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Introduction

A critical analysis of the unintended consequences leading to the rise and fall of recoverable no-win no-fee funding in the light of evidence-based policy

This book addresses a remarkable experiment in the funding of money damage claims – largely personal injury claims – which began in 2000 and which the government effectively abolished in 2013.¹ The model – conditional fees with recoverable additional elements (recoverable CFAs) – adopted by the incoming New Labour administration was unique and, for reasons that will become obvious, it has remained so. This book is based on a review of published material, the author's own view as a 'participant' in the process and anonymised semi-structured interviews with other participants, from government, claimant and defendant lawyers and litigation insurers. The book covers the development, subsequent amendment and effective abolition of the model. It examines the process of policy development, the motivation and objectives of the policy makers and the reactions of the parties attempting to grapple with the new system. It asks whether a development process incorporating a range of models addressing the evidence base, and including insights from behavioural psychology, counterfactuals and simulations, might have produced a better result: a workable policy based on the core of government objectives or, possibly, an entirely different model.