



## Funding a Medical Negligence Claim - Questions and Answers

How is my medical negligence claim going to be funded?

Alsters Kelley LLP offer No Win - No Fee Agreements (also known as Conditional Fee Agreements) as a way of funding medical negligence claims.

What are the benefits of entering into a Conditional Fee Agreement (“CFA”)?

- You do not have to pay any money up front
- You do not have to pay any costs to us if your case does not succeed
- Your opponent will know that your solicitors have enough confidence in your claim to take it on on a conditional fee basis, and this usually puts more pressure on the opponent to assess the case carefully.
- Litigation can be very expensive and by entering into a CFA, you are effectively transferring the majority of the risk onto your solicitors.

Why do I have to pay a success fee?

As all litigation has its risks, if we assess your claim as having reasonable prospects of success and therefore agree to take it on, on a conditional fee (no win - no fee) basis, we run the risk of recovering no costs for all the time and effort spent on your claim, if it is unsuccessful. In addition, we are unable to obtain interim payments for our costs, as the case proceeds, as we would otherwise do if we were acting on a private fee basis.

We therefore charge a success fee to compensate for the risks involved and also our inability to recover costs until the conclusion of the claim, and then only if the claim succeeds.

Before the change in law in April 2013, the opponent would have paid the success fee, and the policy premium (see below). However, since the change, the client is now directly responsible for these charges if their claim is successful.

How much is the success fee?

Your success fee is calculated by assessing the prospects of your claim succeeding, taking into account a number of factors. Our assessment of your claim is set out in our risk assessment form, which will be sent to you with the conditional fee agreement. In accordance with Law Society Guidelines, the maximum amount you will pay is 25% of your damages (excluding future losses).



Why do I have to take out an insurance policy to cover my claim?

You are not obliged to take out an insurance policy to cover your claim, but we would strongly advise you to do so. We have delegated authority with DAS Lawassist, who are one of the market leading insurance companies for legal expenses insurance.

Briefly the benefits of taking out the policy are:

- It will protect you from paying external costs (disbursements) that are outside of our control, such as medical report fees.
- It will also cover you against any costs you are ordered to pay to your opponent.
- You are reducing the risks to yourself in relation to the claim.

We are able to recover part of the insurance premium from your opponent at the conclusion of the claim if your claim is successful, however, the remainder of the premium will be payable by you. If the claim is unsuccessful, the whole premium will be written off.

What do I do if I have legal expenses cover?

If you already have the benefit of legal expenses insurance, we do advise that you contact your insurers in the first instance to see whether they would cover the cost of your medical negligence claim. Please note, if you do have suitable cover, your insurers may not allow us to act on your behalf as they often instruct their own panel solicitors. However, we would still be happy to act for you under the funding agreement as described above and this is something we can discuss with you further at our appointment.

**CONTACT:**

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