

wake smith & tofields

Medical Negligence Funding Options

Option	Explanation	Eligibility
<p>Public Funding (also known as Legal Aid)</p>	<p>Public Funding is available for medical negligence claims and is administered by the Legal Services Commission (LSC). If an application for public funding is accepted by LSC, a Certificate will be issued, from which time the funding will be effective. The extent of any funding is limited in terms of the scope and the amount of costs and disbursements (also known as expenses) that can be incurred on your behalf.</p> <p>In certain circumstances, you may have to make a contribution towards your public funding. In the event that your claim is unsuccessful you would lose any contributions paid.</p> <p>Public funding will meet the costs and expenses of your claim and also any costs and expenses incurred by your opponents if your case is unsuccessful. However, in certain circumstances, if your case is successful, you may be required to pay a contribution towards your costs to the Legal Services Commission out of your compensation. This is known as "The Statutory Charge". Further information in relation to public funding is available in our advice note "Public funding - an explanation".</p>	<p>Before a public funding certificate can be issued, the LSC must be satisfied that your claim has reasonable prospects of success, that it is reasonable in the circumstances of your case for you to be granted public funding and that you come within the financial eligibility limits.</p> <p>The current eligibility limits are as follows: -</p> <ul style="list-style-type: none"> (a) your gross income does not exceed £2,435 pcm; (b) your disposable income does not exceed £672 pcm; (c) your savings do not exceed £8,000. <p>Your partner's income and savings are taken into account for the purposes of the above. You may be required to make a monthly contribution out of your income and/or a one-off capital payment if your savings exceed £3,000.</p> <p>Certain benefits will automatically pass the financial eligibility criteria. These are income support, income based job seekers' allowance and the guarantee state pension credit.</p> <p>An eligibility calculator is provided by the Community Legal Services website at www.clsdirect.org.uk.</p>

<p>Legal Expense Insurance ("LEI")</p>	<p>Legal expense insurance is an optional extra which can be attached to some insurance policies and may provide funding for some or all of your legal expenses up to a fixed limit. The extent of the cover depends upon the insurer.</p>	<p>Eligibility for legal expense insurance varies between insurers. However, it usually requires that the insurance was in place at the time of the alleged negligence and that you notified the insurer within a reasonable period of time after the negligence occurred.</p> <p>Many alternative forms of funding require that a search is conducted of any previously existing insurance policies to determine whether legal expense insurance is or was available.</p> <p>You should locate the original policy schedule and provide your solicitor with a copy. It may be necessary to telephone the insurer to confirm whether insurance is available. The most common policies which should be checked for legal expense insurance are car and household insurance, although in some instances a credit card provider may also provide cover.</p> <p>If you are uncertain whether LEI cover is available then please provide us with a copy of the policy and schedule.</p>
<p>Conditional Fee Agreement ("CFA")</p>	<p>Also known as a "no win – no fee" or CFA. In this type of case, Wake Smith & Tofields will only be paid for the work which they do if your case is successful. To enable the firm to consider taking your case on a CFA, we will have to obtain sufficient evidence on which we can make a judgement of the risks involved. This will mean that medical records will have to be obtained. We may also need a medical opinion from an appropriate medical expert.</p> <p>At that stage, our CFA committee will decide upon whether your claim can be accepted.</p> <p>A CFA will not protect you against liability for Defendants' costs which you may be required to pay if you start court proceedings and lose or discontinue your claim. Insurance can be obtained to protect you against the Defendants' costs and we will advise you on the merits of obtaining this. In certain</p>	<p>Whether your claim can be run on a CFA depends upon our risk assessment. We take into account the following matters: -</p> <ul style="list-style-type: none"> (a) how long ago events took place; (b) the availability of supporting medical evidence; (c) the availability of witness evidence; (d) the content of any medical records; (e) the response to any formal complaint; (f) any expert comments; (g) our experience of similar cases;

	<p>circumstances, we may also be able to obtain funding to cover you against the cost of any expenses/disbursements.</p> <p>If your case is successful, then you are entitled to recover any insurance premium we have incurred on your behalf and in addition, we are entitled to recover a success fee from the Defendant. This is an extra amount on our legal costs which takes into account the risk that we have taken in proceeding with your claim and not being paid if the case is unsuccessful.</p>	<p>(h) any other matters which we consider to be relevant to the prospects of your claim succeeding;</p> <p>(i) the availability of any alternative form of funding which will be better suited to your needs.</p>
Private Funding	<p>In these circumstances, you will be personally responsible for meeting our costs and disbursements throughout the duration of the case or until an alternative form of funding is entered into.</p> <p>You will be required to meet expenses as and when they are incurred. We will provide you with a bill of our costs on a 6-monthly basis.</p> <p>In certain circumstances, it may be appropriate for you to meet the costs by making regular monthly payments on account to ensure that sufficient funds are available for us to carry out the work. Our time will be charged according to the hourly rate which is appropriate to Sheffield County Court.</p> <p>We would provide you with an estimate of the costs and wherever possible, seek to agree a limit to the level of costs incurred according to your budget.</p>	<p>Depending upon the circumstances of your claim, you may be required to make an initial payment on account of costs and disbursements before any work can be commenced.</p>
Other forms of funding	<p>Other funding may be available depending upon whether you are a member of a trade union, agency or other group. Some employers will provide limited funding for certain types of legal claims if a specific arrangement has been entered into.</p>	<p>Depends upon funding source. You should therefore check with your employers and trade union representative to see if such funding is available.</p>