

Commercial After-the-Event Insurance Proposal Form

Advice on applying for Commercial After-The-Event Insurance with Temple

What cover does this insurance provide?

This insurance will indemnify your client for the costs awarded against them by a Court or other tribunal and will also indemnify your client for their own disbursements other than your own counsel's fees, subject to policy terms and conditions. This insurance does not indemnify your client in respect of your own fees.

Why should I apply for insurance?

Insurance is an effective funding method for all types of commercial litigation. There is no requirement that the case is run under a CFA. Insurance should be considered in every case, not just the high risk cases. The financial risks of litigation can be transferred to the insurer.

How is the premium paid?

The premiums for Temple policies are all payable at the end of the case. If your client wins the case then the premium will be paid from the damages recovered either as a pre-agreed percentage of those damages or in some cases, calculated as a pre-agreed percentage of your firm's net fees. If your client loses, then the policy actually self-insures the premium in addition to the adverse costs.

Is there any cost to apply for ATE insurance from Temple?

No, there is no charge whatsoever – our assessment of your client's case is free.

When should I apply for insurance?

You should apply for insurance as soon as you are able to make a reasonable risk assessment of your client's case where you conclude that your client's case has reasonable prospects of success. Ideally you should apply before the Letter of Claim is sent. The later in the conduct of the claim that the proposal is submitted, the harder and more expensive the case will be to insure.

Why might Temple decline your application?

There are a number of reasons why Temple may decline cases. Key reasons are as follows:

- If we are not satisfied that the case has reasonable prospects of success
- If you are operating adverse risk selection e.g. if you have tried to settle the case before applying for insurance
- If documentation, relevant to the success of the case, is unavailable

1. This form should be completed and signed by you (the solicitor) and then evidenced and signed by your client as true and accurate. It should then be sent, along with copies of all supporting documents either by email commercialate@temple-legal.co.uk or in hard copy form to Temple Legal Protection, DX: 83188 Guildford

2. Document Checklist:

In order to consider your application without delay, please ensure that all sections of the proposal form are fully completed where appropriate.

We also require copies of the following documents, where available

- | | |
|--|--|
| <input type="checkbox"/> Key relevant correspondence from/to any party relating to the dispute | <input type="checkbox"/> Copy of your case summary |
| <input type="checkbox"/> Contractual documents being relied on | <input type="checkbox"/> Copy CFA/retainer |
| <input type="checkbox"/> Expert reports | <input type="checkbox"/> Pleadings |
| <input type="checkbox"/> Copy of any instructions to Counsel, Counsel's opinion and any conference notes | <input type="checkbox"/> Witness statements |
| <input type="checkbox"/> Copy of your risk assessment and/or advice to your client | |

Please note that since we do not charge any assessment fee we cannot incur the costs of returning your papers (do not include any original documents with this application).

If this case is declined by Temple, the papers will be confidentially destroyed.

3. Completion of this form does not mean that insurance cover is in place.

4. Consumers (individuals entering into this insurance contract wholly or mainly for purposes unrelated to the individual's trade, business or profession) must answer all questions fully, honestly and to the best of their knowledge. Failure to do so may result in the insurer taking any one of the following actions: rejecting a claim; only paying part of a claim; cancelling the policy; imposing additional policy terms and conditions and/or charging an additional premium.

Parties who are not consumers must answer all questions honestly and accurately and declare all material facts. A material fact is one that may influence the acceptance of this proposal, or the terms offered. If you are not a consumer and are in any doubt as to whether or not something constitutes a material fact you or your client must disclose it, as misrepresentation of any material fact may invalidate the insurance policy.

