

## RISK FREE LITIGATION - A DREAM OR A REALITY?

Spreading the risk of litigation improves a claimant company's balance sheet and allows a claimant to concentrate on its core business.



### Litigation funding

Individuals or companies (litigation funders) may agree to pay some or all of your solicitor's fees and your disbursements in return for a share in the damages you recover if you are successful. Litigation funders are not insurers or bankers, typically money paid out by them does not have to be repaid if you lose.

A clear and commercial rate of return is sought so when deciding whether or not to fund litigation, funders look at the realistic value of the claim, the financial strength of the opponent and the prospects of success. The greater the funder's risk the greater is the share in the proceeds they expect. Typically funders seek a percentage of the proceeds recovered or a multiple of risk / outlay. In some cases funders agree to step the return according to the stage / duration of the proceedings.



Funders want some control of the proceedings. They want to know about material developments, about all offers to settle and usually want to be present at mediation.

### After the event insurance

One of the downsides of litigation in England is that if you lose you will invariably be condemned to pay some, if not all, of your opponent's costs and disbursements. You may have insurance which covers this. If not, insurance known as "after the event insurance" is available from specialist insurers to cover a claimant's exposure.

Products on the market cover a range of disputes including professional negligence, civil litigation and property disputes. When dealing with professional negligence claims we are authorised under a delegated authority arrangement with a leading after the event insurer to cover potential exposure to opponent's costs. After the event insurance will typically also cover disbursements e.g. barrister's fees but NOT solicitor's fees

Premium is not normally paid up front. It is payable at the end of the case by your opponent or by insurers.

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