

All change for CFA regulation

From the 1st November 2005, the regulations governing the validity of CFAs will be revoked and replaced by new provisions contained in the new Solicitors' Practice Rules. The intention of this change is to limit the number of technical challenges to the validity of CFAs. However, the Regulations will continue to apply to CFAs entered into before November 2005 and therefore it remains imperative to consider the validity of any CFA under which costs are being claimed (see case summaries below).

A more detailed article on this subject will appear in the upcoming LCN Newsletter.

Fixed success fees in industrial disease claims

Further to the previous LCN Costs Update, the 40th Update to the Civil Procedure Rules has now implemented the scheme for fixed success fees in industrial disease claims. The new rules are not retrospective and do not apply to any case where a letter of claim was sent before the 1st October 2005.

Case summary: Myatt v National Coal Board (2005) (SCCO)

Following on from the decision of the Senior Costs Judge in Samonini v London General Transport (see LCN Newsletter March 2005), Master Wright held that a CFA was invalid and no costs were payable where the Claimant Solicitor failed to adequately consider alternative funding before entering into a CFA. The Claimant had been asked about alternative funding during a telephone call but the judge held that the Claimant should have been asked to send the relevant insurance documents to the solicitor to consider, rather than merely being asked to check for legal expense insurance themselves.

Case summary: Hughes v Newham Borough Council (2005) (SCCO)

Also in relation to alternative funding, Master O'Hare held that a CFA was invalid for a failure to properly advise a Claimant as to the availability of legal aid in a housing disrepair claim. The Claimant has instead entered into a CFA and a loan-financed insurance premium and the court held that the Claimant had therefore suffered a materially adverse effect and the CFA was declared invalid and no costs payable.

LCN Costs Seminars

In light of the imminent change to the entire regulatory system for CFAs, LCN will be offering free seminars and in-house training dealing with this and other recent costs developments.

If you would be interested in further details, please reply to this update or contact Paul Jones (details below)

To discuss the contents of this update in more detail, or to find out more about LCN, please contact:

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