


Fixed recoverable costs regime – are you ready?

11 September 2023  Chloe Poskitt

From 1 October 2023, the fixed recoverable costs (FRC) regime will be extended across the fast track and in a new intermediate track for simpler cases valued up to £100,000. As the new regime introduces significant changes, parties need to make sure that they understand and are ready for them.

We have set out the below detailing the main features of the new FRC regime.

Main features of the new FRC regime

What are FRC?	+
When does the new FRC regime apply?	+
What is the new intermediate track?	+
What is happening to the fast track?	+
What are the complexity bands?	+
What happens if a party has behaved unreasonably?	+
Are there any changes to Part 36 offers?	+
Can the Court order costs that exceed the FRC?	+

The tables for FRC can be found in **Practice Direction 45**. Given the deadline of 1 October 2023, it is likely that there will be a rush to either:

1. issue proceedings before this deadline to try to avoid the new regime; or
2. settle disputes.

The new FRC regime gives parties much better visibility as to recoverable costs which in turn will inevitably inform decisions about whether to pursue/defend a claim. However, the FRC regime does not impact the amount a party has to pay its own lawyers which is subject to separate agreement between them.

Practically speaking, when assessing the impact of the new FRC regime, parties should also consider whether to amend their dispute resolution clauses to include any future disputes being expressly referred to arbitration and/or expert determination rather than to court.

If you have any queries arising from the issues raised in this article, then please contact Chloe Poskitt.

Key contact



Chloe Poskitt

Legal Director

chloe.poskitt@brownejacobson.com

+44 (0)115 934 2058

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