

## Costs in the Supreme Court

### Key Statutes and Authorities

- *Supreme Court Rules 2009* (SCR);
- *Practice Direction 13*

### Introduction

This Note is an overview of rules relating to costs in proceedings in the Supreme Court, and the differences to the CPR.

### Background

The Supreme Court of the United Kingdom (SCUK) has its own procedure rules. These only apply to aspects of the case that are directly in front of the Supreme Court, not aspects that occur before or after its involvement.

Costs are dealt with in accordance with *SCR Part 7*, which is supplemented by *PD 13*.

### Basis of Assessment

The SCUK has the power to order costs as it considers “just” (*SCR 46*).

On appeals from England & Wales, the SCUK can order costs on the Standard Basis or Indemnity Basis (*SCR 50*). Costs in appeals from Scotland and Northern Ireland are dealt with in accordance with the rules in those respective jurisdictions.

Costs on either Basis are dealt with as per the CPR (*PD 13, para. 3.2 & 3.4*).

The proportionality of Standard Basis costs are determined as per the post-April 2013 CPR (*PD 13, para. 3.3*).

### Solicitors’ costs (*PD 13, para. 15.1-15.5*)

The Court will apply rates which are equivalent to the 2010 SCCO guideline rates.

### Counsel’s fees

The SCUK provides guideline figures for Counsel’s fees, with higher ones applying for QCs than to Junior Counsel. If Counsel’s fees exceed the guidelines, Counsel must provide a Note explaining why there is a difference (*PD 13, para. 7.2(b)*).

On Applications for Permission to Appeal, as a general rule that only one Counsel will be allowed, unless there is a Legal Aid Representation Order that says otherwise (*PD 13, para. 15.8*).

The fees allowed for Appellant Counsel are generally higher than those allowed for Respondent Counsel (*PD 13, para. 15.11*).

### Assessment of costs

The SCUK has its own Bill of Costs (Form 5). This must be used instead of a CPR Bill of Costs.

Claims for costs must be served within 3 months (*PD. 13, para. 7.1*), and the Paying Party must lodge 2 copies of the Bill with the SCUK when serving the Bill upon the Receiving Party (*PD 13, para. 7.2*).

Detailed Assessments will take place in front of 2 Judges (*SCR 49*).

Points of Dispute must be served within 21 days, and are mandatory for Bills over £5,000.00. If Points of Dispute are not served, the SCUK will undertake a Provisional Assessment (*PD 13, para. 7.9*), i.e. Default Costs Certificates cannot be obtained.

Replies must be served within 14 days (*PD 13, para. 7.8*).

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## Provisional Assessment

Claims under £75,000.00 will be provisionally assessed (*PD 13, para. 9*) and parties can apply for an oral hearing if they do not agree on the result (*SCR 53(1)*).

## Court fees

When applying for an assessment, the Receiving Party must pay a “filing fee”, which is 2.5% of the total claim (*PD 13, para. 7.10*). Unlike the “sliding scale” that applies under the CPR.

A separate “assessment fee” must be paid when the Bill is assessed. This is calculated at 2.5% of the total allowed (*PD 13, para. 7.10*).

## Security for Costs (*SCR 30*)

A party can be ordered to give security for costs in appeals to the SCUK.

Please see our separate “Security for Costs” guidance note for the issues and principles that will apply.

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### Disclaimer:

This guidance note should not be considered formal legal advice or legal opinion and should not be relied upon. Appropriate legal advice should be sought before entering into any legal proceedings.

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