

# Guide for Insolvency Litigators

**temple**  
legal protection



## Litigation insurance and disbursement funding

**We take the risk, so  
you don't have to**

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**WE HELP MORE**

### Insolvency

Whether you are a solicitor litigating insolvency cases or an insolvency practitioner, we are aware that the need for you to source litigation/ATE insurance is ever present. Achieving a return for creditors will be more important than ever in the coming years and our litigation insurance and disbursement funding can, more often than not, unlock quicker settlements.

- Here at Temple we continue to take on the risks of insolvency litigation so that insolvency practitioners can have peace of mind in the event the case is lost. Our litigation insurance protects insolvency practitioners from the risk of having to pay the opponent's costs, and also covers own disbursements such as court fees, expert fees and mediator's fees.
- With our product offering there is no requirement to pay for funding, no need to assign a case or take a risk on how much a client might ultimately recover if the case was brought in the usual way.

#### We are tried and tested.

- The earlier an insolvency practitioner utilises litigation insurance, the lower the premium is likely to be, and negate the risk of either having to pay a higher premium later, or not obtaining litigation insurance at all.
- If a policy is taken out with Temple, the insolvency practitioner is also eligible to apply for disbursement funding. With both litigation insurance and disbursement funding, the insolvency practitioner can progress their case more quickly and confidently than they otherwise might have done.



Our highly experienced commercial team deal with a wide range of insolvency cases including allegations of breaches of duty by company directors, misfeasance, fraudulent trading, wrongful trading, transactions at an undervalue (TUVs), preference claims and transactions allegedly defrauding creditors.

- We always look to tailor a solution to the proposal before us, whether that be an individual case or an application for a delegated authority scheme.
- We are seen as a fresh pair of independent eyes, not afraid to ask the awkward and, indeed, sometimes obvious questions which need to be addressed when assessing a proposal.

#### We help more.

Please do feel free to contact any member of our [commercial team](#) to discuss cases you have conducted.

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## About Us

### Who are Temple?

**Temple Legal Protection Limited** is an English-registered company incorporated in 1999 and widely recognised as one of the foremost providers of litigation insurance, also known as after-the-event or ATE insurance.

**Our litigation insurance offering** is administered through two principal underwriting divisions - one for clinical negligence and personal injury cases, the other for commercial disputes. This guide is intended for commercial litigators, however we also provide litigation insurance for Clinical Negligence and Personal Injury cases

**The underwriters in the Temple commercial team** have a wealth of knowledge and experience of commercial litigation; they have practised either as a solicitor or barrister for many years prior to becoming underwriters - or have qualified to do so.

**Temple Legal Protection** is authorised and regulated by the Financial Conduct Authority.

### Who is the insurer?

**Royal & Sun Alliance Ltd ("RSA")**, the UK's oldest general insurance company, is the insurer. It has been in the insurance business for 300 years and has an "A" credit rating.

**Temple is proud to be the litigation insurance** managing general agent of RSA. We have been given exclusive delegated authority to quote, bind and issue contracts of insurance.

**In addition we develop, market and promote** new litigation insurance products

on their behalf, as well as dealing with complaints and administering all claims.





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## Litigation Insurance

### What we insure

- (a) **adverse costs** - including costs and disbursements arising out of a detailed assessment hearing plus interim costs for interlocutory applications;
- (b) **the insured's disbursements** - such as court fees, expert's fees and mediator's fees.

### Are appeals insured?

If a Temple litigation insurance policy is issued, it specifically excludes any costs of appeal, whether in relation to an interlocutory decision or judgment at trial.

If you wish to appeal any decision or are the respondent in any appeal, you can apply to us for insurance and the application will be dealt with in the usual way.

If we offer terms which are accepted by you, a separate and distinct policy of insurance will be issued relating to the appeal. This will entail the payment of an additional premium in the event of success (in addition to that of the underlying policy).

### What types of cases we insure

In addition to insolvency matters, we insure a wide range of different types of cases - including, but not limited to - contested wills and probate, financial mis-selling, professional negligence, breach of contract, shareholder disputes, unfair prejudice petitions, insurance disputes, construction disputes and defamation and privacy actions. You may want to read more about these - see [Commercial Litigation Insurance - Case Types](#)

We insure cases brought in the courts as well as tribunals, arbitrations and adjudications.

### What we don't insure

We do not offer cover in respect of your own solicitors' costs, counsel's fees, costs draftsman's fees or recoverable VAT.

### Who we insure

Ordinarily it is the claimant, but we can and do insure defendants. Read more about this - see ['Not Just for Claimants - Insuring Defendants'](#)

### Jurisdiction and governing law

The proceedings and arbitrations we insure must commence in the UK, Channel Islands or Isle of Man.

For cases where the governing law is that of [Scotland](#) or [Northern Ireland](#), we are more likely to ask for counsel's opinion to support the application for cover.

### Security for Costs

Subject to the merits of the legal action and prospects of success at trial being assessed at the requisite level, we can offer to incorporate cover for this into the insurance contract by way of an endorsement adding an anti-avoidance clause.

### Retrospective cover

Unless we specify in any offer of terms, the cover is retrospective and covers all costs and disbursements incurred prior to the date of inception of the policy. Depending on when the case is presented to us this can amount to a considerable sum.

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### The level of indemnity

This is the total sum you wish to be insured against. It comprises two elements:

- (a) your opponent's projected costs - up to and including trial;
- (b) your projected disbursements - up to and including trial.



