

## **NIHL: FRC for defendants settling at different times**

Rule 45.54 deals with the position for multiple defendants in NIHL claims, including settlements at different stages.

**45.54.**—(1) *In Table 15, the reference to the number of defendants is to the number of active defendants against whom the claimant obtains a settlement or an award of damages.*

(2) *Where the defendants have all admitted liability and coordinate settlement between them, only one set of Stage 2 costs is allowed.*

(3) *Where at least one defendant admits liability and settles pre-litigation and at least one defendant denies liability—*

- (a) *the fixed costs payable by those defendants who have admitted liability will be 100% of the stage 2A or 2B costs for those defendants as appropriate; and*
- (b) *Stage 3 and any subsequent stages will apply to the remaining defendants, provided that the claimant must give credit for the costs already payable under (a), so that the maximum entitlement under any stage is for the applicable stage costs.*

Consider an example in which there are two defendants:

D1 admits liability and settles at stage 2A, paying costs of £2,900. D2 disputes liability, but then settles at stage L2.

Under rule 45.54 D2 pays costs for stages 3B, L1 and L2 as applicable to 2 defendants (£5,200 plus £2,300 plus £2,300), but they give credit for amount paid by D1 (£2,900). The rule that the maximum payable at each stage is the applicable stage costs is preserved.