Pleural Plaques
 - Repetitive Strain Injury/WRULD
 - Carpal Tunnel Syndrome (caused by Repetitive Strain Injury)
 - Occupational Stress
- Public liability
- Clinical negligence

(Where the claim is an EL disease claim, please confirm then name of the disease in accordance with CPR 45 and practice direction 45).

2. Result of claim (to include any sum awarded by court or paid by settlement)?

Please state

3. Stage at which case resolved?

- Pre-issue
- During pleadings
- At door of court
- Judgment

4. The number of months from issuing of letter of claim to settlement or judgment? Please state _____

5. Costs CLAIMED by claimants (excluding VAT)

- Base costs £ _____
- Success fee £ _____
- ATE premium £ _____
- Counsel fees £ _____
- Other disbursements £ _____

6. Costs allowed

- Base costs £ _____
- Success fee £ _____
- ATE premium £ _____
- Counsel fees £ _____
- Other disbursements £ _____

Turn over for more questions

7. Was the success fee claimed fixed?

Yes No

8. How much of a discount was factored against the success fee claimed?

1-5% 26-30% 51-55% 76-80%
 6-10% 31-35% 56-60% 81-85%
 11-15% 36-40% 61-65% 86-90% 16-20% 41-45%
 66-70% 91-95%
 21-25% 46-50% 71-75% 96-100%

9. Were indemnity costs awarded to the claimant?

Yes No

10. Were disbursements recovered in full?

Yes No

11. Payment by insurers post settlement/award (length of time)

Damages paid to client

0 to 3 months 4 to 6 months
 7 to 9 months 10 to 12 months

Costs due to claimant solicitors

0 to 3 months 4 to 6 months
 7 to 9 months 10 to 12 months

12. Part 8 proceedings

Were these instituted for recovery of costs?

Yes No

13. Special issues (e.g. protected parties, children)

Please state

14. Disputed/compliance issues

Please state

15. Any other comments

**DEADLINE FOR COMPLETION
 FRIDAY, 13 FEBRUARY 2009**

APPENDIX 12 – APIL SCHEDULE

Costs review -APIL survey					Costs claimed					Costs allowed				
Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
1	Motor accident	Won	At door of court	46		NA	NA				NA	NA		
2	Clinical negligence	Won	Pre-issue	NA	3703.70	2592.59	5250.00	517.00	2159.93	3500.00	2450.00	5250.00	374.00	1857.60
4	Public liability	Settled pre-issue	Pre-issue	5	2069.40	827.60	899.00		716.88	1750.00	700.00	899.00		716.88
4	Motor accident	21710.41	During pleadings	10	7626.50	953.31	1650.00	905.63	2950.75	6452.89	806.61	1650.00	905.63	2950.75
5	Employer's liability (non disease)	57500.00	During pleadings	36	16629.54	8314.77	1989.75	1125.00	3202.15	12437.00	6218.50	0.00	1125.00	3202.15
6	Public liability	3777.14	Pre-issue	18	3376.00	1012.80	630.00	0.00	2009.23	3155.23	749.68	630.00	0.00	2009.23
7	Public liability	3760.00	Pre-issue	9	2100.00	525.00	633.00	0.00	433.38	1776.80	444.20	633.00	0.00	433.38
8	Employer's liability (non disease)	2000.00	During pleadings	10	2600.00	650.00	633.00	0.00	548.00	2483.00	620.75	633.00	0.00	548.00
9	Employer's liability (occupational stress)	11400.00	Pre-issue	25	4258.00			425.00	682.75	2974.00			425.00	682.75

