



Stevens & Bolton LLP

podcast series

with Michael Frisby



Stevens & Bolton LLP

Risk Assist

The Stevens & Bolton
Litigation Funding Model

costs in litigation

- Own costs
 - Solicitor's costs
 - Counsel's fees
 - Expert's fees
 - Other disbursements
- Other side's costs

costs in litigation

- Recoverability of costs
 - General rule: loser pays winner's costs
 - Costs assessed

alternative funding

- CFA
- AFE
- Third Party Funding

alternative funding

- CFA
 - Solicitor and client
 - Charge fee if case successful / reduced fee
 - Up to 100% success fee

alternative funding

- AFE
 - Covers the risk of an adverse costs order
 - Premium payable at end of action
 - Premium recoverable

alternative funding

- Third Party Funding
 - Professional funders
 - Invest for commercial return
 - Put up some or all of funding required

Risk Assist: How it works

- Manage risk and fund litigation/arbitration claims
- CFA backed with ATE cover for adverse costs and own expenses (excluding counsel's fees) if the case is lost

Risk Assist: How it works

- Delegated authority scheme
- Stepped premiums
- Self-insured ATE premium

Risk Assist: How it works

- If the case is won client pays:
 - normal solicitor's fees
 - uplift/success fee
 - ATE premium

Risk Assist: How it works

- If the case is lost:
 - no (or limited) solicitor's fees
 - no insurance premium (self insured)
 - ATE policy pays out other side's costs and own disbursements (excluding counsel's fees)

Risk Assist: Managing Risk

NORMALLY	Win	Lose
Own Solicitor's costs	Pay (recoverable)	Pay
Other side's costs	No	Pay

Risk Assist: Managing Risk

USING Risk Assist	Win	Lose
Own solicitor's costs	Pay (recoverable)	No
Success fee	Pay (recoverable)	No
ATE Premium	Pay (recoverable)	No
Other side's costs	No	No (paid by ATE up to level of indemnity)

Risk Assist: Managing Risk

So for example: a claim of £300,000 with costs of £100,000 on each side

NORMALLY	Win	Lose
Own solicitor's costs	£100,000 (recoverable)	£100,000
Other side's costs	No	£100,000
TOTAL	£100,000 (recoverable)	£200,000

Risk Assist: Managing Risk

For example: a full CFA in place with 100% uplift and ATE premium of £50,000

NORMALLY	Win	Lose
Own solicitor's costs	£100,000 (recoverable)	No
Success fee	£100,000 (recoverable)	No
ATE Premium	£50,000 (recoverable)	No
Other side's costs	No	No (paid by ATE*)
TOTAL	£250,000 (recoverable)	Nil

*up to level of indemnity

Risk Assist: Disbursements

Counsel's fees:

- self funding by client
- CFA with counsel
- third party funding

Risk Assist: Disbursements

Other disbursements:

- self funding by client
- third party funding
- covered by ATE (subject to indemnity limit) if case lost

Risk Assist: Criteria

- Good claim for £100,000 or more
- Opponent financially sound
- Any type of commercial case
- Stevens & Bolton decide whether to issue insurance
 - indemnity up to £250,000
 - higher indemnity levels referred to underwriters

Risk Assist: Case Experience

- Contractual claim - CFA and ATE
 - Leading and Junior Counsel CFA
 - Indemnity costs order
- IT Claim - CFA and ATE, together with TPF for Counsel's fees
 - case settled before trial for a substantial sum

Risk Assist: Case Experience

- Claims in Technology and Construction Court
- Insurance claims
- IP claims
- Professional Negligence claims



Stevens & Bolton LLP

Michael Frisby

michael.frisby@stevens-bolton.co.uk

Tel. 01483 734244

