

Commercial ATE Proposal Form

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All Information will be treated in strictest confidence by Temple.

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.

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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.
5. Disbursement funding and fee funding may be available for this case if Temple agrees to offer terms. Please indicate in Section A question 2 if this would be of interest.

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Section A - Details of the Proposer

1. Full Name:

Date established / Date of Birth:

Address:

Job / Occupation:

2. Please tick if either of the following are required in addition to ATE:

☐ Disbursement Funding ☐ Fee Funding

3. Is the proposer the claimant or the defendant?

☐ Claimant ☐ Defendant

4. 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
£	£

5. Is it likely that an application for security of costs will be made against the Proposer:

☐ Yes ☐ No

If yes, what sum would be adequate security?

6. Is the Proposer aware of any other insurances which may be relevant to this dispute:

☐ Yes ☐ No

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If yes, please provide details below:

7. Is the Proposer, or has the Proposer, ever been insolvent or been made bankrupt or discharged from bankruptcy in the last 5 years, or been a director of a company which has been declared insolvent in the last 3 years:

☐ Yes ☐ No

If yes, please provide details below:

8. Has the Proposer been convicted of a criminal offence (other than a motoring offence not resulting in imprisonment):

☐ Yes ☐ No

If yes, please provide details below:

9. Have you submitted this case to any other insurance providers and or litigation funders and or brokers:

☐ Yes ☐ No

If yes, please provide details below:

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Section B - Proposer's Legal Representation

1. Firm Name:

Name of Partner / fee-earner dealing:

Address:

DX:

Telephone Number:

Email:

Your case reference:

Normally we prefer to correspond with our customers by e-mail. Please indicate your preference for any future communication:

☐ E-mail ☐ Hard Copy Letter

2. Your own Counsel:

Chambers:

3. Information about your firm.

Number of Partners:

Number of Assistant Solicitors:

Number of other Fee Earners:

Approximate value of litigation expressed as a percentage of your firm's total fee income:

%

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In which areas of litigation does your firm specialise and what is the percentage split between these areas of litigation?

Area of Litigation	Percentage Split
	%
	%
	%
	%
	%
	%

Approximate percentage of litigation handled on a CFA basis:

Last Year	This Year	Next Year (estimate)
%	%	%

4. Does your firm's name appear on the Exempt Professional Firms section of the Financial Conduct Authority Register to enable you to transact insurance business?

☐ Yes ☐ No

FCA / EPF Number:

5. Has any other law firm previously had conduct of this case?

☐ Yes ☐ No

If Yes, why have they been dis-instructed?

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Section C - Details of the Opponent(s)

1. Full Name:

Domicile:

Address:

Telephone Number:

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 ☐ No

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 ☐ No

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:

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7. Does the opponent have a CFA in place?

☐ Yes ☐ No ☐ Unknown

8. Does the opponent have an ATE policy for this claim?

☐ Yes ☐ No ☐ Unknown

If Yes, please give details:

9. Details of the opponent's legal representatives:

Firm Name:

Name of Partner dealing:

Address:

Counsel:

Chambers:

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Section D - Details of the Legal Action

1. Category of Dispute:

- | | | |
|---|---|---|
| <input type="checkbox"/> 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 below: |

2. Date of the cause of action:

3. Date you were instructed:

4. Date of limitation (and the basis for this):

5. What stage has the Legal Action reached:

- | | | |
|--|--|--|
| <input type="checkbox"/> Pre-letter before action | <input type="checkbox"/> Letter before action sent | <input type="checkbox"/> Pre-action protocol response provided |
| <input type="checkbox"/> Particulars of claim served | <input type="checkbox"/> Defence received | <input type="checkbox"/> Proceedings issued |
| <input type="checkbox"/> Trial date set | Date of Trial: | <input type="text"/> |

6. Jurisdiction and applicable law:

7. Please identify the forum (court, tribunal etc.) for the Legal Action:

- | | | |
|---|---|---|
| <input type="checkbox"/> 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 | |

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8. Please state your views as to the percentage prospects of success:

9. Please state Counsel's views as to the percentage prospects of success (if available):

10. Type of evidence relied on:

☐ Just Oral ☐ Just Documentary ☐ Oral and Documentary

11. Has liability been admitted?

☐ Yes ☐ No

If Yes, 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):

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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:

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. a. If an Expert has been appointed, please identify the discipline/s and provide copies of any reports:

b. 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 ☐ No

Is the CFA full or discounted?

☐ Full ☐ Discounted

Uplift:

%

Date of CFA Agreement:

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23.Has counsel entered into a CFA?

☐ Yes ☐ No

Is the CFA full or discounted?

☐ Full ☐ Discounted

Uplift:

%

24.What are your own legal fees to date?

£

What are your own counsel's fees to date?

£

25.Please provide an estimate of your own additional legal fees up to and including trial:

£

26.Please provide an estimate of your Counsel's additional fees up to and including trial:

£

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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 Counsel's fees, up to and including trial: (Please include VAT if applicable)	£
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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.

Solicitor Signature:

Proposer Signature:

Print Name in capitals:

Print Name in capitals:

Date:

Date:

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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.

Solicitor Signature:

Proposer Signature:

Print Name in capitals:

Print Name in capitals:

Date:

Date:

Send to Temple:

By email: commercialate@temple-legal.co.uk or by post:

Temple Legal Protection Ltd, Portsmouth House, 1 Portsmouth Road, Guildford, Surrey GU2 4BL
Tel: 01483 577877

Commercial Proposal Form - LGLBPF

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