

NO GOVERNANCE ON

(A 24)

- 1) TYPE OF DOCUMENT
- 2) PARTIES INVOLVED
- 3) DATE

- 4) PAGE NUMBER
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- 6.6 However nothing turns on that, and neither party has raised the issue of the naming or identity of the costs review applicant, except perhaps through the title on the review application.
- 6.7 In the end, provided it is clear from the panel's certificates that the liability of Ms Duffy is restricted to the funds of which is trustee for Tasman Herbert Duffy, then it is unlikely that the precise method of describing the now costs review applicant is important.
- 6.8 The panel in its certificate has described the costs review applicant in the same way as in the assessor's certificate, namely "Carline Janne Duffy as trustee for Tasman Herbert Duffy", as the review applicant could only be a party to the original assessment, that is how the costs respondent was described in the original assessment, and that description does make it sufficiently clear that Tasman Herbert Duffy was the client of the solicitor, and recovery is restricted to funds of which Carline Janne Duffy is trustee.

7. FRESH MATERIAL?

- 7.1 Section 375 of LPA 2004 provides that a panel would normally conduct "the assessment" (by which the legislation means the review, and if required any re-assessment) on the evidence that was received by the assessor, and generally the panel is not to receive submissions, fresh evidence or evidence in addition to or in substitution for the evidence received by the assessor.
- 7.2 A panel must be careful to ensure that the grounds do not themselves become fresh material that was not before the assessor. If the grounds do stray into that area, it may be appropriate (in order to ensure procedural fairness), that a panel allow a costs review respondent to respond to that additional material.
- 7.3 It does appear to the panel that there was material sent in support of the grounds that may not have been before the original assessor. The panel has determined to consider that material, and the panel has considered it. The only significant material by way of additional material related to the only issue in this assessment, namely what payments were made in respect of the costs assessed.
- 7.4 On 20 March 2015 the panel wrote to the parties indicating specifically that it would consider the receipts of 18 April 2013, 10 May 2013 and 16 May 2013, which may not have been before the assessor.
- 7.5 In the same letter, the panel required a trust and office account ledger from the solicitor to be sent to it and to Ms Duffy. The panel received in response an email of 25 March 2015 attaching a letter dated 24 March 2015. That letter of 24 March 2015 attached trust account bank statements for April and May 2013, a trust account payment advice in respect of a trust to office transfer of \$2,112.91 on 16 May 2013, trust account receipts in respect of the payments of \$2,500.00 and \$2,647.59 of 18 April 2013 and 10 May 2013 respectively and a trust account ledger in respect of matter number 2486, involving the client and Ms Duffy as the client's "trustee". The panel received a further document with another email of 25 March 2015 from the solicitor.

THIS WAS THE ACCOUNT STATEMENT DATE 23 APR 2015 8/16 D 5/9