

**FOIL****Prepared by Kysen PR**

---

<b>Date</b>	September 2015
<b>Publication</b>	Modern Claims Magazine
<b>Type of publication</b>	Insurance

# Modern

## CLAIMS MAGAZINE

### *The Thin End of the Wedge?*



**W**ho'd have thought it? In January, the Government introduced "enhanced court fees". These are the fees Claimants pay to issue court proceedings or to make applications to court during a civil case. The increase was substantial, raising the cost of issuing proceedings on cases with a potential value of between £10,000 and £200,000 to as much as £10,000.

Government made clear this was a revenue-raising exercise in a time of austerity. The objective was to raise £120 million per annum to be retained to improve the court system. Virtually all lawyers in the civil justice system including the senior judiciary, The Law Society, the Bar Council and professional bodies such as FOIL opposed the increase. Their shared view was that access to redress should be available to all, not just those able to fund the now significant cost of pursuing a claim. FOIL was further concerned that ultimately much of the additional cost burden would fall upon our clients - the insurers, indemnifiers and self-insureds when they settle issued claims.

Now, a few months later Government is returning to the well with another consultation proposing further increases in issue and application fees. In particular, a decision has been taken to increase the cost of an application to the court by between £50 and £100 per time; and a further consultation has been launched proposing the maximum fee level to

issue proceedings rises from £10,000 to at least £20,000.

Significantly, a decision has been taken to exclude personal injury and clinical negligence from the proposed issue fee increase. Nevertheless it remains a concern that yet further costs will be charged through increases to application fees. Government clearly sees court fees as a legitimate revenue source. For now, claims below £10,000 have been exempted from the increase but there must be real concern that this decision will be revisited. The vast majority of money claims fall into this category so the financial impact for insurers, indemnifiers and self-insureds when they settle claims would be significant.

Beyond the costs consequences there is another philosophical and practical implication. If individuals are treated as consumers paying for just another service (rather than citizens exercising a democratic right to access justice) they might start behaving that way and complain when the service does not live up to expectations. Government says it is reinvesting all proceeds from increased fees into improving the court service, which would be very welcome. Judging by comments FOIL receives from members, complaints about the quality of the courts' administrative service and the resulting delays and additional cost to court users are on the rise.

*Nick Parsons, President of FOIL and partner at Browne Jacobson LLP.*