



NOVUM LAW

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GUIDE TO FUNDING YOUR CLAIM

How to fund your claim

It is your solicitor's duty to discuss and advise on the appropriate way to fund your claim. It is important for you to remember that you can choose who you want to instruct to act for you.

Legal Aid was withdrawn from most personal injury claims in 1999 and for most medical negligence claims in April 2013. There are now five main methods for funding a personal injury claim.

Conditional Fee Agreements

This is known as a "no win no fee" agreement. This method of funding allows you to pursue your case in the knowledge that if you do not win your case, you will not be responsible for your Solicitor's fees. The other advantage is that you do not have to pay up-front for the Solicitor's fees or pay as the case proceeds.

Fees are only payable if and when your case is won or when the Defendants make an interim payment towards costs.

To compensate the Solicitor for the risk that they will not be paid and for the deferment of payment, the Solicitor can charge a success fee if the case is won. This is a percentage of the standard cost. In mesothelioma claims, the success fee can be fully recovered from the Defendant.

After the Event Insurance is often arranged by Solicitors to cover your disbursements and, in certain circumstances, any adverse costs orders made in the Defendant's favour. The policies we use are self insured which means that, if you lose you do not need to pay. The cost of the policy is paid at the conclusion of the case when you win.

In the event you win, you will recover damages and the Defendant will be required to pay your legal costs. Since April 2013, this no longer includes a success fee or an After the Event Insurance premium. In complex injury cases, this is usually a relatively modest deduction from damages. There are no deductions in mesothelioma claims.

Legal Expense Insurance

Legal Expense Insurance is often attached to a Motor Insurance Policy, Home Insurance, Credit Cards, Travel Insurance or certain Bank accounts. It provides for payment of legal costs to a specific amount, which is often insufficient for more serious personal injury cases. Historically, Legal Expense Insurance companies have sought to limit the client's choice of Solicitor. They do not tell you that you can choose who you want to instruct. Firms on Legal Expense Panels generally receive high volume, low value cases and this may, therefore, inhibit achieving the best results if you have a serious injury claim that needs specialist advice. Many Legal Expense Insurers will also not provide funding of disbursements during a claim.

Private Funding

This was the traditional method for paying legal fees. Solicitors' fees are calculated by reference to the hours spent on the case, at their hourly charge out rate which will vary according to the firm and Solicitor's experience. With this funding option, you are liable to pay the legal fees whether you win or lose. Bills are often delivered on a monthly basis. This is not a popular method for funding personal injury cases as clients can often not afford to fund their claim.

Damages Based Agreements (known as DBAs)

Under these agreements, the fees of both the Solicitor and Barrister are calculated as a percentage of the damages recovered, irrespective of how much work has been undertaken on your case. Consequently, in simple cases that are quickly resolved, this could result in a generous payment to your Solicitors and, conversely, in complex or long running cases, they would not provide sufficient funds for the amount of work which needs to be undertaken to achieve the best result for you.

A client who wins their claim which is funded by a DBA can recover what would have been the reasonable time base charge for their Solicitor costs from their opponent up to the maximum of the actual DBA fee, which is calculated as above.

There are numerous problems with the DBA Regulations and, as a result, Novum Law, like many other well respected firms, does not consider DBAs to be an appropriate method of funding serious injury cases. It may be that other firms will offer these on the basis that they hope to get a quick result but this could be at the cost of not having your case meticulously prepared to get the right result.

Trade Union

If you are a member of a Trade Union they may provide you with help on legal issues. They instruct a firm on their Panel which generally receives high volume, low value cases and this may, therefore, inhibit achieving the best results if you have a serious injury claim, industrial illness or medical negligence that needs specialist advice.

“Novum took the case on a ‘no win no fee’ basis, and that helped us a lot. It’s going to be very costly to look after my husband at home for the rest of his life. Novum were successful with the case and now we’ve purchased a bigger house and we’re adapting it for my husband.”

Client

For more information visit www.novumlaw.com or call us on 0800 884 0777