



A control on litigation costs?

Summary and implications

Widespread reforms to the ways in which civil litigation is paid for were recommended by Lord Justice Jackson in his 557 page report published last week with the aim of reducing the sometimes disproportionate cost of going to court.

It is yet to be seen how and when these new proposals will be introduced, but change is in the air and it is likely to be fundamental.

Three highlights are:

- Fixed costs will become much more widespread; and in many cases the costs recoverable by (or from) an opponent will be capped. This will greatly reduce the risk of costs becoming disproportionate to the amounts at stake and encourage more cost-effective dispute management.
- Scope for risk and reward sharing between clients and their lawyers will be encouraged by the legalisation of 'contingency fees' - where a successful claimant's lawyers can be paid an agreed proportion of the amounts won. Conditional fee agreements ('no win – no fee') will, however, be reined in, with defendants no longer facing disproportionately high 'success fees' of their opponents' lawyers.
- Introducing flexibility to the current 'loser pays' system (where the unsuccessful party pays the costs of the successful party) by, in certain cases, shifting costs to the successful defendant.

Nabarro's approach to the reforms

We recently conducted a wide-ranging survey of our clients' needs and expectations recognising the requirement for cost certainty and risk minimisation in civil disputes. They are, unsurprisingly, seeking a commercial approach to costs. We have responded by continuing to develop a range of flexible fee arrangements. Also, we have a robust approach to communication and project management, which is often the key to controlling costs in our experience. Jackson's reforms will potentially enable us to offer even more options and we will outline

Ask a question

If you have any questions please contact Jonathan Warne, Partner
T +44 (0)20 7524 6130
j.warne@nabarro.com

Commercial Dispute Resolution

To find out more about the team, and our capabilities [click here](#).

these in more detail as soon as we know when and how the reforms are going to be implemented. In the meantime, if you wish to discuss any of the innovative litigation cost and risk control products we already offer, please ask your usual Nabarro contact.

London

Lacon House,
84 Theobald's Road,
London WC1X 8RW
T +44 (0)20 7524 6000
F +44 (0)20 7524 6524

Sheffield

1 South Quay,
Victoria Quays,
Sheffield S2 5SY
T +44 (0)114 279 4000
F +44 (0)114 278 6123

Brussels

209A Avenue Louise,
1050 Brussels, Belgium
T +32 2 626 0740
F +32 2 626 0749

Alliance firms

France

August & Debouzy
Gilles August
T +33 (0)1 45 61 51 80
www.august-debouzy.com

Germany

GSK Stockmann + Kollegen
Rainer Stockmann
T +49 (30) 20 39 07 - 0
www.gsk.de

Italy

Nunziant Magrone
Gianmatteo Nunziant
T +39 06 695181
www.nunziantmagrone.it

Nabarro LLP

Registered office: Lacon House, 84 Theobald's Road, London, WC1X 8RW.

Nabarro LLP is a limited liability partnership registered in England and Wales (registered number OC334031) and is regulated by the Solicitors Regulation Authority. A list of members of Nabarro LLP is open to inspection at the registered office. The term partner is used to refer to a member of Nabarro LLP.

Disclaimer

Detailed specialist advice should be obtained before taking or refraining from any action as a result of the comments made in this publication, which are only intended as a brief introduction to the particular subject. This information is correct on the date of publication. Nabarro LLP is not responsible for the operation or content of any external website or hyperlink referred to in this publication.

© Nabarro LLP 2010