

**How will the shift from Precedent  
H to Precedents Z, RZ and TZ  
affect costs budgeting strategy,  
preparation and recoverability?**

***White Paper Costs Conference  
2026***

***Alexander Hutton KC  
Hailsham Chambers***

# Introduction

This is a review of “Simplified Costs Management” resulting in three pilot schemes:

- (a) PD51ZG1 – in certain Business & Property Courts and similar claims in specified County Courts where the claims are split into under £1 million and £1 million+;
- (b) PD51ZG2 – in certain specified courts non-business & property cases under £1 million not covered by (a) or (c); and
- (c) PD51ZG3 – certain courts for QOCS cases.

**Alexander Hutton KC**

## Common Ground across the ZG51s

- They each apply to the defined relevant claims where the claims were issued between 6 April 2025 and 6 April 2028
- Section II of CPR 3 and PD3D apply save as modified by the PDZG51 in question, save for r3.13 (requirement to serve Precedent H) and r.3.14 (automatic sanction for failing to file budget in time) which do not apply (but...)

Alexander Hutton KC

## Common Ground across the ZG51s

- Parties must file a simplified Costs Budget (Precedent Z) 21 days before the first case management conference
- In most instances a simplified BDR, Precedent RZ, must follow 7 days before the CMC
- Precedent TZ is a simplified Budget Variation form compared to the unpopular Precedent T.

Alexander Hutton KC

# Sanctions

- CPR 3.14 (see *Mitchell*) does not apply automatically but...
- If a party fails to comply with its obligations under this Practice Direction including a failure to file a simplified costs budget the court may impose sanctions which may include limiting the recovery of the costs to be incurred to the applicable court fees.
- However, not an automatic sanction subject immediately to CPR 3.9 and *Denton*

Alexander Hutton KC

# The Purpose of Simplified Costs Management

- This comes from the Civil Justice Council's Costs Review Final Report from May 2023
- Almost everyone who responded to the Consultation wanted to keep costs management and the CJC confirmed:
- *“Since costs budgeting was adopted, there is now evidence of real and sustained progress in the discipline and understanding around costs and this has consequently improved case management and the proportionality of costs” ...*

Alexander Hutton KC

# CJC: Qualified Retention of Costs Budgeting

- *“Costs budgeting should be retained, however coupled with its retention should be acceptance of the hypothesis that “one size does not necessarily fit all”.*
- *We suggest that it should be possible to permit a more tailored approach to costs management, to suit different work types and/or venues where the litigation is conducted.*

Alexander Hutton KC

# CJC: Qualified Retention of Costs Budgeting

- *This approach would involve further input, and some piloting, from a few court centres, to ensure that any changes had a sound evidential base prior to wholesale implementation....”*

Alexander Hutton KC

## CJC: Costs Budgeting Light (or Lite...)

- This should apply to cases between £100K and £1 million:
- *“It is thought that these cases are at greatest risk of incurring disproportionate cost, but are not so high in value that full scale budgeting, as we currently know it, needs to apply.”*
- *In essence the pilot would test the benefit of a “costs budget light” proposal in terms of saving both court time and the parties’ money.”*

Alexander Hutton KC

# Simplified Costs Budget

- Precedent Z consists of 2 pages:
- (1) Essentially almost the same as page 1 of a Precedent H, save there are three columns for each of Incurred and Estimated, namely not only Time Costs, Disbursements but also a separate column for Counsel's Fees.

Alexander Hutton KC

# Simplified Costs Budget

- (2) Page 2 is a Table of Assumptions, one for each phase but also a first one for Hourly Rates (solicitors and counsel, the latter pre-empting perhaps forthcoming guideline hourly rates for counsel...)
- And that is it. No hourly rates, no breakdowns totals, no back up calculations. But won't all this be required anyway on costs management itself?

Alexander Hutton KC

## Precedent RZ – “Simplified” BDR

- This is actually more complicated than Precedent R in that it is exactly the same, save there is an extra column both in Incurred and Estimated costs for counsel, separate from other disbursements.

