

Like to have your
outstanding fees
paid on time?
Just Ask.

Ask

FUNDING

money when it matters™



Estate Litigation Funding

Levelling the legal playing field: improving your cash flow.

ASK CAN LEND FROM \$5,000

ASK ESTATE LITIGATION
FUNDING PROVIDES
LOANS OF \$5,000 AND
MORE, AND IS PAID
DIRECTLY TO YOUR
LAW FIRM IN AGREED
INSTALMENTS TO FUND:

- LEGAL FEES
- DISBURSEMENTS
- CLIENT'S LIVING EXPENSES
- VALUATIONS
- EXPERT REPORTS

Substantial benefits for your business

An ASK loan offers proven practical benefits for your law firm:

- Enables you to accept cases with substantial merits which were previously rejected due to client's inability to pay prior to settlement
- Improves cash flow
- Invoices paid on time
- Removes credit risk associated with non-payment by 'pay-at-the-end' clients
- Reduces the cost of business for your practice - e.g. potential bad debts, costs associated with recovery of debt, time in administering debts owing
- Assessment is conducted by ASK without reliance on information provided by your firm
- No guarantee required by your firm

More advantages for your clients

Clients appreciate the benefits of ASK Estate Litigation Funding:

- Clients able to challenge an 'unfair' will, with legal costs paid from proceeds
- No repayments required during the term of the loan unless clients wish to do so
- Ability to use funding for living expenses

- Loan is assessed on the underlying legal case and the likely final outcome
- Competitive interest rates
- Interest charged only on the funds drawn to trust
- Ability to draw down on funds as required
- Expeditious approval and payment process

Draw down facility

Upon approval, ASK will establish a facility for the client – similar to a personal overdraft – where funds are paid on request to the solicitor's Trust Account to satisfy invoices that have been previously rendered.

Since interest only accrues on funds that have been drawn down, having funds paid on an 'as needs' basis provides a significant cost saving for your client.

Assessment Criteria

ASK assesses each application for funding, taking into account the following criteria:

- An estimated value of the net asset pool
- The client's likely entitlement; or the capacity of the estate to repay

A lack of funds often results in clients being unable or unwilling to undertake estate litigation cases. Solicitors, too, cannot be expected to carry clients' costs without impacting their own financial resources.

The result? All too often a case that had good prospects is left unchallenged for lack of finance.

That's why, when money really matters, ASK has the solution. ASK can provide crucial funding for your clients who are involved in deceased estate litigation. With funds in place, your clients can proceed with confidence - and you have levelled the legal playing field.

This unique financial facility not only assists your clients, it enables you to take on more cases in the future by improving your own cash flow.

LAWYERS AGREE THAT FUNDING OF THIS NATURE IS OFTEN CRITICAL TO THEIR CLIENTS - BUT UNTIL NOW IT HAS BEEN VIRTUALLY IMPOSSIBLE TO SOURCE. ASK OFFERS A UNIQUE FINANCIAL FACILITY THAT TRADITIONAL LENDERS SUCH AS BANKS AND OTHER LENDING INSTITUTIONS ARE UNABLE TO PROVIDE.

the loan if the client is acting in the capacity of executor

- Likely time until settlement
- A consideration of any offers that have been made
- The purpose of the funding: i.e. legal fees or living expenses
- Whether the client has changed solicitors previously or has ever been self-represented

Simple security

The security taken on each loan is in the form of an Irrevocable Instruction. This is a document signed by your client instructing you, their solicitor, (or the executor if they are the beneficiary) to repay ASK at the time of settlement should funds pass through your Trust Account.

In the event that your client does not receive a cash settlement but receives a transfer of real property, ASK will invoke the 'Consent to Mortgage' clause contained in the loan agreement. This clause provides ASK with the ability to become a secured creditor post-settlement for the purpose of working with your client to have them refinanced into a standard bank mortgage.

Where the client's entitlement under the will is sufficiently uncertain, ASK may consider taking other forms of security such as caveats over real property.

