



Conditional Fee Agreements: what you need to know

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Definitions of words used in this document and the accompanying CFA are explained at the end of this document.

What do I pay if I win?

If you win your claim, you pay our basic charges, our disbursements and a success fee. The amount of these is not based on or limited by the damages. You can claim from your opponent part or all of our basic charges, our disbursements, a success fee and insurance premium.

It may be that your opponent makes a Part 36 offer or payment which you reject on our advice, and your claim for damages goes ahead to trial where you recover damages that are less than that offer or payment. Refer to the "Paying Us" section in the CFA document to establish costs we will be seeking for the work done after we received notice of the offer or payment.

If you receive interim damages, we may require you to pay our disbursements at that point as well as a reasonable amount for our future disbursements.

If you receive provisional damages, we are entitled to payment of our basic charges, our disbursements and success fee at that point.

If you win overall but on the way lose an interim hearing, you may be required to pay your opponent's charges of that hearing.

If on the way to winning or losing you are awarded any costs, by agreement or court order, then we are entitled to payment of those costs, together with a success fee on those charges if you win overall.

What do I pay if I lose?

If you lose, you pay your opponent's charges and disbursements. You may be able to take out an insurance policy against this risk. If you lose, you do not pay our charges but we may require you to pay our disbursements.

Ending this agreement

If you end this agreement before you win or lose, you pay our basic charges and disbursements. If you go on to win, you also pay a success fee.

We may end this agreement before you win or lose.

Basic charges

These are for work done from now until this agreement ends. These are subject to review.

How we calculate our basic charges

These are calculated for each hour engaged on your matter. Routine letters and telephone calls will be charged as units of one tenth of an hour. Other letters and telephone calls will be charged on a time basis. The hourly rates are:

Grade of Fee Earner	Hourly Rate
1 Solicitors with over eight years post qualification experience including at least eight years litigation experience.	
2 Solicitors and legal executives with over four years post qualification experience including at least four years litigation experience.	
3 Other solicitors and legal executives and fee earners of equivalent experience	
4 Trainee solicitors, para legals and other fee earners.	

We review the hourly rate on [review date] and we will notify you of any change in the rate in writing.

Road Traffic Accidents

[If your claim is settled before proceedings are issued, for less than £10,000, our basic costs will be £800; plus 20% of the damages agreed up to £5,000; and 15% of the damages agreed between £5,000 and £10,000.] [If you live in London, these costs will be increased by 12.5%]. These costs are fixed by the Civil Procedure Rules.

Success fee

The success fee percentage set out in the agreement reflects the following:

- (a) the fact that if you lose, we will not earn anything;
- (b) our assessment of the risks of your case;
- (c) any other appropriate matters;
- (d) the fact that if you win we will not be paid our basic charges until the end of the claim;
- (e) our arrangements with you about paying disbursements.

Value added tax (VAT)

We add VAT, at the rate (now [.....]%) that applies when the work is done, to the total of the basic charges and success fee.

The Insurance Policy

In all the circumstances and on the information currently available to us, we believe, that a contract of insurance with [.....] is appropriate to cover your opponent's charges and disbursements in case you lose.

This is because

You do not have an existing or satisfactory insurance that would cover the costs of making this claim. The policy we recommend will pay:

- (a) *the costs of the other party in the event that the claim fails, to a maximum of £X;*
- (b) *all your disbursements if your claim fails.*
- (c) *[add other key features where necessary such as, our costs and the other side's costs (without deduction from your damages) if you fail to beat an (Part 36) Offer to Settle your claim, which you rejected following our advice].*

or:

[We cannot identify a policy which meets your needs but our recommended policy is the closest that we can discover within the products that we have searched. It does not meet your needs in the following respects:

- (a) *it has an excess of £Z*
- (b) *the maximum cover is £ZZ]*

or:

[We cannot obtain an insurance policy at this stage but we shall continue to look for one and if we are successful in our search then we shall advise you at that stage of the benefits of the policy and purchasing it]

[NB. The italicised reasons in set out are examples only. Your solicitor must consider your individual circumstances and set out the reasons that apply].

Law Society Conditions

The Law Society Conditions below are part of this agreement. Any amendments or additions to them will apply to you. You should read the conditions carefully and ask us about anything you find unclear.

Our responsibilities

We must:

- always act in your best interests, subject to our duty to the court;
- explain to you the risks and benefits of taking legal action;
- give you our best advice about whether to accept any offer of settlement;
- give you the best information possible about the likely costs of your claim for damages.

Your responsibilities

You must:

- give us instructions that allow us to do our work properly;
- not ask us to work in an improper or unreasonable way;
- not deliberately mislead us;
- co-operate with us;
- go to any medical or expert examination or court hearing.

Dealing with costs if you win

- You are liable to pay all our basic charges, our disbursements and success fee.
- Normally, you can claim part or all of our basic charges, our disbursements success fee and insurance premium from your opponent.
- If we and your opponent cannot agree the amount, the court will decide how much you can recover. If the amount agreed or allowed by the court does not cover all our basic charges and our disbursements, then you pay the difference.
- You will not be entitled to recover from your opponent the part of the success fee that relates to the cost to us of postponing receipt of our charges and our disbursements. This remains payable by you.
- You agree that after winning, the reasons for setting the success fee at the amount stated may be disclosed:

(i) to the court and any other person required by the court;

(ii) to your opponent in order to gain his or her agreement to pay the success fee.

