

Brethertons BIG FAQs Series

Legal Costs

Questions around how much it will cost to pursue a compensation claim are really important to ask. You will of course receive quite a lot of detailed information on this as your case gets going (solicitors are required to set that detail out) but in very broad terms if your claim is not successful there will ordinarily be nothing to pay, while if the claim is successful, you will probably end up having something to pay towards the total costs incurred in pursuing your claim.

Who pays legal costs?

The short answer is that any person who instructs a solicitor to advise and assist them is usually liable to pay the costs charged by the solicitor in representing them. Normally a 'no win no fee' arrangement is put in place by which the costs a Claimant incurs only fall to be paid at the conclusion of a successful case. The solicitor essentially writes off the costs incurred if the case turns out to be unsuccessful. Ultimately legal costs will usually only fall due at the conclusion of the case. If your case is successful, you are likely to find that the total amount of all costs and expenses incurred in pursuing your claim are paid to a large extent by the Defendant, but that you will end up contributing something towards those costs from your compensation and pursuant to the retainer arrangements you enter with your solicitor at the outset.

What are legal costs?

Legal costs are the charges you incur for legal advice and assistance provided to you by your solicitor. As well as what the solicitor charges for their advice and assistance (usually calculated at an hourly rate) you will almost certainly incur 'disbursements' for example experts fees and court fees (in most spinal cord injury cases the Court Fee for issuing proceedings is £10,000 alone). Those are payable irrespective of the outcome of the case. You will often need a legal expenses insurance policy, the premium for which is payable by you and cannot (save in part in clinical negligence claims) be recovered from the opponent. The policy pays the disbursement costs where the case is unsuccessful, and you cannot therefore seek those from your opponent. In an unsuccessful case the policy premium essentially works on a 'no win no premium' basis. You will almost certainly find that you have to pay a success fee reflecting that the solicitor risks not being paid at all in cases that are unsuccessful (the principle that the success fees generated in successful cases help cover costs not recovered in unsuccessful cases). In combination all that you may contribute towards your costs in a successful spinal cord injury claim will amount to a relatively small (often single digit percentage) amount of the lump sum value of the compensation you recover.

Why are legal costs relevant to me?

If you pay anything towards our legal costs at the end of a successful case, and then a relatively modest sum in comparison with the compensation recovered, you may well ask 'why are legal costs relevant to me?'. The answer is that you are liable to pay the costs incurred on your behalf notwithstanding the no win no fee and indemnity arrangements that are in place. This may mean that you may not ever receive a bill at all or only receive a bill at the end of a successful case and where the charges are paid from the compensation recovered for you. The solicitor must give you information about your potential liability to pay costs and what those might amount to as a matter of good practice and as required by the Solicitors Regulation Authority, both at the outset and throughout.

Where can I read more about legal costs?

When you confirm you wish to go ahead you will be sent information particular to your case and detailing what the legal costs are likely to be, how they are calculated and in what circumstances they become payable. Periodically (as outlined below) and as the case progresses you will receive further information on costs being incurred in pursuing the claim.

When are legal costs relevant?

As the case progresses you will be given frequent (typically six monthly) costs updates. After Court proceedings are issued (putting your claim on the path that ultimately leads to a Trial before a Judge) you will be given detailed information in support of a costs budgeting exercise undertaken by the Court as the formal litigation begins. At the end of your (successful) case you will also be informed about the process by which we will try to recover as much of the costs as we can from your opponent via what is known as 'detailed assessment of costs'. The Defendant will not pay the total sum of your legal costs, but we aim to make the gap between what they do pay and the total sum payable as small as possible.

How do I pay legal costs?

We will not ask you to pay anything towards your legal costs as the case progresses save where and until we have recovered money from your opponent for the purposes of paying your costs. The gap to bridge at the end of a successful case and as alluded to above is usually paid (when it is known what the Defendant is contributing) from monies held back from your compensation at the conclusion of the case for that purpose. Any monies held back and not needed to bridge the gap are returned to you with a full account and final bill marking the ultimate end of your case.

If you would like any more information or have any questions, please contact:

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'We help achieve financial security and enable independence after spinal cord injury'