

ALPHA DEVELOPMENT SCHEMES

FREQUENTLY ASKED QUESTIONS NO 3

This note should be read in conjunction with the document entitled Information Document and Frequently Asked Questions dated 30 June 2020 and Frequently Asked Questions No 2 dated 3 July 2020. Defined terms used in those documents are also used in this document.

This note aims to answer a number of additional questions which have been raised by investors. This note is not intended to be and does not constitute legal or financial advice.

For the benefit of investors we also propose to hold a live Webinar Q&A session. Further details of this will be provided as soon as possible.

1. Please can you explain the position regarding the interaction between the proposed private prosecution ("PP Claim") and this negligence claim?

Please refer to answer 1 in the frequently asked questions No 2 document. By way of further background there is no legal impediment to taking part in both claims. However, it will be a condition of the funding arrangement for the negligence claim (as we understand it is for the funding arrangement in the PP Claim) that you do not take part in the other claim. The reason for this is because any financial recovery in either claim would be deducted from the sum you could claim in the other claim and which in turn could impact on the viability of your claim from a third party funder's perspective.

2. Please can you explain the difference in funding between the PP Claim and the negligence claim?

Unfortunately we do not have any information regarding the funding model or structure of the PP Claim and are therefore unable to comment in detail. However, in contrast to professional negligence claims which are regularly supported by litigation funding, as far as we are aware there has never been a litigation funded private prosecution in the UK where the funder has a financial interest in the outcome and the Courts have never opined on the suitability of such arrangement. The funding arrangements relating to the PP Claim may therefore be susceptible to challenge by the defendants and/or scutint by the Court.

3. I am told that the PP Claim will be "in court" in 6-10 weeks. What is the time frame for the negligence claim?

It is not clear what the phrase "in court" means but the PP claim (as with the negligence claim) is likely to take a year or longer to resolve through a court process. Further in our team's experience the Criminal Court system is slower than the Civil Court system and has a substantial backlog at present which has been made worse by Covid-19. Finally even if a guilty verdict was obtained in the PP Claim there would need to be a subsequent confiscation or compensation order made in order for there to be the potential of a financial return which would then need to be enforced. Enforcement of any confiscation or compensation order against individual directors and their assets is likely to take much longer than enforcing a judgment against a law firm or it's insurer in the negligence claim.

4. What are the main differences between the PP Claim and the negligence claim?

We cannot answer this in any great detail as we do not know the details of the proposed PP claim. However, the main differences are (a) the PP Claim is a criminal action and therefore has a higher burden of proof compared to a civil action such as the negligence claim; (b) the PP Claim is, we understand, against the directors of Alpha personally whereas the negligence claim is against the law

firm who will be backed by a minimum level of mandatory insurance; and (c) if the PP Claim is successful the underlying leases and your obligations thereunder to pay ground rent service charge etc are likely to remain in place whereas in the negligence claim the underlying leases and your obligations thereunder are likely to be found to be void.

5. I am told that the negligence claim will not proceed for between 3 and 6 months whilst funding documents are finalised. Is this correct?

Funding has been agreed in principle (subject to a minimum quantum of damages level) and the engagement suite of documents including the funding document will be sent to all investors who have registered their interest by no later than close of business on Friday 17 July 2020. You are not committed to the negligence claim until such time as you return the signed engagement suite of documents.

6. Is it possible to disclaim any UCIS claim in our favour if the level of damages is below our expectation and keep the Unit instead?

No. You would be bound by the decision of the Court.

7. Why are you not pursuing the marketing agency?

Whilst there might be a claim against the marketing agency we have not reviewed this and if the negligence claim is successful the damages would be paid by an insurer which should provide a degree of comfort that any judgment would be paid rather than pursuing individuals or limited companies who may not have sufficient funds to pay and/or may have hidden assets to make recovery difficult and time consuming.

8. Is my claim time limited? Does clause 10.9 in the GBLF terms and conditions mean I am out of time?

The issue of limitation is a large and complex area of law which we would need to consider on a case by case basis. However, in basic terms the primary limitation period for bringing a negligence claim based on breach of contract is 6 years. In some instances, the time limit can be extended if the negligence is discovered at a later point. In those instances the limitation period is 3 years from the date of knowledge subject to a maximum of 15 years from the date of contract. It is possible for parties to agree a shorter period (as GBLF have tried to do) however shorter periods have to be reasonable and may be subject to challenge under the Unfair Contract Terms Act 1977. Whether the terms in the GBLF terms and conditions are reasonable is again something we would need to consider on a case by case basis as it will vary between the level of sophistication of the investor and what was said about the limit on limitation.

8 July 2020