

# Pro Bono Costs

Pro bono costs awards are like ordinary costs, but are awarded where a party has had free legal representation. If a civil case is won with pro bono help, pro bono costs can be ordered by the court or be included in settlements. The scheme helps ensure a level playing field for costs and so encourages settlement. The funds support further pro bono assistance to litigants who would otherwise act in person.

The County Court, High Court, Court of Appeal Civil Division and Supreme Court can award pro bono costs broadly where they would award normal costs.

The costs cover any period when free representation was provided and even if only one of the lawyers acted for free (i.e. normal costs can also be sought for the fee-paid work). The amount is based on what a paying client would recover.

The legislation requires the costs to be paid to the prescribed charity, the Access to Justice Foundation. The Foundation was set up by the Advice Services Alliance, Bar Council, CILEx and Law Society. It distributes the funds to agencies and projects giving free legal help to those in need.

## Quick guide for judges

- The court's power** arises under s.194 Legal Services Act 2007 and CPR 46.7.
- The procedure** is broadly the same as normal costs. For the Court of Appeal's straightforward approach see *Grand v Gill* [2011] EWCA Civ 554 at [29] (extract overleaf).
- Statements of costs** should show what free work was provided and how much it would have cost a paying client at the lawyer's normal rate.
- Assess** whether and how much costs would have been awarded for the pro bono party's representation, had it been on a fee paying basis.
- Suggested wording** for the order:  
*The [losing party] must pay costs for pro bono representation to The Access to Justice Foundation (PO Box 64162, London WC1A 9AN), [on or before [date] summarily assessed at £\_\_\_\_\_] [or] [to be assessed on the standard / indemnity basis if not agreed].*
- The payee** by statute must be the Access to Justice Foundation. The winning pro bono lawyer should notify the Foundation that costs have been awarded.

Full guidance: [www.ATJF.org.uk](http://www.ATJF.org.uk)

Questions? [costs@ATJF.org.uk](mailto:costs@ATJF.org.uk)

THE  
ACCESS  
TO JUSTICE  
FOUNDATION

The legal profession's charity to support pro bono initiatives (charity no.1126147)

**Excerpt from**  
***Grand v Gill* [2011] EWCA Civ 554, [2011] 3 All ER 1043**  
**Rimer LJ**

“29. As I have said, Mr de Waal appeared pro bono but, were the appeal to succeed, he invited us at the hearing to make an award of costs against Mr Gill in favour of a prescribed charity as permitted by section 194 of the Legal Services Act 2007. He provided a breakdown of his time spent in preparation for the appeal, which totalled 12.5 hours and, at a standard hourly rate of £250, produced a total figure of £3,125. Save that the breakdown included (a) work done for the abandoned appeal in respect of special damages, and (b) a slight over-estimate for the length of the hearing of the appeal, I consider that it was a moderate and fair one. I would, however, adjust it

to take account of both these matters and reduce it to £2,500. As required by section 194(3) of the 2007 Act, I consider that, had Mr de Waal’s representation of Ms Grand been provided on a fee-paying basis, it would have been appropriate to order a proportionate part of his fees to be paid by Mr Gill, a respondent who resisted the appeal unsuccessfully. I would therefore summarily assess at £2,500 the costs that the respondent, Mr Gill, must pay. I would direct that, within 14 days of the date of the court’s order, he must pay it to the prescribed charity, namely The Access to Justice Foundation (the payment to be sent to PO Box 64162, London WC1A 9AN).”