

Statements of Costs

The 104th edition of the CPR came out in February 2019. Amongst several changes were some specifically costs related. Practitioners for a number of years have been preparing the N260 for summary assessment at in accordance with CPD 44.9.2 *“The general rule is that the court should make a summary assessment of the costs –*

(a) at the conclusion of the trial of a case which has been dealt with on the fast track, in which case the order will deal with the costs of the whole claim; and

(b) at the conclusion of any other hearing, which has lasted not more than one day, in which case the order will deal with the costs of the application or matter to which the hearing related. If this hearing disposes of the claim, the order may deal with the costs of the whole claim,

unless there is good reason not to do so, for example where the paying party shows substantial grounds for disputing the sum claimed for costs that cannot be dealt with summarily.”

It is a requirement that the filing of the Statement of Costs complies with CPD 44.9.5(4)

“(4) The statement of costs must be filed at court and copies of it must be served on any party against whom an order for payment of those costs is intended to be sought as soon as possible and in any event –

(a) for a fast track trial, not less than 2 days before the trial; and

(b) for all other hearings, not less than 24 hours before the time fixed for the hearing”.

The 104th edition has brought the Statements of Costs upto date (see CPD 51X). There shall be two versions operating during the pilot scheme commencing on the 1 April 2019 until 31 March 2021. Where a provision of the Practice Direction conflicts with other provisions of the rules or other practice directions, this Practice Direction takes precedence.

What are the changes? They have been mooted for a while and they are now titled Form N260A and N260B. These will be the model forms of Statements of Costs which may be used for summary assessment whilst the pilot scheme is in force. In a nutshell the Form N260A will be applicable when the costs have been incurred on an interim application. The Form N260B applies when the costs have been incurred upto trial. Like the current version they both require documents schedules. The biggest distinction between the two is that under the N260B (see CPD 51X(8)) it states that *“In any case which has been subject of a costs management order, any party filing the N260B for summary assessment in accordance with CPD 44.9.5(4) must also file and serve for Precedent Q”*. The N260B will also be required to be split into phases. The forms vary significantly from the current form. With the Courts approach on Electronic Bills this format is likely to be given the green light when the expiration of the pilot scheme concludes. Therefore, whilst not mandatory yet, it will be better to perfect these during the scheme and be ready for the changes.

If the matter has not been case managed but is a Multi-Track claim, it is assumed that the phased format will be required. This is an issue which is questioned on the post 6 April 2018 Bills of Costs and for which the applicable format is the Precedent S Bill of Costs. It is a change in the right direction to be consistent with the evolving landscape of costs law. As stated, the pilot scheme lasts 2-years so it is best practice to be prepared.

Should you have any queries, please do not hesitate to contact us at Costs Law Services Limited on info@costslawservices.com

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