

Model CFA agreement

This document looks at the terms and conditions found in a model 'no win, no fee' agreement and highlights some common issues or things to look out for. Hover your mouse over the circle next to each item to see what it says.

Disclaimer

This model agreement is not a precedent for use with all clients and it will need to be adapted/modified depending on the individual clients' circumstances and solicitors' business models. In all cases solicitors must therefore ensure that any agreement with a client is made in compliance with their professional duties, the requirements of the SRA and any statutory requirements. The Law Society does not accept any responsibility for any breaches of such requirements in respect of this model agreement which is intended for guidance only.

- Any counterclaim against you.
- Any appeal you make against the final judgment or order.

Paying us if you win

If you win your claim, you pay our basic charges, our expenses and disbursements and a success fee together with the premium for any insurance you take out. You are entitled to seek recovery from your opponent of part or all of our basic charges and our expenses and disbursements, but not the success fee or (save for clinical negligence cases) any insurance premium. If your claim is for clinical negligence and you have taken out a costs insurance policy, then, if you win, you may be able to recover from your opponent that part of the insurance premium which relates to the risk of having to pay for expert reports.

fundamentally dishonest in the claim) any order will normally only be up to the amount of damages and interest awarded to you.

Expenses and Disbursements

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

those charges if you win overall.

What do I pay if I lose?

If you lose, you do not pay [us anything] [any base costs or success fee but we may require you to pay our expenses and disbursements].

If you have a right to cancel this agreement under Schedule 3 (see below) and do so within the 7 day time limit, you will pay nothing. Otherwise if you end this agreement before you win or lose, you pay our basic charges and expenses and disbursements. If you go on to win, you also pay a success fee.

charges and success fee. Our VAT Registration Number is [insert].

[You may be able to take out an insurance policy against the risk of paying expenses and disbursements (but not our charges) if you lose, or some or all of your opponent's costs even if you win. You will be responsible for paying the insurance premium for this if you win unless your claim is for clinical negligence in which case you may be able to recover part of the premium. If you lose the premium [is still/is not] payable. Full details are contained in the insurance policy documents. We will give further information about insurance policies to you so that you can decide whether you wish to take one out].

The parties acknowledge and agree that this agreement is not a Contentious

The success fee percentage 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) disbursements;
- (f) the arrangements about payment of our costs if 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.

The Success Fee cannot be more than 100% of the basic charges in total.

costs for assessing this issue are to be paid by you if the barrister agrees with us, but otherwise are to be paid by us.]

You also have the right to apply to the court for assessment of our costs, including our success fee.

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 from your opponent, but not their success fee. The barrister's success fee is shown in the separate conditional fee agreement we make with the barrister. You must pay the barrister's success fee 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.

[The barrister's success fee is included within the maximum limit to the

You can end the agreement at any time. Unless you have a right to cancel this agreement under Schedule 3 and do so within the 7 day time limit we then have the right to decide whether you must:

- pay our basic charges and our expenses and disbursements including barristers' fees but not the success fee when we ask for them; or
- pay our basic charges, and our expenses and 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