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Costs review -APIL					Payment by insurers					
Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15
1	No		No	No	0 to 3 months	0 to 3 months	No	None	NA	This case was an RTA cyclist hit by a car, liability admitted early on but there were significant causation and quantum issues resulting in numerous reports being obtained. Not all of which were relied upon
2	No		No	No	0 to 3 months	0 to 3 months	No	None	None	
3	No	1-5%		Yes	0 to 3 months	0 to 3 months	No	None	None	
4	Yes		No	Yes	0 to 3 months	4 to 6 months	No	Elderly lady detained in hospital		Extra costs because of visits to hospital and her home. Liability NOT admitted in protocol period → higher costs because proceedings issued
5	No	1-5%	No	Yes	0 to 3 months	4 to 6 months	Yes		Problems with disclosure. Application to commit director to prison for non disclosure	
6	No	1-5%	No	Yes	0 to 3 months	0 to 3 months	No			Although liability was admitted at an early stage, causation and prognosis were not straightforward. An MRI scan and two medical reports were needed prior to settlement. Whilst the success was agreed at 30%, the defendants refused to pay it on pre-CFA costs.
7	No	1-5%	No	Yes	0 to 3 months	0 to 3 months	No			
8	Yes	1-5%	No	Yes	0 to 3 months	0 to 3 months	No			Case taken on less than 12 months prior to limitation. Liability admitted at an early stage but proceedings issued owing to impending limitation. Settlement agreed shortly after service of medical evidence but prior to service of the proceedings.
9			No	Yes	0 to 3 months	10 to 12 months	No	None	None	Part 8 proceedings were drafted but not issued as defendant finally accepted our offer to settle costs claimed in total sum of £6000, making 93% recovery

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Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
10	Personal injury (other)	3478.40	Pre-issue	31	6474.50			150.00	547.09	5171.63			150.00	547.09
11	Personal injury (other)	2500.00	Pre-issue	20	4115.10				816.00	2632.94				816.00
12	Slips and trips	8000.00	Pre-issue	30	5904.00			300.00	840.00	4900.85			300.00	840.00
13	Slips and trips	5000.00	Pre-issue	29	7026.00			270.00	937.87	5519.53			270.00	937.87

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Costs review -APIL					Payment by insurers						
Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15	
10			No	Yes		0 to 3 months	Yes	Infant settlement		The client had the benefit of BTE insurance cover and they agreed to pay £950 towards shortfall on costs. Client also agreed to pay £348.09 towards shortfall (money previously paid to us on a/c of disbursements). There were also costs of attending the child settlement hearing and the total realisation on our file was therefore 85%.	
11			No	Yes	0 to 3 months	10 to 12 months	No			Defendants initial offer = 55% of costs claimed. After negotiations we settled for 69.67%. Part 8 proceedings drafted but not issued. Unfortunately, due to a number of staff changes within the office during the course of this matter, there were a number of time entries that were duplicated and we did not feel confident of recovering these on assessment.	
12			No	Yes	0 to 3 months	10 to 12 months	No			Defendant's initial offer = 50% of costs claimed. After negotiations settled for 82%. Part 8 proceedings drafted but not issued. The client had the benefit of BTE legal expense insurance and agreed to pay towards out shortfall on costs. Total amount of profit cost w/o on our file totalled £1081.63.	
13			No	Yes	0 to 3 months	7 to 9 months	No			The claimant had the benefit of BTE insurance and the majority of the shortfall on recovery of costs was recovered under the BTE policy. Total amount of profit cost w/o on our file totalled £288.84.	

