

Companies in dark over litigation costs

Ignorance impedes access to justice

Survey among top Footsie companies

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Leading companies remain in the dark about ways to manage the spiralling costs of litigation even as the financial crisis threatens a wave of high-stakes lawsuits, according to new research.

An Ipsos Mori survey commissioned by Addleshaw Goddard, the law firm, found that half the FTSE 350 executives interviewed knew nothing about options such as “after the event” insurance or “third party funding”, where unconnected companies would put up the money for a claim in return for a share of the proceeds.

Experts warned that businesses’ lack of knowledge about litigation funding tools is impeding access to justice in a system notorious for its sky-high legal costs.

Last week, one of England’s most senior judges ordered a root-and-branch review of the costs of civil lawsuits amid growing fears that London risks pricing itself out of the international litigation market.

Rates for senior partners at the top “Magic Circle” law firms now range as high as £750 per hour, while even straightforward commercial cases can take years to come to trial.

The High Court is hearing one of the most expensive lawsuits ever litigated in the UK, a bitter battle over an aluminium smelter in Tajikistan that has already racked up more than \$125m (£80m) in legal fees.

Yet, while 76 per cent of the respondents to the Ipsos Mori survey identified costs as their foremost concern when a dispute arises, only 10 per cent had any experience with the most common type of funding arrangement, known as the conditional or “no win, no fee” agreement.

Just 2 per cent had turned to outside parties such as banks or hedge funds to finance litigation, with a further 46 per cent reporting that they would be “very unlikely” to use third party funding.

“After the event insurance,” where an insurer agrees to indemnify a business against the costs of losing a lawsuit, is still more commonly associated with personal injury and negligence cases rather than high-cost, high-value commercial claims.