Variable interest rates

The interest rate applicable to the loan will vary depending on the risk of the matter. Factors which indicate a higher risk, include:

- Smaller estate
- No current entitlement under a will (FMP applicants)
- No external assets
- Matter is in early stages
- Client has changed solicitor more than once, or has previously been self-represented
- Funding sought for living expenses only

A time-costed assessment fee applies to each loan. This is calculated pro-rata on the amount of funding drawn under the facility at any time. For example, if the client is approved for \$50,000 with an assessment fee of \$1,500, and the matter is settled by negotiation with only \$20,000 drawn down – the assessment fee will be \$600 (or 2/5 of \$1,500).

The interest rate and assessment rate are set out in the credit contract provided to your client via our offer of finance. If, upon receiving the contract, the client does not wish to proceed with the loan, there is nothing to pay.

Quick and easy application process

ASK has ensured that applying for Estate Litigation Funding is a prompt and easy process.

- 1 First, a completed application form is sent to us by your client
- 2 We then send a Request For Information (RFI) to your firm
- 3 Your firm provides written answers to the RFI
- 4 Assessment is generally completed within 72 hours
- 5 On application approval, we advise client and forward loan deeds to solicitor/client
- 6 Loan Deed is signed by your client
- 7 Solicitor accepts and acknowledges Irrevocable Instruction
- 8 Funds are disbursed

ASK helps when banks and others can't

Lawyers agree that funding of this nature is often critical to their clients - but until now it has been virtually impossible to source. ASK offers a unique financial facility that traditional lenders such as banks and other lending institutions are unable to provide.

Better than a bank loan

ASK Estate Litigation Funding offers many advantages, not the least being that your clients are not required to make any repayments during the term of the loan until their legal matters are settled. Your clients can, however, pay out the loan at any time. The loan is assessed on the underlying case and the anticipated final settlement.

Questions

ASK IS AUSTRALASIA'S
LARGEST AND MOST
EXPERIENCED LEGAL
LENDER, PROVIDING
MONEY WHEN
IT MATTERS TO
THOUSANDS OF
INDIVIDUALS
ACROSS
AUSTRALIA AND
NEW ZEALAND
EACH YEAR.

What can the loan be used for?

Legal fees, valuations, expert reports, disbursements and your client's living expenses.

What information is sought after a client applies?

We will request information such as assets and liabilities of the estate; a copy of the will; client's ability to demonstrate 'need'; family tree.

What security does Ask require?

Security is taken by way of Irrevocable Instruction. This document must be acknowledged by the law firm prior to funds being released, agreeing that they will repay the loan to ASK should funds pass through their Trust Account.

What is a 'Consent to Mortgage'?

This forms part of the loan deed in cases where there is a risk the borrower will not receive any funds and retains real property as their settlement. ASK will work with the borrower to have them refinanced at standard mortgage rates post-settlement.

What happens if further money for fees above the agreed facility is required?

A further application is required

and your client enters into another loan agreement.

Does Ask only take real property into account when assessing the asset pool?

No. We also consider other assets such as shares, cash, motor vehicles and insurance policies.

Does the law firm have to provide a guarantee?

There is no guarantee required.

What happens if information provided was false? Is there any liability?

With the exception of fraud or professional misconduct on behalf of the solicitor, ASK will hold the solicitor harmless from any liability incurred as a result of passing on inaccurate instructions.

Is the law firm required to offer an opinion as to prospects?

No. We advise law firms to provide us with their client's instructions only and allow us to make an assessment as to the outcome.

What happens if the client wants to change solicitor?

Prior consent must be obtained from ASK and your client will be provided with a list of accredited solicitors in their area.

Does the client have to pay interest on the entire facility, or just on the amount drawn down?

The client only pays interest on the amount drawn down.

What other obligations does the law firm have?

ASK loans are only provided to the clients of expert and specialist Wills and Estates practitioners. We will write to you periodically requesting an update as to prospects and expected time until settlement. Your firm should contact us in the event that the case suffers a significant downturn in prospects.

Orders for the payment of funds should be drafted in such a way as to ensure that they pass through your Trust Account in order for repayment under Irrevocable Instruction to be effected.

When a case settles, how does the law firm find out the final payout figure?

Simply contact our estate litigation funding managers, or email payout@askfunding.co.nz



For help with Estate Litigation Funding,
P 0800 552 332 F 0800 727 390

www.justask.co.nz
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