



JUDICIARY OF  
ENGLAND AND WALES

**THE RT. HON. LORD JUSTICE JACKSON**  
The Royal Courts of Justice, Strand, London, WC2A 2LL

Rt Hon Kenneth Clarke QC MP  
Lord Chancellor and Secretary of State for Justice  
102 Petty France  
London  
SW1H 9AJ

14<sup>th</sup> January 2011

Dear Lord Chancellor,

I attach a copy of my Response to consultation. There are two key points.

First, if you accept the recommendations (a) to abolish recoverability of ATE and success fees and (b) to raise general damages by 10%, the package should be implemented in full. It would be the worst of all worlds to retain elements of recoverability (subject to qualifications and exceptions) thus adding to the present morass of rules and case law. Likewise, it would be a disaster to raise general damages in CFA cases but not in other cases. Any such approach would create perverse incentives and undermine the structure of the reforms.

Secondly, the complexity of civil procedure is now a real problem and generates substantial costs. The new rules must be simple and clear. Any attempt to legislate for every situation is a chimaera, resulting in complexity and escalating costs.

In view of the new evidence, argument and calculations contained in the Response (which is in effect the product of a year's work since publication of the Costs Final Report), I propose to put this document on the Judiciary website next week for the reasons stated in paras 1.1 and 1.2.

I hope that you, your colleagues and your officials will find the enclosed Response helpful. I am grateful for the support which your Department and HMCS have given over the last year in relation to implementing some of the less controversial recommendations.

Yours sincerely,

Rupert Jackson