

## **Schedule 1**

### **Success fee**

The success fee is set at 100% of our basic charges, where the claim concludes at trial; or 100% where the claim concludes before a trial has commenced.

The success fee percentage reflects all the relevant factors as they reasonably appear to us on the date that this conditional fee agreement is entered in to, including, but not limited to:

- (a) the fact that if you lose, we will not earn anything;
- (b) our assessment of the risks of your case;
- (c) any other appropriate matters;
- (d) the fact that if you win we will not be paid our basic charges until the end of the claim;
- (e) our arrangements with you about paying expenses and disbursements;.
- (f) the arrangements about payment of our costs if your opponent makes a Part 36 offer or payment which you reject on our advice, and your claim for damages goes ahead to trial where you recover damages that are less than, or equal to, that offer or payment.

The Success Fee cannot be more than 100% of the basic charges in total.

### **Cap on the amount of Success Fee which you will pay us in the event of Success in proceedings at first instance**

There is a maximum limit on the amount of the success fee which we can recover from you.

That maximum limit is 25% of the total amount of any:

- (i) general damages for pain suffering and loss of amenity; and
- (ii) damages for pecuniary loss, other than future pecuniary loss;

which are awarded to you in the proceedings covered by this agreement. The maximum limit is applicable to these damages net of any sums recoverable by the Compensation Recovery Unit of the Department of Work and Pensions. The maximum limit is inclusive of any VAT which is chargeable.

The maximum limit includes any success fee payable to a barrister who has a CFA with us.

However, this maximum limit applies only to a success fee for proceedings at first instance and not to a success fee on other proceedings (such as, for example, an appeal against a final judgment or order).

You have the right to apply to the court for assessment of our costs, including our success fee.

Rule 46.9(4) of the Civil Procedure Rules reads:

“(4) Where the court is considering a percentage increase on the application of the client, the court will have regard to all the relevant factors as they reasonably appeared to the solicitor or counsel when the conditional fee agreement was entered into or varied.”

If there is anything that you wish to discuss concerning this rule, or indeed anything else about the success fee, please contact us before signing this conditional fee agreement.

We will provide you with a copy of any relevant judgment or of our calculation of any settlement showing how much of your damages should be attributed to General Damages and Past Pecuniary Loss, net of any sums recoverable by the Compensation Recovery Unit. If you do not agree our calculation and this makes a difference to the amount of the Success Fee payable, then we will put the matter for determination by an independent barrister of at least 10 years call, to be appointed by agreement between us or, in default of agreement, by the President of the Law Society of England and Wales, such barrister to act as expert and not as arbitrator and his decision shall be binding. The barrister's costs for assessing this are to be paid by you if the barrister agrees with us, but otherwise are to be paid by us.

### **Section 74 Solicitors Act 1974 Agreement**

This agreement expressly permits the solicitors to charge an amount of costs greater than that which you will recover or could have recovered from the other party to the proceedings and expressly permits payments of such sum.

This part of this agreement is made under section 74(3) of the Solicitors Act 1974 and Civil Procedure Rules 46.9 (2) and (3).

In so far as any costs or disbursements are of an unusual nature or amount these costs might not be recovered from the other party.

We guarantee that the total amount of any deductions in respect of basic charges, disbursements and success fee (except for the cost of any After the Event Insurance Premium which is payable in addition) will not exceed more than 25% (including VAT) of the damages you receive in respect of your injury and your past losses.

## Schedule 2

### Basic charges

Basic charges are also known as base costs and solicitor and own client costs.

You have the right to assessment under the procedure set out in sections 70, 71 and 72 of the Solicitors' Act 1974.

These are for work done from now until this agreement ends. These are subject to review.

#### How we calculate our basic charges

These are calculated for each hour engaged on your matter. Routine letters and telephone calls will be charged as units of one tenth of an hour. Other letters and telephone calls will be charged on a time basis. The hourly rates are:

Grade of Fee Earner	Hourly Rate
1 Solicitors with over eight years post qualification experience including at least eight years litigation experience.	£400.00 plus VAT
2 Solicitors and legal executives with over four years post qualification experience including at least four years litigation experience.	£400.00 plus VAT
3 Other solicitors and legal executives and fee earners of equivalent experience	£400.00 plus VAT
4 Trainee solicitors, para legals and other fee earners.	£400.00 plus VAT

We review the hourly rate each year and we will notify you of any change in the rate in writing.

#### Overall cap on your liability for costs

We will limit the total amount of charges, success fees, expenses and

disbursements (inclusive of VAT) payable by you to a maximum of 25% of the damages you receive OVER AND ABOVE ANY COSTS WHICH WE RECOVER FROM THE OTHER SIDE.

Please note that the cost of any After the Event Insurance premium is deductible in addition to the otherwise 25% cap.

You agree that in addition to the above costs we are entitled to charge you any and all additional costs awarded by the court or agreed with the other party arising from our matching or beating our Part 36 offer on costs, CPR 36.17. This agreement creates a liability on you to pay such sums to us.