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Section A Details of the Proposer	
1. Full Name:	
1. Address:	
Postcode:	
Job/Occupation:	
Date established/Date of Birth:	
2. Is the proposer the claimant or the defendant?	Claimant <input type="checkbox"/> Defendant <input type="checkbox"/>
3. Please state the domicile of the Proposer:	
If a business, please state the approximate turnover and gross profit for the last financial year	Turnover: £ Gross Profit: £
4. Is it likely that an application for security of costs will be made against the Proposer: If Yes, go to 4(a).	Yes <input type="checkbox"/> No <input type="checkbox"/>
4(a) If Yes, what sum would be adequate security?	£
5. Is the Proposer aware of any other insurances which may be relevant to this dispute: If Yes, please provide details below	Yes <input type="checkbox"/> No <input type="checkbox"/>
6. Is the Proposer, or has the proposer, ever been insolvent or been made bankrupt or discharged from bankruptcy in the last five years, or been a director of a company which has been declared insolvent in the last three years: If Yes, please provide details below:	Yes <input type="checkbox"/> No <input type="checkbox"/>
7. Has the Proposer been convicted of a criminal offence (other than a motoring offence not resulting in imprisonment): If Yes, please provide details below:	Yes <input type="checkbox"/> No <input type="checkbox"/>
8. Have you submitted this case to any other insurance providers and or litigation funders and or brokers and if yes, please provide details of the outcome:	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section B Proposer's Legal Representation	
If you have placed business with Temple previously do not answer questions 3 and 4 of this section. Otherwise, please answer all questions.	
1. Name and address of the firm:	
Name of Partner/fee-earner dealing:	
Postcode:	
DX:	
Tel. No:	
E-mail:	
Your case reference:	
Normally we prefer to correspond with our customers by e-mail. Please indicate your preference for any future communication	E-Mail <input type="checkbox"/> Hard Copy Letter <input type="checkbox"/>
2. Your own Counsel:	
Chambers:	
3. Please tell us about your firm	

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No of Partners:	
Number of Assistant Solicitors:	
Number of other fee earners:	
Approximate value of litigation expressed as a % of your firm's total fee income:	%
In which areas of litigation does your firm specialise?	
What is the % split between these areas of litigation?	
Approximate % of litigation handled on a CFA basis:	
last year	%
this year	%
next year (estimate)	%
4. Does your firms name appear on the Exempt Professional Firms section of the Financial Conduct Authority Register to enable you to transact insurance business?	Yes <input type="checkbox"/> No <input type="checkbox"/>
FCA/EPF Number:	
5. Has any other law firm previously had conduct of this case?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If Yes, why have they been dis-instructed?	

Section C Details of the Opponent(s)

1. Full Name			
Address:			
Postcode:			
Domicile:			
Tel. No:			
2. Legal status of the opponent, (e.g. Limited Company, individual.):			
3. Is the opponent registered for VAT (this is important because if they are not, the cover required will have to include the additional liability for VAT)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
4. Please explain why you consider that the opponent will be able to pay damages and costs:			
5. Is the opponent insured for the proceedings?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
If yes, please give the name of the insurer if known.			
6. Please provide details of any additional parties who have been or who may be joined by the Opponent, in the legal action:			
7. Does the opponent have a CFA in place?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Don't Know <input type="checkbox"/>
8. Does the opponent have an ATE policy for this claim:	Yes	No <input type="checkbox"/>	Don't Know <input type="checkbox"/>
If yes, please give details.			
9. Details of the opponent's legal representatives:			
Name and Address of Law Firm:			
Partner dealing:			
Counsel:			
Chambers:			

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Section D Details of the Legal Action			
1. Category of Dispute - please tick			
Contractual/ Commercial	<input type="checkbox"/>	Insolvency	<input type="checkbox"/>
Professional Negligence	<input type="checkbox"/>	Media Disputes	<input type="checkbox"/>
Property	<input type="checkbox"/>	Employment	<input type="checkbox"/>
Construction	<input type="checkbox"/>	Competition	<input type="checkbox"/>
Sale of Goods	<input type="checkbox"/>	Intellectual Property	<input type="checkbox"/>
Defamation / Privacy	<input type="checkbox"/>	Other, please specify:	
2. Date of the cause of action:			
3. Date of limitation (and the basis for this):			
4. Date you were instructed:			
5. What stage has the Legal Action reached:			
Pre – letter before action	<input type="checkbox"/>	Particulars of claim served	<input type="checkbox"/>
Letter before action sent	<input type="checkbox"/>	Defence received	<input type="checkbox"/>
Pre- action protocol response provided	<input type="checkbox"/>	Trial Date set	<input type="checkbox"/>
Proceedings issued	<input type="checkbox"/>	Date of Trial:	
6. Jurisdiction & applicable law:			
7. Please identify the forum (court, tribunal etc.) for the Legal Action:			
Arbitration	<input type="checkbox"/>	Chancery Division	<input type="checkbox"/>
County Court or Patent County Court	<input type="checkbox"/>	Divisional Court	<input type="checkbox"/>
Queens Bench Division	<input type="checkbox"/>	Court of Appeal	<input type="checkbox"/>
Commercial Court	<input type="checkbox"/>	Competition	<input type="checkbox"/>
Commercial Court, Admiralty Division	<input type="checkbox"/>	Supreme Court	<input type="checkbox"/>
Technical and Construction Court	<input type="checkbox"/>		
8. Please state your views as to the % prospects of success:			%
9. Please state Counsel's views as to the % prospects of success (if available):			%
10. Type of evidence relied on – is it:	Oral & documentary	Just Oral	Just Documentary?
11. Has liability been admitted:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
If so, on which date:			
12. Please give details about any negotiations or ADR attempts:			
13. Please provide details of any Part 36 offers or settlement proposals to date:			
14. Please give details of any likely Counterclaim:			
15. Please briefly summarise the dispute including relevant dates / amounts in dispute / remedies required (please set out on a separate sheet as necessary):			
16. (a) Please give brief details of the main arguments which have been or might be used by the opponent to defeat the Legal Action:			
(b) please also explain how the Proposer intends to overcome the opponent's arguments:			

