

## FAQs: Funding in general

### **Is third party funding (TPF) permitted in all jurisdictions?**

It (in one form or another) is permitted in most common law jurisdictions in accordance with the laws and regulations thereunder. We have funded/are funding cases in Australia, BVI, Bermuda, Canada, Germany, Hong Kong, Isle of Man, Jersey, New Zealand, St Kitts & Nevis, The Netherlands, UK and USA. This includes international arbitrations governed by, amongst others, the rules of ICSID, UNCITRAL, LCIA, ICC and the Energy Charter Treaty. We are happy to discuss or explore if the jurisdiction that applies to the claim permits litigation funding.

### **What about TPF in the UK?**

TPF is permitted under statute, case law and public policy in the UK. There has been widespread recognition in the UK that funding provides access to justice. Funders in the UK are not permitted to exercise control over cases and providing funding is not being regarded as control. The global trend is towards treating litigation funding not only as a social good, but also as a hedging tool and a means to free up working capital for other purposes.

### **I don't need funding for all my legal costs, will Harbour pay part of them?**

Absolutely. Harbour is happy to consider funding all or part of the costs of a case, as long as the case fits our criteria.

### **Does Harbour insist that every case should go to trial or final hearing?**

No. On the contrary, if the case is settled on the best possible terms for the claimant it eliminates the risk of going to trial. That said, we fund cases on the assumption that they will go to trial or final hearing.

### **Can the Harbour Funds withdraw funding?**

Only in clearly defined circumstances i.e. if there is a 'material adverse decline' which makes the case no longer viable or caused a material breach of the funding agreement. Examples are the defendant going bust or evidence which torpedoes the case irretrievably. To be clear, if we discontinue funding (which is very rare), we pay all costs up to the date of termination and Harbour loses its investment, and thus we would not take such a decision lightly.

### **What if my claim recovers less than Harbour has invested?**

Harbour is never paid more than the amount recovered.

### **What happens if the case is not successful, will I have to repay some money?**

No. We only get paid if your case is successful and damages have been obtained.

### **How do you control the cases that are funded?**

The legal team runs the case as if the claimant was funding the claim. If we offer funding, it is because we have confidence in the capability of the legal team and the claim. We are kept up to date on developments in the case and review risks. That said, our funded claimants value our input and do ask our view because of our substantial experience of disputes.

### **What about privilege?**

Privilege is what protects communications between parties and lawyers. A category of privilege called common interest privilege is what protects all exchanges between you and us from being looked at by the defendant. We therefore ask all claimants to sign our NDA as soon as they start sharing information with us.

### **How soon before the trial of my case should I approach Harbour for funding?**

Realistically the minimum period before trial should be three months. If you have a case now, the best thing to do is call us straightaway, so we can discuss your options.

### **If my application for funding is successful, how soon can the funds be available?**

Funds are available immediately after all funding conditions have been satisfied. Upon approval, all the capital required for that case is set aside; not all funders do that. Unlike some others, we have instant access to funds.

### **When does Harbour pay the bills?**

Bills are paid monthly in accordance with the agreed budget and timeline and on time. If monies are required to be paid into court, e.g. payment for security for costs or an insurance premium, we make those payments as they are requested.

### **Will Harbour pay for costs I have already incurred?**

Sometimes. However, we consider each case on its merits and will pay historic legal costs if there is a good reason to do so.

### **Can you arrange ATE insurance?**

Harbour can provide access to a dedicated ATE facility which provides up to £6.5 million in adverse costs cover per case. This syndicate is made up of 5 ATE companies who will approve cases usually within 3 days of presentation by us. This facility has very competitive pricing and the staged payments of the premium means the bulk of the costs is incurred close to trial.

**Important information**

Harbour Litigation Funding Limited ("HLF"), a company incorporated under the law of England and Wales, is authorised and regulated by the Financial Conduct Authority of the United Kingdom and acts as the exclusive investment sub-adviser to each of Harbour Litigation Investment Fund, L.P., Harbour Fund II, L.P., Harbour Fund III, L.P. and Harbour Fund IV, L.P. (the "Harbour Funds"). Each of the Harbour Funds is an exempted limited partnership organised under the laws of the Cayman Islands.

For the purpose of this material, a reference to "Harbour", "we", "us" or "our" shall mean (a) in the context of approving and providing litigation funding, any of the Harbour Funds (as the case may be) operating out of the Cayman Islands; and (b) in the context of investment advisory and/or marketing activities (including but not limited to general promotion of the Harbour Funds; market research on case opportunities; and identifying potential cases), HLF operating out of the United Kingdom.