

# Brethertons BIG FAQs Series

## Screening

We are only able to offer a No Win No Fee agreement ('conditional fee agreement or CFA') to a client wishing to pursue a compensation claim when we have made an assessment as to whether the case is likely to be successful or not. In a clinical negligence claim that will always involve assessing often complex medical issues. To assist us we seek a screening view on whether the case is likely to be successful or not at the earliest opportunity.

### Who needs the case to be screened?

Screening is essential for clinical negligence claims especially where liability is likely to be robustly disputed. Screening may be required in other serious injury cases but in rarer circumstances. It is about assessing the risk of the case winning or losing which in turn allows us to make decisions on offering CFA arrangements to clients. Screening can often help confirm the client's views on the case. Equally in a case that cannot be pursued it can part of the process of understanding why that may be so and help in the process of coming to terms with how and why the injury was suffered.

### What is screening?

Screening is an initial review of your case by an appropriate (usually medical) expert witness who is asked to provide an extremely basic view of the prospects for the case being successful based on their experience and expertise. At the early stage of your case, we will review your medical records and create a basic chronology of events and ask an expert to review this chronology and selected medical records. The screening expert will then be asked to provide us with a very brief indication about whether there has been a breach of the duty of care and or whether the breach alleged was causative of the loss for which we are instructed to see compensation for.

### Why is screening important?

Screening helps to identify and or verify the initial grounds for pursuing a case. It can also help to manage a client's expectations. In a life changing injuries case arising from possible clinical negligence, the client will often have been nudged towards seeing a solicitor by a medical expert in a different discipline to the one that may have been thought to be at fault. Identifying that the claim is on (or is not on) a firm footing is crucially important to the client and the solicitor.

Serious injury cases are run, in most cases, with no win no fee arrangements. Prior to entering into a funding agreement, it is vital to know whether there are sufficient prospects of the case being successful. Without screening input the risk of incurring considerable time and cost to then establish the prospects for pursuing the case to a successful conclusion are simply too significant for the solicitor to entertain taking on the case without screening.

### Where do you get a case screened?

Dependent on the cause and type of injury, your solicitor will identify the appropriate expert to help provide the screening input. In a spinal cord injury case, it is likely to be a neurosurgeon, A&E consultant, or radiologist. In some cases, more than one screening expert at the initial stage may be required.

Screening is done based on the chronology and medical records only. It is a short paper-based exercise, and the expert will not need any input from you at this stage.

## When does screening take place?

Screening should take place as soon as possible after initial instruction. Medical records can take a few months to receive, and a screening report will only be requested once these have been reviewed as in complex cases the risk that the screening feedback says 'I will need to see the notes and records before I can offer a view' is significant.

Once the screening expert has been approached, we would hope to receive the report within a brief period thereafter. The process can take anything from a few weeks to several months depending on the nature and complexity of the matters in issue.

## How much does screening cost?

Screening is mostly conducted under the terms of the CFA put in place subsequently (the CFA will cover the work undertaken from the date of the initial instruction even though it is entered later). You should not expect to be asked to cover screening costs prior to the screening input being sought.

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'