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17. What do you consider to be the weaknesses in your case and how will they be mitigated?	
18. Is there anything else which may adversely affect the success of the legal action?	
19. What is the value of the claim:	£
20. What is the lowest acceptable settlement figure / realistic settlement figure:	£
21. If an Expert has been appointed, please identify the discipline/s and provide copies of any reports:	
If an Expert has yet to be appointed, please provide a description of the expertise that may be sought:	
22. Have you entered into a CFA? (if yes, please provide a copy)	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the CFA full or discounted:	Full <input type="checkbox"/> Discounted <input type="checkbox"/>
Uplift:	%
Date of CFA Agreement:	
23. Has counsel entered into a CFA:	Yes <input type="checkbox"/> No <input type="checkbox"/>
Is the CFA full or discounted:	Full <input type="checkbox"/> Discounted <input type="checkbox"/>
Uplift:	%
24. What are your own legal fees to date:	£
What are your own counsel's fees to date:	£
Please provide an estimate of your own additional legal fees up to and including trial:	£
Please provide an estimate of your Counsel's additional fees up to and including trial:	£

Section E Cover Required

When completing this section please note the cover that may be provided will insure your client for their liability for the opponent's legal costs and disbursements and your client's liability for their own disbursements. Any cover provided will not insure your client for your own legal fees or for your own counsel's fees.

1. Own Disbursements.	
a) What is the cost of your own disbursements, excluding Counsel's fees, incurred to date:	£
b) What do you estimate the additional cost of your own disbursements, excluding Counsel's fees, to be that are likely to be incurred up to and including trial:	£
2. Opponent's Costs.	
a) Please give your best estimate of the opponent's total costs, already incurred and to be Incurred, including their own disbursements and counsels fees, up to and including trial. (Please include VAT if applicable)	£
Total Section E	£

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Declaration to be signed by (Consumer) Proposer

I/we declare that after full enquiry I/we have answered the questions asked in the proposal form fully, honestly and to the best of my/our knowledge. I/we agree to inform Temple of any material alteration to these facts occurring before the inception of the policy.

I/we agree that the information that I/we have provided to the Solicitor is true, accurate and complete to the best of my/our knowledge and I/we understand that the Solicitor has relied on this information to complete this Proposal and Temple will rely upon the same information.

Signed By Solicitor:		Signed By Proposer:
Print Name in Capitals:		Print Name in Capitals:
Date:		Date:

Declaration to be signed by (Company) Proposer

I/We declare that after full enquiry the statements and particulars contained in this proposal are true and that I/We have not suppressed or misstated any material facts or documents. I/We agree that this Proposal together with any other information supplied by me/us shall form the basis of any contract of insurance issued. I/We undertake to inform Temple of any material alteration to these facts occurring before the inception of the contract or at any time thereafter.

I/We warrant that all information I/We have provided to the Solicitor is true, accurate and complete and I/We understand that the Solicitor has relied on this information to complete this Proposal and Temple will rely on the same information.

Signed By Solicitor:		Signed By Proposer:
Print Name in Capitals:		Print Name in Capitals:
Date:		Date: