

LSLA

Prepared by Kysen PR

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Court costs hit London's status as international jurisdiction of choice

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Litigators warn that clients are being deterred from bringing claims due to government fee hikes

The UK's position as the jurisdiction of choice for international litigation is under threat due to higher court fees and increasing disclosure costs, London lawyers fear.

The fee for issuing money claims increased dramatically in March 2015, with claimants being forced to pay 5 per cent of a claim's value if that claim was worth over £10,000.



The March fee hike was met with near [universal condemnation](#) from lawyers before the Ministry of Justice [confirmed plans](#) to raise fees yet again to plug a £1bn funding gap in the justice system.

Fearful that small and medium-sized enterprises (SMEs) [would avoid litigation](#) because of the greater cost involved, City lawyers had urged the government to scrap proposals for further increases.

Now, anecdotal evidence from the London Solicitors Litigation Association (LSLA) shows that the perceived expense of litigating in England and Wales is affecting client considerations.

A new survey in association with New Law Journal found that over 60 per cent of LSLA respondents believe that increased court fees had already affected clients' decisions about whether or not to initiate proceedings, while 87 per cent predicted they would likely affect future decision-making.

The impact has been felt by businesses of all size, with the front-loading of fees proportionate to the value of the case in dispute being unaffordable for smaller companies and troubling to larger organisations.

Some 80 per cent of respondents said costs budgeting had driven up litigation costs overall, although the summary assessment of costs by trial judges was seen as a welcome development, subject to a proper examination of its relationship with budgeting.

The recent [Pyrrho Investments](#) ruling, which concerned the use of predictive coding in e-disclosure, was also seen as a progressive move.

However, LSLA members expressed concern that the court fee hike was diminishing access to justice for smaller businesses and was undermining international work, usually seen as a strong contributor to the Treasury.

In addition, far from the reforms of recent years driving down costs, more than 82 per cent of litigators said costs would continue to increase over the next five years.

Just over 80 per cent of LSLA members predicted a continued growth in litigation-only boutique firms.

Views on the current approach to e-disclosure were evenly split. However, it was clear that there was much further to go in achieving a level of co-operation between litigating parties and with the courts to ensure the scope and cost of disclosure was kept at sensible, practical levels.

Commenting on the findings, Ed Crosse, president of the LSLA, said: '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 [that] 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.'

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