



IN THE HIGH COURT OF JUSTICE

SCCO Refs: 13080340, 12177963,

SENIOR COURTS COSTS OFFICE

11775290, 11620036

FROM THE COURT OF PROTECTION

Thomas More Building, Royal Courts of Justice

London, WC2A 2LL

Date: 30th September 2020

Before

Master Whalan

In The Matters Of:

- 1. PLK**
- 2. Aayan Ahmed Thakur**
- 3. Nathaniel Chapman**
- 4. Paul Nigel Tate**

Mr Richard Wilcock, counsel, instructed by Clarion Solicitors Limited (t/a Clarion), costs solicitors for all four applicants.

Hearing date: 26th May 2020

Judgment Approved by the court

Master Whalan

Introduction

1. These assessments raise a common point of principle applicable to the decisions of Costs Officers and Costs Judges when assessing costs incurred in the Court of Protection ('COP') by a court appointed Deputy (and his/her associates) in the general management of the affairs of a protected party. The issue for determination concerns the method of assessment of the hourly rates claimed by Deputies. It is the applicants' submission that the court's current approach which, broadly speaking, relies on the application of the Guidelines Hourly Rates ('GHR') approved by the Costs Committee of the Civil Justice Council is, by 2020, incorrect and unjust. Instead the assessment of COP work should be predicated on a more flexible exercise of the discretion conferred by CPR 44.3(3), whereby the GHR are utilised as merely a 'starting point' and not a 'starting and end point'.

Cases for assessment

2. The court has consolidated the assessments in four cases that are chosen to represent the costs claimed by Deputies in different parts of England, in the management of the affairs of protected parties who had sustained significant brain or birth injuries.

PLK

3. The protected party is an adult male who sustained an injury at birth. He received damages of £5,649,938.50. The Deputy is Alexander Wright of Boyes Turner LLP, Reading. The bill claims £28,974.34 (including VAT) for the period 21st July 2018 to 27th February 2019. The hourly rates claimed are:

| | |
|----|---------|
| A | £284.00 |
| B. | £252.00 |
| C. | £211.00 |
| D. | £155.00 |

Aayan Ahmed Thakur

4. The protected party is a 9 year old boy who suffered brain damage at birth. His estate is worth in excess of £12,000,000. The Deputy is Chris Proxamatis of Gillhams Solicitors LLP, Golders Green, London, NW11. The bill claims £50,113.32 (including VAT) for the period 19th September 2018 to 18th September 2019. The hourly rates claimed are:

| | |
|---|---------|
| A | £350.00 |
| D | £159.00 |

Nathanial Chapman

5. The protected party sustained a significant head injury in a cycling accident which aggravated underlying mental health issues, including schizophrenia. He received damages in 2014 of £2,325,000, plus periodical payments of £75,000 pa, which are indexed linked. The Deputy is Lynne Bradey of Wrigleys Trustees Limited, Sheffield. The bill claims £40,672.58 (including VAT) for the period 20th August 2018 to 19th August 2019. The hourly rates claimed are:

| | |
|----|---------|
| A | £263.00 |
| B. | £232.00 |
| C. | £191.00 |
| D. | £145.00 |

Paul Nigel Tate

6. The protected party was 11 years old when he sustained a serious brain injury when he was hit by a bus. The claim settled in about 2011 for a lump-sum award of £4,000,000. The Deputy is Natasha Molloy of Freeths LLP, Nottingham. The bill claims £123,764.74 (including VAT) for the period 12th December 2017 to 11th December 2018. The hourly rates claimed are:

| | |
|----|---------|
| A | £284.00 |
| B. | £252.00 |
| C. | £211.00 |
| D. | £155.00 |

7. The bills in all four cases were drafted by Clarion and the hourly rates claimed are based on the GHR of 2010 plus a percentage uplift to reflect RPI inflation (of approximately 31%) between 2010 and 2019.

