

4.05 Limit on costs may be set

If a matter is not to be undertaken under legal aid or covered by insurance so that the client is personally liable for his solicitor's costs he should be told in appropriate cases that he may set a limit on the costs which may be incurred without further reference to him.

Commentary

1. A solicitor must not exceed any limit without the authority of his client. Further, a solicitor must, as soon as possible, inform his client where the limit imposed on the expenditure is insufficient and obtain the client's instructions as to whether he wishes the solicitor to continue with the matter.
2. Where a solicitor continues to act after the costs have exceeded the limit which his client has fixed and then presents a bill for a sum which substantially exceeds that limit, he may be guilty of professional misconduct. The excess may also be disallowed on taxation in which case the solicitor may be liable for the costs of the taxation.

4.06 Regular information

Whether or not a client has set a limit he should be told on an appropriately regular basis the approximate amount of the costs to date.

Commentary

1. A solicitor should monitor the position regarding costs which have accrued to date. The keeping of adequate time records will assist.
2. Failure to keep a client informed, so far as possible of the costs incurred, could prejudice a solicitor's ability to recover a fair and reasonable fee for the work done.