



Phase 2: Thinking strategically about how we litigate: the practical considerations

Funding: how to stay the course

Litigation can be expensive, and the timeframes are often uncertain. Funding strategic litigation and assessing the cost – both in terms of capital and human resources – is, therefore, a prerequisite in the determination of any litigation strategy. As a point of departure, the nature of the case may assist with assessing costs: does it require a large legal team and is it expected to take time and go on appeal? Thereafter, what fee do the lawyers charge, are they prepared to work at a reduced rate, or *pro-bono*? Finally, what are the anticipated disbursements such as printing court documents, experts' fees, and travel?

Guideline 9: Funding strategic litigation and assessing the cost – both in terms of capital and human resources – is a prerequisite in the determination of any litigation strategy.

Funding strategic litigation is often not as difficult as it is made out to be. Outside of traditional funding routes such as [applying to foundations](#) or charitable organisations, contemporary models such as [crowdfunding](#) are becoming increasingly popular.

Capacity: structuring a “dream team”

Litigation takes time and resources but, often, strategic litigators are not hard to find. Strategic litigation has two benefits for strategic litigators: (1) it allows litigators to use the law as an instrument for justice and positive change; and (2) it assists litigators to establish themselves as experts within a field. Often, strategic litigators may be willing to work on a case *pro-bono* or at a reduced rate, alongside paying work, if the case has merit and there is a possibility of strategic impact. It may also help if they form part of a broader team, where they can delegate some of the work. In structuring a “dream team”, seek out lawyers who are already working in the areas relevant to your case and ask for their assistance, or a referral. Importantly, structure and consult with your legal team as soon as possible, they may have experience not only in strategic litigation but broader advocacy efforts as well.