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Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
14	Clinical negligence	19000.00	Pre-issue	26	12366.00			1125.00	2665.02	10549.78			1125.00	2665.02
15	Motor accident	12500.00	Pre-issue	27	12533.00	1474.13		525.00	839.00	9489.92	1126.83		450.00	822.00
16	Motor accident	22500.00	Pre-issue	27	9324.00			600.00	2180.00	6758.51			600.00	2180.00
17	Employer's liability (non disease)	11250.00	Pre-issue	37	12829.00			500.00	1499.12	11836.96			500.00	1499.12
18	Employer's liability (non disease)	60000.00	Pre-issue	29	17845.50			2150.00	3932.45	15779.83			2150.00	3932.45
19	Motor accident	12000.00	During pleadings	31	9930.49		394.00	675.00	3485.75	4445.25		394.00	675.00	3485.75
20	Motor accident	65000.00	During pleadings	44	10982.50				2340.38	8399.67				2340.38
21	Motor accident	12182.88	Pre-issue	19	7429.90				1057.50	5482.97				1057.50
22	Employer's liability (non disease)	20000.00	During pleadings	37	7468.10			370.13	2793.18	5748.46			370.13	2793.18
23	Motor accident	80000.00	At door of court	50	28202.70	28202.70	1260.00	18740.44	19447.99	85000.00				
24	Motor accident	25000.00	During pleadings	39	7735.50	966.94	414.75	3952.40	2996.85	6177.77	722.22	414.75	3952.40	2996.85
25	Employer's liability (non disease)	15000.00	Pre-issue	26	6624.00	6292.80			1034.52	6896.74				1034.52
26	Motor accident	10000.00	During pleadings	36	6341.20				4650.37	3961.52				3944.25
27	Motor accident	14839.72	During pleadings	37	3904.00				1673.18	2645.06				1673.18
28	Motor accident	17500.00	Pre-issue	31	4245.00			176.25	1285.87	3550.00			176.25	1285.87

APPENDIX 12 – APIL SCHEDULE

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Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15
14			No	Yes	0 to 3 months	4 to 6 months	No			Recovery of costs from defendants totalled 88.55%. Shortfall on recovery of costs paid by client.
15	Yes		No	No	0 to 3 months	10 to 12 months	Yes			Matter went to detailed assessment attend by costs draftsmen
16			No	Yes	4 to 6 months	0 to 3 months	No			Part 8 proceedings were drafted but not issued. The client has the benefit of BTE insurance and shortfall on costs has been recovered from them under the policy. The costs draftsmen agreed to reduce his fees to 75% of those originally invoiced to reflect the amount of costs we were able to recover from the defendant.
17			No	Yes	0 to 3 months	7 to 9 months	No			The client has the benefit of BTE insurance and any shortfall has been claimed from them under the terms of the policy.
18			No	Yes	0 to 3 months	7 to 9 months	No			The client had the benefit of BTE insurance and the shortfall on costs was recovered from them under the terms of the policy.
19			No	Yes	0 to 3 months	4 to 6 months	No			
20			No	Yes	0 to 3 months	0 to 3 months	No			
21			No	Yes	0 to 3 months	0 to 3 months	No			
22			No	Yes	0 to 3 months	0 to 3 months	No			
23	Yes		No	Yes	0 to 3 months	0 to 3 months	No			Global figures
24	Yes	1-5%	No	Yes	0 to 3 months	0 to 3 months	No			
25	Yes	31-35%	No	Yes	0 to 3 months	0 to 3 months	No			Global figures
26			No	No	0 to 3 months	0 to 3 months	No			
27			No	Yes	0 to 3 months		No			
28			No	Yes	0 to 3 months	0 to 3 months	No	Claimant was a minor at time of accident, but attained majority whilst claim was ongoing.		

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Costs review -APIL survey					Costs claimed					Costs allowed				
Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
29	Clinical negligence	304145.75	During pleadings	26	38852.20	36909.59	4095.00	13157.58	10882.34	30995.54	30995.54	4095.00	11574.47	10740.47
30	Public liability	520000.00	During pleadings	26	33590.00	30231.00	3750.00	23761.44	8393.03	25753.05	18027.12	3750.00	17531.92	8365.03
31	Employer's liability (non disease)	225000.00	Judgment	48	21996.60	19796.94	1875.00	5300.00	1648.80	20496.73	13732.81	1875.00	5300.00	1629.67
32	Clinical negligence	5250.00	Pre-issue	28	5903.70	5608.52	1600.00	800.00	423.74	4772.05	3244.98	1600.00	800.00	423.74
33	Motor accident	60000.00	During pleadings	47	18847.50	11308.50	356.00	3543.76	6374.84	15355.94	7207.48	356.00	3191.48	6369.84