The Civil Procedure Rules ('CPR')

8. COP costs are assessed by reference to the relevant factors set out in CPR 44.4(3), entitled 'Factors to be taken into account in deciding the amount of costs', as applied by rule 19.6 of the Court of Protection Rules 2017. The relevant factors listed in CPR 44.4(3) are:

- (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.*

Guideline Hourly Rates

9. Guideline Hourly Rates were issued originally by the Supreme Courts Costs Office as part of its Guide to the Summary Assessment of Costs. Revised rates were issued regularly by the SCCO until 2006. Revisions from 2007 were issued by the Master

of the Rolls following reports from the Advisory Committee on Civil Costs. These revisions were based primarily on inflation rate rises. The last revision occurred in 2010. The GHR rates are set out in a table which is made up of grades of fee earner and geographical bands. The rates are as follows:

| Year | Guideline Hourly Rates 2010 | | | |
|------------|-----------------------------|----------|------|------|
| Bands | A | B | C | D |
| London | £409 | £296 | £226 | £138 |
| London 2 | £317 | £242 | £196 | £126 |
| London 3 | £229-267 | £172-229 | £165 | £121 |
| National 1 | £217 | £192 | £161 | £118 |
| National 2 | £201 | £117 | £146 | £111 |

10. In 2010 the responsibility for the GHR passed from the ACC to the Costs Committee of the Civil Justice Council. Subsequently the Costs Committee was instructed to analyse the GHR by conducting ‘a comprehensive, evidence-based review of the nature of the Guideline Hourly Rates and to make recommendations to the Master of the Rolls’. In May 2014 the Committee reported that the datum which had been gathered in respect of GHR was insufficiently strong to form the basis of a comprehensive, evidence-based review. As such, the GHR have not been revised since 2010.
11. The failure to revise the GHR since 2010 has attracted adverse comment from within the legal profession and, more recently, from the senior judiciary. In Ohpen Operations UK Limited v. Invesco Fund Managers Limited [2019] EWHC 2504 (TCC), for example, O’Farrell J. made a ruling on costs after granting the defendant’s application for the claim to be stayed pending compliance by the parties with an agreed dispute resolution procedure. The defendant’s costs were £52,152 and the claimant submitted that the defendant’s solicitors’ hourly rates were unreasonably high. O’Farrell J. commented (at paragraph 14) that:

It is unsatisfactory that the guidelines are based on rates fixed in 2010 and reviewed in 2014, as they are not helpful in determining reasonable rates in 2019. The guideline rates are significantly lower than the current hourly rates

in many London City solicitors, as used by both parties in this case. Further, updated guidelines would be very welcome.

12. In 2020, the Civil Justice Council established a Guideline Hourly Rates Working Group chaired by Mr Justice Stewart QC. Stewart J. is currently gathering evidence which includes details of the hourly rates claimed and allowed by Costs Judges and Costs Officers on detailed assessments for a three month period between 1st September and 27th November 2020. When all the relevant evidence is received and collated, the Working Group will make recommendations to the Master of the Rolls. Reports in the media have suggested that this process may be completed by the end of 2020, but it seems to me that this timescale may prove to be optimistic.

Case guidance

13. In recent years, the assessment of hourly rates in COP cases have been directed by the decisions in three SCCO cases.
14. In Re: Michael Ashton [2006], 31st July 2006, Master O'Hare determined the hourly rates applicable to a 'Specialist Support Services Manager' following a provisional assessment by a Costs Officer. At paragraph 17 of his judgment, Master O'Hare made a number of general observations concerning hourly rates in COP matters:

As the solicitors in this case recognise there are several reasons why hourly rates which are appropriate for receivers and their staff in most Court of Protection matters will be lower than the rates for other work. General management work of a receiver usually has lower levels of urgency and adrenaline than compared with other work. Although the decisions which have to be made can sometimes be of the greatest importance and can merit the most anxious consideration a solicitor receiver and his staff have greater autonomy than their equivalents in other work. There is also the fact that especially in a larger estate such as this the receiver will produce a steady stream of work.

The convention that was applied following Ashton was that Costs Officers in assessing Court of Protection bills generally applied hourly rates that approximated (albeit very broadly) to 90% of the GHR.

