

NOTTINGHAM INQUIRY – SECTION 40 DETERMINATION

Notice of Determination by the Lord Chancellor to the Chair of the Nottingham Inquiry under section 40(4) of the Inquiries Act 2005

1. The Lord Chancellor has determined under section 40 (4) of the Inquiries Act 2005 (“the Act”) that the power of the Chair of the Nottingham Inquiry (“the Inquiry”) to award amounts in respect of legal representation under section 40 (1) and (2) of the Act to persons eligible for an award under section 40 (3) shall be subject to the qualifications and conditions set out below.

2. The qualifications and conditions are:

2.1 The Chair shall only make an award relating to a person’s costs of legal representation in relation to the Inquiry where she considers it necessary, fair, reasonable and proportionate to make an award.

2.2 An award shall be subject to the condition that payment will only be made for work that is properly evidenced and can be identified as having been done in an efficient and effective manner, avoiding unnecessary duplication and making the best use of public funds.

2.3 An award shall be made only in respect of legal work undertaken by an applicant’s legal representative whom the Chair has designated under either Rule 6 or Rule 7 of the Inquiry Rules 2006 to be that person’s recognised legal representative in relation to the Inquiry.

2.4 The Chair shall only make an award if she has approved the size and composition of any legal team to be engaged by a person’s recognised legal representative, including any changes to a person’s legal team or the number and seniority of any legal member or counsel whose retention she agrees to be necessary.

2.5 In determining whether to make an award the Chair shall specify the broad areas of work that are to be covered by the award and the hourly rates applicable to all members of the applicant’s approved legal team subject to the maximum hourly rates specified at paragraph 3 below.

2.6 Having regard to the inquisitorial nature of the Inquiry, an award shall not be made in respect of investigative work undertaken by an applicant’s recognised legal representative or in relation to obtaining an expert’s report unless the Chair has given her express written permission in advance for such work to be undertaken.

2.7 The maximum number of hours that can be claimed by any member of an applicant’s legal team shall be 40 hours per week save that exceptionally, the

Solicitor to the Inquiry may authorise an increase to a maximum of 60 hours during the eight-week period immediately preceding the commencement of the oral hearings and during the oral hearings where the Solicitor to the Inquiry is satisfied that such increase is justified in all the circumstances. For the purposes of this paragraph a week shall be taken to commence on a Monday and end on the following Sunday, and no unused hours below the maximum in any one week may be set off against any other week.

3. The maximum hourly rates for legal work by the members of an applicant's legal team shall be:

Leading Counsel

Whether a member of the Bar or a Solicitor acting in the role of advocate – a range between £180 – £200.00

Junior Counsel

Whether a member of the Bar or a Solicitor acting in the role of advocate - £100.00

Solicitors

Solicitors with over eight years' post qualification experience - £150.00

Solicitors and legal executives with over four years' experience - £125.00

Other solicitors, legal executives and fee earners of equivalent experience - £100.00

Trainee solicitors, paralegals and other fee-earners - £75.00

4. The maximum hourly rates for travel and waiting time by the members of an applicant's legal team shall be half of the applicable maximum hourly rate relating to legal work specified at paragraph 3.

5. Expenditure incurred by an applicant in respect of legal representation before an award is made by the Chair shall not be recoverable except where (and to the extent that) it has been incurred:

- a) with the prior agreement of the Solicitor to the Inquiry who in giving such approval shall have regard, to the extent applicable, to the conditions and qualifications set out in paragraph 2 that would apply if the award had already been made and to the maximum hourly rates set out in paragraph 3.
- b) in respect of responding to the Chair's consultation on the Terms of Reference.

6. The Chair shall only make an award relating to compensation for loss of time where the person to be compensated would otherwise face actual financial loss, for example (but not limited to) receipt of monies related to that person's employment.