APPENDIX 12 – APIL SCHEDULE

Costs review -APIL					Payment by insurers						
Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15	
29	No	16-20%	No	Yes	0 to 3 months	4 to 6 months	No			Although settled at the door of court, a trial date had been fixed and settlement was achieved at a settlement conference organised shortly before the trial date.	
30	No	36-40%	No	Yes	0 to 3 months	4 to 6 months	No			The £520,000 was after apportionment to reflect issues on liability which, for these purposes, we put at 50/50 hence the estimated full value of the claim. Although not settled at the door of the court, settlement was achieved at a settlement conference which took place very shortly before a date for trial of issue of liability.	
31	No	26-30%	No	Yes		7 to 9 months	No			This was a complex case because the defendant, despite giving an undertaking to admit liability, later sought to contest the issue. It was necessary for the claimant to make an application for judgment and to then successful appeal the refusal of that application. Further details are set out in the law report which can found on Lawtel: -v-OCS Group Limited LTL 2/6/2008	
32	No	41-45%	No	Yes	0 to 3 months	7 to 9 months	No			This was a professional negligence, rather than clinical negligence claim but inevitably similar difficulties and complexities arose.	
33	No	36-40%	No	Yes	7 to 9 months	7 to 9 months	No			There was significant issues on causation, because of the client's pre-existing ill health. Ultimately the case settled at a settlement conference held shortly before the trial date.	

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Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
34	Motor accident	60.00	During pleadings	48	26722.00	18705.40	450.00	15950.00	3877.27	14010.60	12424.48	450.00	15300.00	3870.76
35	Clinical negligence	15000.00	During pleadings	23	22826.00			4000.00	7809.03	20520.59			3744.69	6884.50
36	Motor accident	70000.00	At door of court	40	30458.00	28935.10	997.50	5280.00	7009.86	26903.44	18734.35	997.50	4488.00	6214.86
37	Clinical negligence	2000.00	During pleadings	8	9185.00	8725.75			2.59.7	9080.21	4994.11			2059.70

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Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15	
34	No	31-35%	No	Yes	4 to 6 months	4 to 6 months	No	A child dependent requiring approval of settlement		This case involved a significant dispute as to whether possible knowledge of the deceased about the defendant's insurance position allowed the MIB to reject the claim. Following a Court of Appeal decision, which supported the claimant's contentions, the matter was resolved by an application for summary judgment on this point -but all of that made the claim more complex.	
35			No	No	0 to 3 months	0 to 3 months	No				
36	No	31-35%	No	No	0 to 3 months	4 to 6 months	No			On full liability the value of the claim On full liability the value of the claim was £140,000, the settlement figure reflected an apportionment on liability under which the claimant recovered 50%. Liability was denied outright by the defendant, despite the claimant putting forward Part 36 offers on this issue. It was only, just after the trial of liability had opened, when the judge pointed out the defendant's difficulties that agreement was reached.	
37	No	41-45%	No	Yes	0 to 3 months	4 to 6 months	No			This was a clinical negligence case, which always have complexities. Moreover, the case potentially involved three defendants because the NHS had contracted out the treatment to the private sector which added significantly to the costs.	

