

# Clarifying the Cost of Dispute Resolution

“How much will  
this cost me?”



**This is often one of the first questions we're asked when advising on a dispute, and rightly so.**

We are expert dispute resolution lawyers, focused on achieving outcomes that work for our clients.

This includes assessing any likely costs and planning a cost-effective strategy. After ensuring you have the right lawyers to help you, understanding the financial implications of dealing with a dispute is the next most important consideration.

As every dispute is different, we can't offer a one-size-fits-all approach. However, to begin with, we will always provide an initial assessment at a fixed fee for all cases. This is to let you know, as far as possible, the merits of your case, how to achieve the outcome you want, and what the overall costs are likely to be if you decide to proceed.

Once we have carried out the initial assessment, and you have decided to take the case forward, we are able to offer a range of different funding models to suit your case and your preferences.

“Aaron & Partners Solicitors provides excellent service. They are very knowledgeable in commercial finance, mortgages, private contract, landlord disputes, commercial contracts, and commercial leases.”



Aaron & Partners  
Solicitors

# Getting Started: Step-by-Step



## Introduction

One of our solicitors will introduce themselves to you. We will ask you for a written summary of events and a pack of all the relevant documents. The more comprehensive this is, the better the advice we can give. The clearer the format, the more cost effective it will be. We will also need a scan of your passport and driving licence.

We can discuss other forms of acceptable ID if these aren't available.



## Engagement

Once we have agreed the fixed fee for the initial assessment, we will send you a Client Engagement Letter (for new clients) and a Matter Engagement Letter.

We will ask you for the agreed fixed fee to be paid to us on account.

Once the paperwork is signed, we will carry out an initial assessment.



## Advice

The initial assessment is a collaborative process and we are likely to discuss the matter with you before finalising our view or recommending the next steps. Our approach is always bespoke to your case. You will be presented with our expert opinion in writing, to enable you to decide on how to proceed. We will discuss the advice with you once you have considered it. This is included in the fixed fee for the initial assessment.



## Next Steps

How you choose to proceed will depend on your case and circumstances.

As part of the initial assessment, we will discuss with you which of the following potential funding options will be suitable for you.

## Funding Options

### 1 - The Traditional Hourly Rate

Based on a clear estimate given by one of our specialist lawyers, this is the 'pay as you go' option. You pay our fees based on our hourly rates. You will also be responsible for any expenses we incur on your behalf with third parties (for instance, barristers fees).

The normal rule in litigation, which is often (but not always) reflected in settlements, is that the losing party pays the winner's costs. This does not apply in claims for less than £10,000 (these are handled on the 'small claims track') and some claims are subject to fixed cost recovery – which is unlikely to cover the costs that you actually incur in dealing with the case.

This makes sensible advice about a settlement vital.

#### Bear in mind:

- It is not normally possible to recover all of the costs from your opponent. As a rule of thumb, around 70% of the actual fees you incur can be recovered.
- If you are unsuccessful, you are likely to have to pay the other side's costs (see below on availability of insurance to cover these).

This option is the most informal and flexible. You will always be advised on risk, proportionality, and settlement strategies (including alternative dispute resolution methods, such as mediation) for a cost-effective outcome.

**NB: If you choose this route, you are liable to pay us the full amount of fees incurred, even if this is more than the amount that you can recover from your opponent.**

## 2 - Fixed Price

In some cases, we can agree bespoke fixed pricing based on a staged approach. With this fee route, you receive certainty and we carry the financial risk of any unforeseen events. The fixed fee will reflect this risk, and as a result, the fee will likely be higher than we would quote on an hourly rate basis (based on our expected time commitment to the case).

**The same rules of recoverability will apply as in the traditional hourly rate model, including in relation to opponent's costs.**



## 3 - Conditional Funding Arrangements (CFAs)

The 'no win, no fee' option. We do not hide the small print – we have set out the pros and cons below.

### If you win?

- ✓ You pay our standard rates and expenses (normal recoverability rules apply, see above)
- ✓ You pay an additional success fee which cannot be recovered from your opponent. This is a percentage of the hourly rate charges for the time we have spent working on your case. The level of success fee agreed at the outset reflects the strength of the case – the better the case, the lower the fee.

### And if not?

- ✓ You do not pay us any of our fees.
- ✓ You will still need to pay our expenses (for instance, barristers fees) and, in all likelihood, the other side's costs, although it may be possible to seek insurance to cover them (see below).

## 4 - Damages Based Agreements (DBAs)

An arrangement where we share in the proceeds of the claim.

### If you win:

- ✓ You pay us a percentage of the damages that you are awarded (never more than 50%), less any of our fees or barrister's fees recoverable from the other side. You pay our other disbursements, such as court fees and experts' fees.

### And if not:

- ✓ You do not pay us any fees.
- ✓ You still have to pay the other side's costs and expenses.

## 5 - Discounted CFAs

A variation on the CFA: 'no win, reduced fee'. These work in the same way as CFAs, except that you pay a reduced amount of our fees based on discounted hourly rates as the case progresses. If you lose, the fees that you've paid as the case progresses are all you pay, as well as any expenses we incur, additional costs, and any expenses you are ordered to pay your opponent.

The benefit of this arrangement is that the success fee percentage is lower to reflect that the risk to us is lower if you lose.

## 6 - Third Party Funding

This only applies to high value cases, usually of at least £500,000. Funders can 'buy' a stake in your claim and agree to fund it completely.

Given the level of investment, the percentage which they will require is usually considerable.

We can put you in touch with funders in appropriate cases.

## 7 - Pre-Court Proceeding Contingency Fees

These are similar to the DBAs above, but only apply before court proceedings are commenced.

If court proceedings need to be issued, then a CFA or full DBA will be required if you do not want to pay based on hourly rates.



# Insurance

## Before the Event Insurance

You are always advised to check all of your existing insurance policies (business, property, vehicle) as they may already have had an 'add-on' to cover legal expenses. This is called Legal Expenses Insurance (LEI). If you already had LEI before the dispute arose, it is usually referred to as 'Before the Event' (BTE) insurance.

**Our expert team can review your policies and work with your insurer if you have BTE insurance.**

## After the Event Insurance

ATE policies are available to purchase in conjunction with, or as an alternative to, BTE insurance. These are generally used to cover the risk of being ordered to pay the other fixed costs.

**Although premiums are not recoverable, they can be:**

- Payable upfront\* or deferred to the end of the case (on settlement or post-trial).
- Staged, so that the amount payable is priced by reference to how far the case has progressed before completion.

These policies can be expensive but used in conjunction with, for example, CFAs, and can provide certainty and considerably reduce risk.

\*Premiums which are paid upfront are usually lower.

## Things to Consider

An initial assessment can give you peace of mind, even if you do not take things further. We will provide a clear strategy for the cost-effective resolution of the dispute. The initial assessment will enable you to make an informed choice about settlement, and at what stage it is appropriate to seek to settle.

Costs are only recoverable by agreement with the other side on settlement, or by the successful party by order of the court.

We will always consider the ability of the other side to pay. Damages and costs orders can only be enforced against traceable assets and, unless your agreement with us provides otherwise, you are still responsible for our costs, regardless of whether you can recover from your opponent.

Where costs are recoverable, it is unlikely that 100% of the costs will be recovered, so there will possibly be a shortfall to pay us (depending on your funding option), even if you win.

In claims under £10,000, costs are generally not recoverable from the other side, so particular care needs to be taken with cost-effectiveness.