15. In Re: Smith and others [2007] EWHC 90088 (Costs), Master Haworth determined six consolidated appeals from Costs Officers in respect of the hourly rates allowed to COP Receivers. The appellants were represented by two senior costs counsel, Mr N. Bacon and Mr A. Post, who submitted that the decision in Ashton (ibid) was not a persuasive authority and, in any event, that it had been determined incorrectly. Master Haworth allowed the appeals and in respect of each of the cases applied in 'the relevant guideline rate for the appropriate locality where the work was done for

the grade of fee earner who carried out that work' (paragraph 56). Master Haworth's reasoning is summarised at paragraphs 51-53 of his judgment:

51. I accept the submissions made to me by both Mr Post and Mr Bacon with regard to the fact that there should be both consistency and certainty in relation to the costs which those lawyers and their clerks who act as receivers in Court of Protection work are to be remunerated. Court of Protection work in many respects is no different from modern litigation where it is incumbent upon a solicitor receiver to act with economy in relation to the work to be done, to plan and advance that work, the appropriate level of person to carry out that work, the overall time which will be necessary and appropriate to spend on the various stages of that work in dealing with the patient's affairs.
52. I accept the evidence of Ms Fox with regard to the work of a professional receiver set out in her note of 15 February 2007, that by the very nature of the patient the work can be stressful, relentless and that crisis are commonplace. The receiver is not dealing with a client who can give instructions but must act on his or her own initiative. In that respect I accept that the receiver takes on a greater not a lesser level of responsibility and must apply his or her own judgement to matters which in other fields the lawyer would seek specific instruction from his or her client. I accept that greater autonomy in fact results in greater responsibility and the need for greater skill and expertise not less.
53. I also find that substantial elements of day-to-day general management work are mundane and routine, once the receiver has provided overall direction as to the issues which are to be dealt with. In that respect it is incumbent upon the receiver to pass that work down to a lower but relevant level of grade of fee earner to be implemented. In relation to that work the receiver cannot expect to be remunerated at anything like the level of his or her own expertise. Mr Bacon accepted and I find that it is entirely possible for a receiver to reclassify and downgrade (where appropriate) his or her own staff within the bands provided in Appendix 2 to the Guide of Summary Assessment in order that general management work is dealt with with the utmost economy and expedition by the appropriate level of fee earner in individual cases. The issue as to the appropriate status or grade of fee earner for the work in question will always be a matter for discretion when Costs Officers and/or Costs Judges are assessing a receiver's general management costs.

Accordingly in Smith the court allowed the GHR, as claimed, as opposed to rates that were lower than the GHR, as contended for by the Respondents to the appeals.

Since 2007, therefore, Costs Officers have generally (Mr Wilcock submits ‘slavishly’) applied the GHR in assessing the vast majority of COP bills of costs.

16. In Yazid Yahiaoui and others [2014], January 2014, Master Haworth followed (in so far as he felt no reason to depart from) his judgment in Smith (ibid), but he added that ‘blended hourly rates’ could be applied reasonably and appropriately ‘where work is being carried out either as a team or by an individual that spans work that would normally be dealt with by a Grade B, C or D fee earner’.

