

Guide to funding your medical negligence claim



When considering making a medical negligence claim, it's only natural to be concerned about how you're going to fund the cost of your legal action.

Making a claim can feel daunting, so before you go ahead with your case, it can be reassuring to understand the likely costs – and your options for meeting them.

In actual fact, there are several ways in which you can fund your claim, depending upon your individual circumstances.

Your options include:

- + Conditional fee agreement (also known as a 'no win, no fee' arrangement)
- + Legal expenses insurance
- + Trade union funding
- + Legal aid
- + Private funding

To help you understand more about the options available to you, we've explored each of these in greater detail.

What is a conditional fee agreement ('CFA')?

A conditional fee agreement (CFA) – or 'no win no fee' agreement – means that if you lose your claim, you won't have to pay our costs. We can also arrange insurance that protects you against paying your opponent's costs.

If I win my case, what fees will I need to pay under a CFA?

If you win your case, your opponent will pay the majority of your legal costs and expenses. However, any costs which aren't recoverable from your opponent will be deducted from your final compensation payment.

You'll also need to pay a success fee to your solicitor – this fee is charged by all law firms and reflects the risk they took in not being successful and not being paid for their work.

Of course, if your claim isn't successful, you won't be liable to pay a success fee. The amount you'll pay will be a maximum of 25% of the damages you receive for:

- + Your pain, suffering, loss of ability to perform certain functions and some other limited items, and
- + any past financial losses which can be exactly calculated

If you win your case, you'll have to pay part of an 'after the event' insurance premium. This is taken out to protect you against having to pay your opponent's legal fees. This cost will be shared with your opponent.

What do I pay if I lose my case?

If your claim is unsuccessful, you won't have to pay anything to us or your opponent, provided we've arranged an insurance policy on your behalf. The premium will not be payable if you lose.

What is legal expenses insurance?

This insurance is often taken out as an additional benefit on an insurance policy, such as home or vehicle insurance.

Legal expenses insurance often covers medical negligence claims. Usually it will provide indemnity cover to a certain limit for solicitor's fees and expenses, regardless of whether you win or lose your case.

How do I know if I have legal expenses insurance?

Send your policy documentation to us and we'll be happy to look through it for you. Some policies set a time limit for claiming cover, so you should do this as soon as possible after the suspected negligence.

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It's important to note that legal expenses insurers often have a preferred panel of solicitors. Therefore if you wanted to go down this particular funding route, you may not be able to instruct the firm of your choice. If we approach the insurer, we can often agree that we can act for you, so speak to us before agreeing anything with them.

Can I change my source of funding?

Yes. Sometimes it can take a while to get a clear answer from your insurers.

So if you find out, after signing the conditional fee agreement that you actually have the benefit of legal expenses insurance, we can change the terms of your CFA to reflect this.

Trade union funding

If you're a member of a trade union or you're entitled to their benefits, it's possible that the union will cover some / all of your legal costs.

Am I eligible for Legal Aid?

In recent years the scope of Legal Aid has reduced considerably and is now only available in cases involving children that meet very strict criteria. Legal Aid is only available in cases involving children who have suffered serious brain injury during pregnancy, childbirth or during their first eight weeks of life.

If this injury has resulted in severe disability to the child, public funding may be available to investigate a medical negligence claim.

How do I know whether my child is eligible for Legal Aid?

If we think that your claim might qualify in principal for Legal Aid, we'll let you know as soon as possible. We can also make a legal aid claim on your child's behalf.

Further information

One further option to consider is private funding – if you're considering this funding route, speak to us for advice. If you have any questions or concerns about funding your medical negligence claim, call our specialist team on **0117 325 2929** or fill out our online enquiry form at **barcankirby.co.uk**.

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