

LSLA

Prepared by Kysen PR

Date 15 June 2016
Publication Litigation Futures
Type of publication Legal

15 June 2016



Two thirds of litigators would use DBAs if they could

Two-thirds of litigators say increased court fees already putting off clients

Two-thirds of litigation lawyers say increased court fees have already deterred clients from commencing proceedings, a survey has found.

An even larger majority (87%) said increased fees would influence clients' decision-making in the future.

The joint survey, by the London Solicitors Litigation Association (LSLA) and *New Law Journal*, also found that none of the 142 litigators involved had used a damages-based agreement (DBA), but 65% would if hybrid DBAs were allowed.

Looking to the future, 82% of litigators saw costs increasing in the next five years, while 80% said costs budgeting had driven up overall costs.

On funding, two-thirds of litigators said they had used third-party funding, 57% discounted conditional fee agreements (CFAs) and 48% normal CFAs.

A smaller proportion, 30%, said they had been able to secure "economic" after-the-event insurance cover for their clients.

Most lawyers (61%) welcomed summary assessment of costs by the trial judge. There was an almost even split on whether the courts' approach to e-disclosure was working, with only 51% saying it was.

A large majority (81%) of lawyers anticipated "continued growth" in boutique litigation firms.

Ed Crosse, president of the LSLA, commented: "Front-loading of the increased court fees has delivered a heavy blow to commercial litigation, especially to smaller businesses which now feel deterred from pursuing legitimate claims."

"It's also leading to more shopping around by larger businesses who are baulking at the increasing cost of litigating here.

"It would have been fairer to have sought to generate this increased income during different phases of the litigation thus better aligning fees with the status of the case."

Mr Crosse added that the recent *Pyrrho Investments* ruling on predictive coding in e-disclosure was seen as a "progressive move."

By Nick Hilborne

<http://www.litigationfutures.com/news/litigators-say-increased-court-fees-already-putting-off-clients>