

## How will I pay my legal costs?

Solicitors are not obliged to take your case on. If you do find a solicitor willing to represent you then you will want to know how much it is going to cost you. The traditional way of paying for legal services was to agree an hourly rate with the solicitor however these days most solicitors don't use this method of payment although you may be asked to pay for disbursements.

**Before the Event Insurance (BTE):** This type of funding can be found as part of insurance policies. You should always check your home insurance and any other policies to see if you have Legal Expense Insurance included; many people do have this without realising it. you may even have BTE cover as a result of trade union membership. These policies do vary, some policies will only allow you to be represented by one of the insurers own panel of solicitors. Beware, not all of the insurers panel solicitors carry specialist clinical negligence accreditation – for more information on the importance of accreditation please see the How do I choose a solicitor leaflet.

**Legal Aid:** There is very little legal aid left for clinical negligence, since April 2013 this has been restricted to cases where negligence occurred either during pregnancy, during birth or within the first 8 weeks after birth. The negligence must have given rise to severe disability whether physical or mental injury or both.

In order to qualify for legal aid you will have to satisfy both a means (legal aid look at your income and outgoings) and merits test (whether there appears to be an arguable case) test. The means assessment is based on the child's income, so unless your child is the beneficiary of a trust fund or the will of someone who has died they are likely to satisfy the means test. Whether the merits test can be satisfied will depend on the facts of the case.

Owing to difficulties with the low rates paid by the Legal Aid Agency to experts it can sometimes be difficult to run a case with legal aid funding, as a result not all solicitors offer legal aid. You should make sure you ask your solicitor before the visit.

**Conditional Fee Agreements (CFA):** If you are not eligible for legal aid your solicitor may offer to act for you on a Conditional Fee Agreement (CFA). This is sometimes referred to as a "no win, no fee" arrangement although this term is misleading as you may have to pay something out of any damages (compensation) you receive. In addition solicitors may ask you to cover disbursements. Disbursements are expenses which become payable as a result of payments due to third parties such as medical experts or perhaps a barrister.

In some circumstances you may have to contribute towards the solicitors costs especially if the losing party does not agree your solicitor's hourly rate. You may also have to pay for a success fee; the success fee often forms part of the terms of the CFA. A success fee is only payable if your solicitor is successful in settling your case or you win at trial, the fee is payable out of any damages awarded. In clinical negligence cases the success fee can never be more than 25% of the total damages awarded, and can only be calculated with reference to the amount allowed for general damages (the amount allowed for your pain and suffering) and past losses.

Once you sign a CFA you enter into a contract with the solicitor, if you should fall out with your solicitor or you don't like the way the claim is being handled, perhaps because you consider the progress to be too slow it can be very difficult to move to another solicitor at another firm.

CFA's are a very common way of covering a solicitor's costs. If you lose your case at trial or the case is abandoned because it does not look like you have a good chance of winning if you proceed to trial then you should not have to pay any costs to your solicitor. However, you will not recover any disbursements paid by you either.