### “Top-up” of level of indemnity

If **costs budgets have not been filed and served**, appraising the opponent's costs and your company's own disbursements to trial will be an estimate based on your experience and a set of assumptions.

If those assumptions prove incorrect and, as the case progresses, the actual costs exceed the predicted costs by a significant margin this could mean you are under-insured and without adequate protection for the financial risks of litigation.

In such circumstances you can easily apply to us for an increase in the level of indemnity. Subject to there being no material deterioration in the merits and prospects of succeeding at trial we will, more often than not, agree to such request.

### The Insurance Premium

**Payment of premiums are fully deferred** until conclusion of the legal action, whether by way of settlement or judgment. This is contingent on success; in other words if your case loses, no premium is payable.

All premiums are subject to Insurance Premium Tax at the prevailing rate, currently levied at the rate of 12% (unless the company resides outside the UK).

Each case is different in terms of its potential value; we try to cater for this and can offer indicative terms as well as give you a choice of different premium models. We want to be fair to your client but have a degree of flexibility when offering terms.

Please note that these premiums are irrecoverable from the opponent.

The premium pricing for these types of actions are fixed, staged and calculated with reference to the level of indemnity sought and the value of the claim. Read more about [litigation insurance for Insolvency Litigation](#).

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## Working with us



### What we look for in a case

- a) **Are the legal and factual merits strong?** We typically expect an assessment of the merits and prospects of succeeding at trial to be 60% or more;
- b) **Do you have the funds to see the matter all the way to trial?** If not, what arrangements have been - or are proposed to be - put in place to ensure the company is able to do so? For example are you and/or Counsel acting on a conditional fee agreement, or has disbursement funding been secured?
- c) **Does the opponent have the financial resources** to satisfy any monetary judgment and adverse costs award?

### The application process

The process is free of charge and straightforward.

Simply complete the [Commercial Proposal Form](#) and send it to us, together with digital copies of all relevant papers including (but not limited to) any letter of claim, letter of response, draft pleadings and any Counsel's advice.

- Our initial turnaround time for new proposals is within five to ten working days.
- We will either ask for further information, offer indicative terms or decline it with reasons.
- If you wish to discuss the case before submitting papers, any of [our commercial underwriting team](#) are available to do so.

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## Disbursement Funding

**With Temple litigation insurance your client is eligible for our disbursement funding**

**WE HELP MORE**

If you take out litigation insurance with us, we can make **disbursement funding** available to you through our wholly owned subsidiary, Temple Funding Limited. This loan pays for disbursements incurred in the legal action, such as court fees, expert's reports and mediator's fees.

If you wish access to such a facility you can indicate this in the Commercial Proposal Form referred to above. A one-off disbursement funding form will be required to be completed by you.

Temple Funding Limited is authorised and regulated by the Financial Conduct Authority.

The interest rate on the outstanding balance of any loan is 10% per annum compounded monthly. There is a transaction fee of £75 per drawdown.

You pre-agree with us the level of funding required and, if further funding is required as the case progresses, you simply email us with the reason for this and the amount required.

Should your client lose their case, then a claim will ordinarily be made under the policy in respect of disbursements and monies remitted to the insured. This will in turn be applied by it to pay off any outstanding loan balance and interest and charges to Temple Funding Limited.

### Right to Cancel

**Should we issue an insurance policy** and (where applicable) disbursement funding credit agreement to you, you have the right to cancel both - if you choose to do it - provided this is within fourteen days of the date of policy and credit agreement.

# Guide for Insolvency Litigators

## Delegated Authority

### Delegated authority schemes

Finally, if you have a steady stream of instructions each month from clients wishing to take out litigation insurance, we can offer you a [delegated authority scheme](#). This essentially puts you in our shoes and allows you to assess each case and, using our dedicated online policy system, incept policies on behalf of clients and offer disbursement funding (if/as required).

The insurance premium pricing for such delegated authority schemes are at a substantial discount to our standard pricing.

We can tailor the scheme to your caseload helping you to satisfy your compliance obligation to your clients.

A bespoke delegated authority scheme will also allow you to provide a complete offering to your client that fits with your retainer, helping you to win more instructions without additional unbillable time taken up instructing broker or insurers.

Should such a scheme be attractive to you, it will be necessary for us to conduct due diligence on your firm and an initial [Solicitors' Application Form](#) will need to be completed.

Please do feel free to [get in touch](#) if this is of interest.

“Temple’s litigation insurance cover is the real deal for commercial litigators; it’s second-to-none, as is the service from their Underwriters.”

Razi Mireskandari  
Simons Muirhead & Burton LLP



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Temple Legal Protection is one of the country's leading underwriters of legal expenses insurance. We provide a wide range of litigation insurance solutions to law firms and brokers in order to help people reduce their financial risks in litigation.

Temple Funding offers straightforward, affordable disbursement funding that gives claimants the freedom to pursue their claim without having to pay expenses along the way. Our facility provides law firms with a solution to the significant cash flow burden that comes with funding litigation.

Temple Funding Limited is a subsidiary of Temple Legal Protection.

Temple Legal Protection and Temple Funding are authorised and regulated by the Financial Conduct Authority

## Contact Us

To find out more about how our litigation insurance and disbursement funding and litigation insurance can help you and your clients:

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Email: [info@temple-legal.co.uk](mailto:info@temple-legal.co.uk)  
Visit: [www.temple-legal.co.uk](http://www.temple-legal.co.uk)