

RISK ASSIST CLIENT GUIDE

Risk Assist is a litigation funding model that is available to clients of Stevens & Bolton LLP. It provides clients with a means of funding and managing the costs of litigation or arbitration claims through to trial and of limiting risk and exposure in the event a case is lost.

By using a Risk Assist Funding Agreement, a client can:

- limit Stevens & Bolton LLP's fees on a conditional fee basis; and
- limit the consequences of an adverse costs order with after the event ("ATE") insurance cover

This note highlights some of the important features of the scheme.

Following a review and investigation of the case, we will notify the client whether or not we are able to offer a Risk Assist Funding Agreement and if so on what terms. Where we are unable to offer a Risk Assist Funding Agreement, we will make suggestions for further conduct of the case.

RISK ASSIST FUNDING AGREEMENT

A Risk Assist Funding Agreement is a contract made between Stevens & Bolton LLP and the client. Under it Stevens & Bolton LLP agrees to act on a conditional fee basis and offers to put in place ATE insurance in order to pay the opponent's costs up to a specific limit in the event that the court orders the client to pay the opponent's costs.

Conditional Fee

A conditional fee agreement is a contract made between us and you. Under it we agree to act on a conditional fee basis. That means that we will undertake your claim on the basis that you will only pay us our usual fees if the case is successful and, in addition, you will pay a success fee. Our usual fees are recoverable as costs of the action (subject to assessment by the court) if the court orders your opponent to pay your costs. The success fee is not recoverable from your opponent and therefore you are liable to pay this to us in the event of success. If the case is not successful, you will not have to pay our success fee or our usual fees but you may have to pay a reduced fee where under the conditional fee agreement we have agreed to undertake your claim on the basis of reduced rates.

In either case, the client will have to pay disbursements. The most significant disbursements are counsel's fees and expert's fees. If funding counsel's fees is a problem, we may be able to help the client by either finding a barrister that is prepared to act on a conditional fee basis or by finding a funder that might be prepared to fund counsel's fees and expert's fees on commercial terms. A personal guarantee might be required from shareholders or directors of the client company.

ATE insurance

In order to provide the ATE insurance, Stevens & Bolton LLP has teamed up with Temple Legal Protection Limited, the specialist legal expenses underwriting agency, to provide insurance cover from IGI Insurance Company Limited.

Temple allows Stevens & Bolton LLP to write the insurance. If we decide to cover the case, it is covered, there is no need for the case to be referred to underwriters or other lawyers. Under the scheme, cover is provided initially for an indemnity of £100,000 and we can increase it to £250,000 for a further premium after directions questionnaires have been filed in the litigation. Where cover is required beyond £250,000, we will refer it to underwriters for an expedited decision. The ATE insurance premium is not recoverable from your opponent.

If the claim is lost, the ATE insurance will provide indemnity up to an agreed level for the opponent's costs and the client's own disbursements (which excludes counsel's fees but includes expert fees).

As Stevens & Bolton LLP is not an insurance broker, we have not carried out an analysis of a sufficiently large number of insurance contracts available in the market from time to time to enable us to make a recommendation in accordance with professional criteria regarding which contract of ATE insurance would be adequate to meet your needs. However, we are required by law to take reasonable steps to ensure that our recommendation of a Temple ATE insurance contract is suitable and, before you enter into a contract for a Temple ATE insurance contract, to provide you with a written statement of our analysis of your demands and needs and, on the basis of the information you have provided us with, our reasons for recommending a Temple ATE insurance contract to you.

A summary of the terms of the policy prepared by the insurers is available on request.

For further information, please contact Michael Frisby, David Wilkinson or your usual partner contact on 01483 302264.

This note is a summary of conditional funding agreements and ATE insurance. The information is necessarily brief, it is not intended to be an exhaustive statement of the law of England and Wales and it does not detail all of the terms and conditions of such agreements or of an ATE insurance policy. It is essential that professional advice is sought before any decision is taken.

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