Jamie Molloy
Ignite Specialty Risk Ltd
CJC Review of Litigation Funding

Your response is (public/anonymous/confidential):	Public
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Are you responding on behalf of your organisation?	Both on behalf of the company and in a personal capacity.
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About Ignite Specialty Risk

Ignite Specialty Risk Ltd is a Managing General Agent (MGA) operating exclusively in the Legal Expense Insurance (LEI) sector - https://www.ignitespecialty.com/

Ignite was established in 2022 and through significant expansion, now has Legal Expenses product offerings across the U.K, U.S and Europe.

Ignite is regulated by the Financial Conduct Authority (FCA).

Ignite's Product Offering

Ignite's litigation insurance product line is one of the largest in the LEI market and includes:

- **After The Event (ATE) insurance** for opponents' costs, own disbursements etc, available to all litigants including corporates, SME's and consumers,

- **Capital Protection Insurance (CPI)** insurance for third party funders and creditors financing litigation,

- **CFA/DBA insurance** for law firms and barristers where the enter such a retainer,

- **Cross Undertakings in Damages (CUDI) Insurance** for Freezing Injunction applications,

- **Litigation Portfolio Insurance** for Hedge funds, Third Party Funders and Law firms

Through these product offerings, Ignite has extensive experience of how both the third party funding and litigation insurance market operate, as well as the demands and needs of all stakeholders (Litigants, Law firms, Barristers, Funders, etc).

Ignite's UK Litigation portfolio

Ignite's live UK portfolio presently consists of:

> More than **250 High Court cases**, covering areas such as professional negligence, insolvency, contractual disputes, product liability, with policy cover limits ranging from £100,000 to £10,000,000 per policy sold

> More than **25 Competition Appeal Tribunal cases,** including collective claims and single claimant claims, with policy cover limits ranging from £2,000,000 to £10,000,000 per policy sold

> More than **7,500 Consumer County Court cases**, covering inter alia, personal injury, privacy, nuisance, property disputes, with policy cover limits ranging from £25,000 to £100,000 per policy sold

Submission drafting

This submission has been drafted by Jamie Molloy, Head of ATE, who is a Chambers and Partners ranked litigation insurance underwriter of 18 years' experience in both commercial and consumer civil litigation.

Jamie has provided litigation insurance for cases in all Court levels (County Court, High Court, Court of Appeal, Supreme Court) and various tribunals, including the Competition Appeal Tribunal (CAT) and Employment Tribunals.

Jamie has produced for his academic studies a dissertation covering the implementation of the Access to Justice Act (1999), the Jackson Reports and the Legal Aid, Sentencing and Punishment of Offenders Act (2012) and also a further dissertation comparing the methods of funding litigation across the UK and US, including consideration of Contingency Fee agreements and third party funding agreements (2014).

Jamie speaks regularly at seminars for law firms, chambers and the PNLA and has also given evidence to a European Court on the workings of ATE Insurance policies.

Ignite's General Position concerning the CJC review into Litigation Funding

- Ignite welcomes the opportunity to provide feedback to the Civil Justice Council on such crucial issues concerning the civil justice system. Where further clarity or answers are needed, contact can be made via the email address provided

- Ignite considers it extremely important that a distinction is drawn between Commercial third party funding and Consumer third party funding owing to the significant difference in the business models for each sector and also the varying degrees of success for each sector

- The commercial third party funding market has operated since the early 2000's largely successfully and without significant market issues (until *PACCAR).* Ignite considers that very limited evidence of poor practices exists, which in part is why calls for compulsory regulation have not come until more recently

- The success of the commercial funding market can be contrasted with the failings of the consumer third party funding market, which has operated since c. 2018 with very limited evidence of success, numerous funder and law firm failings and significant evidence of consumer harm

- Owing to a combination of factors including but not limited to:

  - The generic rise in the use of third party funding,
  - the increasing reliance placed on it by litigants owing to a lack of alternative products,
  - The developments in the Class Action regime for Opt Out claims,
  - The significant number of failings in the consumer law firm and consumer third party funding sector

  Ignite now considers it necessary that some form of mandatory regulation is now needed, albeit with a different approach taken as between commercial third party funding and consumer third party funding

