

COUNSEL'S RISK ASSESSMENT

to help counsel make a risk assessment and give a Statement of Reasons in personal injury cases.

Name of Counsel: [.....]

Solicitors: [.....]

Name of client: [.....]

Counsel's reference: [.....]

1. The Success Fee (Fixed or Insert Details)

Counsels Success Fees		Case			
		At trial:	14 or 21 days before date fixed for trial	More than 14 or 21 days before date fixed for trial	Applicable row marked with a ✓ ***.
CPR	Track	%	%	%	
Road Traffic Accident Claims (for accidents after 06.10.03)					
45.17	Multi Track	100	75	12.5	
	Fast Track	100	50	12.5	
45.18(2); 45.09 (over £500,000)		100	75	More than 20 or less than 7.5	
Employers Liability Claims (for injury sustained after 01.10.04)					
45.21	Multi Track	100	75	25	
	Fast Track	100	50	25	
45.22 (over £500,000)		100	75	More than 40 or less than 15	
Employers Liability Disease Claims (when letter of claim sent after 01.10.05)					
45.23(3)(a) Asbestos	Multi Track	100	75	27.5	
	Fast Track	100	50	27.5	
45.26 Asbestos (over £250,000)		100	75	More than 40 or less than 15	
45.23(3)(d) RSI & Stress	Multi Track	100	100	100	
	Fast Track	100	100	100	
45.26 RSI & Stress (over £250,000)		100	100	Less than 75	
45.23(e) Other disease	Multi Track	100	75	62.5	
	Fast Track	100	62.5	62.5	
45.26 Other disease claim (over £500,000)		100	...	More than 75 or less than 50	
Other Type of PI Claim					
	Multi Track	100	
	Fast Track	100	

2. The success fee takes into account:

- a) an element to reflect the prospects of success (as to which see below);
- b) further evidence may come to light which is adverse to the claim;
- c) material evidence may be lost;
- d) evidence may not come up to proof;
- e) in a case where an admission has been made, the fact that it may be withdrawn.

3. The Prospects of Success

Fixed success fee / or insert details

4. Statement of Reasons

For counsel's assessment of the prospects of success other than the risks common to all claims (here state the particular risks identified)

5. Going to trial: If the defendants take the case to trial, it is likely that they will consider that they have reasonable prospects of defeating the claim or beating a payment in and the claimant's chances of success in those circumstances are likely to be little, if any, better than 50%. If trial costs, which will almost certainly be greater than pre-trial costs for counsel, are at risk, an uplift of 100% is reasonable. (See comments by Lord Woolf CJ in *Callery v Gray* (2001) EWCA Civ 1117 at paragraph 106).

6. Postponement of receipt of fees is not taken into account in the success fee on the basis that the solicitor has agreed to claim interest on counsel's fees and to include such a claim in any costs bill or schedule of costs.

7. Time spent by counsel in making this risk assessment: [] mins

Signed

Dated:

THIS IS NOT AN ADVICE

NOTE

1. This is not an advice to the client or solicitor. It is a risk assessment made by counsel for his/her own purposes in deciding whether or not to accept instructions upon a conditional fee basis, and, if so, upon what percentage increase (i.e. success fee).

It also constitutes counsel's statement of reasons for the percentage increase.

Counsel will advise as appropriate in the course of the proceedings only after he/she has accepted instructions.

2. Ready Reckoner

Prospects of success	Uplift
100%	0%
95	5
90	11
80	25
75	33
70	43
67	53
60	66
50	100