Alexander Hutton KC

# Precedent TZ – Variation Form

- CPR 3.15A:
- (1) A party (“the revising party”) must revise its budgeted costs upwards or downwards if significant developments in the litigation warrant such revisions.
- (2) Any budgets revised in accordance with paragraph (1) must be submitted promptly by the revising party to the other parties for agreement, and subsequently to the court, in accordance with paragraphs (3) to (5).
- To the other side first, and then to the Court.

Alexander Hutton KC

## Precedent TZ – Variation Form

- This is a 3 page document
- Page 1 is essentially precisely the same as Page 1 of the existing Precedent T form
- Page 2 contains "Precedent TZ Particulars" with an extra column for counsel's fees compared to Precedent - no further breakdowns
- Page 3 is an expert fees summary,
- So again just like the existing Precedent T but with extra columns for counsel

Alexander Hutton KC

# (1) Business & Property Courts hailshamchambers

## Pilot – PD51ZG1

- Applies to:
- (1) Part 7 claims to which costs management applies, and is proceeding in the
  - (a) Business & Property Court of (i) England & Wales or (ii) in Manchester and Leeds;
  - (b) as Business & Property work in the County Court in Manchester, Leeds or Central London.

Alexander Hutton KC

# Business & Property Courts Pilot

- Always have to serve a simplified costs budget at least 21 days before the first CMC
- Thereafter, there is a divide into:
  - (a) Claims with a value of £1 million or more; and
  - (b) Those claims with a value of less than £1 million.

Alexander Hutton KC

## Assessing Value Category

- Where there is no statement of value or seeks only non-monetary relief, or where the parties cannot agree whether it is valued at £1 million or more, then unless the Court orders otherwise, it shall be treated as if it had a value of £1m or more

Alexander Hutton KC

## If Value between £1m and £10m

- Para 6 of PG51Z1 applies so:
- *“(a) the court shall not manage the costs of the parties unless satisfied that the litigation can only be conducted justly and at proportionate cost if a costs management order is made” (“Default Off”);*
- This is quite a heavy steer against making a costs management order

Alexander Hutton KC

## If Value between £1m and £10m

- (b) But if Court nevertheless does make a costs management order, it shall give directions for it at the first CMC, including *whether or not* [i.e. there is no default position] the simplified budgets and/or simplified BDRs shall be used.
- *“Unless court orders otherwise, any such [costs management] hearing shall be listed to be heard within 35 days of the first case management conference”.*

Alexander Hutton KC

## If value is £1m or Less

- Para 7:
- (a) Where party has been served with Precedent Z, must serve “simplified” BDR no later than 7 days before first CMC;
- (b) At first CMC, Court will make a costs management order on the simplified procedure unless it is satisfied in a/c with CPR 3.15(2)
- i.e. that one is not required *“if it is satisfied that the litigation can be conducted justly and at proportionate cost in accordance with the overriding objective without such an order being made”*.

Alexander Hutton KC

# In either category, if the Court decides no costs management order

- Then the provisions of paras 3.2 to 3.7 of PD44 apply.
- This is the revival of an old favourite, *Leigh v Michelin Tyres*:
- Para 3.2: “*If there is a difference of 20% or more between the costs claimed by a receiving party on detailed assessment and the costs shown in a budget filed by that party, the receiving party must provide a statement of the reasons for the difference with the bill of costs.*”

Alexander Hutton KC

# The Rebirth of *Leigh v Michelin Tyres*

- Para 3.3: “If a paying party –
- (a) claims to have reasonably relied on a budget filed by a receiving party; or
- (b) wishes to rely upon the costs shown in the budget in order to dispute the reasonableness or proportionality of the costs claimed,
- the paying party must serve a statement setting out the case in this regard in that party’s points of dispute.”

