

Background

Are you pursuing a claim involving a potential award of damages using a Public Access Barrister?

Are you concerned about potential costs?

You may have agreed your own Barrister's costs. Indeed your own Barrister may have offered to act on the basis of what is called a Conditional Fee Agreement, in other words a "no win no fee" or "no win reduced fee" type of agreement. However if you lose your claim or if it is withdrawn you will almost certainly have to pay for:

- The other side's legal costs and disbursements.
- Your own disbursements such as Court Fees and Expert Witness Fees.
- The other side's Insurance Premium (in some cases).

In addition, even if you succeed, if you do not achieve a better result than what you might have been previously offered by the other side, you may also be liable for some of the other side's legal costs/disbursements from the date of the offer.

Fortunately, After The Event Insurance ("ATE") can cover some or all of these eventualities.

Questions

When will the premium have to be paid?

The premium due is normally payable at the conclusion of the case. Typically, the ATE premium quoted is subject to a discount in the event that the case concludes at an early stage (the proportion of the quoted premium payable would be detailed in any ATE quote provided).

As a result of changes to the Law, your After The Event insurance premium is no longer recoverable from the other side if the Insurance is taken out after 1st April 2013 (other than in very limited circumstances such as commercial claims for insolvency, defamation, asbestos injury and certain elements of claims arising from clinical negligence). If you lose your case the premium itself is normally insured i.e. it is no longer payable.

Cases suitable for consideration for ATE Insurance are usually regarded as those cases where there is an anticipated award of damages which significantly exceed the likely level of the ATE Insurance premium (see further below for an indication of the likely cost of cover).

The ATE premium is generally calculated based upon a percentage rate applied to the Limit of cover required.

The limit of cover is made up of:

Value of the expected Costs of the other side + the value of your own Disbursements*

** Excluding your own Barrister's Fees (as these are not usually covered). Cover for Disbursements is optional.*

The rate applied to the limit of cover can be in the region of 25% - 30% plus of the amount being insured. In addition Insurance Premium Tax at the current rate (6%) is added.

If a claim is lost, how is the other side's claim for costs paid?

The Insurers will generally pay the claim directly to the other side's solicitors.

This document is generic and reflects our current understanding of the law and is subject to change.

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AFTER THE EVENT – LEGAL EXPENSES INSURANCE BRIEFING NOTES FOR CLIENTS

Questions continued

Will any money be deducted from your damages if you win?

The ATE insurance premium will usually need to be paid from the sums recovered from the other side, unless the ATE premium is paid up front.

Are there any ways to reduce the ATE insurance premium?

Sometimes, an ATE insurer will be willing to provide a discount in premium if you elect to have an excess where you agree to be responsible to pay the first part of a claim up to a pre agreed amount.

How do I obtain a quote?

You will need to contact us directly. We will ask you to complete a preliminary Enquiry Form and will progress matters from that point. You will need to ask your Barrister to provide you with an up to date, short written opinion regarding the prospects of success of the case to support your insurance enquiry. The Barrister may charge for his advice on the merits of your claim but that is a matter you can discuss with them. Following receipt of responses from our various panel insurers, we will provide you with full terms and conditions regarding the insurance cover that may be available to you.

At your request, we will also provide your Barrister with all copy correspondence and specifically the final insurance quote

The Barrister will not be providing you with insurance advice.

Contacts

- Mark Felman ACII or David Mahony can both be contacted on
 - 01702 482284
 - or by e-mail at ateinsurance@efmgroup.co.uk
- Further information is also available at www.publicaccessbarristers.com

EFM is an Independent Insurance Broker who has been working with the Bar Council in order to provide After The Event Insurance facilities for clients of Public Access Barristers. EFM is a Bar Council Service Partner.

EFM has been established for almost 20 years and specialises in niche insurance schemes. EFM has been at the forefront of insurance and risk management innovation in the Banking, Telecommunications, Veterinary and Accountancy sectors.

EFM has assembled a comprehensive panel of ATE insurers, all of whom can be accessed via a single enquiry form