Hearing of the preliminary issue

17. The hearing of the preliminary issue was conducted (remotely) on 26th May 2010. Mr Wilcock, counsel for the applicants, attended and made oral submissions; his Skeleton Argument is dated 21st May 2020. Also in attendance were Mr Russell Caller, Mr Alexander Wright, Ms Molloy and Ms Stephanie Kaye, Costs Provider.
18. I was provided with the written statements of six witnesses: Mr Russell Caller, dated 11th May 2020, a Solicitor and Director of Court of Protection Services at Gillhams Solicitors LLP; Ms Lynne Bradey, dated 12th May 2020, a Solicitor and Partner at Wrigleys Solicitors LLP, Ms Natasha Molloy, dated 12th May 2020, a Solicitor, Partner and Head of the COP Team at Freeths LLP, Nottingham; Mr Alexander Wright, dated 12th May 2020, a Solicitor and Senior Associate in the Court of Protection Team at Boyes Turner LLP, Ms Stacey Bryant, dated 13th May 2020, Legal Director and Head of the COP Team at Enable Law, Plymouth; and Mr Simon Hardy, dated 15th May 2020, a Solicitor, Partner and Head of the COP Team at Kingsley Napley LLP. Messrs Caller and Wright are also Directors of The Professional Deputies Forum (‘PDF’), a professional association with a large and expanding membership of professional COP Deputies.
19. The hearing bundle (paginated 1-307) also contains the following evidence: a ‘Briefing Paper on the financial sustainability of professional deputies’, drafted by the PDF (undated) (pp 9-14); a ‘Report on Non-chargeable Activities for COP Work’, drafted by Clarion and dated May 2020 (pp 298-306); a report entitled ‘SCCO Guideline Rates and the Impact of Inflation’, drafted by Brown Shipley & Co. dated October 2019 (pp1-8); and the guide ‘Deputy standards, Professional deputies’, issued by the Office of the Public Guardian in July 2015 (un-paginated).
20. I have considered all this written material carefully and I refer (where it is necessary and relevant to do so) to the matters raised therein during the course of my analysis and conclusions set out below.

The Deputy’s Submissions

21. Mr Wilcock, counsel for the applicants, advances two broad submissions, described as the ‘primary’ and ‘secondary’ arguments.
22. First, the court should assess the hourly rates claimed in COP bills by reference to the relevant factors in CPR 44.4(3). In doing so, the court should not ‘slavishly’ follow and apply the GHR, but should instead use them as a starting point for an unfettered assessment conducted ‘by reference to the Court’s judicial experience’ (SA, paragraph 36). COP work should be recognised as ‘esoteric’ and specialised, and clearly not ‘run of the mill’. This speciality, combined with the fact that ‘they carry, in general, higher overheads, including increasing overhead time’, means that a straightforward application of the GHR is unreasonable. At best, the GHR should be no more than a starting point for an assessment which, by reference to the 44.4(3) factors, should usually lead to the endorsement of higher hourly rates.
23. Secondly, or alternatively, if the court feels it desirable to use the GHR as a ‘starting point’ – described as ‘a skeletal framework in which to assess the hourly rate’ (SA, paragraph 43) – then it must apply an empirical uplift to reflect the incidence of inflation between 2010 and 2019. This should be based on RPI inflation, as utilised in the Brown Shipley report, and not CPI inflation. RPI inflation between 2010 and 2019 is approximately 31%, whereas the CPI increase is approximately 21%. This is something of a ‘blunt approach’, but it reflects the practise invoked prior to 2010 and is the approach endorsed by experienced commentators such as Dr Mark Friston, the author of *Friston on Costs* (SA, paragraph 46).

My analysis and conclusions

24. Two preliminary observations inform my initial analysis of the applicants’ primary submission. The first recognises the importance of both consistency and certainty in relation to the assessment of COP costs. The importance of judicial consistency is, of course, axiomatic, but it assumes a particular relevance in the COP, where the protected party’s assets very often derive from an award of damages. If COP costs are not predictable accurately, then a protected party’s legal representatives will be unable to plead or assess quantum accurately in any substantive inter partes litigation. The second point recognises that the assessment of COP costs is a role undertaken primarily by Costs Officers. The SCCO processes over 8000 COP bills annually and the vast majority (certainly over 95% of the total) are assessed by Costs Officers. They comprise a specialist team that has amassed considerable experience in COP costs. They also they have the benefit of mature leadership and attentive judicial oversight. Yet the Costs Officer’s general experience is limited necessarily, so that it cannot really be said they have the broad ‘judicial experience’ in applying CPR 44.4(3) as anticipated by Mr Wilcock at paragraph 36 of his Skeleton Argument.
25. The applicants’ primary argument then rests substantially on the assertion of ‘specialism’ and the incidence (both atypical and increasing) of ‘overhead time and expense’.

