

# **'No win, no fee' agreements: A guide to navigating them**

## **Is it really free?**

### **Understanding costs**

There are two potential elements of costs which can be linked to making a claim.

- The first element is the fee charged by solicitors or claims management companies for their work.
- The second element is costs which your solicitor or claims management company may pay out on your behalf while working for you, but then ask you to repay to them. These are known as disbursements and can include things like paying application fees or set fees for certain legal checks.

Sometimes there may also be further costs incurred in relation to the use of third party experts or organisations who are asked to conduct work in support of a claim. For example where a private medical examination is required.

### **How are these costs paid?**

If your claim is successful, your provider may take a fee to cover the costs they incur in running the claim - this is often a percentage of the compensation. Repayment of any disbursement costs may, or may not, be in addition to this fee.

If unsuccessful you typically don't pay your provider for their costs, but you could be responsible for paying the other side's costs.

Before you start your claim, your provider should explain what arrangements - if any - are in place for covering the other side's costs if your claim is unsuccessful. This might typically include the firm arranging insurance which protects you by covering any costs should the claim be unsuccessful.

You can and should expect your provider to explain the specifics of how a claim should work before you agree to use their services. They should explain this in a way that helps you clearly understand what fees you may be potentially liable for, and how these costs will be met, whether your claim is successful or not.

## **What can go wrong?**



## **Is there any risk of paying costs if I sign up to a 'no win, no fee' agreement?**

Lots of people have benefited from them, and usually they work as expected.

However, these agreements may not be completely risk-free. You will need to understand the details of your individual agreement. And there are sometimes cases where you may end up having to pay substantial costs. For instance:

- you decide to stop making a claim half-way through the process – if you leave a claim part of the way through, you may be charged fees, and these could be substantial
- you may have to pay for any costs your solicitor has incurred on your behalf (known as disbursements) or additional costs to suppliers such as any experts used on your behalf
- your provider doesn't manage the claim properly, which could potentially leave you liable for the other side's costs.

If your provider doesn't manage the claim properly - leaving you liable for costs - you may be able to make a claim on their insurance. Solicitors, for instance, must have insurance in place. However, trying to get money back this way could be a stressful process and require further legal support.

You need to be aware for any litigation claim there is always a risk that it may not be successful, regardless of how well it is or is not managed. You should always have a conversation with your solicitor or CMC provider about the realistic merits of a case, before you agree to pursue it.

## **Know what to look out for before agreeing to a third party acting on your behalf**

As a client you have rights that your solicitor, or anyone they carry out their work with, such as a claims management company, should uphold.

- Your provider must make sure you can make informed decisions about your options.
- [You have the right to clear, upfront information about costs](#) [\[#understanding\]](#). This should include all the information about what fees you may be potentially liable for, and how these costs will be met, whether your claim is successful or not.
- Your provider should inform you about what professional indemnity insurance they have in place and how and when this will protect you.
- Your solicitor must act in your best interests and keep you updated on the progress and developments as and when they occur throughout your claim.



Choosing the right provider is crucial to ensuring your claim is handled professionally and ethically. You may want to consider:

- Are they regulated by us, another legal regulator or by the FCA?
- Are they transparent about costs, in particular how they will be met should a claim be unsuccessful?
- Are they clear about the risks of making a claim and do they answer your questions?
- Have they informed you of any potential options for submitting a claim yourself?
- Are they clear in their communication and offer timely responses to your queries?
- Does the provider have 'professional indemnity insurance' in place, which can offer protection if they mismanage the claim?
- Have you shopped around for different providers and considered the different amounts providers will take if you win?
- Whether in your case it might be possible to access compensation schemes or statutory redress without legal representation.

## **Red flags**

Be aware of these warning signs that could indicate a provider may not be acting in your best interest, and could be breaking rules:

- They have contacted you through cold calls, door knocking or an unsolicited approach.
- You feel you've been put under pressure to sign an agreement.
- They are unclear about who is managing your claim or there's no clarity on who your provider is.
- Their fee structures are vague.
- They suggest that there is no risk to a claim and no scenario where you could ever incur costs.
- They are not clear on how costs will be met should the claim fail.
- They don't seem interested in the details of your claim.
- They refuse to answer your questions or provide written documentation in a format and language that can be readily understood by you.

## **Tips to help you**

### **Tips for no win, no fee**

In some cases, issues can arise during the claims process. It's important to act quickly and know what to do if you feel something is not right. Whether it is poor service, unclear fees or unethical behaviour. These are the steps you can take if things go wrong.

1. Raise concerns with your provider



- Start by asking your provider for clarification or to resolve your issue.
- 2. Seek advice
  - Contact Citizens Advice for independent support.
- 3. Report misconduct
  - Report any unethical practices, such as improper cold calling, door knocking or misleading advice, [to the relevant regulator](#) [[#regulators](#)].

