

GPDF Guidelines on the Discretionary Funding of Legal and associated costs

Eligibility for Funding

1. An LMC or GP referred by an LMC (hereinafter referred to as the “Applicant”), may apply to the GPDF Ltd (“GPDF”) for discretionary funding of legal issues and associated costs.
 - 1.1. Funding requests must concern a matter which relates to the interests of:
 - 1.1.1. Any individual general medical practitioner where the Applicant can demonstrate that such interests meet the condition in 6.3 below; or
 - 1.1.2. A class or classes of general medical practitioners
 - 1.2. Any general medical practitioner must be one who is providing and/or performing primary medical services under the National Health Service Act 2006 and/or the National Health Service (Scotland) Act 1978 and/or the Health and Personal Social Services (Northern Ireland) Order 1972 and/or the National Health Service (Wales) Act 2006 any Acts or Orders amending or consolidating the same and as from time to time extended to all or any part of the United Kingdom
 - 1.3. Any GP (whether performer or provider), must be referred by an LMC.
 - 1.4. Any interests must not be limited to the Applicant’s personal interests or the personal interests of those with whom the Applicant may be in partnership.
 - 1.5. An application by an LMC must relate to its activity under the NHS Acts referred to in 1.2.
2. The GPDF may consider a funding request from any of the GPC(UK). GPC(E), SGPC or GPC(W) Executive/Negotiating Teams, on any matter falling within the remit of the GPC which is beyond that provided by the BMA Legal department to the GPC as a Branch of Practice Committee of the BMA.
3. The GPDF will not offer financial assistance or other support concerning, but not limited to, any:
 - 3.1. Criminal matters;
 - 3.2. Issues arising from commercial contracts or arrangements except where 1.1 and 1.4 apply;
 - 3.3. Defamation (libel or slander) issues;
 - 3.4. Representation before the Professional Conduct Committee, Health Committee or any committee on registration, revalidation, certification or professional performance of the General Medical Council;
 - 3.5. Matters concerned with clinical or professional performance, including professional conduct;
 - 3.6. Any case where legal proceedings have already been commenced by the Applicant, except where limitation is an issue;

- 3.7. Any claim which arises outside England, Northern Ireland, Scotland or Wales;
 - 3.8. Where a previous application to the BMA an MDO, or an equivalent body in relation to the same or similar matter has been declined, other than because the application is out of the scope of the assistance provided by that body.
4. There is no entitlement to any funding of legal and associated costs and the GPDF reserves the right to refuse funding or support on any matter at its sole discretion.

Process

5. An application clearly stating the facts and reasons for which funding is requested should be sent to the Director of Operations of the GPDF, together with all relevant documentation. Cases involving Northern Ireland are a matter for the NIGPDF Ltd alone to address, although the Director of Operations of the GPDF may be consulted.
6. The factors which the Director of Operations of the GPDF, who will take appropriate advice from the GPDF Chair and others, will consider in deciding whether to grant funding may include but are not limited to:
 - 6.1. Whether the issue has already been dealt with (either in the past or currently), by an external lawyer retained by the LMC or Applicant or the Applicant's practice
 - 6.2. Whether on referral to solicitors, who may consult counsel, for merit assessment there is a better than 50% chance of success;
 - 6.3. Whether the matter carries sufficient political or legal importance which would be likely to affect a significant number of the profession;
 - 6.4. Whether sufficient political or other actions are proposed, have been, or are currently being taken by the GPC, GPC(E), SGPC or GPC(W) to seek resolution of the issue;
 - 6.5. Whether the relevant GPC Executive/Negotiating Team advises that the issue is of sufficient legal and/or political importance that it should be funded for the benefit of the profession as a whole or a significant number of the profession;
 - 6.6. Whether the matter overlaps with the discretionary legal assistance available to BMA members;
 - 6.7. Where there may be an appropriate chance of success, but that success may disadvantage the profession or a class of the profession
 - 6.8. Matters exclusively within the remit of the NIGPDF Ltd.
7. The Director of Operations will act within the delegated spending authority granted by the Board of GPDF, but if there is a difference of opinion in the matters at paragraph 6 the views of the Directors will be sought.
8. If appropriate the Director of Operations may seek to work with other interested parties with a view to the issue being considered for full or joint funding with the GPDF.
9. Every reasonable endeavour will be made to provide the Applicant with a decision within 28 days of receipt of the application or earlier in more urgent matters.

