

30 July 2015

Chief Judge Colgan
Chief Judge's Chambers
Employment Court
DX CX 10086
AUCKLAND

Email: judge.colgan@courts.govt.nz

Dear Chief Judge Colgan

Employment Court Costs Awards

Thank you for your letter of 2 June 2015 seeking feedback on Employment Court costs awards. The New Zealand Law Society sought input on this matter from its members via its national Employment Law Committee and Branches, and through the *LawPoints* weekly e-bulletin that goes to all practitioners. The response, below, also takes into account the feedback provided in the Law Society's letter to you of 14 August 2013 (copy **enclosed**).

There is general agreement that it would be appropriate if the scale of costs used by the Employment Court ultimately led to the successful party being reimbursed approximately two-thirds of actual costs incurred, in the majority of cases. There was some specific feedback that the application of the current High Court Rules schedules does not achieve that outcome. This was tested against a couple of recent lengthy Employment Court cases. The exercise indicated that applying the High Court Rules schedules in one case using Category 2 rates and the other using Category 3 rates, resulted in the costs approximating with the application of the two-thirds rule.

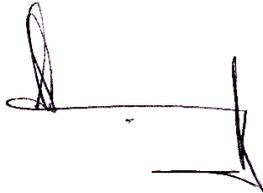
In relation to more general issues, there was consensus to the following:

- excluding costs associated with mediation, even if this occurred subsequent to the commencement of the Employment Court proceedings;
- including costs associated with participating in judicial settlement conferences, with the proposed rates being:
 - Category 1: 1 day
 - Category 2: 1.5 days
 - Category 3: 2 days
- there was not a great attraction in distinguishing the regime for de novo challenges which have already been the subject of evidence in the Employment Relations Authority (ERA). We were of the view that a somewhat different approach to the evidence, and in particular the

comprehensiveness of that evidence before the Court as opposed to the ERA, is and should be taken.

Members of the Law Society's Employment Law Committee would be willing to meet with you to discuss these matters further, if you considered there to be benefit in doing so. Contact can be made in the first instance through the Committee secretary, Karen Yates (karen.yates@lawsociety.org.nz / 04 463 2962).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Quigg', with a horizontal line extending to the right and a vertical line extending downwards from the end of the horizontal line.

Michael Quigg
Convenor, NZLS Employment Law Committee

Encl. (1)