We will not know how much we will recover from the other side until the case ends, but you are liable for those costs IN ADDITION to a maximum of 25% of your damages. At the end of the matter we will send you a detailed breakdown of our charges, showing the amount of:

- charges;
- success fee;
- expenses and disbursements;
- VAT;
- The final success fee percentage uplift on basic charges;
- A calculation of the success fee as a percentage of the Allowed Damages Pool\*

\* The Allowed Damages Pool consists of:-

- general damages for pain, suffering and loss of amenity (Article 5(2)(a))
- damages for pecuniary loss, other than future pecuniary loss (Article 5(2)(b))  
net of any sums recoverable by the Compensation Recovery Unit of the Department for Work and Pensions (CRU).

In addition to the cap you are liable to pay any insurance premium.

**Schedule 3**

**Notice of the Right to Cancel**

This only applies if you sign the Conditional Fee Agreement:

- (i) At your home, workplace or at someone else's home; or
- (ii) At our offices but following a visit by us (or by someone acting on our behalf) to your home, workplace or someone else's home; or
- (iii) At our offices but following a meeting between us away from our offices.

You have the right to cancel this contract, without reason, if you wish and can do so by delivering, sending (including electronic mail) a cancellation notice to the person mentioned below at any time within 14 days starting with the day of receipt of this Notice.

The person to whom a cancellation notice may be given is Lynne Macintosh-Jones of Matrix Solicitors at Station Approach, Pasture Road, Moreton, CH46 8SD [Case Reference .....]

Notice of cancellation is deemed to be served as soon as it is posted or sent to us. You can use the cancellation form provided below if you wish. Signed on behalf of

[Name of Client]: .....

Dated: .....

If you wish to cancel the contract, you must do so in writing and deliver personally or send (which [may] [may not] be by electronic mail) this to the person named below. You may use this form if you want to but you do not have to.

.....

(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT)

To: Lynne Macintosh-Jones of Matrix Solicitors  
at Station Approach, Pasture Road, Moreton,  
CH46 8SD Case Reference No: [.....]

I hereby give notice that I wish to cancel my Conditional Fee Agreement with your firm. Signed: .....

Name (please print): .....

Address:.....

Date: .....

## Law Society Conditions

The Law Society Conditions below are part of this agreement. Any amendments or additions to them will apply to you. You should read the conditions carefully and ask us about anything you find unclear.

### Our responsibilities

We must:

- always act in your best interests, subject to our duty to the court;
- explain to you the risks and benefits of taking legal action;
- give you our best advice about whether to accept any offer of settlement;
- give you the best information possible about the likely costs of your claim for damages.

### Your responsibilities

You must:

- give us instructions that allow us to do our work properly;
- not ask us to work in an improper or unreasonable way;
- not deliberately mislead us;
- co-operate with us;
- go to any medical or expert examination or court hearing.
- you will not exaggerate any part of your claim.

**Please note that in a personal injury claim any inaccuracy or exaggeration by you or on your behalf in relation to any part of the claim will lead to the whole claim being thrown out with you being ordered to pay the other side's costs. This will happen even if you have already won your claim. For example if the court finds that the accident was the other party's fault but you exaggerate your injuries or the amount that you have spent then your claim would be lost. You will then be responsible for our firm's costs as well as the other side's costs. Such conduct on your behalf will invalidate any insurance policy.**

**ONE DELIBERATE EXAGGERATION IN ONE EMAIL CAN LOSE YOU YOUR WHOLE CLAIM.**

### Dealing with costs if you win

- Subject to any overall cap agreed with you, you are liable to pay all our basic charges, our expenses and disbursements and the success fee (up to the maximum limit) together with the premium of any insurance policy you take out.
- Normally, you can claim part of our basic charges and our expenses and disbursements from your opponent. You provide us with your irrevocable agreement to pursue such a claim on your behalf. However, you cannot claim

from your opponent the success fees or the premium of any insurance policy you take out.

- If we and your opponent cannot agree the amount, the court will decide how much you can recover. If the amount agreed or allowed by the court does not cover all our basic charges and our expenses and disbursements, then you pay the difference up to any maximum agreed with you.
- You, not your opponent, pay our success fee and any insurance premium.
- You agree that after winning, the reasons for setting the success fee at the amount stated may be disclosed to the court and any other person required by the court.
- If your opponent is receiving Community Legal Service funding, we are unlikely to get any money from him or her. So if this happens, you have to pay us our basic charges, expenses and disbursements and success fee.

We are allowed to keep any interest your opponent pays on the charges.

You agree to pay into a designated account any cheque received by you or by us from your opponent and made payable to you. Out of the money, you agree to let us take the balance of the basic charges; success fee; insurance premium; our remaining expenses and disbursements; and VAT.

You take the rest.

*If your opponent fails to pay monies due to you*

If your opponent does not pay any damages or charges owed to you, we have the right to take recovery action in your name to enforce a judgment, order or agreement. The charges of this action become part of the basic charges.

**Payment for advocacy**

The cost of advocacy and any other work by us, or by any solicitor agent on our behalf, forms part of our basic charges. We shall discuss with you the identity of any barrister instructed, and the arrangements made for payment.

