

CHARITY: sums to be distributed to voluntary groups

Pro bono costs recovery to begin next autumn

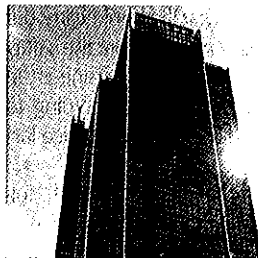
Pro bono-supported litigants who win in court will be able to claim costs against the other side from next October, with the sums recovered helping fund future pro bono work, it emerged last week.

Unveiling its response to the consultation on cost recovery in pro bono-assisted cases, the Ministry of Justice said it intended to introduce the necessary secondary legislation so as to implement section 194 of the Legal Services Act.

The section abrogates the indemnity principle, which restricts costs to no more than the amount the winning side owes its own lawyers.

All types of civil cases will be included, despite City firms Clifford Chance, DLA Piper and Lovells suggesting that family cases be considered for exclusion because of the impact costs could have on families as a whole. However, the ministry concluded that costs are rarely, if ever, awarded in family cases.

Sums recovered will not go to the lawyers, but to a prescribed charity that will distribute them to voluntary groups which provide legal support for individuals and the community. However, the charity will be expected to consider any preferences expressed by the lawyers.



Clifford Chance: family fears

Robert Gill, chief executive of LawWorks, said the legislation levelled the playing field. 'Previously, the other side would always take the litigation route because it knew it would be awarded costs if it won against pro bono representation, but escape having costs awarded against it if it lost. That was clearly unjust and now it will have to pay up.'

Vicky Lord, chairwoman of the Free Representation Unit, said: 'It is crucial that the enforcement of costs is cost-effective and practical.'

The whole idea was driven by the Attorney-General's pro bono committee, and the Attorney-General's pro bono envoy, Michael Napier, said: 'If there is an enforcement problem, there is no reason why it should be greater than in a paying case. The same procedures would apply.'

Jonathan Rayner