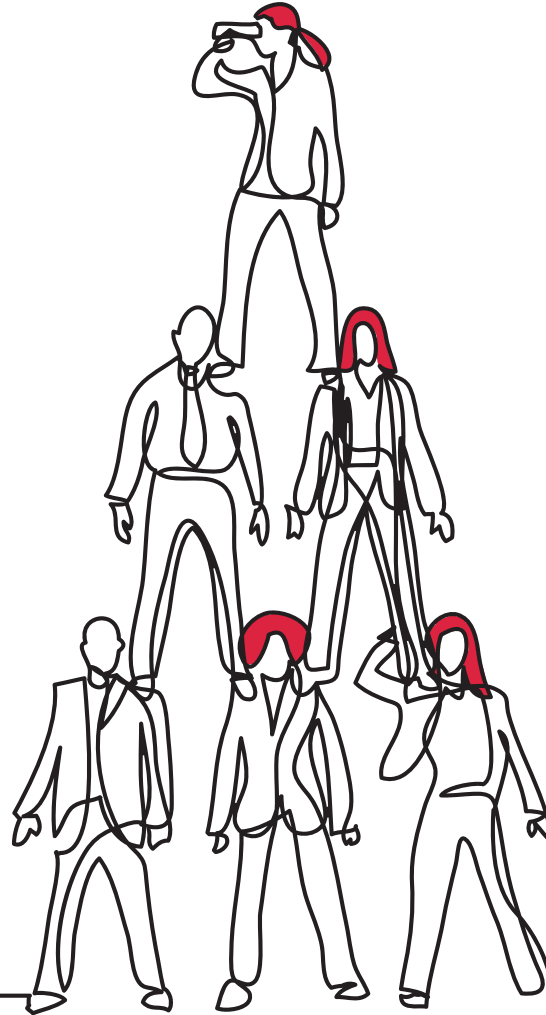


# No Risk & No Cost Proceedings



## Expense risks of entering litigation

- Liability to pay firm of solicitors and barristers.
- Liability to pay disbursements (experts, e-disclose and witness costs).
- Liability to pay other party's costs if claim unsuccessful.
- Substantial cash flow and financial risk.

## Solutions

### After the Event Insurance ("ATE")

- Insurance against costs if case lost.
- Can also include cover for your disbursements.
- Premium can be deferred and contingent upon success i.e. not payable if lose.
- Need to show good prospect of success and good prospect of enforcement.

### Third Party Funding

- Funding for all costs in litigation, including your own solicitors' fees and disbursements.
- Funder takes share of damages or multiple of outlay.
- Need to show good prospect of success and good prospect of enforcement.
- Inappropriate if damages less than £300,000.

### Conditional Fee Agreement ("CFA") or Damages Based Agreement ("DBA")

- On a CFA the law firm charges at discount to hourly rate and receives percentage uplift on fees if claim successful.
- Maximum uplift 100% and only hourly rate without uplift ("basic hourly rate") recoverable from other party.
- DBA is when solicitors are entitled to a percentage (up to 50%) of damages awarded, if successful.
- Again good prospects of success required and only some law firms will offer.

## Points of Note

- Options are not mutually exclusive.
- Prevents litigation being a crisis purchase and enables you to significantly reduce and control cost risk.
- It enables litigation to be assessed on a commercial basis.
- Can also apply to arbitration and other dispute resolution procedures if criteria met.
- Oury Clark is open to discuss options on any proposed litigation.

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