



## Media Release

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### REVIEW OF SECURITY FOR LEGAL COSTS

The NSW Law Reform Commission has released a consultation paper seeking community views on security for costs orders. These are court orders in civil cases requiring plaintiffs to deposit money into court that may be used to pay the legal costs of the defendant if the plaintiff loses.

Security for costs orders play an important role in protecting defendants where there is a danger that the plaintiff will be unable to pay the legal costs of the defendant, if the plaintiff loses.

“There a number of important interests to be weighed in the balance,” said Emeritus Professor Hilary Astor, the Commissioner in charge of the review. “One of these is access to justice. There is a public interest in endeavouring to give everyone, including those with limited financial resources, access to the justice system. But defendants also need protection to ensure that there are funds available to cover costs if a case is successfully defended.”

Plaintiffs in some cases are funded by litigation funders, or have costs agreements with the lawyers who represent them. The Commission is considering what the appropriate orders for security for costs may be in these cases.

Of particular concern to the Commission are costs orders in cases that raise public interest issues, for example cases that involve legal issues that affect a significant sector of the community, or involve questions of law that need clarification.

“The fear of a court order to pay the legal costs of the defendant may discourage people from bringing court cases that are important to the general community. However, defendants must also be protected from being forced to pay costly legal bills, particularly in cases that do not have any merit,” said Professor Astor. “This is an important issue that affects many people involved in litigation in NSW and we look forward to hearing from them in response to our consultation paper.”

The consultation paper is available on the Commission’s website at [www.lawlink.nsw.gov.au/lrc](http://www.lawlink.nsw.gov.au/lrc).

The NSW Law Reform Commission has been proposing changes to the State’s laws since 1966 as the first permanent law reform agency established in Australia. The Chairperson is James Wood AO QC, who is also the lead Commissioner for this reference.

**Media Contact: Paul McKnight — (02) 8061 9277**