



Terms of Reference for CJC Review of Litigation Funding.

The CJC will look to provide an interim report by summer 2024, and a full report by Summer 2025. The Review will be based on the CJC's function to make civil justice more accessible, fair and efficient.

The reports will be published.

The reports will provide advice to the Lord Chancellor and, where considered appropriate by the CJC, will make recommendations for change.

The interim report will facilitate an opportunity for wider engagement with the CJC, and this review, either through consultation, provision of evidence, or otherwise.

The scope of the review at its outset is as follows (but may be subject to necessary variation):

(1) To set out the current position of Third Party Funding (TPF)

TPF is currently subject to self-regulation. The review will consider:

- The background to TPF's development in England and Wales, with particular reference to the development of the current self-regulatory approach and the effect of the Jackson Costs Review (2009);
- The current position concerning self-regulation;
- Approaches to the regulation of TPF in other jurisdictions;
- How TPF is located within the broader context of funding options.

(2) To consider access to justice, effectiveness, regulatory options

This work will explore whether the current arrangements for TPF deliver effective access to justice and identify possible alternatives and limitations.

(3) To make recommendations

Set out clear recommendations for reform. This will include consideration of:

- As to whether and how and, if required, by whom, TPF should be regulated.
- As to whether and, if so, to what extent a funder's return on any TPF agreement should be subject to a cap;
- How TPF should be best deployed relative to other sources of funding, including but not limited to; legal expenses insurance, and crowd funding;
- As to the role that rules of court, and the court itself, may play in controlling the conduct of litigation supported by TPF, or similar funding arrangements, including: whether and, if so,

what provision needs to be made for the protection of claimants whose litigant is funded via TPF; and, the interaction between pre-action and post-commencement funding of disputes;

- The relationship between TPF and litigation costs;
- Duties concerning the provision of TPF, including potential conflicts of interest between funders, legal representatives and funded litigants.
- As to whether funding encourages specific litigation behaviour such as collective action