

Legal aid, now known as Community Legal Services Funding (CLS), is the statutory system by which a client's legal fees are met in full or in part from public funds administered by the Legal Services Commission (LSC).

There are two types of CLS funding – legal help and funding under the terms of a CLS funding certificate. Legal help is available for a wide range of medical law issues including assistance with the complaints procedures. However funding with a CLS funding certificate is limited to court action to pursue a claim for financial compensation for clinical negligence.

To be eligible to receive CLS funding a client must be financially within the terms of the particular scheme. Further, to be granted a funding certificate the LSC must be satisfied that the action is reasonable and justified. If at any stage the LSC form the view that it is no longer reasonable for the case to continue the funding certificate will be withdrawn.

Contributions

Depending on financial circumstances some clients who are within the scheme will not have to pay anything towards their costs. However some will have to pay a contribution. Under the terms of a certificate the instalments have to be paid monthly for as long as the certificate is in force. Further if the means of a person receiving CLS funding change the LSC must be informed and their eligibility will be reassessed. The LSC must also be informed if the client changes address or marital status.

If the client's case is unsuccessful or has to be abandoned their costs will be met from public funds in accordance with the CLS funding rules. Their maximum personal liability will be any contribution they have paid. If the client wins his/her case then the Defendant pays most and usually all of their costs.

Liability to pay for costs

However in all litigation there may be a shortfall between a successful litigant's total costs and the amount the losing party has to pay in accordance with the court rules. If there is a difference the shortfall will have to be met by the client first from any contributions they have paid and then from any damages that have been awarded. It is unusual for there to be a shortfall, but it is important that this principle is understood because if it arises the client has to meet the difference. Part of the compensation money may be kept back at the end of the case to cover this sum. This is known as the 'statutory charge'. At the conclusion of the case any contributions paid by the client during the currency of the certificate, which do not have to be paid towards the costs, are refunded to the client.

Disbursements

In the course of all litigation substantial sums by way of 'disbursements' have to be paid. Disbursements are the out-of-pocket expenses paid by a solicitor in order to progress the litigation and include for example the costs of medical reports and court fees. If necessary Burnetts will obtain authority from the LSC to incur these items of expenditure and will seek payment of them from the LSC as the case progresses.

If the case is successful, the Defendant will have to meet most of the disbursements. However, merely because the LSC have authorised payment of a particular disbursement does not necessarily mean that the Defendant will be directed by the court to pay this. If the Defendant does not have to meet the disbursement, the fee will have to be met under the terms of the 'statutory charge' referred to above.

The above is a brief explanation of the CLS funding system. If you are eligible for legal aid Burnetts will explain the rules to you very carefully at the time you apply for help. If you want any further information please contact us.



Monday - Friday 9.00 a.m. - 5.30 p.m. Saturday 9.00 a.m. - 12 noon

Montgomery Way, Rosehill, Carlisle CA1 2RW. Full disabled access.

Tel: 01228 55 22 22 Fax: 01228 522 399 Email: info@burnetts.co.uk www.burnetts.co.uk

Important Information
Legal Aid