- If the court carries out an assessment and reduces the success fee because the percentage agreed was unreasonable in view of what we knew or should have known when it was agreed, then the amount reduced ceases to be payable unless the court is satisfied that it should continue to be payable.
- If we agree with your opponent that the success fee is to be paid at a lower percentage than is set out in this agreement, then the success fee percentage will be reduced accordingly unless the court is satisfied that the full amount is payable.
- It may happen that your opponent makes an offer of one amount that includes payment of our basic charges and a success fee. If so, unless we consent, you agree not to tell us to accept the offer if it includes payment of the success fee at a lower rate than is set out in this agreement.
- If your opponent is receiving Community Legal Service funding, we are unlikely to get any money from him or her. So if this happens, you have to pay us our basic charges, disbursements and success fee.

As with the costs in general, you remain ultimately responsible for paying our success fee.

You agree to pay into a designated account any cheque received by you or by us from your opponent and made payable to you. Out of the money, you agree to let us take the balance of the basic charges; success fee; insurance premium; our remaining disbursements; and VAT.

You take the rest.

We are allowed to keep any interest your opponent pays on the charges.

If your opponent fails to pay

If your opponent does not pay any damages or charges owed to you, we have the right to take recovery action in your name to enforce a judgment, order or agreement. The charges of this action become part of the basic charges.

Payment for advocacy

The cost of advocacy and any other work by us, or by any solicitor agent on our behalf, forms part of our basic charges. We shall discuss with you the identity of any barrister instructed, and the arrangements made for payment.

Barristers who have a conditional fee agreement with us

If you win, you are normally entitled to recover their fee and success fee from your opponent. The barrister's success fee is shown in the separate conditional fee agreement we make with the barrister. We will discuss the barrister's success fee with you before we instruct him or her. If you lose, you pay the barrister nothing.

Barristers who do not have a conditional fee agreement with us

If you win, then you will normally be entitled to recover all or part of their fee from your opponent. If you lose, then you must pay their fee.

What happens when this agreement ends before your claim for damages ends?

(a) Paying us if you end this agreement

You can end the agreement at any time. We then have the right to decide whether you must:

- pay our basic charges and our disbursements including barristers' fees but not the success fee when we ask for them; or
- pay our basic charges, and our disbursements including barristers' fees and success fees if you go on to win your claim for damages.

(b) Paying us if we end this agreement

(i) We can end this agreement if you do not keep to your responsibilities. We then have the right to decide whether you must:

- pay our basic charges and our disbursements including barristers' fees but not the success fee when we ask for them; or
- pay our basic charges and our disbursements including barristers' fees and success fees if you go on to win your claim for damages.

(ii) We can end this agreement if we believe you are unlikely to win. If this happens, you will only have to pay our disbursements. These will include barristers' fees if the barrister does not have a conditional fee agreement with us.

(iii) We can end this agreement if you reject our opinion about making a settlement with your opponent. You must then:

- pay the basic charges and our disbursements, including barristers' fees;
- pay the success fee if you go on to win your claim for damages.

If you ask us to get a second opinion from a specialist solicitor outside our firm, we will do so. You pay the cost of a second opinion.

(iv) We can end this agreement if you do not pay your insurance premium when asked to do so.

(c) Death

This agreement automatically ends if you die before your claim for damages is concluded. We will be entitled to recover our basic charges up to the date of your death from your estate.

If your personal representatives wish to continue your claim for damages, we may offer them a new conditional fee agreement, as long as they agree to pay the success fee on our basic charges from the beginning of the agreement with you.

What happens after this agreement ends

After this agreement ends, we may apply to have our name removed from the record of any court proceedings in which we are acting unless you have another form of funding and ask us to work for you.

We have the right to preserve our lien unless another solicitor working for you undertakes to pay us what we are owed including a success fee if you win.

Explanation of words used

(a) *Advocacy*

Appearing for you at court hearings.

(b) *Basic charges*

Our charges for the legal work we do on your claim for damages.

(c) *Claim*

Your demand for damages for personal injury whether or not court proceedings are issued.

(d) *Counterclaim*

A claim that your opponent makes against you in response to your claim.

(e) *Damages*

Money that you win whether by a court decision or settlement.

(f) *Our disbursements*

Payment we make on your behalf such as:

- court fees;
- experts' fees;
- accident report fees;
- travelling expenses.

(g) *Interim damages*

Money that a court says your opponent must pay or your opponent agrees to pay while waiting for a settlement or the court's final decision.

(h) *Interim hearing*

A court hearing that is not final.

(i) *Lien*

Our right to keep all papers, documents, money or other property held on your behalf until all money due to us is paid. A lien may be applied after this agreement ends.

(j) *Lose*

The court has dismissed your claim or you have stopped it on our advice.

(k) *Part 36 offers or payments*

An offer to settle your claim made in accordance with Part 36 of the Civil Procedure Rules.

(l) *Provisional damages*

Money that a court says your opponent must pay or your opponent agrees to pay, on the basis that you will be able to go back to court at a future date for further damages if:

- you develop a serious disease; or
- your condition deteriorates;

in a way that has been proved or admitted to be linked to your personal injury claim.

(m) *Success fee*

The percentage of basic charges that we add to your bill if you win your claim for damages and that we will seek to recover from your opponent.

(n) *Trial*

The final contested hearing or the contested hearing of any issue to be tried separately and a reference to a claim concluding at trial includes a claim settled after the trial has commenced or a judgment.

(o) *Win*

Your claim for damages is finally decided in your favour, whether by a court decision or an agreement to pay you damages or in any way that you derive benefit from pursuing the claim.

'Finally' means that your opponent:

- is not allowed to appeal against the court decision; or
- has not appealed in time; or
- has lost any appeal.