- Ignite welcomes the proposal to consider the wider issue of funding civil claims more generally. Whilst recognising the vital role that third party funding now plays in litigants obtaining Access to Justice, Ignite also considers that revisiting alternative methods of funding civil litigation will improve Access to Justice and limit litigants need to rely on third party funding

- More specifically, Ignite considers that re introducing the principle of recoverable CFA uplifts and ATE insurance premiums from a losing opponent will only serve to improve the funding options available for litigants without the need for radical legislative change

- Ignite considers that limited attention should be paid to reconsideration of Trade Union funding, BTE insurance and Crowd funding playing a major part in the funding of civil claims. Such products currently play a limited role in the funding of civil claims in England and Wales and it is considered unlikely this will change in the near term future

- Focus should therefore be placed on the core question of the regulation of third party funding and also, whether the alternative methods of funding litigation can be used to improve Access to Justice

Questions concerning '*whether and how, and if required, by whom, third party funding should be regulated*' and the relationship between third party funding and litigation costs.

1. **To what extent, if any, does third party funding currently secure effective access to justice?**
   The current state of the English and Welsh Civil system is such that there is no legal aid, significant delays in cases reaching Trials and very substantial Court issue fees. As a result of these issues, third party funding, despite its commercial intentions, has become a vital pillar for many civil litigants to secure Access to Justice.

2. **To what extent does third party funding promote equality of arms between parties to litigation?**
   The theory is that it levels the playing field in David v Goliath litigation.

   However, even with third party funding, we are seeing defendants drag litigation on to drain the budgets of claimant legal teams and expend funders budgets. See for example, the Post Office scandal.

3. **Are there other benefits of third party funding? If so, what are they?**
   Most if not all (commercial) third party funders are operated by former litigators and those who are not litigators utilise external due diligence and/or investment committee's which consist of specialist litigators.

   This in turn means that a third party funder supporting a piece of litigation, on the premise they are only paid if a recovery is made, provides for an additional merits verification on the case merits. There are very limited examples of commercial third party funders supporting frivolous litigation.

4. **Does the current regulatory framework surrounding third party funding operate sufficiently to regulate third party funding? If not, what improvements could be made to it?**
   Since the original regulatory framework was created, the utilisation of third party funding has expanded.

   Whilst it was once a tool used predominantly by sophisticated (commercial) litigants with high quantum cases (and continues to be used by such litigants), it is now also being offered and used by consumer facing law firms, consumers themselves and Class Representatives acting on behalf of classes of consumers. See for example, the various claims filed on behalf of consumers in the Competition Appeal Tribunal and the public reports of various consumer law firms utilising funding (e.g. SSB Law, McDermott Smith, Pure Legal).

   Where consumers are involved, there needs to be compulsory independent regulation with focus on issues such as capital adequacy, amongst others (see further below).

5. **Please state the major risks or harms that you consider may arise or have arisen with third party funding, and in relation to each state:**

    a. **The nature and seriousness of the risk and harm that occurs or might occur;**
    As has been evidenced in the consumer sector, poor investment decisions from consumer third party funders have led to substantial consumer harm by way of individuals ending up with County Court Judgments and charging orders against their properties. See for example the SSB law scandal.

    b. **The extent to which identified risks and harm are addressed or mitigated by the current self-regulatory framework and how such risks or harm might be prevented, controlled, or rectified;**
    The risks highlighted are not mitigated by the current regulatory environment as the funders in question are not regulated.

    One of the many issues with voluntary regulation is that a very substantial number of funders have not signed up to the code.

    c. **For each of the possible mechanisms you have identified at (b) above, what are the advantages and disadvantages compared to other regulatory options/tools that might be applied? In answering this question, please consider how each of the possible mechanisms may affect the third party funding market.**
    N/a

6. **Should the same regulatory mechanism apply to: (i) all types of litigation; and (ii) English-seated arbitration?**
    Whilst the problems highlighted above stem from consumer third party funding, there does remain the generic point that voluntary regulation does not work where a substantial number of market operators do not sign up the regulatory code.

    a. **If not, why not?**
    n/a

    b. **If so, which types of dispute and/or form of proceedings should be subject to a different regulatory approaches, and which approach should be applied to which type of dispute and/or form of proceedings?**
    The methodology applied should differ as between commercial and consumer third party funding owing to the nature of the litigant. Inevitably, consumers require a greater degree of protection than sophisticated corporates.

    c. **Are different approaches required where cases: (i) involve different types of funding relationship between the third party funder and the funded party, and if so to what extent and why; and (ii) involve different types of funded party, e.g., individual litigants, small and medium-sized businesses; sophisticated commercial litigants, and if so, why?**
    See B above.

