

## Costs protection in practice: four likely scenarios

### Scenario 1: Poor claimant and major media organisation

**Aim:** To use QOCS to ensure that the Claimant is not required to pay the Defendant costs which exceed the damages awarded to the Claimant, unless specific exceptions apply.

Claim = £25,000

#### Outcome 1: Claimant wins at trial

*Defendant's costs - £50,000*

*Claimant's costs (under CFA) - £50,000*

**Damages award: £25,000**

1. **Claimant** gets award of **damages** of £25,000
2. **Claimant** gets **costs** award of £50,000
3. **Defendant** gets nothing

#### Outcome 2: Claimant either loses interim hearing on the way to winning at trial, or loses an issue at trial whilst succeeding overall

*Defendant's costs - £50,000 (of which £15,000 are costs of interim hearing)*

*Claimant's costs (under CFA) - £50,000*

**Damages award: £25,000**

1. **Claimant** gets £10,000 in **damages** (£25,000 award minus Defendant's costs of £15,000)
2. **Claimant** gets **costs** award of £50,000
3. **Defendant** receives nothing (having had £15,000 by way of set off against damages he has paid)

#### Outcome 3: Claimant fails to beat Part 36 offer

*Claimant damages assessed at £20,000 (so less than defendant's offer of £25,000)*

*Claimant's costs (under CFA) up to offer - £10,000*

*Defendant's costs post-offer - £35,000*

1. **Claimant's** costs award is limited to £10,000 (paid to lawyers)
2. **Claimant** gets no **damages**, as the £35,000 payable to the Defendant exceeds the £20,000 assessed damages)
3. **Defendant** gets nothing (having had liability for damages set off against his costs entitlements, he is not entitled to any further costs)

#### Outcome 4: Claimant loses at trial

*Defendant's costs - £50,000*

*Claimant's costs (under CFA) - £50,000*

1. **Claimant** pays no **costs** to the Defendant (or to own lawyer under CFA)
2. **Defendant** pays no **damages**, but does not recover costs