



LEGAL EXPENSES INSURANCE

This leaflet explains how insurance you may already hold could cover some or all of your legal costs as an alternative to a conditional fee agreement (CFA). You should consider this before signing the CFA that we have sent you.

Insurance of this type is sometimes called 'legal protection' or 'family legal protection'. You may have cover without realising it; it is often part of an existing insurance policy, like home buildings or contents insurance, motor insurance or travel insurance. Alternatively, some professional and trade bodies and some trade unions offer cover as a benefit of membership. Certain bank accounts and credit card providers also include legal expenses insurance as a benefit.

Legal expenses insurance (LEI) offers you protection against the risks of having to pay some or all of the costs of investigating and pursuing your claim. Different insurers provide different protection. Some insurance only covers your disbursements (third party fees we incur on your behalf, for example, to obtain your medical records, instruct experts, a barrister, or pay court fees) and any costs you might be ordered to pay your opponent; some insurance is more comprehensive and also covers your own solicitor's legal costs.

ADVANTAGES OF LEGAL EXPENSES INSURANCE

If you have LEI that will cover your claim, the major potential advantage is that you will make lower contributions to your legal costs from your compensation, or may even avoid these altogether, depending on the type of cover you have. With a CFA you will have deductions from your damages if successful (please see the CFA and separate CFA factsheet that we are sending you); using LEI will reduce or avoid this. For this reason you may wish to explore the possibility of LEI before committing to a CFA – but this is up to you. The position if you are unsuccessful with your case is usually the same in that you would have no liability for costs regardless of

whether you use LEI or a CFA. You may well already have paid for LEI cover in some form and for this reason you may wish to take advantage of it.

DISADVANTAGES OF LEGAL EXPENSES INSURANCE

If you have appropriate insurance and wish to use it, you will need to investigate the terms of cover and whether your insurer will agree to instruct us to act for you as well as on what terms. This can take some time. Under a CFA, we can start investigating your case straightaway.

LEI is also subject to a maximum limit of indemnity. There is usually no scope to increase that limit. This can be inadequate for some claims, particularly if they are likely to involve high legal costs and are expected to be disputed. If legal expenses insurance runs out part-way through a claim it can be very difficult to obtain funding to protect you against future costs. We will advise if we think this is a risk in your case.

You may also find that the terms of your LEI cover mean that you are restricted in the solicitors that you can use – your insurer may insist on you using a 'panel firm' of their choice and may dictate the experts or counsel you can use and the steps that you take. Under a CFA we are not curtailed by those restrictions and can conduct the case in the way that we think gives it the most chance of the best outcome. Our interest is in achieving the best outcome rather than trying to limit exposure to costs under an LEI policy.

WHAT TO DO NEXT

If you have any existing insurance policies or membership of a union or similar body and want to explore them, then you need to check whether these include legal expenses insurance (or legal protection, or family legal protection). It is the insurance that you had at the date of the relevant injury, accident or negligence that you need to check; this may have been before your current insurance came into effect.

If you do not have any LEI, or do not wish to explore this and would prefer to go ahead with the CFA, then please



complete and sign the confirmation of insurance form enclosed and send it back to us. We can then proceed with the CFA that we have sent you.

IF YOU HAVE LEGAL EXPENSES INSURANCE

If you think you may have LEI, you should check your policy terms. These will state the maximum value of your cover; it may not always be enough to cover your whole claim, but we will advise you if we think this is a concern.

Some policies contain exclusions that may be relevant to your case. Insurers often stipulate a time limit for notifying them of a potential claim and you should check whether you are within that period. If that period has expired, the insurer is unlikely to agree to cover you.

Some insurers exclude injuries caused by medical treatment (clinical negligence). Progressive diseases/illnesses are also sometimes excluded. Your policy terms will state the exclusions that apply.

If you think your claim is excluded, please complete and sign the confirmation of insurance form enclosed and send it back to us, together with a copy of your policy. We will check this and advise you how to proceed.

If you think you have cover, or are unsure of your policy terms, then you should speak to your insurer. You will need to provide your insurer with brief details of your case, including relevant dates. You need to establish whether your insurer will cover your potential claim and we suggest that you ask them:

- if they will cover a claim of the type that you have
- if you are within their notification timescales – and if not, if they may still cover it
- if you can instruct your own solicitors – and if not, who you must use
- what the level of cover is
- for a copy of any policy terms and any claim form that you need to complete

Once we have that information we can discuss the policy with you.

CHOSING YOUR SOLICITOR

If you have LEI cover your insurer may insist on nominating a solicitor of their choosing. This will not necessarily be a specialist in the specific circumstances that affect you.

You are still free to choose your own solicitor, but your insurer may then decline to cover the costs (unless court proceedings are about to be or have been issued when you are entitled to insist on the solicitor you want).

Many insurers know our reputation and will agree to instruct us from the outset, but you must make clear to your insurer if you want to instruct us or the insurer will pass your case straight to its nominated solicitor.

SUMMARY

We are happy to proceed with your case under a CFA straightaway but if you would like to explore the possibility of LEI cover, please read the information above and make the necessary enquiries and then we can discuss things further. As above, the main advantage of LEI cover is the potential to avoid any deduction from your damages if you succeed in a claim. If you wish to explore this before you sign the CFA, this factsheet should enable you to do that.

FIND OUT MORE

For further information or to discuss your potential claim with an experienced solicitor, please contact:

T: 0800 328 9545
E: clinnegspecialist@penningtonslaw.com

