

Information

Help in Securing Access to Justice

Funding disputes can be a challenge, even where a claimant has reasonably deep pockets. For many businesses, however, it can prevent access to justice. Even where funding can be supported there is always a risk, no matter how small, of a substantial adverse costs order, which simply could not be justified.

In recent years law firms have started to work with third party litigation funders to help clients meet the cost of bringing a claim, which they cannot afford to run, or to risk losing.

The starting point is the same as for any dispute – does your case have a good chance of success, and can the opponent afford to pay the amount of your claim and costs? If the answer to both of these questions is yes, litigation funding and costs insurance could be available much more economically than ever before.

The way such schemes work is relatively simple, typically:

- Solicitors will work under a Partial Conditional Fee Agreement (PCFA) meaning that 60% of their fees are paid as the case progresses and 40% are paid if the case is successful.
- You would have to pay half of the 60% PCFA payments as the case progresses. This usually amounts to about 18% of the overall legal costs of pursuing the case.
- The other half of the 60% PCFA charges would be paid by the litigation funder, as well as all disbursements such as court fees, counsel's fees, and expert's fees.
- The litigation funder will put in place insurance to cover your liability to pay

the opponent's costs, should the claim fail. The insurance would also cover the majority of the costs you have paid under the PCFA.

- This means your overall costs risk would be limited to about 5% of the cost of pursuing the case, as opposed to the normal risk of having to pay all of your own costs and around 70% of the opponent's costs, if the claim is unsuccessful.
- If you are successful, you will end up with approximately 70% of the value of the net award made in your favour (i.e. 70% of the total amount recovered from the opponent after the lawyer's deferred costs and the capital invested by the litigation funder plus interest on the amount made available by the funder have been repaid). The remaining 30% is usually sufficient to cover the risk taken by the lawyer and the funder that they would be writing off if the case were lost.

Using this form of litigation finance means businesses can continue to run their business while still pursuing a damages claim, knowing that there is little cashflow impact and the downside risk is reduced to as little as 5% of the total costs of bringing the case.

You would need to work with a specialist law firm and expert litigation funder, both of whom will share in the risk and cost of pursuing your claim.

Thomson Snell & Passmore have partnered with Augusta Ventures to provide such a litigation financing solution. Augusta Ventures is a unique litigation funder targeted at the SME market, funding costs between £10,000 and £600,000.

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Continued

It has retained a panel of expert lawyers, economists and financiers to ensure that in conjunction with partner firms like Thomson Snell & Passmore, they can provide you with the best possible advice and litigation funding solution.

If you have any queries please do not hesitate to contact Kamal Aggarwal, Head of our Thames Gateway office on +44 (0)1322 623702 or Nicholas Horton, Head of Department on +44 (0)1892 701313 or by email at:

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Disclaimer

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