

Jackson Report:

an end to ATE insurance & success fees?

January 2010

Lord Jackson's final report is the first ever fundamental review specifically focused on civil costs and it sets out reforms designed to reduce litigation costs and promote access to justice. But how much of it will become law, and when?

Lord Justice Jackson's final report to the Master of the Rolls proposes a wide range of genuinely hard-hitting, interlocking reforms, designed to reverse the tendency for legal costs to far exceed the damages awarded – and produce large savings to the taxpayer. The NHS alone currently pays £140 million pa in legal costs.

Key recommendations include:

- **Proportionality** – costs should reflect the nature/complexity of the case (Chpt 3);
- **Success fees and ATE insurance premiums to be irrecoverable** in no win, no fee cases, as these are the greatest contributors to disproportionate costs (Chpts 9 & 10);
- **General damages awards should increase by 10%** for personal injuries and other civil wrongs, to offset the effects of the above for claimants (Chpt 10);
- **Referral fees should be scrapped** as these “offer no real value to the process” - or at least limited to £200 (Chpt 20);
- **Qualified ‘one way costs shifting’** – claimants will only make

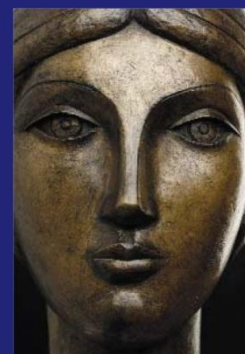
a small contribution to defendant costs if a claim is unsuccessful, as long as they have behaved reasonably (Chpts 9 & 19);

- **Fixed costs to be set for Fast Track cases** (up to £25,000) to provide certainty (Chpt 16);
- **Costs Council to review fixed costs and lawyers' hourly rates annually**, to ensure they are fair to both lawyers and clients (Chpt 6);
- **Allowing Contingency Fee Agreements**, where lawyers are only paid if a claim is successful, normally receiving a percentage of actual damages won (Chpt 12);
- **Promotion of BTE insurance**, encouraging people to take out legal expenses insurance as part of household insurance (Chpt 8).

Implemented in full, the proposals would bring dramatic changes, welcome to perhaps all except claimant solicitors. Most, however, will require legislation and will not be meaningfully considered until after a general election. This, combined with industry lobbying and conflicting government objectives, will delay legislation for many months, if not years.

“Lobbying by differing interest groups will be intense and lengthy. Any changes, particularly of such significance, are therefore likely to be some way off implementation.”

Nick Yates,
Senior Partner



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