



**CHIEF EXECUTIVE
DAVID HOBART**

Adam Sampson,
Chief Executive,
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Dear Adam,

Setting a Fair Case Fee

Thank you for the opportunity to comment on Setting a Fair Case Fee.

We have had the opportunity to discuss this with you and your staff on more than one occasion, and I can think now of no particular issues of principle that divide us. I accept that your general approach to the case fee is fair, inasmuch as it strikes a number of reasonable balances.

First, I agree with your significantly weighted balance towards the levy when you attribute the recovery of costs. As you suggest, experience over the next three years will give you a secure basis for any more accurate apportionment, but your illustrative 90/10 split looks to be a safe starting point. I would have preferred an 80/20 split both to reduce our block payment and to induce improved in-house complaints handling, but I note the attraction to you of assured income.

Second, I agree with your preferred approach of adopting a flat fee together with a buffer of two free cases annually. Again, future experience will be the best guide to confirming the ideal compromise, and will help us all to identify accurately whether any particular section of the profession, or area of legal practice, is disproportionately prone to complaints from

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lay clients. Clearly, I remained concerned at the possibility that the women, BME and Young Bar practitioners who are relatively prominent in contentious areas of criminal, family and immigration law are more likely to attract a higher level of unmeritorious complaints, and hence will have greater need of your preferred buffer.

Third, there is implicit in your analysis a balance to be found between the size of the case fee, and the 'constructive behavioural impact' to which you refer. The reputational risk of a poor in-house complaints resolution process ought already to outweigh the impact of any realistic case fee, but only time will tell.

Finally, if the effectiveness of in-house complaints handling is to be assessed when deciding whether a case fee is attracted, there must be some agreed and transparent criteria for such an assessment. I would expect the Approved Regulators to take the lead in developing those criteria, with an eye on the same 'constructive behavioural impact' as above.

Yours,

David