7. **What do you consider to be the best practices or principles that should underpin regulation, including self-regulation?**
Self-regulation does not work, for reasons identified (lack of market take up, etc). The best practise would be a regulatory body which is mandatory for all market entrants, operated independently of any active participants in the third party funding market but which has experience in both the litigation and litigation funding field (i.e. former litigators and funders).

Any proposed code of conduct needs to consider, inter alia,

- Capital adequacy of funders
- Disputes clauses within funding agreements
- Damages retention by the counter party litigant

8. **What is the relationship, if any, between third party funding and litigation costs? Further in this context:**
   a) **What impact, if any, have the level of litigation costs had on the development of third party funding?**
   Despite guideline hourly rates rarely increasing significantly, hourly rates of some litigation practitioners are increasing significantly beyond the guidelines.

   This inevitably leads to a greater demand for third party funding owing to the substantial cost to litigating in England and Wales.

   b) **What impact, if any, does third party funding have on the level of litigation costs?**
   The impact of third-party funders on litigation costs generally is often positive in that third party funders often negotiate budgets down and request risk share arrangements from law firms.

   c) **To what extent, if any, does the current self-regulatory regime impact on the relationship between litigation funding and litigation costs?**
   N/a

   d) **How might the introduction of a different regulatory mechanism or mechanisms affect that relationship?**

   Any new regulatory regime should not focus too heavily on litigation costs. There are more pressing issues to address than defendants' complaints concerning this issue. Whilst the funders should be under a broad obligation to ensure the use of third party funding does not cause litigation budgets to increase, this issue is one for litigators to take responsibility for and the Courts also to take responsibility at the point of considering costs budgets.

   e) **Should the costs of litigation funding be recoverable as a litigation cost in court proceedings?**
   Consideration should be given to the Judgments in *Secretary of State for Energy & Climate Change v Jones [2014] EWCA Civ 363 [2014]* which provides that interest associated with disbursement funding loans should be recoverable.

The difficulty with applying this decision to commercial third party funders is the substantially higher returns charged than disbursement funders, with such returns often 300% (or higher) of the capital lent. It would be difficult to square the logic of the *Jones* decision with a proposal to permit recovery of commercial third party funders charges.

Additionally, consideration needs to be given to the decision in *Coventry v The United Kingdom - 6016/16 [2022] ECHR 816 (11 October 2022)*. Whilst this decision concerns CFA uplifts and ATE premiums, the principle can be applied to any proposal to permit recovery of third party funders charges (and the risk this would result in an Article 6 challenge).

In light of these decisions, we do not consider third party funders charges should be recoverable as a litigation cost.

9. **What impact, if any, does the recoverability of adverse costs and/or security of costs have on access to justice? What impact if, any, do they have on the availability third party funding and/or other forms of litigation funding?**

To reintroduce recoverable ATE premiums would significantly increase Access to Justice for a variety of reasons:

- It would enable cases that presently cannot be pursued due to economic constraints, to be pursued as the ATE premium would not be deducted from the litigants' damages
- It would enable litigants to retain higher proportion of their damages than the present model where the ATE premium is deducted (in full) from damages
- Such a model would also make third party funding more widely available since the ATE premium would not have to be deducted from damages, meaning the case economics are more optimal

10. **Should third party funders remain exposed to paying the costs of proceedings they have funded, and if so to what extent?**

Yes, the principles established in *Arkin* and *Excalibur Ventures* have sound logic. If third party funders are to benefit from the litigation, they should also be responsible for the negatives associated with such litigation.

In any event, third party funders are able to buy ATE insurance to cover this risk and often do, with many third party funders having ATE insurer panels.

Questions concerning 'whether and, if so to what extent a funder's return on any third party funding agreement should be subject to a cap.'

11. **How do the courts and how does the third party funding market currently control the pricing of third party funding arrangements?**

With regards to the market, there presently exists a large broking market for both third party funding and ATE insurance meaning that clients and litigators can compare available options through independent (FCA) regulated intermediaries.

