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LITIGATORS WARN COURT FEES REFORM WOULD HIT BUSINESS AND ECONOMY

The ability of small and medium sized businesses to pursue payment of bad debts or settle contract disputes through the courts would be seriously eroded by Ministry of Justice (MoJ) proposals to increase fee levels in commercial courts, say senior business lawyers.

The scale of the proposed new charges, coupled with the additional upfront costs arising from the Jackson reforms on civil litigation costs, would so skew the costs-benefit balance that companies would have to write off sizeable sums of money rather than seeking redress.

The MoJ wants civil and commercial courts to become self-financing with extra money raised from commercial cases being used to subsidise costs in family courts. The 1,400 member London Solicitors Litigation Association (LSLA) says the move is wrong on many levels.

At the heart of the LSLA's objections is their passionately held belief that civil justice should be accessible to everyone. While court fees should be high enough to deter time-wasters and frivolous use of courts, the LSLA believes the State has a duty to ensure costs are not a barrier to pursuing justice. If a commercial case goes to appeal, then they agree the parties involved should meet those costs in full, having "had their day" in court at the outset.

Cash cow

The LSLA is also concerned that by viewing high value international commercial litigation conducted in London as a cash cow to be milked at will, the MoJ will drive work into the arms of competitor jurisdictions such as New York and Singapore, or to arbitration, undermining London's pre-eminent status and reducing the very court fees they would be relying on to finance the civil justice system.

Odds favour Goliath

The MoJ paper: *Court Fees: Proposals for Reform*, proposes the issue fee for a £400,000 commercial claim issued in the Rolls Building, currently £1,670, should rise to £20,000. For a small business owed £400,000 an additional fee of £20,000 to issue proceedings could be the final insult.

"No one should be priced out of civil litigation from the outset," said Francesca Kaye President of LSLA. "All but the biggest UK businesses would suffer if these increased charges are driven through."

“Charges would be the same for multi-million pound claims as for the lower value claims that individuals or SMEs might make, weighting the system heavily in favour of multinationals but penalising the businesses which are the lifeblood of our economy.

The last thing SMEs need is more risk. Neither this nor ramping up fees for international cases make commercial sense for Government or business. The courts play a vital role in the economy and should be enabled to be effective.”

The LSLA also strongly objects to the notion that business court users should subsidise the other court users by paying higher fees. “It seems inconsistent to increase fees in the civil courts but standardise, or even reduce, fees in other areas. This will adversely affect those least able to access alternative dispute processes such as Arbitration,” said Francesca Kaye.

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