

Disclosure to prospective members: overview of conflicts of interest which may arise in a Litigation Funding Scheme

Overview

This document has been prepared by LawFinance Limited (**LawFinance**) to provide a general overview of the conflicts that may arise in a scheme where it is providing litigation funding to members (**Litigation Funding Scheme**). The nature of a Litigation Funding Scheme and the services provided by a litigation funder, such as LawFinance, means that there will often be the potential for conflicts of interest to arise due to the divergent interests of the key parties involved.

Potential divergent interests of the key parties to a Litigation Funding Scheme

Litigation funders, such as LawFinance, will often have an interest in minimising the legal and administrative costs which are associated with running a Litigation Funding Scheme.

These interests may be divergent to the interests of the members of a Litigation Funding Scheme. While the interests of members of the litigation scheme will vary, it is likely that they will hold the following common interests:

- minimising the legal and administrative costs associated with running the Litigation Funding Scheme;
- minimising the remuneration paid to the litigation funder; and
- maximising the amounts recovered from the defendant in a Litigation Funding Scheme.

Finally, the lawyers will have an interest in receiving fees in return for the legal services provided by them in connection with the Litigation Funding Scheme.

Examples of common conflicts which may arise

While perceived or actual conflicts of interest will vary according to the particular facts and circumstances of each Litigation Funding Scheme, LawFinance is particularly aware that potential conflicts of interest are likely to arise in the following circumstances:

- (a) where lawyers act for both a funder and members;
- (b) where there is a pre-existing legal or commercial relationship between the funder, lawyers and/or members; and
- (c) where the litigation funder has control of, or has the ability to control, the conduct of the legal proceedings.

Further details of LawFinance's policies to manage conflicts of interest

As outlined above, LawFinance does not consider this to be an exhaustive overview of circumstances where the divergent interests of key parties may create a perceived or actual conflict of interest in the context of a Litigation Funding Scheme. LawFinance has a detailed policy to manage the conflicts of interest that may arise during the course of a Litigation



Funding Scheme. In the event that a prospective member becomes a member of a Litigation Funding Scheme funded by LawFinance, LawFinance will provide the member with a copy of this policy.