With regards to the Courts, the only place where any control of the pricing of third party funding arrangements is possible is in the Competition Appeal Tribunal (CAT) as third party funding arrangements are often scrutinised.

12. **Should a funder's return on any third party funding arrangement be subject to controls, such as a cap?**
    a. **If so, why?**
    b. **If not, why not?**

The difficulty with proposing caps is that they do not reflect market volatility. This in turn could prevent third party funders being willing to lend and cases not being funded.

Whilst such an example is very in the moment, the funder market for Competition Appeal Tribunal claims is presently difficult. This is owing to a combination of factors including:

- The duration of such cases, meaning a longer loan period
- The size of such budgets, which are often significant
- The lack of any proven track record in consumer cases, owing to the relatively recent existence of them
- The problematic decisions *Le Patourel, Reifa* and the settlement in *Merricks*

Whilst inevitably market conditions change, caps do not, and such a proposal would act as a deterrent to funders where no other viable alternatives are available for such claims.

13. **If a cap should be applied to a funder's return:**
    a) What level should it be set at and why?
    b) Should it be set by legislation? Should the court be given a power to set the cap and, if so, a power to revise the cap during the course of proceedings?
    c) At which stage in proceedings should the cap be set?
    d) Are there factors which should be taken into account in determining the appropriate level of cap; and if so, what should be the effect of the presence of each such factor?
    e) Should there be differential caps and, if so, in what context and on what basis?

    Whilst adverse to this proposal, we consider that if a cap were to employed, any such cap should be tiered to reflect the following criteria:
    - the merits and challenges of the claim
    - the size of the legal budget
    - the duration of the claim
    - whether liability is conceded by the defendant
    - the availability of other third party funding products
    - any need to increase the budget throughout the litigation
    - the point of case settlement/conclusion

Questions concerning how third party funding 'should best be deployed relative to other sources of funding, including but not limited to: legal expenses insurance; and crowd funding.'

14. **What are the advantages or drawbacks of third party funding?**
    See response to 1.
15. **What are the alternatives to third party funding?**
    It is important to note that for cases with damages estimates exceeding £10,000,000, there is no viable alternative to third party funding.

For cases below this damages threshold, a viable alternative model would be to reintroduce the system in place prior to 1st April 2013, which is that of CFA uplifts and ATE insurance premiums being permitted to be recovered from a losing opponent.

The present environment, does not permit for these liabilities to be recoverable from a losing opponent, meaning that they are paid from damages and often involuntary capped as a result. This limits the upside potential for law firms, and ultimately the risk of acting pursuant to a CFA is not perceived to be worth the reward.

By re-introducing recoverable CFA's and ATE insurance premiums the litigation market would benefit from an alternative product offering which would be:

- more economically viable (as a product offering) to third party funding
- capped at a maximum charge of 100% of base costs, which is more cost effective than third party funding
- properly regulated, by virtue of costs budgeting and the costs assessment process
- encouraging defendants to consider settlement earlier, since the additional costs liabilities would be sought from them

Additionally, by re(introducing) recoverable uplifts alongside recoverable ATE premiums, clients would retain much higher proportion of their damages (if not 100%).

a. How do the alternatives compare to each other? How do they compare to third party funding? What advantages or drawbacks do they have?
Please provide answers with reference to: claimants; defendants; the nature and/or type of litigation, e.g., consumer claims, commercial claims, group litigation, collective or representative proceedings; the legal profession; the operation of the civil courts.
Ultimately there will never be a one size fits all solution and as set out above, for cases with damages estimates exceeding £10,000,000 there is not a viable alternative model.
It can however be said that the proposal to reintroduce recoverable CFA uplifts and ATE premiums would work for all cases below this size, whether consumer or commercial, and as set out at 15, are a more viable alternative.

b. Can other forms of litigation funding complement third party funding?
Alternatives include: Trade Union funding; legal expenses insurance; conditional fee agreements; damages-based agreements; pure funding; crowdfunding. Please add any further alternatives you consider relevant.
Third party funding is often used in tandem with CFA's/DBA's and ATE.
Trade Union funding, BTE insurance and crowd funding are less often available or suitable and do not complement third party funding.

16. Are any of the alternatives to be encouraged in preference to third party funding? If so, which ones and why are they to be preferred? If so, what reforms might be necessary and why?
There would be less pressure on third party funders to fill the 'justice gap' if viable alternatives, such as recoverable CFA uplifts and recoverable ATE premiums, were implemented.