26. It is clear that COP work comprises a discrete area of professional practice, so that Deputies tend to work (over many years) in this area exclusively. The work is often (but not invariably) complex and the amount of money or property involved in the management of a protected party's assets is generally high. Protected parties can be difficult and time consuming clients and this often imposes a considerable burden of responsibility on Deputies. It is likely that the role of Deputy has become more complicated over the years, particularly after the implementation of the Mental Capacity Act 2005. But this reality was recognised by Master Haworth in Smith (ibid), when he acknowledged that 'the work can be stressful, relentless and that crisis are commonplace' (paragraph 52). Mr Wilcock criticises Master Haworth's suggestion that 'substantial elements of general management COP work is mundane and routine' (SA, paragraph 24), but the priority he gives to this observation is, in my view, mistaken. Master Haworth stated that many aspects of the day-to-day general management of a protected party's interests are routine, but this does not detract materially from his acknowledgment of the significant responsibility undertaken by a deputy in overseeing a large estate over many years. This issue, in any event, is more relevant to the determination of the appropriate status or grade of fee earner for the work in question, rather than the calculation of hourly rates generally.
27. The witnesses adduce some evidence concerning the incidence of 'overhead time' in COP work. Overhead time is defined as non-chargeable time resulting from costs which are either not claimed in the bill or disallowed on assessment. Mr Wilcock submits that the parties have 'produced significant evidence of the increase in hard and soft overheads' (SA, paragraph 45). Boyes Turner LLP estimates that its COP team 'spends 28% of its time on activities that are deemed as overheads' (Wright, 38). Freeths LLP COP Team in Nottingham estimates overhead time of 25% at Grade A, rising to 40-50% for Grade D (Molloy, 59). Wrigleys Solicitors LLP of Sheffield estimate the overhead time to be 'on average 19.83% of our costs per matter' (Bradey, 15). Clarion Solicitors Limited prepare 'circa. 2000 COP bills for assessment' per annum', almost 25% of the total assessed by the SCCO. Their estimate, having analysed ten files selected randomly, suggests that the time written off as overheads averages 13.1% per file. This small statistical snapshot, therefore, exhibits some considerable variation, an inconsistency that may well be firm or case specific. Given the broad experience of Clarion, that firm's findings may constitute the most accurate assessment of overhead time.
28. The witness evidence also produces evidence as to the incidence and/or increasing burden of overhead expenditure. Boyes Turner LLP states that COP overheads have increased by 18% since 2010 (Wright, 28). Anthony Collins Solicitors of Birmingham cite an increase of 64.5% in overhead costs since 2010 'on a per head basis' (Caller, 11, RAC 5). Freeths LLP of Nottingham, on the other hand, cite an overall increase of overheads of 8.4% between 2010/11 and 2018/19 (Molloy, 24). Slater & Gordon, who have 'one of the largest Court of Protection departments in the UK', suggest an increase in overheads of 30% (Caller, 10, RAC 4). Again, therefore, the datum exhibits an inconsistent pattern with, at the very least, some considerable geographical variation. It seems to me, in fact, that each estimate is likely to be dependent on factors that are specific to each individual firm, in circumstances where the relevant components may or may not be included in the

evidence. Enable Law of Plymouth, for example, estimates that its overheads increased by 67.57% between April 2014 and April 2019, but this corresponds to an increase in turnover of 61.06% over the same period (Bryant, 9, 10), meaning that the latter may explain the former. Anthony Gold cite an increase in overhead costs of 7% from 2010, ‘despite our firm making some savings on support staff with restructuring and on premises’ (Caller, 14, RAC 8). Perhaps the most illustrative response was that of Kingsley Napley LLP of London EC1, who reported that they cannot report on overheads since 2010 ‘as the department and indeed the firm has changed so much since that time that no reliable comparison can be drawn’ (Hardy, 10).

