

THE CHANCERY BAR ASSOCIATION'S CONDITIONAL FEE AGREEMENT

NOTE

1. The Chancery Bar Association's Conditional Fee Agreement is a relatively short agreement which incorporates the Chancery Bar Association's Conditional Fee Conditions 2005. The Agreement itself will require considerable amendment to fit the circumstances of the particular case. It is unlikely that the Conditions will require amendment but if any amendments are appropriate, these can be dealt with in the Agreement.
2. There are two clauses numbered 2 in the Agreement. The first is appropriate where no fee is payable if the Action ends in Failure. The second is appropriate if a reduced fee is payable in any event. One of the two clauses should be deleted.
3. There are also two clauses numbered 3. The first will create a contract between Counsel and the Solicitor but the second will not. Again, one of the two alternatives should be deleted.
4. Clauses 4-9 and 11-13 need completing as the circumstances of the case require.

5. Clause 10 is optional and can be deleted, if desired.
6. Clause 14 should be deleted if Parts 1 and 2 of the Conditions are incorporated but should be completed if Parts 1 and 3 are incorporated in the Agreement.
7. Further clauses, adding provisions or varying the Conditions, can be included after Clause 14, or elsewhere if appropriate. If the Conditions, in particular Condition 16, are altered in any material respect, you may not be fully insured by Bar Mutual Indemnity Fund Ltd and its approval should be obtained to any such alterations.
8. This CFA was drafted by a sub-committee on behalf of the Chancery Bar Association in the light of statutory provisions in force as at 23 December 2005. As at that date, the pre-existing regulations had been revoked with effect from 1 November 2005 so that from Nov 1 parties could enter into CFAs based only on the primary legislation in the Courts and Legal Services Act 1990 as amended. Nevertheless, the Chancery Bar Association draft is based upon both the primary legislation and the previous regulations, as it is still thought that compliance with the previous regulations represents good practice. It is up to those using the Agreement to satisfy themselves as to its appropriateness and legality. In this respect it is stressed that the legislative and regulatory framework is subject to rapid change and any CFA which does not comply with that framework may be unenforceable.

9. The Chancery Bar Association would be grateful for any comments you may have in the light of your experience. It is intended to update the Agreement and the Conditions in the light of experience. If you have any comments these should be addressed to Charles Purle QC, New Square Chambers, 12 New Square, London WC2A 3SW.

10. Finally, the Agreement and the Conditions have been drafted by volunteers with, perhaps, no greater expertise than any counsel using them for the purposes of a conditional fee agreement. As previously stated, you must satisfy yourself that the Agreement and the Conditions are lawful and are appropriate for the particular circumstances of the relevant proceedings. The Chancery Bar Association and the draftsmen of the Agreement and the Conditions assume no responsibility to you or anyone else. The draftsmen will only accept responsibility if instructed in the usual way.

December 2005

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