

Choosing your Solicitor | checklist



The questions below are intended to provide ‘food for thought’ before you make a final decision about representation; You should certainly talk to more than one solicitor before making your mind up – after all, you’ll be working with them for quite some time.

Are you a qualified solicitor?

If not, what are your qualifications and who will be supervising you?

Will you be dealing with my case personally?

It’s normal for work to be delegated but you need to know that the rest of the team also have appropriate experience, and that the lead solicitor will genuinely take the lead and take time to review and report on the progress of your case.

How many significant brain injury cases (worth in excess of £1million) have you conducted in the past five years, and how many are you currently handling?

This will provide an indication as to whether or not the person you’re talking to really is an expert in the field.

In which courts are those cases being litigated?

These cases should be run in the High Court; if the answer is a County Court you may want to ask why.

How many brain injury cases have you personally handled in the past five years where:

- Liability has been in dispute?
- Provisional damages have been claimed? (If none, you should be concerned)
- An award of periodical payments has been made?

Are you a member of any professional bodies that demonstrate your special interest?

These might include Brain Injury Group; Association of Personal Injury Lawyers (APIL) (there are different levels); APIL's Brain Injury Experts panel; Headway panel; The Law Society Personal Injury Panel. Membership suggests special interest, experience and expertise in the field.

Are you listed as a leading lawyer in personal injury in the Legal 500 or Chambers & Partners directories?

Another indication of special interest.

What are the options for funding the case - will you act under a Conditional Fee Agreement? Can you act under the terms of the legal expenses insurance that comes with my home contents / motor insurance?

You need to understand the various options and potential risks, how costs can be recovered, and how you can be protected in relation to legal costs before instructing someone to act for you.

Will you be able to apply for an interim payment?

Complex claims take time, and you might need financial help in the interim to be able to fund rehabilitation or home adaptations. Your solicitor should be able to advise on whether or not your case might qualify for an early interim payment to provide immediate assistance.

Will you take any success fee from any damages awarded?

Some lawyers will take a success fee of up to 25% of the award for damages for the injuries and past losses. Others will not take any of your damages.

Will you advise on Court of Protection Deputyship and investment of damages?

Do you have specialist lawyers who can assist with the Court of Protection Deputyship Application?

Will you be able to advise on Health and Welfare deputyship as well as financial deputyship?

Some firms want to act in the litigation so they can make commission on the investment of damages.

Ask them for details of how much money they will make on this aspect. Do they have a transparent charging policy?

How will you keep me up to speed on how things are progressing?

Complex cases often progress slowly as reports are commissioned and requested, assessments required etc. Your solicitor should maintain regular contact – whether by phone or email – and keep you informed as to how things are progressing.

Can you put me in touch with former or current clients so I can ask about their experience of your handling of a brain injury claim?

If the solicitor is reluctant, you may want to consider why.

What level of professional insurance indemnity cover do you carry?

These cases can often result in £multi-million settlements. You should ensure that your solicitor is adequately covered – they should have insurance to cover upwards of £10million.

Have you ever been found liable (or admitted liability) for professional negligence arising out of any personal injury/clinical negligence claim?

If 'yes', ask them to explain the circumstances.

Have you ever been found guilty of/ admitted a charge of a breach of professional conduct by any professional regulator arising from a personal injury/clinical negligence claim?

If 'yes', ask them to explain the circumstances.

After every initial meeting, take a little while to think about these things:

1. How quickly did the lawyer respond to my initial enquiry?
2. Did he/she explain the process in plain English and without baffling me with legal jargon?
3. Was he/she able to answer my questions and give me confidence in their abilities?

Remember, if your solicitor does not meet your expectations, you can change representation, even when you have started the legal process. You do not have to put up with a lawyer who does not inspire confidence.

Compiled with the assistance of Warren Collins of Penningtons Manches LLP, a Brain Injury Group member. www.penningtons.co.uk

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This note is for information only and does not constitute legal advice.

The Brain Injury Group is a national network of legal and other professionals supporting individuals and families affected by brain injury. www.braininjurygroup.co.uk