29. Ultimately I am not satisfied that the evidence supports Mr Wilcock’s contention that COP firms have experienced ‘a significant increase in hard and soft overheads’ (SA, 45). The evidence, both in respect of time and expenditure, is inconsistent and, in my view, incomplete. Nor am I persuaded by the submission made in the oral hearing that ‘it is clear that no other area of practice requires such a level of unrecoverable time’. So far as the datum is consistent and stable – and, as noted, the most reliable figures are probably those produced by Clarion – it suggests a comparatively modest incidence of time and expenditure. However reliable the figures produced may be, they do not, in my view, demonstrate that the burden is one that is exclusive to COP work or that it is atypically high in comparison with that experienced by practitioners in comparable areas of practice. Fee earners in personal injury, medical and professional negligence, for example, incur invariably time and expense that is irrecoverable, in marketing, accessing cases that are not proceeded with or, indeed, pursued and lost. These are burdens which do not apply to Deputy’s sources of work (on a case by case basis) which is often consistent and predictable over many years.
30. I am not, therefore, persuaded by the applicants’ primary argument. I find that the approach set out by Master Howarth in Smith (ibid) and confirmed in Yazid (ibid) is still correct and applicable for the assessment of hourly rates in COP bills. Every assessment is conducted by reference to the procedural guidance set out in CPR 44.3(3). Although the GHR is adopted properly as a ‘starting point’, most COP bills will be properly assessed by Costs Officers, who will apply the relevant GHR unless there is good reason to depart from them. Some bills – in the future, as now, a small minority of the total – will be forwarded to Costs Judges for assessment, mainly because the total sum claimed is large or because the assessment raises a particular point of difficulty or complexity. Then, as now, Costs Judges may depart from the GHR if there is a good, case specific reason for doing so. In general, however, COP assessments can be conducted by Costs Officers utilising the GHR as the reasonable hourly rate. The issue as to the appropriate status or grade of fee earner for the work in question will always be a matter for discretion of Costs Officers and/or Costs Judges.
31. Three preliminary observations then inform my initial approach to the applicants’ secondary argument. First, it should be emphasised from the outset that this court has no power to review or amend the GHR, either formally or informally, as this role is the exclusive preserve of the Civil Justice Council. This reality is recognised

properly by Mr Wilcock in his written and oral submissions. Secondly, while the court has received submissions concerning the application of an inflationary uplift when applying the GHR, this is not just a ‘blunt tool’, but an approach which endorses the application of a practise which has been rejected explicitly since 2014, from which time the emphasis has been on a ‘comprehensive, evidence based review’. Thirdly, however, it must be acknowledged that the GHR cannot be applied fairly as an index of reasonable remuneration unless these rates are subject to some form of periodic, upwards review. O’Farrell J. in Ohpen (ibid) observed that it ‘is unsatisfactory that the guidelines are based on rates fixed in 2010’ as these ‘are not helpful in determining reasonable rates in 2019’. These observations were made in the context of an assessment of London City solicitor rates in an assessment where the court was not bound by the GHR. It seems clear to me that the failure to review the GHR since 2010 constitutes an omission which is not simply regrettable but seriously problematic where the GHR form the ‘going rates’ applied on assessment. I do not merely express some empathy for Deputies engaged in COP work, I recognise also the force in the submission that the failure to review the GHR since 2010 threatens the viability of work that is fundamental to the operation of the COP and the court system generally.

