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SOLICITORS & BARRISTERS

MORTGAGES & FINANCE

## Recovering costs in court cases

Many people think that if they go to court and win a case, they are automatically entitled to recover all their legal expenses from the other side. After all, when the judge or magistrate orders that the other side pay “costs”, wouldn’t you think that’s what is meant?

Not so!

The costs which are usually awarded by a court are known as “party and party” costs. This phrase could be accused of being designed to prevent anybody understanding what it means, but basically, it means the essential costs incurred to run a court case. For example, if your solicitor interviewed 5 witnesses but only called 3 of them to actually give evidence, the time taken to interview the remaining two witnesses would not be payable by the other side.

As a rule of thumb, if the court orders the other side to pay your “costs”, you will only be able to recover these “party and party” costs, which generally amount to about 66% of your total bill.

With good planning, your solicitor can also sometimes recover an order for “indemnity” costs. This one is a bit easier to understand – it simply means all your costs. It’s a bit like recovering the “gap” in your medical benefits insurance as well as the scale fee.

“Indemnity” costs can only usually be obtained where you have formally offered at an early stage in the court case to settle the proceedings for a reasonable amount, and then had that offer refused by the other side. If you then get a better result from the court, you can be entitled to recover all your costs.