Alexander Hutton KC

# The importation of hailshamchambers

## PD 44 para 3

- Para 3.4: *“On an assessment of the costs of a party, the court will have regard to the last approved or agreed budget, and may have regard to any other budget previously filed by that party, or by any other party in the same proceedings. Such other budgets may be taken into account when assessing the reasonableness and proportionality of any costs claimed.”*
- Para 3.5: *“Subject to paragraph 3.4, paragraphs 3.6 and 3.7 apply where there is a difference of 20% or more between the costs claimed by a receiving party and the costs shown in a budget filed by that party.”*

Alexander Hutton KC

# PD 44 para 3

- Para 3.6: *“Where it appears to the court that the paying party reasonably relied on the budget, the court may restrict the recoverable costs to such sum as is reasonable for the paying party to pay in the light of that reliance, notwithstanding that such sum is less than the amount of costs reasonably and proportionately incurred by the receiving party.”*
- Para 3.7: *“Where it appears to the court that the receiving party has not provided a satisfactory explanation for that difference, the court may regard the difference between the costs claimed and the costs shown in the budget as evidence that the costs claimed are unreasonable or disproportionate.”*

Alexander Hutton KC

# Back to Para 9 PD51ZG1

- Para 9(b):
- Unless the Court orders otherwise, the parties shall file updated budgets 28 days before trial/trial window or 7 days before PTR, whichever is the earlier.
- Para 9(c):
- Court can order updated simplified costs budgets at any time

Alexander Hutton KC

## PD51ZG1 Summary

- Applies only in various specific B&P Courts
- Divides cases into up to £1m and £1m+
- If £1m+ Default Off for Costs Management but discretion to apply it and general discretion to use simplified procedure
- If up to £1m Default On costs management but simplified procedure
- In either category, if not CMO then *Leigh v Michelin Tyres* approach in PD44 paras 3.2-3.7

Alexander Hutton KC

## Non-Business and Property Claims

- This pilot applies to a claim:
- (i) to which Section II of Part 3 and Practice Direction 3D applies [i.e. costs management];
- (ii) which has a value of less than £1 million;
- (iii) to which neither Practice Direction 51ZG1 nor rule 44.13 [QOCS] applies;
- (iv) which is proceeding in the County Court at Central London or at the Leeds or Bristol District Registries.

Alexander Hutton KC

## PD 51ZG2

- Para 4 provides that the parties must serve a Simplified Costs Budget (Precedent Z) at least 21 days before the first case management conference
- Para 5 Simplified BDR (Precedent RZ) 7 days before the first CMC

Alexander Hutton KC

## PD51ZG2

- Para 6 Court will make a costs management order by reference to Precedent Z (Default On) unless satisfied that CMO not required under CPR 3.15(2)
- i.e. *“unless it is satisfied that the litigation can be conducted justly and at proportionate cost in accordance with the overriding objective without such an order being made”*.

Alexander Hutton KC

## PD51ZG2

- Para 8 – if the Court opts not to order costs management on application of the test in CPR 3.15(2), then paras 3.2 to 3.7 of PD44 apply:
- i.e. the variation of the old “20% default rule” in *Leigh v Michelin Tyres* quoted when dealing with PD51ZG1 above.

Alexander Hutton KC

## PD51ZG2 - Summary

- Applies to non-Business and Property Courts and non-QOCS cases, only currently in Central London CC or Leeds & Bristol District Registries
- Only claims up to £1m
- Broadly similar to the B&P Courts PD51ZG1 save it is simpler as no divide into £1m and £1m-10m claims and is default on for costs management by simplified procedure
- But lighter touch alternative of the *Leigh v Michelin* approach

Alexander Hutton KC

# PD51ZG3

## QOCS Cases

- Applies to: Part 7 multi-track claims in Manchester or Birmingham District Registry where CPR 44.13 (QOCS) applies
- Both parties are to file simplified costs budget (Precedent Z) 21 days before first CMC, unless Ct orders otherwise

Alexander Hutton KC

## QOCS Cases

- Paras 5 & 6: Both parties to file simplified BDRs [Precedent RZ] 14 days before first CMC [7 days after Precedent Z] UNLESS:
- A party has given notice not less than 21 days before first CMC seeking a direction:
- (a) Split trial/Preliminary Issues Trial; or
- (b) The litigation can only be conducted justly and at proportionate cost using Precedent H [rare?]