As set out already, such a model was in force prior to 2013 and could be easily reintroduced to complement the regulation of third party funding through amending the Legal Aid, Sentencing and Punishment of Offenders Act (2012).

17. **Are there any reforms to conditional fee agreements or damages-based agreements that you consider are necessary to promote more certain and effective litigation funding? If so, what reforms might be necessary and why? Should the separate regulatory regimes for CFAs and DBAs be replaced by a single, regulatory regime applicable to all forms of contingent funding agreement?**

CFA's work in their present format but as set out above, they could become a more viable alternative to third party funding if the success fee element was made recoverable from a losing party.

DBA's continue to have a limited take up rate and we would encourage that the CJC considers varying the regulations so as to make them more attractive to law firms.

18. **Are there any reforms to legal expenses insurance, whether before-the-event or after-the-event insurance, that you consider are necessary to promote effective litigation funding? Should, for instance, the promotion of a public mandatory legal expenses insurance scheme be considered?**

Before The Event (BTE) Insurance does not presently serve as a viable commercial offering in England and Wales. Putting aside that LJ Jackson looked at this extensively as part of his reforms (see the Jackson report), the problems faced in England & Wales (amongst other things) is that legal costs are very high when compared to our European counterparts and also, there is no willingness on the insurance market to provide a wider, more enhanced product line.

Present BTE products lines are not only capped to limited claim types (contract, injury, employment claims) but also very limited cover limits (often £25,000-£100,000).

The ATE market on the other hand is far more developed with insurers now often able to write up to £10,000,000 per policy. Due to the nature of ATE policies, which is that they are put together after the litigation has arisen, there is no such limit on case types covered by these policies and it is available to be purchased in almost all case types.

19. **What is the relationship between after-the-event insurance and conditional fee agreements and the relationship between after-the-event insurance and third party funding?**
Is there a need for reform in either regard? If so, what reforms might be necessary and why?

CFA's and ATE premiums were both introduced as part of the reforms in the year 2000 (introduced through the Access to Justice Act 1999).

The combination of the products was intended to replace legal aid for civil claims, save that a party still needed to fund the disbursement outlay, which was insured pursuant to the ATE policy. Such products (CFA/ATE) complement one another and are often used in tandem.

Where a 100% CFA is not offered by a law firm, which is often the case for commercial litigators, then ATE policies are often used alongside third party funding (and the partial CFA). Therefore, it is now common to have TPF, CFA and ATE instruments all on one case.

20. **Are there any reforms to crowdfunding that you consider necessary? If so, what are they and why?**
    In order for crowdfunding of litigation to become more commonplace and viable, it would also need to be regulated owing to, amongst other things, a lack of detail and transparency as to claim merits given to those who choose to donate.
    For further information, see Barbara Rich of 5 Stone Buildings various (public) criticisms.

21. **Are there any reforms to portfolio that you consider necessary? If so, what are they and why?**
    It is difficult to expressly set out specific reforms to portfolio funding however it is worth making the point that there has been far more significant third party funder losses in the consumer portfolio sector than the commercial funder sector.

    Whilst consumer third party funding is often via a business to business lend model, this does not mean consumer harm cannot occur, as the underlying litigant remains a consumer. This has been seen with the SSB law scandal.

22. **Are there any reforms to other funding mechanisms (apart from civil legal aid) that you consider are necessary to promote effective litigation funding? How might the use of those mechanisms be encouraged?**
    As per the above, to amend the Legal Aid, Sentencing and Punishment of Offenders Act (2012) so as to permit recoverable CFA uplifts and ATE insurance premiums.

Questions concerning the role that should be played by 'rules of court, and the court itself . . . in controlling the conduct of litigation supported by third party funding or similar funding arrangements.'

23. **Is there a need to amend the Civil Procedure Rules or Competition Appeal Tribunal rules, including the rules relating to representative and/or collective proceedings, to cater for the role that litigation funding plays in the conduct of litigation? If so in what respects are rule changes required and why?**
    There is a general consensus amongst claimant litigators and funders that the *PACCAR* decision needs to be remedied through legislation. This point is well documented and to set out reasons as to why here would simply be regurgitating the points already made by others.

