

Lord Justice Jackson's Review of Civil Litigation Costs

Lord Justice Jackson has published the final report on his year-long, comprehensive review of civil litigation costs.

The final report covers 45 subject areas and runs to 557 pages, with recommendations across the whole spectrum of civil litigation.

His objectives were clear, "to make recommendations in order to promote access to justice at proportionate cost".

The key findings and recommendations include:

- Proportionality – costs system should be based on legal costs that reflect the nature/complexity of the case
- Success fees and After the Event insurance premiums to be irrecoverable in no win, no fee cases (CFAs – Conditional Fee Agreements)
- Instead ATE premium will become payable by the claimant, as will success fees which will be restricted to 25% of damages
- To offset the effects of this for claimants, general damages awards for personal injuries and other civil wrongs should be increased by 10%
- Referral fees should be scrapped
- Qualified 'one way costs shifting' – should a claimant lose they are not required to pay the defendants costs, but should they win they will receive their costs
- Fixed costs to be set for 'fast track' PI cases - those with a claim up to £25,000
- Establishing a Costs Council to review fixed costs and lawyers' hourly rates annually
- Allowing lawyers to enter into Contingency Fee Agreements
- Promotion of 'Before the Event' legal insurance

Our reaction

As a provider of Before the Event policies, we agree that promotion and take up of Before the event policies is the ideal and this is something we have long supported. It is disappointing however that there are no recommendations as to how this will be achieved.

As a provider of After the Event policies we are disappointed to see that his recommendations are heavily weighted to reducing costs, and in many areas this is at the expense of access to justice. Our experience has proved that there is a real need for After the Event products which were originally introduced to help provide access to justice by protecting clients from the risk of expensive legal costs.

What happens next?

The changes outlined in this report are recommendations only and will need a lot of work if they are ever to become a reality. For example, removal of recoverability for ATE premiums and CFA success fees will require primary legislation.

In the meantime we will be talking to our clients and partners, and others in the market, to ensure the implications of these recommendations are fully understood. With a view to ensuring access to justice is placed back on the agenda.

There will be no immediate impact to our business or operating model. Until these recommendations become a reality, if indeed they ever do, ATE premiums will continue to be recoverable in the usual way.

**If you would like to speak to one of our team about the report, please contact
Tim Porter on 0845 077 5546.**