*Barristers who have a conditional fee agreement with us*

If you win, you are normally entitled to recover their fee from your opponent, but not their success fee. The barrister's success fee is shown in the separate conditional fee agreement we make with the barrister. You must pay the barrister's success fee shown in the separate conditional fee agreement we make with the barrister. We will discuss the barrister's success fee with you before we instruct him or her. If you lose, you pay the barrister nothing.

The barrister's success fee is included within the maximum limit to the recoverable success fee in proceedings at first instance as explained in Schedule 1.

*Barristers who do not have a conditional fee agreement with us*

If you win, then you will normally be entitled to recover all or part of their fee from your opponent. If you lose, then you must pay their fee.

### **What happens when this agreement ends before your claim for damages ends?**

#### ***(a) Paying us if you end this agreement***

You can end the agreement at any time. Unless you have a right to cancel this agreement under Schedule 3 and do so within the 14 day time limit we then have the right to decide whether you must:

- pay our basic charges and our expenses and disbursements including barristers' fees but not the success fee when we ask for them; or
- pay our basic charges, and our expenses and disbursements including barristers' fees and success fees if you go on to win your claim for damages.

#### ***(b) Paying us if we end this agreement***

We can end this agreement if you do not keep to your responsibilities.

We then have the right to decide whether you must:

- pay our basic charges and our expenses and disbursements including barristers' fees but not the success fee when we ask for them; or
- pay our basic charges and our expenses and disbursements including barristers' fees and success fees if you go on to win your claim for damages.

(ii) We can end this agreement if we believe you are unlikely to win. If this happens, you will only have to pay our expenses and disbursements. These will include barristers' fees if the barrister does not have a conditional fee agreement with us.

(iii) We can end this agreement if you reject our opinion about making a settlement with your opponent. You must then:

- pay the basic charges and our expenses and disbursements, including barristers' fees;
- pay the success fee if you go on to win your claim for damages.

If you ask us to get a second opinion from a specialist solicitor outside our firm, we will do so. You pay the cost of a second opinion.

#### **(c) Death**

This agreement automatically ends if you die before your claim for damages is concluded. We will be entitled to recover our basic charges up to the date of your death from your estate.

If your personal representatives wish to continue your claim for damages, we may offer them a new conditional fee agreement, as long as they agree to pay the success fee on



our basic charges from the beginning of the agreement with you.

### **What happens after this agreement ends**

After this agreement ends, we may apply to have our name removed from the record of any court proceedings in which we are acting unless you have another form of funding and ask us to work for you.

We have the right to preserve our lien unless another solicitor working for you undertakes to pay us what we are owed including a success fee if you win.

### **Explanation of words used**

- (a) ***Advocacy***  
Appearing for you at court hearings.
- (b) ***Basic charges***  
Our charges for the legal work we do on your claim for damages as set out in Schedule 2.
- (c) ***Claim***  
Your demand for damages for personal injury whether or not court proceedings are issued.
- (d) ***Counterclaim***  
A claim that your opponent makes against you in response to your claim.
- (e) ***Damages***  
Money that you win whether by a court decision or settlement.
- (f) ***Our expenses and disbursements***  
Payments we make on your behalf such as:
- court fees;
  - experts' fees;
  - accident report fees;
  - travelling expenses.
  - medical record fees
  - After-the-Event Insurance premium
- (g) ***Interim damages***  
Money that a court says your opponent must pay or your opponent agrees to pay while waiting for a settlement or the court's final decision.
- (h) ***Interim hearing***  
A court hearing that is not final.

**(i) Lien**

Our right to keep all papers, documents, money or other property held on your behalf until all money due to us is paid. A lien may be applied after this agreement ends.

**(j) Lose**

The court has dismissed your claim or you have stopped it on our advice.

**(k) Formal Offer to Settle**

An offer to settle your claim made in accordance with Part 36 of the Civil Procedure Rules.

**(l) Pecuniary Loss**

Financial loss incurred by you as a result of your injury such as loss of earnings or payment made for medicines to treat your injury.

**(m) Provisional damages**

Money that a court says your opponent must pay or your opponent agrees to pay, on the basis that you will be able to go back to court at a future date for further damages if:

- you develop a serious disease; or
- your condition deteriorates;

in a way that has been proved or admitted to be linked to your personal injury claim.

**(n) Qualified One-Way Cost Shifting**

The rules in respect of costs payable if you lose a personal injury claim set out in Part 44 Section II of the Civil Procedure Rules.

**(o) Success fee**

The percentage of basic charges that we add to your bill if you win your claim for damages

**(p) Trial**

The final contested hearing or the contested hearing of any issue to be tried separately and a reference to a claim concluding at trial includes a claim settled after the trial has commenced or a judgment.

**(q) Win**

Your claim for damages is finally decided in your favour, whether by a court decision or an agreement to pay you damages or in any way that you derive benefit from pursuing the claim.

'Finally' means that your opponent:

- is not allowed to appeal against the court decision; or
- has not appealed in time; or
- has lost any appeal