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Case reference	Q1	Q2	Q3	Q4	Q5a	Q5b	Q5c	Q5d	Q5e	Q6a	Q6b	Q6c	Q6d	Q6e
38	Employer's liability (non disease)	15000.00	During pleadings	30	9366.10	8429.49	997.50	809.25	2346.22	8012.80	3205.11	997.50	809.25	2346.22
39	Motor accident		Pre-issue	2	1308.99					1308.99				
40	Employer's liability (non disease)		Pre-issue	12	2897.00	724.00	850.00		71.30	2300.00	575.00	850.00		71.30
41	Motor accident		During pleadings	26	5529.00		892.50	293.76	2125.50	3940.00		892.50	293.76	2125.50
42	Motor accident		Judgment	14	3808.60	3808.60	350.00	1587.00	1442.96	2500.24	2500.24	350.00	1587.00	1442.96
43	Employer's liability (non disease)		During pleadings	27	5786.00	1446.50	892.50	948.75	2547.50	5635.04		892.50	948.75	2547.50
44	Motor accident		Judgment	22	12683.50	12683.50	350.00	4948.00	4073.00	8488.00	8488.00	3500.00	4209.00	3500.00
45	Motor accident		During pleadings	60	28975.00	18834.00		7100.00	9000.00	25000.00			7100.00	9000.00
46	Public liability	20000.00	Pre-issue	9	4186.00	2093.00				3152.00	1507.00			
47	Motor accident	250000.00	At door of court	36	54000.00	6750.00	395.00	23581.00	9259.00	44000.00	5000.00	395.00	17000.00	9259.00

APPENDIX 12 – APIL SCHEDULE

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Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15
38	No	61-65%	No	Yes	0 to 3 months	4 to 6 months	No			On full liability the value of the claim was £30,000, the settlement figure reflected an apportionment on liability under which the claimant recovered 50%. This was a case in which, pre-issue, the defendant maintained an outright denial of liability and made no offers. In the event, following issue, it was an offer by the claimant on liability that allowed this issue to be agreed and progress to be made toward settlement.
39	No		No	No	0 to 3 months	0 to 3 months	No			Straight forward fixed fee RTA
40	Yes		No	Yes	0 to 3 months	0 to 3 months	No			The defendant's argued hourly rate, both of which had some merit, and a reduction would have been made had case gone to assessment.
41	No		No	Yes	0 to 3 months	4 to 6 months	No			There were potential arguments about CFA which meant any reasonable offer had to be accepted. The usual scenario arose -a global offer for all costs meaning we had to assume all disbursements were agreed.
42	Yes		No	Yes	0 to 3 months	0 to 3 months	No			
43	Yes		No	Yes	0 to 3 months	0 to 3 months	No			
44	Yes		No	No	0 to 3 months	0 to 3 months	No			
45	No		No	Yes	0 to 3 months	0 to 3 months	No			Costs allowed £25k (global figure, includes success fee)
46	No		No		0 to 3 months	0 to 3 months	No			Food poisoning abroad. Damages £10,000 for each of two claimants = £20,000 claim
47	Yes		No	Yes	0 to 3 months		Yes		Contributory negligence estimated at 50% (global settlement). Worth £500,000 on full liability	Brain injury RTA -claim worth £500,000 on full liability basis (settled for £250,000 after contributory negligence

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48	Employer's liability (non disease)	2500.00	During pleadings	26	4236.00	1046.00	997.00		825.00	3550.00	1025.00	997.00		825.00
49	Employer's liability (non disease)	33000.00	During pleadings	40	8300.00	2075.00	997.00		2050.00	6500.00	1625.00	997.00		2050.00
50	Motor accident	28500.00	Pre-issue	33	4752.00	594.00	336.00		1800.00	4000.00	532.00	336.00		1800.00
51	Employer's liability (non disease)	90000.00	During pleadings	31	28423.00	7719.00	997.00	1350.00	3125.00	26000.00	2400.00	900.00	1000.00	3000.00
52	Employer's liability (non disease)	33000.00	During pleadings	37	7000.00	1750.00	997.00		1500.00	5700.00	1245.00	997.00		1500.00
53	Public liability	10000.00	During pleadings		8000.00	1000.00	336.00		2200.00	6500.00		336.00		2200.00
54	Motor accident	15000.00	During pleadings	40	9000.00	1125.00	336.00		1500.00	7500.00	938.00	336.00		1500.00
55	Employer's liability (non disease)	121000.00	During pleadings	48						29000.00				
56	Employer's liability (non disease)	11000.00	During pleadings	35	7241.50	2169.48	600.00	175.00	2064.21	11500.00	6784.03	600.00		3098.37
57	Employer's liability (non disease)	1250.00	During pleadings	9	6247.00	1718.00	650.00	175.00	1278.23	4609.61		650.00	175.00	1843.32
58	Employer's liability (non disease)	29021.45	Pre-issue	25	7278.50	2001.59	650.00		801.52	7278.50	2001.59	650.00		801.52
59	Employer's liability (non disease)	11250.00	During pleadings	30	5360.00	1474.00	450.00		1651.79	8000.00				

