

Application guidance for solicitors – Legal Aid for Business Diversity (“LABD”)

If you are a solicitor seeking financial support for costs or fees in a workplace harassment or related retaliation case, please read in full and complete the application below and return it to contact@labd.co.uk.

This document sets out (1) who can apply, (2) case eligibility requirements, (3) priority criteria for funding, (4) application process, (5) types of financial support, (6) financial support repayment, and (7) reporting.

1. Who can apply?

- 1.1 Only solicitors may apply for financial support from the LABD Legal Aid Fund (“LABDLAF”) for eligible cases in which they have agreed to represent an individual, contingent on receipt of funding and/or matters in which the solicitor have entered into ongoing representation.
- 1.2 The solicitor representing the individual must demonstrate that they will provide adequate representation in the matter as set out in the application form.

2. Eligible criteria for cases

- 2.1 In order to be eligible for support, the case must be brought in the Courts of England and Wales; and
- 2.2 Be brought on behalf of an individual who does not have the financial resources to pay the cost of necessary legal representation and/or where the cost of legal representation is imposing a significant financial hardship either to the solicitor doing the work pro-bono or for a reduced fee, or to the client paying for the legal representation. LABDAF financial support is intended to enable legal representation that would not otherwise be available to the individual. Clients with some ability to pay are expected to share some portions of the cost of representation); and
- 2.3 Fall into one of the following categories; and
 - 2.3.1 The individual has completed the ACAS early conciliation process and is seeking to make affirmative claims challenging discrimination at work and/or related retaliation under the Equality Act; or
 - 2.3.2 The individual has not yet completed the ACAS early conciliation process but an internal grievance and appeal process has been completed by their employer and the individual has received a less than fair settlement offer and will therefore, in the absence of receiving a fair settlement offer, seek to make affirmative claims challenging discrimination at work and/or related retaliation under the Equality Act; or
 - 2.3.3 The individual is seeking legal defence from retaliatory legal claims and/or threats of legal claims in response to having brought a claim for discrimination at work and/or related retaliation under the Equality Act.

3. Funding priorities

- 3.1 Priority criteria will guide funding decisions within the above guidelines. Matter receiving funding will meet at least one or these priority criteria. Please note, however, that discretion will be exercised in determining which matters meeting one or more priorities will receive funding and no matter is entitled to funding just because it meets one or more criteria. Also note that the priority criteria will be regularly reviewed and may be revised or altered based on shifts in LABD’s strategy, particularly as the fund gains experience with cases and learns where its support would be most effectively utilised.

However, a revision of priority criteria will not lead to the withdrawal of funding that has already been granted.

3.2 The following priority criteria will be considered:

3.2.1 The matter involves discrimination and/or threats of retaliation by an especially high profile/prominent/powerful individual and/or employer; these matters are a priority because of the large power disparity that leaves individuals experiencing such harassment or retaliation uniquely vulnerable and because such individual and employers are setting a public standard in our society.

3.2.2 The matter involves discrimination and/or threats of retaliation against an individual employed in a low-wage work, such as restaurant work, domestic work, etc; these matters are a priority because of the vulnerability to harassment in such occupations and the obstacles individuals in low-wage jobs face in finding legal representation.

3.2.3 The matter involves discrimination of multiple individuals within one workplace or company or other indicators of a systemic or company-wide concern; these matters are a priority because of their potential to make wide-scale change and achieve justice for many affected individuals.

3.2.4 The matter involves extreme retaliation against those alleging discrimination, such as a lawsuit or media campaign; these matters are a priority because these forms of retaliation not only harm the individual challenging discrimination, but also perpetuate a larger culture of silence.

4. Application process

4.1 To apply for funds, solicitors must complete the application form below. Applications may receive follow-up inquiries as to these matters as their application is considered.

4.2 In general, the larger the amount sought, the more detail and analysis will be necessary to support the application.

4.3 Applications are reviewed on a rolling basis. The decision as to which cases receive financial support is made by the LABD board of trustees and is made free from the influence of donors.

5. Funding models

5.1 Expenses/costs:

5.1.1 Applications may seek funds to cover third-party costs such as experts, cost of travel, court costs, etc.

5.1.2 The application should describe the cost for which reimbursement will be sought.

5.1.3 Funds will be paid by LABD to the solicitor upon receipt of an invoice for the expense for which an award has been made. LABD reserves the right to request information evidencing that the work undertaken is within the scope of the award.

5.2 Legal representation fee support:

5.2.1 Award of fee support for discrimination claims will be provided by phase of case ((1) pre-litigation; (2) litigation; (3) appeal), as set out below, with separate applications required to seek support at each phase.

- 5.2.2 A decision to fund a case in one phase does not guarantee that a case will be funded in future phases.
- 5.2.3 Awards will be made based on an assumption of discounted hourly rates (or actual billing rates if lower) up to specified caps per phase set out below. Funding in excess of the capped amounts for legal representation fee support may be provided in exceptional circumstances.
- 5.2.4 Funds will be paid by LABD to the solicitor upon receipt of an invoice for the cost of legal representation for which an award for fee support has been made. LABD reserves the right to request information evidencing that the work undertaken is within the scope of the award of fee support.

Discounted hourly rates (based on current EHRC rates)

Advisor	Hourly rate (excl. VAT)
Solicitor with over 8 years post qualification experience (PQE):	£160
Solicitor with 4 to 8 years PQE:	£140
Solicitor with 1 to 4 years PQE:	£110
Trainee solicitor or paralegals:	£50
Counsel with at least 10 years' call and QC; considerable experience in equality and / or human rights law	£240
Counsel with at least 10 years' call; considerable experience in equality and / or human rights law	£180
Counsel with at least 5 years' call; significant experience in equality and/or human rights law	£160
Counsel with at least 2 years' call with experience in equality and/or human rights law	£120

Funding caps per phase

Phase	Cap (excl. VAT)
Pre-litigation including negotiation, writing claim/response form, other pre-filing work	Up to [£10,000]
Litigation including disclosure, preparation of court documents, general case management, attendance at hearing etc.	Up to [£50,000]
Appeal(s)	Up to [£40,000]

6. Repayment of the LABD financial support

6.1 Solicitors receiving funds must commit to repaying the LABDLAF if there is a cost recovery in the matter, in order to allow LABDLAF to continue to support this important work. Specifically:

6.1.1 If a cost award is made by the court in a case that has received financial support, LABDLAF will be reimbursed in full for its funding provided for expenses/costs and legal representation fee support unless the relevant costs/fees were specifically disallowed in the award.

6.1.2 If the matter is resolved with a settlement sum, LABDLAF will be reimbursed in full for its funding provided for expenses/costs and legal representation fee support. These amounts will be repaid out of any settlement sum amount either paid in excess of the individual's claim amount or allocated specifically to cost/fees recovery as part of the settlement.

7. Reporting

7.1 At the conclusion of a case phase for which an award for cost/expenses or fee support has been made, the solicitor receiving funds must commit to provide a written update to LABD setting out the outcome of the case and to what extent LABD financial support has supported such outcome in order to support LABD with assessing the impact of its charitable activities. For the avoidance of doubt, this shall not require a solicitor to disclose confidential information about their clients.