

Paying back the **Legal
Services Commission**

The **Statutory Charge**

April 2003

The Legal Services Commission (LSC) runs two schemes – the civil scheme for funding civil cases as part of the Community Legal Service, and a scheme for funding criminal cases, the Criminal Defence Service.

Where you gain or keep money or property with the help of public funding from the LSC in a civil case, you may have to repay all or some of your legal costs out of that property. In this way funding can act as a loan. The money you repay will be put towards what the LSC has spent on your case. This is known as the statutory charge.

It is important that you understand the statutory charge before your case begins. If this leaflet doesn't answer all of your questions, ask your lawyer or adviser.

How does the Statutory Charge work?

The money or property you get with the help of public funding will be used first to repay your legal costs to the Legal Services Commission and you will receive anything left over. For example, if you recovered £10,000 and the cost of your case was £2,000 you would have to repay £2,000 to the Legal Services Commission and you would be left with £8,000. Your solicitor cannot pay money out to you until the statutory charge has been dealt with.

Does the Statutory Charge apply in every case?

No. The statutory charge does not apply in the following cases:

- If you do not gain or keep money or property that was in dispute.
- If you recover all your costs from the other side. If you recover some costs the statutory charge applies only to the difference.
- Maintenance payments.
- To the first £2,500 or £3,000 of any money/property you gain or keep in divorce cases and most other family proceedings.
- Where your solicitor is advising you whilst you attend family mediation, under a "Help with Mediation" certificate.
- Where advice only is given under the "Legal Help" scheme in any matter other than family or personal injury after 1 April 2000.

Your solicitor also has limited powers to waive the statutory charge in family or personal injury cases where advice has been given only under the "Legal Help" scheme.

When does the Statutory Charge have to be paid?

Normally the statutory charge must be paid as soon as the money or property comes through from the other side. Most payments must be made through your solicitor and cannot be made to you directly.

If you recover a home, or money to buy a home, it may be possible to delay payment of the charge. If so, the charge will be registered on the house (like a mortgage) in the full amount of the outstanding costs. Interest will be added. The rate of interest is set by Parliament. From 1 April 2002 it has been 5%. It may go up or down each April.

Early repayment of debt

If a charge is registered on your property, you do not have to wait until the property is sold to pay back the LSC. You may, if you wish, make payments earlier to reduce the amount owing and any interest. You can do this by lump sum or by instalments – contact the Land Charges Section at the address below.

If you have not repaid your debt by the time the property is sold, the LSC has the right to recover the money at that point.

Can the Statutory Charge be reduced?

No. The Legal Services Commission cannot reduce the statutory charge.

Where the statutory charge applies it must be paid. The amount of the charge depends in part on the amount of work your solicitor has to do for you. You have a direct interest in ensuring (with the help of your solicitor) that costs do not rise unnecessarily. This is especially true if the other side also has public funding for their case, or for any other reason is unlikely to pay your costs.

Can I object to the amount of the Charge?

In cases where the statutory charge applies your solicitor will send you a copy of the bill and will tell you how to object if you do not agree to it. The court or the Legal Services Commission has to ensure that the costs paid to your solicitor are fair and reasonable.

Other areas of expense

As well as the statutory charge you may have to pay a contribution towards your case while the case is running. If so, we will tell you whether you have to pay a contribution at the beginning of your case when we first offer you funding. If your financial position changes during your case, you must tell your LSC regional office. Your contribution may be increased or decreased. When we work out your statutory charge, we will give you credit for any contribution you have paid.

Asking for more help

Don't be afraid to ask questions if there is anything you are uncertain about. Your solicitor can give you more details about everything discussed in this leaflet.

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To order copies of LSC leaflets contact the
LSC Leafletline on 0845 3000343 or
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