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48	Yes		No	No	0 to 3 months	0 to 3 months	No		Liability only concluded after allocation	Damages £2500. Minor injury at work but liability denied and so proceedings issued. Liability concluded after allocation
49	Yes		No	Yes	0 to 3 months	0 to 3 months	Yes		Settled by negotiation after allocation	Damages £33,000. Liability denied but settled by negotiation after allocation
50	Yes		No	Yes	0 to 3 months	4 to 6 months	No			
51	Yes		No	No	0 to 3 months	0 to 3 months	Yes		Contributory negligence alleged and maintained right up to settlement	
52	Yes		No	Yes	0 to 3 months	7 to 9 months	Yes		Costs settled at detailed assessment hearing	
53	Yes		No	No	0 to 3 months	0 to 3 months	No		Liability denied. Case settled at mediation shortly before trial. Settlement reflected 50% + liability Settlement reflected 50% + liability risk. Costs compromised at mediation to allow claimant to retain majority of damages following damages and costs combined offer.	
54	Yes		No	Yes	0 to 3 months	4 to 6 months			Liability denied. Settled shortly before trial.	
55	No		No	Yes	0 to 3 months	0 to 3 months	No			Case settled including costs at round table meeting. Complicated medical issues and expert died!
56	Yes		No	Yes	0 to 3 months	0 to 3 months	No			Costs negotiated by Costs Draftsmen
57	Yes		No	Yes	0 to 3 months	0 to 3 months	No			Case was received one month prior to limitation
58	Yes		No	Yes	0 to 3 months	0 to 3 months	No			Damages £29021.45 excluding rehab costs which were paid direct to include surgery and physio. Bill agreed as drawn
59	Yes		No	Yes	0 to 3 months	4 to 6 months	No			Complicated issues relating to special damages. All inclusive global figure for costs

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60	Motor accident	6000000.00	During pleadings	32	204308.00	114396.00	nil -LEI	17060.00	32176.00	174539.00	97742.00	nil-LEI	13580.00	32176.00
61	Employer's liability (non disease)	1700000.00	Judgment	57	196563.00	176907.00	67064.00	65378.00	90987.00	174474.00	157027.00	67064.00	64193.00	90050.00
62	Motor accident	2913000.00	Judgment	63	289710.00	268839.00	289.00	300890.00	149024.00	249000.00	224000.00	289.00	260000.00	142000.00

Costs review -APIL					Payment by insurers									
Case reference	Q7	Q8	Q9	Q10	Q11a	Q11b	Q12	Q13	Q14	Q15				
60	No		No	Yes	0 to 3 months	0 to 3 months	No		None	Patient of Court of Protection (brain and spinal injuries -unable to speak) £1.936 million of damages to structured settlement. Good consensual working arrangement with D.				
61	No		No	No		0 to 3 months	No	Russian client	Failures by D to comply with PAPs	Costs were disputed and eventually awarded at a cost assessment level considerably above the C offer to settle				
62	No		No	No	0 to 3 months	0 to 3 months	No	PP came before Thompstone judgment		75% liability resulting in lump sum of £2.913 m (£1.66m paid as interims) plus periodical payments for earnings				