

IMF Policy for the Model Conduct of Funded Civil Litigation

Introduction

- 1.1 This Policy for the model conduct of civil litigation funded by IMF has been endorsed by the IMF Board to assist IMF in maintaining high standards in the management of litigation and legal services funded by IMF. This Policy is a statement of principles. It is intended to reflect the existing law and is not intended to be applied rigidly or to override any existing obligations, or impose any additional, legal or professional obligations upon IMF, its clients or any legal practitioners or other parties funded by IMF.
- 1.2 This Policy applies to civil claims and to civil litigation in courts, tribunals, arbitrations, mediations and other procedures, including alternative dispute resolution processes in Australia and elsewhere (all referred to in this Policy as “**claims and litigation**”).
- 1.3 Ensuring compliance with this Policy is primarily the responsibility of the IMF Investment Manager who has been allocated the day-to-day management of the claims and litigation concerned. In addition, lawyers acting in any IMF-funded claims and litigation are to be made aware of this Policy and its obligations and requested to act in accordance with it.
- 1.4 Issues relating to compliance or non-compliance with this Policy are to be referred to IMF’s Chief Executive Officer for further action.
- 1.5 IMF’s Chief Executive Officer may issue guidelines relating to the interpretation and implementation of this Policy.

The Obligation

2. IMF must comply with this Policy in relation to the management and conduct of any claims and litigation funded by IMF.

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Nature of IMF's Obligation under the Policy

3.1. IMF's obligation under this Policy requires more than IMF merely acting honestly and in accordance with the law and court rules in relation to any claims and litigation it funds. It also goes beyond the requirement for lawyers funded by IMF to act in accordance with their ethical obligations. It requires that all claims and litigation funded by IMF be conducted with complete propriety and to the highest professional standards at all times.

3.2. The Policy requires that IMF act honestly, lawfully and fairly in managing all claims and litigation funded by IMF by:

- (a) not causing speculative, vexatious, unreasonable or unviable claims to be made with IMF's funding;
- (b) seeking to resolve claims and litigation promptly and efficiently and not causing unnecessary delay in the handling and resolution of claims and litigation;
- (c) acting consistently in the handling of claims and litigation having regard to the individual circumstances of each claim or piece of litigation;
- (d) seeking to resolve claims without litigation wherever possible, including by funding alternative dispute resolution processes;
- (e) where it is not possible to avoid litigation, notifying the Court and the respondent of IMF's involvement at the commencement of the proceedings and keeping the costs of the litigation to a minimum;
- (f) promptly notifying the Court and the respondent of the termination of IMF's involvement in any litigation if that occurs prior to resolution of the litigation;
- (g) complying with all Court orders which apply to IMF;
- (h) not taking advantage of a respondent who lacks the resources to litigate; and
- (i) not undertaking and pursuing any appeal unless Senior Counsel considers that the appeal has reasonable prospects of success.

3.3. This Policy does not require that IMF, its clients or any lawyers funded by IMF be prevented from acting resolutely and appropriately to promote IMF's or its clients' legitimate interests. It does not prevent all legitimate steps being taken in pursuing any claims and litigation which IMF has decided to fund.

3.4. In particular, the Policy does not prevent IMF from:

- (a) enforcing costs orders or seeking to recover costs from any respondent;
- (b) claiming legal professional privilege or other forms of privilege as appropriate; or
- (c) requiring opposing litigants to comply with all of their procedural obligations.