

## Clinical negligence

### Funding your case

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#### Guide

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Author: Richard Vallance

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#### Summary

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How to fund your case if you have been injured in an accident

Different ways to fund your claim:

- Conditional funding agreements
  - Public funding
  - Legal expenses insurance
  - Trade union funding
  - Paying privately
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If you have been injured in an accident (including a medical accident) that was not wholly your fault you may be able to claim compensation. The strength of your claim will depend on many factors, but it may be possible to bring a claim even if it is alleged that you were partly to blame yourself. In most cases where symptoms last a few weeks or more it is worth finding out about the prospects of a claim.

Many people worry about the legal fees involved in bringing a claim. This is a common and understandable concern and we will give you advice on the best funding options available.

If you win your case and you are therefore paid compensation, your legal costs will be paid for by your opponent. The payment of compensation is dealt with separately to the payment of legal costs. We will provide all the advice you need about costs and are always happy to deal with any questions.

There are a number of funding options available to you:

#### Conditional fee agreements

A conditional fee agreement is sometimes known as a "no win, no fee agreement".

If you lose your case you do not have to pay your solicitor's legal fees and you can take out insurance to cover any other costs such as your opponent's fees and your own disbursement costs (payment to others such as medical reports and court fees).

If you win your case you are liable to pay your solicitor's legal fees plus a percentage success fee. The majority of your legal fees (including solicitors and experts) and the success fee will usually be paid for by your opponent.

This type of arrangement allows many people to bring proceedings when they might otherwise be unable to do so.

#### Public funding

Public Funding (previously known as Legal Aid) is available for clinical negligence claims.

To qualify for public funding you have to undergo a financial means test and your case must have reasonable prospects of success. If you are eligible we will assist you in completing the required forms and will send the application to the Legal Services commission (LSC) on your behalf. The LSC may require you to pay a monthly contribution.

The LSC will pay for your legal costs if you lose your case, so that you will not be out of pocket (subject to any contribution).

If you win your case the majority of legal costs will be paid by your opponent and any

monies paid out by the LSC will be reimbursed.

#### **Legal Expenses Insurance (known as Before the Event Insurance "BTE")**

This type of insurance cover is usually taken out as part of another insurance policy (housing, motor or credit card) and is usually limited to a set sum of £25,000 or £50,000. You will need to check your policies to see whether you do have cover for legal expenses and we can help you with this. You may be asked to bring details of any policy to a first meeting.

If you win your case the majority of legal costs will be paid by your opponent and the payments made by the insurer will be reimbursed. If you do not win your case the insurer will pay for your opponent's costs and your own solicitor's costs up to the set limit.

#### **Trade Union Funding**

If you are a member of trade union the union may have a scheme which allows you to obtain legal advice from a panel solicitor. Depending on the advice the union may be willing to pay for the costs of the claim for you. We would recommend that you contact your union as soon as possible if you think that you may have a legal claim to establish whether you can obtain financial assistance.

#### **Paying privately**

If you want to fund the claim privately you can do so. We would provide details of costs and render bills on a regular basis. If you win your case the majority of the costs would be reimbursed by your opponent. However if you lose your case you would be responsible for your own solicitor's cost and those of your opponent. As can be appreciated, this funding option has to be considered very carefully and is generally less popular than the other methods described above.

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#### **More information**

Richard Vallance

+44 (0)207 203 5169

[Richard.vallance@charlesrussell.co.uk](mailto:Richard.vallance@charlesrussell.co.uk)

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