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No Win No Fee?

Most people have now heard of no win no fee agreements due to the large amount of advertising in the media. However, not everyone really understands how these agreements work.

A no win no fee agreement is actually known as a Conditional Fee Agreement, or CFA. There is also an alternative Contingency Fee Agreement.

When you first come to see us we will discuss funding with you. Not all cases will be suitable for funding on a no win no fee basis. Quite often personal injury and medical negligence claims are funded by Conditional Fee Agreements, and employment claims are more likely to be funded by a Contingency Fee Agreement. We will first check to see if you have any insurance which might cover you for litigation. For example legal cover on your home insurance.

Conditional Fee Agreements

We will carry out a risk assessment to consider how strong your case is, and what its weaknesses are. If your case passes the risk assessment we will offer to enter into a CFA with you.

What happens if I win my case?

If you win your case, we will try to recover our fees from the other side. Usually we would expect to recover up to 90% of our costs, sometimes more. We will also seek to recover the success fee from the other side. This a percentage fee that we charge on top of our costs when a case is won to compensate us for taking on the risk that the case might be lost and we might not get paid at all.

If there is a shortfall in our costs you will have to make this sum up, usually from your damages.

We will also try to recover the other costs associated with your case from the other side, for example, the cost of medical reports, court fees or the cost of obtaining your medical records. Usually we will ask you to pay for these things, called disbursements, as and when they are payable. The losing party will normally pay for all or part of the disbursements at the conclusion of the case.

What happens if I lose my case?

If you lose your case, you will not have to pay any of our fees. However, you may still have to pay for the winning party's legal fees. We will seek to insure your case in its early stages against this eventuality with something called 'after the event insurance'. If the case is lost you will have to pay the insurance premium and for any disbursements (see above).

Contingency Fee Agreements

A Contingency Fee Agreement is similar to a Conditional Fee Agreement when a case is lost. You would not be liable for our fees. Contingency Fee Agreements are usually used in employment cases, but we might consider using them in other cases when a Conditional Fee Agreement would not be appropriate.

What happens if I win my case?

If you win your case we will take a percentage of your damages as payment of our fees. This can be between 33% and 50%, depending on how far advanced the case is and whether it needs to go to a hearing.

You will also be liable for disbursements. These are less frequent in employment cases, but we will notify you of any disbursements as we go along. You will also have to pay separately for any advocacy. Advocacy is legal oral representation at a hearing.

What happens if I lose my case?

If you lose your case you will not have to pay any of our fees. Occasionally you might be ordered to pay the other side's fees, and you will have to meet that expense. This would be quite unusual in an employment tribunal, but we will explain to you the various circumstances when this might become a risk.

You will still be liable for any disbursements if you lose your case.

What happens if one of us doesn't want to carry on with my case anymore?

We are acting for you with the knowledge that we might not get paid at all for our advice and assistance. We may therefore end any agreement at any time. If we decide to end your agreement early you will not have to pay our fees, but you will still be liable for disbursements and very occasionally the other side's fees.

It may be that you decide to end our agreement early, either a Conditional Fee Agreement or a Contingency Fee Agreement. If you make this decision on your own you will be liable to pay our fees calculated at our hourly rates, which will be advised to you at the start of your case.

There are many complicated provisions which are involved with these agreements, but we will be frank and honest with you at all times, and keep you regularly updated. We will also explain the exact terms of our agreement with you when you sign it.

If you have any questions at all about this type of funding, please do feel free to contact us.