**Crowdfunding article**

In recent weeks, crowdfunding for legal fees has made headlines, with funds raised (i) by rail passengers to judicially review the Government's handling of the Southern Rail franchise; (ii) by relatives of British soldiers killed in Iraq to pay for a legal assessment of the Chilcot report; and (iii) to start a crowdfunded private prosecution of a driver accused of causing the death of a cyclist.

Whilst money for legal fees can be raised through general crowdfunding sites (Barry Beavis used one to crowdfund court fees for his Supreme Court appeal against ParkingEye last year), there are also specific platforms dedicated to funding legal actions. Popular in the US is the equity ownership model, which enables accredited parties to invest in a case in return for a share of any damages (such as LexShares); whilst in the UK, we have the donation model, which invites donations towards public interest cases, (such as CrowdJustice).

Since the decline in legal aid, access to justice has been a constant issue for government and the courts and it was a central tenet of the review of civil court structure published by the Deputy Head of Civil Justice, Lord Justice Briggs, in July.

Cases on the CrowdJustice platform include a range of public interest topics. It is clearly increasing access to justice in public interest claims and complements the rule changes of recent years which permit litigants and their lawyers to enter into contingent fee agreements in certain circumstances, and the growth of third party litigation funding.

But is it likely that crowdfunding in the UK will develop into the US model, where funders have an opportunity to share damages awards? We think not.

In this jurisdiction, the general rule in civil litigation is that the loser pays the winner's costs and the court has the power to determine by whom and to what extent costs are paid.

Those funding litigation have to be aware of the risk of an adverse costs order. In one recent case professional third party funders, found to have funded a hopeless action, have been ordered to pay the other side's costs. (We await the Court of Appeal's judgment on the funders' appeal.)

The general principle is that so-called "pure funders", who do not seek to control or benefit from the litigation, are exempt from liability for third party costs unless there are exceptional circumstances justifying such an order (*Hamilton v Al Fayed (Costs)* [2003]). So, provided that crowdfunders are "pure funders" there is no real risk of a costs order being upheld against them (although the Claimant will remain potentially liable).

Whilst we are likely to see more public interest cases being crowdfunded, the donation method is unlikely to lead to a significant increase in private cases – why should members of the public donate unless it is to a cause close to their heart? In the meantime, any crowdfunders who are promised a share of the damages should read the small print with care.