## **Dos and don'ts**

### **Dos**

1. Do consider your options – could you pursue a claim independently? It is possible to make some claims through an Ombudsman for free. Have you compared different providers – for instance, looking at reviews and considering the different amounts providers will take if you win?
2. Do check who you are dealing with – find out who is managing your claim and who your agreement is with. Be cautious about signing if there's no clarity on who the provider is.
3. Do your research – read reviews or case studies and previous track record of a provider. Check if they are regulated and have professional indemnity insurance to protect you if they mismanage a claim.
4. Do ask for easy-to-understand documents - pay attention to the small details and ask to have anything you do not understand explained.
5. Do ask questions about costs – find out what percentage of your compensation award will go to your provider if you win and ask questions about how costs such as disbursements, the use of experts and how the other side's costs will be covered if a claim fails.
6. Do seek independent advice – if you are unsure of a provider consult with a trusted source like Citizens Advice before you sign.

### **Don'ts**

1. Don't ignore red flags – be cautious of providers that contact you through cold calls, door knocking or high-pressure sales tactics – solicitors are breaking rules if they are involved in this - and avoid those that are vague about fees or who are unwilling to provide clear answers.
2. Don't rush to sign – take your time to understand your options in order to make an informed choice.
3. Don't assume 'no fee' means 'no cost' – all legal actions potentially result in costs - ask the provider who will be liable for these, and in what scenarios you might have to pay costs.



4. Don't forget to keep records – save all communications, contracts and updates about your case in the event of a potential dispute.

## **Questions to ask before signing**

1. Do I need a provider to manage my claim?
2. Can I make a claim for free through an Ombudsman?
3. What are the success fees if I win?
4. Are there any upfront costs?
5. What arrangements are in place to cover costs if a claim should fail?
6. What happens if the case is closed before it reaches a conclusion, or I change my mind about pursuing action?
7. Is the provider regulated, what protections does this provide to me?
8. Who will handle my case?
9. How will I be kept updated on the claim?
10. Realistically, do I have a potential claim and what are the chances of success?
11. What is the timeline for my claim?
12. Are there any red flags which suggest the firm may not be acting in my best interest?

## **Who can help?**

### **Choosing who to work with**

When thinking about making a claim, usually you can choose between providers. You have the option to use a claims management company (CMC) or solicitor.

Claims management companies (CMCs) are firms or individuals that can help you make a claim for compensation or other benefits. They may deal with the claim themselves or refer you to other CMCs or lawyers.

Regulated legal professionals such as solicitors can carry out the same work as CMCs. They can also provide legal representation and their expertise may mean they are able to handle more complex claims.

Always check if a provider is regulated by us, the Solicitors Regulation Authority (SRA), another legal services regulator, or the Financial Conduct Authority (FCA). In most cases providers will be regulated, however you should confirm that a solicitor or CMC is regulated before using one to be certain.

You can check if a CMC or solicitor is regulated by us, or one of the other regulators by searching the:

- [SRA Register](https://rules.sra.org.uk/consumers/register/) [https://rules.sra.org.uk/consumers/register/]
- [Financial Services Register](https://www.fca.org.uk/firms/financial-services-register) [https://www.fca.org.uk/firms/financial-services-register]



- [Barristers' Register](https://www.barstandardsboard.org.uk/for-the-public/search-a-barristers-record/the-barristers-register.html) [https://www.barstandardsboard.org.uk/for-the-public/search-a-barristers-record/the-barristers-register.html]
- [CILEx Authorised Practitioners Directory](https://cilexregulation.org.uk/practitioners-directory/) [https://cilexregulation.org.uk/practitioners-directory/]

## **Do I need to use a provider to make a claim?**

Not necessarily. It will depend on your circumstances. You may be able to pursue the claim yourself, and to keep all the money if you are successful. This could be quite straightforward in some cases - for instance, where you need to make a compensation claim through an Ombudsman, which will be free. There are websites to help you make this decision and potentially support you in making your claim:

- [Consumer Voice UK](https://consumervoice.uk/) [https://consumervoice.uk/]
- [Money Saving Expert](https://www.moneysavingexpert.com/reclaim/) [https://www.moneysavingexpert.com/reclaim/]
- [Money Helper](https://www.moneyhelper.org.uk/en) [https://www.moneyhelper.org.uk/en]

This may be harder if the case is complex, or you need to go to court. You might need a legal expert to help.

## **About no win, no fee**

### **Why might I choose a 'no win, no fee' agreement?**

Getting expert legal help – and going to court – can be costly, particularly if you are not successful. When these agreements work well, they can help you get help to enforce your rights, when this may otherwise have been unaffordable. They can also reduce the risks to you if the claim is unsuccessful.

### **What is a 'no win, no fee' agreement and how should it work?**

A 'no win, no fee' agreement (which might be either a conditional fee or damage based agreement) lets you pursue legal claims, using the expertise of a provider such as a solicitor, without upfront costs.

- A conditional fee agreement is an agreement between a solicitor and client where they agree to share the risk of a legal case. The solicitors' fees, partly or fully, will only need to be paid by the client if successful.
- A damage based agreement involves an agreement between a solicitor and client to share the risk of a legal case. However, the client only pays the solicitor's fees, costs and VAT if the case meets a pre-defined success criteria made at the start of the case. The payment is taken from a percentage of the money recovered from the other side.