

# **HOURLY RATES**

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## **A brief history:**

The A & B Factor *Re: Eastwood* (1973) 3WLR 795.

The Civil Procedure Rules.

The SCCO Guideline Hourly Rates.

## The factors which determine rates:

### CPR 44.4 (3) The “Pillars of Wisdom”

*(a) the conduct of all the parties, including in particular*

*(i) conduct before, as well as during, the proceedings; and*

*(ii) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute;*

*(b) the amount or value of any money or property involved;*

*(c) the importance of the matter to all the parties;*

*(d) the particular complexity of the matter or the difficulty or novelty of the questions raised;*

*(e) the skill, effort, specialised knowledge and responsibility involved;*

*(f) the time spent on the case;*

*(g) the place where and the circumstances in which work or any part of it was done, and*

*(h) the receiving party's last approved or agreed budget.*

- Consider each factor on a case by case basis.
- Consider factor (f) and the importance of office location.
- Consider additional factors based on “reasonableness”.

## **Reasonableness factors**

- When was the work done.
- Who did the work.
- The use of Counsel.

## **Clinical Negligence cases**

- Inherent complexity.
- Case law.

## **JXA v Kettering Hospital NHS Foundation Trust 2018 EWHC 1747 QB**

- Complex cerebral palsy case (liability only) – worth up to £20M.
- Rates allowed at (A) £350 (C) £200 (D) £150.
- Work undertaken by city firm but allowances based on outer London rates.
- Appeal for higher rates dismissed as appeal Court found that Costs Master's decisions had not fallen outside his discretion.

## Costs budgeting

- CPR 3 PD 7.10:

*The making of a costs management order under rule 3.15 concerns the totals allowed for each phase of the budget. It is not the role of the court in the cost management hearing to fix or approve the hourly rates claimed in the budget. The underlying detail in the budget for each phase used by the party to calculate the totals claimed is provided for reference purposes only to assist the court in fixing a budget.*

- *RNB v London Borough of Newham [2017] EWHC B15 (Costs).*
- *Nash V MOD (2018) EWHC B4.*
- *Jallow v MOD (2018) EWHC B7.*