

PERSONAL INJURY, CLINICAL NEGLIGENCE

FEES INFORMATION

FUNDING YOUR INJURY CLAIM

At AWS, we believe in providing clear information in relation to the legal costs and fees involved in your personal injury or clinical negligence case. We always discuss with you the basic rules about costs and alternative ways of funding an injury claim, and advice on the best and most suitable option to you.

Legal Costs - The basic policy

In litigation, the thumb rule is that the losing party pays the winning party's reasonable legal costs and expenses. This is conditional upon the value of the claim exceeding £10,000 (£1,000 for injury compensation). Depending on the value and type of claim, costs recovered from the losing party are either assessed on a "time spent" basis or on a fixed tariff basis.

If you lose your claim a rule referred to as 'qualified one-way costs shifting' applies that protects you by ensuring that if a Court makes a costs order against you, it can be enforced only up to the total value of any compensation the Court awards you. If these costs are higher than your award you do not pay the balance. If you are not awarded any compensation, no costs are payable by you.

If you lose - One Way Costs Shifting

It is important to note that the protection provided to Claimants by this "one-way costs shifting" rule can be lost if: -

- Your claim is found to be fraudulent
- The Court finds that you have been fundamentally dishonest about any aspect of your claim
- You discontinue your case after you issue proceedings
- The case has been struck out because the claim discloses no reasonable cause of action
- Where the claim is otherwise an abuse of the court's process

It is AWS's strict policy to ensure that if you win your case we recoup our basic costs from your opponent and any shortfall is not passed on to you, except in exceptional circumstances.

Funding Options

The alternative ways of funding your claim is set out below. Not all will necessarily apply to you. We will ask you to complete our Funding Enquiry Form so that we can advise you.

Conditional fee or Damaged based agreements

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Conditional fee agreements (CFA's) or Damage Based Agreements (DBA) provide an alternative way to pay for your solicitor's legal costs. Under a CFA, AWS will not charge you for its legal costs if you do not win your case. Mostly referred to as a "no win - no fee" agreement.

We may charge you an additional fee over and above our basic costs. This is called the "success fee". The success fee will be calculated as a percentage of our costs - it will not be a percentage of your compensation monies; however, it will be capped at no more than 25% of the net damages, (excluding damages for future care and loss and any recoverable DWP benefits).

Unlike our basic costs, if you win, the success fee is not recoverable from the Defendant and will be your liability. Normally we deduct it from your compensation monies.

A success fee may not be charged in every case and depends on the type of case. We will discuss what fee we will levy and explain how it works before you agree to it.

If you win your case on a CFA/DBA, you would then be responsible to pay AWS the following:

- Our basic costs (the usual rule is these are paid by your opponent - as explained above)
- The success fee (if applied)
- Any expenses that we have incurred on your behalf (usually paid by your opponent)

If you lose the case, then you will be responsible to pay the following:

- Any expenses that AWS have incurred on your behalf (such as medical report fees), but not AWS Solicitors' costs
- Your opponent's legal costs (limited to the amount of damages you have been awarded and subject to the exceptions to the one way costs shifting rules set out above)

You can take out insurance against the risk of losing your claim (see below)

Insurance with a conditional fee agreement

If you have a CFA, it is also recommended that you to take out an insurance policy now to cover you against the risk of having to pay your opponent's legal costs in the event that your claim is unsuccessful. This is called "After the Event" insurance (ATE). We can recommend an ATE policy. A premium is payable for the ATE, usually at the conclusion of the claim and only if you win. The premium will be paid by you. We can supply further information upon request.