



APPLICATION GUIDE

Single instance litigation support

DFF

Digital
Freedom Fund



Introduction

This guide covers how to complete the application form for single instance litigation support and provides some tips and best practices to help you as you prepare your application.

In case you have more questions along the way, please reach out to DFF's Programme Officer at grants@digitalfreedomfund.org

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01.

Applicant information

Next to “full name of applicant” write the name of the contact person for the application.

Next to “organisation”, write the name of the organisation on behalf of which you are applying. If applying as an individual, leave this space blank.

The DFF Programme Officer will provide the application number.



02.

Context and factual circumstances

Why we ask

We are interested in funding cases that are built on a clearly identified digital rights issue, with evidence that the issue can be addressed through litigation. This is why we first want to understand the context and background to the key digital rights issue you want to litigate.

Recommended length

½ page (1 page maximum) 

Examples of what we want to see here



The factual scenario/circumstances giving rise to your case.

Details on the (expected) parties to the litigation.

Details on any specific law, practice, action or decision that you seek to challenge through the case.

The key digital rights issues that have arisen that you want to address through litigation, and why they are important.

The current situation regarding digital rights in the jurisdiction where the case will take place.

When important events leading up to the planned litigation took place.

What we don't want to see here



The general mission statement of your organisation.

Your litigation strategy (that will come later).

Broader goals and objectives (that will come later).



03.

Broad aspirations and concrete objectives for litigation

Why we ask

We want to see that you have thought critically about embedding the litigation in a broader strategy for change related to digital rights, and that your litigation strategy has clearly identified goals.

Recommended length

½ page

Examples of what we want to see here



Your “broad aspiration” describes the long-term change for digital rights that you hope to see through the litigation and other relevant activities. For example, “more individuals are protected against unjustified government surveillance” or “individuals’ sensitive data is not used for targeted advertising.”

Your “concrete objectives” state the specific goals you are seeking to achieve through the litigation. These objectives can refer to the enforceable remedy/remedies you have asked for in the proceedings. For example, “a court order preventing x from doing y” or “a declaration that x law is in contravention of y and should be struck out.”

You clearly articulate the link between your concrete litigation objectives and your broader aspirations. In other words, you explain how the outcome of the litigation will feed into your broader strategy for change.

What we don't want to see here



A description of the general process and activities you will carry out.

Aspirations and objectives that do not clearly link together.

Aspirations and objectives that only focus on winning a specific case for the individual, without consideration for wider impact (i.e. “compensation for claimant X” or “defend x in legal suit”).

Legal arguments (that will come later).



04.

Benefits to the digital rights field

Why we ask

We aim to fund cases that will set a precedent the digital rights field can build upon. We want to see how your case will strengthen the capacity of and collaboration within the digital rights field.

Recommended length

½ page

Examples of what we want to see here



An explanation of how the change to law, policy or society you seek to achieve through the litigation will help set a precedent for the digital rights field.

A plan to either create synergies or maximise benefits from existing synergies between your litigation activities and those of others in the digital rights field.

Demonstration of existing or planned partnerships that will strengthen interconnectedness within the digital rights field.



05.

Process for claimant and/or forum selection

Why we ask

We want to see that you have thought critically about the best forum to litigate before and the appropriate claimant to represent in order to help achieve the pursued objectives and maximise impact.

Recommended length

¼  to ½ page 

Examples of what we want to see here



A description of the different forum options (including regional, international and apex courts) and claimants that you have considered.

A brief summary of why the chosen claimant and forum are the most appropriate.

What we don't want to see here



A one word yes/no answer with no description.



06.

How the selected jurisdiction will help you achieve your project objectives

Why we ask

We want to see evidence for why the chosen jurisdiction is best for achieving your litigation objectives.

Recommended length

¼  to ½ page 

Examples of what we want to see here



A description of the remedies the forum can provide.

A summary of appeal options and/or the likelihood of referral to higher courts.

Information about public opinion in the chosen jurisdiction.

A summary of ongoing activities or previous precedent in the chosen jurisdiction concerning the issue you are addressing with the litigation.

A clear link to your overall litigation objectives.

What we don't want to see here



Forum selection determined solely on convenience (there is no problem with litigating in the forum closest to where you are based, but please explain why you consider this most appropriate).



07.

Litigation arguments

Why we ask

We want to see that you have critically thought through the pros and cons of different legal arguments and chosen the arguments that will increase your chances of achieving your objectives.

Recommended length

Up to 1 page

Examples of what we want to see here



A summary of the specific legal arguments you will make.

A description of how your legal arguments will be framed.

A clear link showing how your arguments will contribute towards achieving the objectives of the litigation.

A summary of who you have consulted (i.e. in-house lawyers, external lawyers, experts) in developing your legal strategy.

