

Funding Your Holiday Claim

Questions you must ask before Instructing a Solicitor

All law firms want you business and will make promises that they hope will make them sound more attractive to you than the next firm.

To help guide you through the maze here are some questions you must ensure you **ask your solicitor** and ensure you **receive a clear and transparent answer** that the solicitor is prepared to **put in writing**.

If your solicitor is unwilling to provide a clear and transparent written reply or avoids answering the questions clearly then this should start alarm bells ringing.



The Solicitor's Success Fee

A **success fee** is the fee solicitors charge for being successful and winning your compensation claim.

If a firm offers to accept your claim **without charging a success fee** you must question their motive and whether this is in your best interests. *Are they simply desperate for work?*

If a firm does not charge a success fee then it is difficult to see what incentive they would have to **maximize your compensation**. You must be very careful that the firm will not just try to **settle your claim as quickly as possible and for an amount that undervalues your claim** because they have accepted your claim on terms that mean they don't benefit.

Questions you should ask and demand a transparent answer in writing:

1. What is your success fee?
2. When do I pay your success fee?
3. Ask for an example - ask the Solicitor to tell you what amount you would pay if you won £3,000 compensation?

Costs Insurance Protection

Insurance is absolutely **vital** if you have no other means of funding your claim.

Be firmly on your guard if a firm says:

- you don't need insurance, or
- that they will arrange this at a later date, or
- try to avoid discussing insurance with you.

If you **do not have insurance then you are responsible for all the costs involved in your case** including the other side's legal costs which could be very substantial and which they can by law seek to recover from you.

If **insurance is not in place** then if the other side makes a settlement offer the law firm representing you will be **under immense pressure to tell you to accept the offer** which may grossly **undervalue your claim**. If the offer is not beaten then in the absence of insurance your law firm will become a third party funder and responsible for all the costs in your case – which they will certainly not want.

Insurance allows you the **freedom to reject an offer that is unreasonable** and to proceed safely in the knowledge that you are **protected** in every way possible.

Be careful to ensure that if you are offered insurance that you are fully informed of the **cost of the insurance** to and including a trial as many law firms will avoid this important issue because the **costs increase as the claim progresses**.

Questions you should ask and demand a transparent answer in writing:

4. How much is your costs' insurance policy?
5. How much is your costs' insurance policy if my case concludes at a trial?
6. Who will pay for my medical report, court fees, counsel's fees and the other side's costs if my claim is unsuccessful?
7. Ask for an example - ask the Solicitor to tell you what amount you would pay for the insurance if you won £3,000 compensation at a trial?

The Shortfall

Be careful of the small print in the firm's terms of business.

Many firms will **charge a shortfall** at the end of your case if they **do not recover all of their costs**. You could find that you are stung by an additional bill at the end of your case.

Questions you should ask and demand a transparent answer in writing:

8. At the end of my case will you charge me a shortfall if the costs you recover are less than the costs that you have incurred in my case?

How long will my case take?

Be wary of any firm who tells you they will **settle your claim in less than 12 months**. This is impossible to predict as it is determined by how the tour operator chooses to deal with your claim.

Any firm who claims they can answer this question must have a crystal ball!

In cases where there are many people involved it is unlikely that a settlement will be reached quickly because of the vast sum of money involved and the fact that the tour operator will want to try and recover the money from a third party – such as the hotel or its insurer.

In all cases where an accident or illness occurs abroad the **tour operator has 42 days to acknowledge a claim** and then **6 months to investigate it**. It is unlikely that a tour operator will respond before the end of the Protocol period.

Make an informed choice

These FAQ's are to help **you make a proper informed decision** before you go ahead and sign the solicitors' agreement. We have put together a handy Q&A sheet for you.

Simpson Millar LLP Solicitors are leading **Travel and Holiday Law specialists** and offer free advice to anyone who has suffered from illness or injury whilst abroad.

Get free advice today by calling **0808 145 1353** or
send your enquiry or question by email to
holidayclaims@simpsonmillar.co.uk.

Questions and Answers

Question	Answer
What is your success fee?	
When do I pay your success fee?	
Ask for an example - ask the Solicitor to tell you what amount you would pay if you won £3,000 compensation?	
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Who will pay for my medical report, court fees, counsel's fees and the other side's costs if my claim is unsuccessful?	
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send your enquiry or question by email to
holidayclaims@simpsonmillar.co.uk.