

**Bills Committee on
Legal Aid (Amendment) Bill 1999**

**The First Charge registered
on property recovered or preserved for the aided person
for recouping the cost owed by the opposite party**

The Issue

This paper informs Members of the number of first charges registered by the Director of Legal Aid (“DLA”) on property recovered or preserved for the aided person.

Background

2. At the meeting of the Bills Committee on the Legal Aid (Amendment) Bill 1999 on 28 January 2000, Members requested figures on matrimonial cases whereby a first charge has been registered on the property recovered or preserved for the aided person for the purpose of recouping the cost owed by the spouse to the DLA.

The Administration’s Response

3. Pursuant to section 18A of the Legal Aid Ordinance, the DLA shall impose a first charge on property recovered or preserved for the aided person in proceedings in respect of which the person is aided for any outstanding contribution, and/or the difference between the legal cost incurred by the DLA on the aided person in excess of the contribution made and the amount recovered from the opposite party.

4. A first charge would therefore be registered by DLA against the property recovered or preserved for a legally aided person if common fund costs have been incurred (being the costs payable only by the person concerned), or if the opposite party fails to pay the party and party costs

(being the costs payable by the opposite party to a legally aided person who has an order for costs in his/her favour), or both.

5. In the years 1997 to 1999, the total number of matrimonial cases where a first charge has been registered on properties of aided persons is 407. This represents an average of about 135 cases per year, and 1.2% of the total number of civil legal aid cases in the same three-year period. Details are set out in the table at Annex A.

6. Only one of those instances was triggered by outstanding payments involving only party to party costs. Even in that case, the first charge was eventually not exercised since the opposite party has settled the party and party cost in the end.

Administration Wing
Chief Secretary for Administration's Office
April 2000

Annex A

**Number of first charges registered by DLA
in 1997 –1999**

	1997	1998	1999
No. of cases where First Charge has been registered	103	150	154
No. of Civil Cases	15,072 (0.68%)	9,850 (1.52%)	10,075 (1.53%)
No. of Matrimonial Cases	9,633 (1.07%)	6,077 (2.47%)	5,977 (2.58%)

* Figures in brackets represents the number of charges registered as percentage of the total no. of civil cases or matrimonial cases in the year