What we don't want to see here



Detailed legal analyses of different laws and frameworks.

Detailed arguments on an aspect of the case that does not relate to digital rights



08.

Required evidence and/or research

Why we ask

We aim to support cases based on sound legal arguments and backed up with strong evidence. This is why we want to know about the evidence gathering and research you have already done, and whether it is enough to achieve your litigation objectives.

Recommended length

Up to 1 page 

Examples of what we want to see here



Research activities that directly relate to the litigation (i.e. collection of evidence or legal research to inform your legal arguments).

A summary of the evidence and research needed to strengthen your legal arguments.

A description of the research you have already done and evidence you have already gathered.

A description of the research and evidence you still need to gather, and how you will gather it.

Information on external experts you have approached to provide evidence or expert testimony.

What we don't want to see here



Research activities not related to the current litigation.

Detailed legal analyses of different laws and frameworks.



09.

Broader advocacy strategy

Why we ask

When assessing applications, we look to see if the applicant has considered the advantages of a broader advocacy strategy around the litigation, where needed in collaboration with partners that can offer expertise not present with the applicant themselves. This can include activities like advocacy, lobbying, and media outreach.

Recommended length

1 page

Examples of what we want to see here



A brief summary of your planned advocacy objectives and activities.

Activities that link clearly to your overall project aspirations and objectives.

Clear links between the planned litigation and complementary advocacy and outreach activities you are already doing as an organisation/individual.

Evidence that you have identified others in the digital rights field working on this or related issues, and that you have considered if collaboration would help achieve your litigation objectives.

A description of other partners or allies you will work with (media, academics, government contacts, etc).

A summary of potential forums, events or platforms (including online, like websites) you can use to amplify the goals of your project.

What we don't want to see here



Activities not related to the litigation.



10.

Key risks and/or weaknesses

Why we ask

We would like to support organisations that show they have thought objectively and critically about any possible risks entailed in their planned litigation, and have a plan in place for mitigating these risks. If you haven't already done a risk assessment, we would recommend you do one now.

Recommended length

½ page

Examples of what we want to see here



Consideration of at least three risks/weaknesses, and steps you will take to mitigate these risks/weaknesses.

Types of risk could include: physical risk to the parties involved (including the claimant, witnesses, lawyers, organisational staff), risk of setting a negative legal precedent, risk of unforeseen costs arising, etc.

Weaknesses could include: a lack of expertise, the timing of the litigation (such as other political or social events drowning out the case), a lack of partners for collaboration, etc.

What we don't want to see here



Less than three risks/weaknesses considered.

A response that says there is no risk associated with the litigation.



11.

Appropriateness of litigation in this case

Why we ask

We want to see that you have actively taken on board the findings of your risk assessment before deciding to go ahead with litigation. This is why we ask you to justify pursuing litigation despite the risks you have identified (rather than another activity that may entail less risk, for example).

Recommended length

¼  to ½ page 

Examples of what we want to see here



A consideration of other possible ways to achieve your broader aspirations, and a justification for why you still think litigation is the better option.



12.

Follow-up activities if objectives are achieved

Why we ask

We want to support cases where your involvement carries on even after a ruling is made. We want to see that you have considered how you and/or your partners will pursue the necessary follow-up needed to give concrete effect to the positive judgment obtained.

Recommended length

¼  to ½ page 

Examples of what we want to see here



A follow-up plan that incorporates collaborative elements.

A detailed strategy and plan for implementation that will follow from a positive judgement (i.e. what work will need to be done to see the decision enforced?).

What we don't want to see here



A strategy that focuses solely on winning the case as an end in itself, without consideration of the follow-up needed to ensure wider impact for the digital rights field.



13.

Follow-up activities if objectives are not achieved

Why we ask

We favour applicants that have considered the possible negative effects of an unfavourable ruling, and put in place steps to mitigate these effects. We also support applicants that can show how it is possible to turn a loss in court into a win on other fronts (for example, public debate or policy change).

Recommended length

¼  to ½ page 

Examples of what we want to see here



A critical consideration of the possible negative effects of an unfavourable ruling.

A summary of steps you will take to mitigate any possible negative effects.

A consideration of how the litigation can still create positive wider impact, even in the case of a loss.

What we don't want to see here



A strategy that focuses solely on achieving your objectives through winning the case.



14.

Possibilities to appeal an unfavourable outcome

Why we ask

We would like to see if you plan to appeal an unfavourable outcome, and if so, what the timeline and steps for doing so are. Note: a possible appeal cannot be part of this DFF grant, but it is possible to apply for another grant with DFF for the subsequent appeal litigation.

Recommended length

One paragraph



15.

Are you aware of any activities within Europe related to the subject matter of your litigation?