Alexander Hutton KC

## QOCS Cases

- Para 7: Default Off for D's costs – costs management of D only if Ct satisfied litigation can only be conducted justly and at proportionate costs if there is a CMO
- Para 8: No default re costs management of C's costs: (a) general discretion to make no CMO, (b) giving costs management directions re C or D incl. Precedent H or Precedent Z and listing CMO before same Judge

Alexander Hutton KC

## QOCS Cases

- If no CMO, then the *Leigh v Michelin Tyres* provisions in PD44 paras 3.2-3.7 apply here also and updated Precedent Z no later than 28 days before trial/trial window/PTR, whichever the earlier.

Alexander Hutton KC

# PD51ZG3 – QOCS Cases - Summary

- (1) Limited to Manchester & Birmingham DRs;
- (2) Precedent Z not Precedent H is the starting point in all cases
- (3) Only D serves a simplified BDRs (RZ), not C, and D does not do so if application for split trial or for full traditional costs budgeting to apply
- (4) Default Off for costs management of D's costs;
- (5) No default position either way for costs management of C's costs
- (6) 20% "rule" applies if no costs management for either C or D

Alexander Hutton KC

# The Future

- (1) These provisions provide far more scope for not making costs management orders compared to the current CPR 3 and PD3D
- (2) If adopted more widely in the rules, costs management is likely to be far less universal for cases worth between £100K and £10m than now
- (3) But even if no CMO, accurate costs budgets do still matter by the revival of *Leigh v Michelin* and departing by more than 20%: deja vue satellite costs litigation?

Alexander Hutton KC

# The Future

- (4) Default off costs management for D's costs in a QOCS case appears clearly to make sense
- (5) Do the simplified costs budgets, BDRs and variation forms really make that much difference?
- Do you not have to have to effectively prepare a Precedent H in order to put the summary of it on page 1 and to argue it on the CMO?
- Is it the receiving party that will lose out by not having put down the details of their costs in the budget?
- Discuss.

Alexander Hutton KC

## Addressing the Title of this Talk

- **How will the shift from Precedent H to Precedents Z, RZ and TZ affect costs budgeting strategy, preparation and recoverability?**
- (1) Strategy: in many more cases under these pilots, you have to decide whether to go for costs management or oppose it, as the Default On position applies much less.

Alexander Hutton KC

# Addressing the Title

- **(2) Preparation:**
- Will it make much difference? The budget still has to be prepared with care and detail lying behind it and this will need to be deployed in answering the other side's attack on it.
- Attacking the other side's budget will be more difficult as you know so little as to how the costs are calculated so the arguments all become less sophisticated and more guess work.

Alexander Hutton KC

# Preparation

- Lack of detail makes it harder to draft useful objections or to negotiate in the dark
- Is this really progress save in the simplest of cases (most of which are now not in the multi-track)?
- Is Precedent H really such a complex document that it benefits from “simplification”?

Alexander Hutton KC

# Addressing the Title

- **(3) Recoverability**
- The fewer details provided, the lower the recovery for the receiving party?
- Is "simplicity" (meaning a lot less information) really the answer in most cases?
- Discuss.

Alexander Hutton KC

## The Future

- Has Sir Rupert Jackson's prediction in 2015 to come true or not:
- *“I predict that within 10 years, costs management will be accepted as an entirely normal discipline and people will wonder what all the fuss was about?”*
- These pilots, if adopted more widely, suggest that the answer to this question beyond 10 years is clearly not unequivocal but highly qualified.

Alexander Hutton KC