32. In support of the secondary argument the applicants have filed evidence of RPI inflation between 2010 and 2019, and of salary increases in various COP firms over the same period.
33. The Brown Shipley & Co. report entitled ‘SCCO Guideline Rates and the Impact of Inflation’ and dated October 2019 demonstrates an RPI inflation rate increase of 31% between 2010 and the end of 2018. The hourly rates claimed in the bills drafted by Clarion and considered in this assessment all apply RPI inflation to the 2010 GHR. Indeed, this is the only basis upon which the hourly rates are argued in the PLK, Thakur, Chapman and Tate bills. Mr Wilcock submits, as a secondary alternative to his primary argument, that the court ‘is invited to apply RPI inflation to the GHR and allow the rates as claimed’ (SA, paragraph 49). But the problem with this approach (at least in empirical terms) is that most official indexes of the impact of inflation prefer the CPI to the RPI rate. The official rate of UK inflation has used the CPI since 2004. Dr Friston, as Mr Wilcock acknowledges, uses CPI inflation in his table(s) at 68.3 to 68.10 in the third edition of Friston on Costs. CPI inflation from 2010 to 2019 is approximately 21%.
34. The evidence on salary increases adduced by the applicants’ witnesses again suggests some considerable variation dependent upon geographical locality, the grade of fee earners and, I suspect, other firm-specific factors. At Kingsley Napley LLP salary increases between 2010 and 2020 varied between 25% and 50%, corresponding to an average increase of 33.5%. Enable Law reports salary increases averaged 32% between 2013 and 2020 (i.e. a 7 year period). In contrast, at Boyes Turner LLP, salary increases for the COP team between 2010 and 2020 total 11-13%. Russell Caller, a director of The Professional Deputies Forum, adduces evidence of salary increases (since 2010) for private client solicitors in the regional offices of a leading firm; London 21.5%, Guildford 21.4% and Cheltenham 14.9%, producing an overall average of a cumulative 19.6% salary increase between 2010

and 2020. Again, therefore, the evidence indicates a fairly broad range of salary increases, in circumstances where the uplifts are dictated (at least in part) by subjective factors.

35. I am satisfied that in 2020 the GHR cannot be applied reasonably or equitably without some form of monetary uplift that recognises the erosive effect of inflation and, no doubt, other commercial pressures since the last formal review in 2010. I am conscious equally of the fact that I have no power to review or amend the GHR. Accordingly my finding and, in turn, my direction to Costs Officers conducting COP assessments is that they should exercise some broad, pragmatic flexibility when applying the 2010 GHR to the hourly rates claimed. If the hourly rates claimed fall within approximately 120% of the 2010 GHR, then they should be regarded as being prima facie reasonable. Rates claimed above this level will be correspondingly unreasonable. To assist with the practical conduct of COP assessments, I produce a table below which demonstrates the effect of a 20% uplift of the 2010 GHR. I stress again that I do not purport to revise the GHR, as this court has no power to do so; instead this is a practical attempt to assist Costs Officers and avoid unnecessary delay (caused by individual re-calculation) in a busy department conducting over 8000 COP assessments per annum:

| | Guideline Hourly Rates | | | |
|------------|------------------------|----------|------|------|
| Bands | A | B | C | D |
| London 1 | £490 | £355 | £271 | £165 |
| London 2 | £380 | £290 | £235 | £151 |
| London 3 | £275-320 | £206-275 | £198 | £145 |
| National 1 | £260 | £230 | £193 | £142 |
| National 2 | £241 | £212 | £175 | £133 |

This approach can be adopted immediately and is applicable to all outstanding bills, regardless of whether the period is to 2018, 2019, 2020 or subsequently. It goes without saying that this approach is subject ultimately to the recommendations of Mr Justice Stewart and his Hourly Rates Working Group and the Civil Justice Council.

Ultimately the recommendations of the Working Group must be adopted in preference to my findings.

The cases for assessment

36. Applying the principles set out above in the individual bills for assessment I assess and allow the following hourly rates:

| PLK | |
|-----|------|
| A. | £260 |
| B. | £230 |
| C. | £193 |
| D. | £142 |

| Thakur | |
|--------|------|
| A. | £300 |
| D. | £145 |

| Chapman | |
|---------|------|
| A. | £241 |
| B. | £212 |
| C. | £175 |
| D. | £133 |

| Tate | |
|------|------|
| A. | £260 |
| B. | £230 |
| C. | £193 |

| | |
|----|------|
| D. | £142 |
|----|------|

37. I will distribute a draft of this decision to the interested parties and then fix a date to hand down judgment. Permission to apply granted in respect of the costs of the hearing of the preliminary issue. The bills will then be returned to the relevant Costs Officers to carry out the rest of the assessment(s).