

# Costs Law Update

## 30<sup>th</sup> December 2008



- The Defendant Costs Specialists

### Contingency Fees

The past year has seen a plethora of announcements as to major reviews into the future of the legal costs system. However, given the damp squib that emerged from the new Claims Process proposals one does wonder whether the current Government really has any appetite for a major overhaul of the system.

Nevertheless, one of the recent reviews undertaken considered the radical possibility of shifting to contingency fees. The [study](#) was undertaken by Professor Richard Moorhead and Senior Costs Judge Peter Hurst. The overall conclusion was that this represented a viable alternative to the current system. It was recognised that there was some unpredictability as to what impact this would have on “access to justice”, in particular in relation to lower value claims. The review did not actually recommend a change to a contingency fees but rather suggested it would represent a possible alternative if the current CFA system failed following a collapse in the ATE market. However, following the Court of Appeal’s decision in *Rogers v Merthyr Tydfil CBC* [2006] EWCA Civ 1134, which largely gave ATE insurers a blank cheque as to what level to set their ATE premiums, there seems to be little immediate danger of such a collapse. Even so, when the Senior Costs Judge is willing to consider such radical proposals it does reveal the extent of the concerns about the operation of the current system.

### Expert Witness

GWS partner Simon Gibbs acted as an expert witness in the field of the legal costs industry in the case of *Andrew Reid v Capita Group*. The case recently settled on confidential terms.

### 2009 Guideline Hourly Rates

The Advisory Committee on Civil Costs has released updated [Guideline Hourly Rates](#) to apply from 1<sup>st</sup> January 2009. It has been made clear that these are very much interim in nature and that further investigations will be conducted to determine whether the overall levels are appropriate. In particular, this will consider the 20-35% difference in rates charged by claimant’s solicitors compared with defendants’ solicitors and the extent to which the Guideline Hourly Rates allow for referral fees to be paid by claimants’ solicitors.

Other than a general increase to reflect earnings inflation, the main change to the Guideline Rates is to increase Band Three rates to Band Two levels.

The new rates are as follows:

Band	Grade			
	A	B	C	D
Band One	213	189	158	116
Band Two/Three	198	174	144	109
City of London	402	291	222	136
Central London	312	238	193	124
Outer London	225- 263	169- 225	168	124

In accordance with our standard Terms of Business, GWS's rates will follow this modest increase. However, for ongoing cases in which we are already instructed our rates will be left unaltered.

### Contact

If you wish to discuss the contents of this update in more detail contact:

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