
How should costs arguments be resolved in Low Value Protocol claims?

Published 17 February 2020

Following the introduction of the Low Value Protocols, in which costs are fixed for claims proceeding within the Portal process and for claims falling from the Protocols, how should disputes over the amount of fixed costs be resolved? Should the receiving parties prepare bills of costs and commence detailed assessment proceedings?

This question was considered by District Judge Lethem, sitting in the County Court at Central London in *Ivanov v Lubbe*, the judgment in which was handed down on 17 January 2020.

The Claimant had accepted a Part 36 offer made by the Defendant and, as there was a dispute over whether a disbursement fee was payable by the Defendant, the Claimant commenced detailed assessment proceedings.

The Civil Procedure Rules provide a right to commence detailed assessment proceedings where claims are settled through acceptance of Part 36 offers and the fixed costs for claims commenced within the Low Value Protocols do not apply. However, on claims commenced within the Low Value Protocols to which fixed costs apply, Rule 36.20 expressly provides that the Court retains the discretion to make a costs Order; a costs Order is required in order for detailed assessment proceedings to be commenced.

District Judge Lethem concluded that, in cases commenced within the Low Value Protocols to which fixed costs apply and in which there is a dispute over the costs payable, the receiving party should make an application to the Court for a costs Order and for the costs to be assessed, enabling the Court to decide whether it should order detailed assessment or assess the costs summarily.

Whilst this judgment has been made by a District Judge in the County Court and does not bind the decisions of other Courts, it should assist Defendants and their insurers in reducing the risk of additional costs being payable as a consequence of Claimants' commencing detailed assessment proceedings where disbursements in fixed costs claims are not agreed.

Our costs team deal with cases such as this on a regular basis. For more information or advice, please contact one of our experts.

Authors



Adam Burrell

Birmingham +44(0)121 698 5322
aburrell@dacbeachcroft.com



David Williams

Leeds +44 (0)113 251 4844
dwilliams@dacbeachcroft.com



Peter Allchorne

Bristol +44 (0) 117 918 2275
pallchorne@dacbeachcroft.com