24. **Is there a need to amend the Civil Procedure Rules or Competition Appeal Tribunal Rules to cater for other forms of funding such as pure funding, crowd funding or any of the alternative forms of funding you have referred to in answering question 16? If so in what respects are rule changes required and why?**
    See 15,22 above.

25. **Is there a need to amend the Civil Procedure Rules in the light of the *Rowe* case? If so in what respects are rule changes required and why?**
    N/a

26. **What role, if any, should the court play in controlling the pre-action conduct of litigation and/or conduct of litigation after proceedings have commenced where it is supported by third party funding?**
    Third party funders do not like unnecessary budget spend. Therefore, when agreeing budgets they will often seek to ensure the contracting litigant is sensible with their legal spend. No amendments are therefore necessary.

27. **To what extent, if any, should the existence of funding arrangements or the terms of such funding be disclosed to the court and/or to the funded party's opponents in proceedings? What effect might disclosure have on parties' approaches to the conduct of litigation?**
    Funding mechanisms that do not include a 'recoverable' element from the opponent do little to aid settlement.

    However, funding mechanisms that can be charged to an opponent as an additional liability bring the opponent party to the table more promptly, particularly where that funding mechanism is priced to increase the closer the case gets to trial. See *Rogers v Merthyr Tydfil County Borough Council [2006] Lloyd's Rep IR Plus 13*

Questions concerning provision to protect claimants.

28. **To what extent, if at all, do third party funders or other providers of litigation funding exercise control over litigation? To what extent should they do so?**
    Owing to the doctrine of Champerty and Maintenance, it is rare to see this issue occurring, since it would lead to the third party funding agreement potentially being rendered unenforceable.

29. **What effect do different funding mechanisms have on the settlement of proceedings?**
    See 27 above.

30. **Should the court be required to approve the settlement of proceedings where they are funded by third party funders or other providers of litigation funding? If so, should this be required for all or for specific types of proceedings, and why?**
    An across-the-board approach here would be unnecessary given the sophisticated nature of some litigants using third party funding. One such proposal would be to require Court approval where a litigant meets a certain vulnerability criteria.

    If the court is to approve the settlement of proceedings, what criteria should the court apply to determine whether to approve the settlement or not?
    See 13 above. If a Court is to consider a third party funders deductions from a settlement, consideration should be given as to the level of the funders charges by reference to:

    - the merits/challenges of the claim
    - the size of the budget
    - the duration of the claim
    - whether liability is concerned by the defendant
    - the availability of other funding offers
    - the need to increase the budget
    - the point of case settlement/conclusion

31. **What provision (including provision for professional legal services regulation), if any, needs to be made for the protection of claimants whose litigation is funded by third party funding?**
    A viable proposal would be for all third party funding agreements to be advised upon by independent third party law firms.

32. **To what extent does the third party funding market enable claimants to compare funding options different funders provide effectively?**
    As set out above, there exists a buoyant and active broker market for both third party funding and litigation insurance. This enables claimants and law firms to compare available options.

33. **To what extent, if any, do conflicts of interest arise between funded claimants, their legal representatives and/or third party funders where third party funding is provided?**
    N/a

34. **Is there a need to reform the current approach to conflicts of interest that may arise where litigation is funded via third party funding? If so, what reforms are necessary and why.**
    N/a

Questions concerning the encouragement of litigation.

35. **To what extent, if any, does the availability of third party funding or other forms of litigation funding encourage specific forms of litigation? For instance:**
    a. **Do they encourage individuals or businesses to litigate meritorious claims? If so, to what extent do they do so?**
       See 3 above.
    b. **Do they encourage an increase in vexatious litigation or litigation that is without merit? Do they discourage such litigation? If so, to what extent do they do so?**
       No, as funders will not be paid unless the cases succeed.
    c. **Do they encourage group litigation, collective and/or representative actions? If so, to what extent do they do so?**
       Third party funders to not encourage collective actions but act as the only viable method of funding such actions.

36. **To the extent that third party funding or other forms of litigation funding encourage specific forms of litigation, what reforms, if any, are necessary? You may refer back to answers to earlier questions.**
    N/a

37. **What steps, if any, could be taken to improve access to information concerning available options for litigation funding for individuals who may need it to pursue or defend claims?**
    The Law Society and/or third party agencies could require that all litigators are trained on the methods of financing litigation, through CPD or some other mechanism.