Why we ask

We want to support applicants that are building on, not copying or re-creating, what is already happening in the digital rights field in Europe. If you haven't already, spend some time reaching out to other organisations in the field to see if anyone else is working (or planning to work) on the subject matter of your litigation. In what way does your planned litigation build upon, complement, or relate to these activities? If there is existing litigation, policy advocacy or media campaigns, have you considered ways to incorporate this existing work into your wider advocacy and collaboration strategy?

Recommended length

½ page

Examples of what we want to see here



A description of the steps you have taken to map other activities in Europe on the subject matter of your litigation.

A summary of other key activities in Europe on the subject matter of your litigation.

A consideration of how your planned litigation builds upon or complements these other activities.



16.

Team biographies

Why we ask

We want to see that the team for the litigation is well resourced and has suitable expertise to successfully work on the subject matter of the planned litigation. This is why we ask you to provide a brief description of all the key staff members that will work on this project, focusing in particular on their role and tasks, and how their expertise makes them suitable for carrying out this role.

Recommended length

One short paragraph per staff member





17.

Description of external legal team

Why we ask

We aim to foster a strong *pro bono* culture in Europe and do not want to help create an ecosystem in which resource-light digital rights activists are being charged full corporate rates by law firms. If an applicant engages outside counsel, DFF will generally prefer that outside counsel work on the litigation *pro bono*.

Recommended length

½ page

Examples of what we want to see here



A clear justification for working with external lawyers (i.e. no in-house legal experts, in-house lawyers are not allowed to file cases in court, they are best qualified to litigate the matter, etc).

A description of specific actions taken to secure external lawyers working pro-bono, or at a reduced, capped or fixed fee, and what has been agreed with the external lawyers.

If paying full fees, a clear explanation for why it was not possible to get a reduction.

What we don't want to see here



General statements about the specific context being difficult to find lawyers who will work for reduced fees.

A request for commercial rate fees without a detailed justification.



18.

References

Why we ask

We may reach out to others in the field that have worked with you before to help understand your background and credentials for leading a digital rights litigation project. References are more important if you are a recently established organisation, or new to the digital rights field.

Recommended length

The name, organisation and email address of two individuals

Examples of what we want to see here



Two references who are not part of the team involved in the litigation.

Examples could include individuals from other digital rights organisations, funders, lawyers, or researchers you have worked with previously.



19.

Additional comments about the budget

Why we ask

We want to see that you have done a final check that the expenses you are asking for are fully explained and justified in the application. This is a chance for you to go back and check your budget again. In case any expenses are not elaborated in the application you can explain them here for clarity.

Recommended length

¼

Examples of what we want to see here



Confirmation that you've checked the budget and are happy that all expenses are fully justified in the application.

An explanation of any expenses in the budget that may need clarification. For example, you might like to flag expense lines you want to discuss further (for increasing/decreasing).



20.

Is DFF support necessary?

Why we ask

We aim to support more and better strategic litigation cases to advance digital rights. In fact, we will often ask you to increase certain budget lines to ensure the litigation is properly resourced. However, we also do not want to help create an ecosystem in which already well-resourced organisations and law firms are getting more funding for work they could already do with support from others. In this section, you can summarise the different avenues of support you have considered (for example, academics to support research, pro bono legal support, or more collaboration with other experts in the digital rights field for communications and advocacy), and where DFF support can add extra value.

Recommended length

¼



21.

Further information

What to write here

Here you can add any further information you deem relevant that did not fit into the other sections of the application. You can leave this section blank if it is not relevant.

Recommended length

Maximum ½ page



22.

Appendices

Why we ask

We have designed this application form so that, if completed fully, we will not need any further information from you in order to assess the merits of your application. However, there may be situations where related documents and links will help elaborate or support your application. Therefore, you can list the documents you are sending along with the application here. You can leave this section blank if it is not relevant.

Recommended length

Maximum ½ page 

Examples of what we want to see here



A numbered list with a brief (no more than one sentence) description of each document appended.

Examples could include, draft legal documents, your litigation strategy for the case, your advocacy strategy for the case, memorandums of understanding with other organisations who will be involved in the litigation, documents proving the urgency of deadlines mentioned in the application, etc.

What we don't want to see here



General organisational strategy documents.

Research and strategy documents in languages other than English (instead provide English summaries if you think it is useful).

About the Digital Freedom Fund

The Digital Freedom Fund supports strategic litigation to advance digital rights in Europe. With a view to enabling people to exercise their human rights in digital and networked spaces, DFF provides financial support for strategic cases, seeks to catalyse collaboration between digital rights activists, and supports capacity building of digital rights litigators. DFF also helps connect litigators with pro bono support for their litigation projects. To read more about DFF's work, visit: www.digitalfreedomfund.org.

For questions concerning the application process, please contact:
grants@digitalfreedomfund.org

