Patrick Finucane Inquiry

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Public Funding Means Testing Policy

Introduction

1. In assessing whether a person is entitled to receive funding at public expense the Inquiry Chair is required to apply Rule 21 of the Inquiry Rules:

Determination of whether an award should be made

21.—(1) Subject to section 40(4) of the Act (conditions or qualifications notified by the Minister), the chairman must take into account the general criteria set out in paragraph (2) when determining whether an award should be made.

(2) The general criteria are—

(a) the financial resources of the applicant; and

(b) whether making an award is in the public interest.

Public Interest

2. Under paragraph 4 of the Inquiry's funding protocol, to even be ***considered*** for funding an applicant must show that they are:

    (a) A person attending the Inquiry to give evidence or to produce any Document or other thing; or

    (b) A person who, in the opinion of the Chair, has such particular interest in the proceedings or outcome of the Inquiry as to justify an award.

3. As the Inquiry has been set up by the Minister under section 1 of the Inquiries Act to address issues of public concern, it is likely that anyone who meets the criteria in either paragraph 2 (a) or (b) above will automatically meet the public interest test, as they will be helping the Inquiry to achieve its objectives.

4. The Inquiry should only consider an applicant's financial resources if the public interest is met.

Financial Resources

5. If an applicant has annual net income exceeding £74,200 or net assets with a value of more than £500,000, they will be asked whether any of the income or assets could be utilised for funding legal expenses in respect of involvement with the inquiry, and if not, why not.

Calculating Income

6. Income includes regular (e.g. annual or monthly) income from any source, for example:

   a. Salary or wage from a job. This should not include any bonuses or overtime payments which are non-consolidated;

   b. Any other regular payments from a job or profession (e.g. royalties); or income (whether regular or not) which arise from self-employment or business arrangements (e.g. dividends or similar to partners or shareholders);

   c. Income from savings or investments, including any digital or tangible assets intended as investment opportunities;

   d. Any income related to a second real estate property in which the applicant has a financial interest (for example, a second home, holiday let or house in which a family member lives) but in which they do not personally normally reside;

   e. Pension payments;

   f. Income from Trusts;

   g. Any other income not covered by one of the above categories.

Deductions to be made when calculating net income

7. The following deductions will be made when calculating net income:

   a. Tax;

b. National Insurance;

c. Pension contributions

d. Rent or mortgage payments on the property in which the applicant normally resides;

e. Utility bills;

f. Child maintenance payments;

g. Council Tax on the property in which the applicant normally resides;

h. Any other regular expenses the Inquiry Chair agrees may reasonably be deducted. If relevant, details must be provided by an applicant, with an explanation of why they consider the Inquiry ought to take them into account when assessing net income.

Calculating net assets

8. Net assets include the following:

    a. Savings

    b. Property – apart from any property in which the applicant normally resides;

    c. Investments, including digital/cryptocurrency;

    d. Shares or other interests in a business;

    e. Shareholdings;

    f. Tangible items with a value exceeding £5000 (for example, cars);

    g. Interests in Trusts

Evidence required

9. In assessing an applicant's means, the Inquiry will act fairly, taking into account the need to avoid unnecessary costs to public funds. To make an assessment, the Inquiry will require sufficient evidence going back over a period of up to three years. What is sufficient evidence will vary from case to case and will depend on the individual circumstances.

Other factors

10. If the Inquiry Chair concludes that the applicant falls within the threshold for public assistance, the Inquiry will further consider the following factors in determining the degree of public funding:

    a. Whether the applicant has been designated as a Core Participant for the entirety of the Inquiry or for a specific part of the Inquiry;

    b. The size and shape of the legal team proposed;

    c. Whether, having regard to the applicant's assets and any other relevant matters, any upper limit should be set on the total amount that will be paid by the Inquiry in a particular period or periods as a condition of an award.

11. Applicants should inform the Inquiry immediately if there is a significant change in their financial circumstances, to either add or remove sources of income. The Chair may require an applicant to confirm on an annual basis that their situation has not changed.