However, the GPDF will not be responsible for any matter that is compromised due to a failure by the Applicant to submit his application in a timely manner or is compromised for any other reason. Nor will the GPDF be liable for any matter which is compromised due to lack of, or inaccurate, or misleading information at the time of application or thereafter.

10. The GPDF, at its sole discretion, reserves the right to withdraw funding at anytime.
11. Before withdrawing funding, the Director of Operations will again consider the issues set out in paragraphs 3 and 6 above, together with any other information brought to his notice. Reasons for the withdrawal of funding may include, but are not limited to:
 - 11.1. Where it becomes apparent during the course of any proceedings or anytime thereafter that the merits of the case have fallen below 51%, whether as a result of new information or because of inaccurate or misleading information or because there has been a lack of proper instruction or provision of information pertinent to the case;
 - 11.2. Failure by the Applicant to follow the advice of lawyers instructed by GPDF;
 - 11.3. Failure by the Applicant to accept an offer of settlement which lawyers instructed by GPDF and/or GPDF believe to be reasonable.

General Conditions

12. If an application for funding is accepted the GPDF in its absolute discretion will have the full right to:
 - 12.1. Determine with the Applicant how the case will be progressed and how much money will be spent by GPDF;
 - 12.2. Determine who will be retained as an adviser and on what terms;
 - 12.3. Enter into discussions and correspondence with such other parties as appropriate to explore the possibility of resolving the case;
 - 12.4. Withdraw support if an offer of settlement, which the GPDF and/or the appointed adviser, believes is reasonable, is rejected by Applicant;
 - 12.5. Withdraw support if advice given to an Applicant is rejected;
 - 12.6. Withdraw from the case if the merit's assessment falls below 51%
 - 12.7. Withdraw support if the individual to whom funding is provided fails to cooperate fully with the adviser appointed by the GPDF
 - 12.8. Withdraw support/funding if the Applicant's LMC fails to pay its quota to the GPDF in a timely manner
13. The Applicant practice, its partners and/or directors and/or sole practitioner, and the referring LMC must complete the Deed of Grant (as on the company's website) and accept in writing the conditions set out in this document, including, but not limited to paragraph 14 below.

Cessation of Action

14. In the event that the Applicant withdraws summarily or voluntarily from the action without the consent of the GPDF the GPDF will hold the Applicant and his practice, or where the Applicant is an LMC or a GPC, that body, jointly and severally liable and may recover any reasonable costs incurred by it in the pursuit of the case until

notification of the Applicant's decision has been received by the Director of Operations.

15. In the event that the Applicant provides misleading information or omits to provide information, and this has an adverse impact on the merits of the case, the GPDF may seek recovery of costs as set out at paragraph 14.
16. If the action is discontinued by the GPDF the GPDF shall consider whether the work undertaken thus far should be made available to the Applicant should the Applicant wish to pursue the action itself. Permission will not be withheld unreasonably or as a matter of course, but shall be decided upon in the interest of the GPDF and the wider GP interest.

Recovery of Legal Costs

17. In the event that an order for costs is made in favour of the Applicant to whom funding has been provided by the GPDF and sums are recovered in settlement of that order, the Applicant will immediately pay and agree to instruct any external representatives to immediately pay such amounts to the GPDF. The GPDF will not be responsible for any legal or other fees incurred without its prior written approval. If the GPDF has agreed to pursue the Applicant's case and subsequently costs are awarded against the Applicant then, providing the Applicant has complied with the conditions required by the GPDF, the GPDF will be responsible for payment of such costs.

Data protection / GDPR

18. Any applicant consents to the GPDF holding and processing data in the following manner
 - 18.1. The GPDF holds and processes, both electronically and manually, Personal Data relating to Applicants (which may include partners in a practice or officers in a corporate entity) in accordance with the Data Protection Legislation and the GPDF's data protection policies.
 - 18.2. The GPDF shall be entitled to make Personal Data available to its advisors including insurers, insurance brokers, accountants, auditors, lawyers, benefit providers, other brokers, caterers, and other third parties who provide products and/or services to the GPDF, as well as to regulatory authorities, governmental or quasi-governmental organisations.

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