

Notice of Determination by the Chancellor of the Duchy of Lancaster to the Chairman of the Infected Blood Inquiry under section 40(4) of the Inquiries Act 2005

1. The Chancellor of the Duchy of Lancaster has determined under section 40(4) of the Inquiries Act 2005 (“the Act”) that the power of the Chairman of the Infected Blood 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 Given the exceptional nature and gravity of the infected blood tragedy and in particular its impact on the people who were infected, and their partners, children, parents, families and others close to them, the Chancellor of the Duchy of Lancaster considers that it is overwhelmingly in the public interest that those applicants, otherwise eligible for an award under section 40(3) of the Act, are provided such funding by the government.

2.2 Accordingly, Rule 21 of the Inquiry Rules 2006 is qualified to the extent that the general criteria in Rule 21(2)(a) (financial resources) is satisfied without further enquiry as to means, on an application for an award for legal expenses by:

- (a) People who were infected from blood or blood products;
- (b) The families of people who were infected;
- (c) To include under (a) and (b) above, people who not unreasonably believe that they or their family member were so infected,

who otherwise qualify for an award under section 40 of the Act, the Inquiry Rules, this Determination, and any costs protocol issued by the Chairman.

2.3 The Chairman shall only make an award relating to a person’s costs of legal representation (which includes the legal costs referred to at paragraph 2.5 below) where he considers it necessary, fair, reasonable and proportionate to make an award.

2.4 An award shall be subject to the condition that payment will only be made for work that is properly evidenced, directly related to the work of the Inquiry as determined by any costs protocol issued by the Chairman, 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.

2.5 Expenditure incurred by an applicant in respect of legal representation before an award is made by a Chairman shall not be recoverable except in respect of responding to the Inquiry’s consultation on the terms of reference prior to the setting up date of the Inquiry.

2.6 An award shall be made only in respect of legal work undertaken by an applicant’s legal representative whom the Chairman 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.

2.7 The Chairman shall approve the size and composition of any legal team to be engaged by an applicant's recognised legal representative including the number and seniority of counsel whose retention he agrees to be necessary.

2.8 In determining whether to make an award the Chairman 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.

2.9 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, save in exceptional circumstances.

2.10 An award shall limit the maximum number of hours that can be charged by any member of a legal team in connection with Inquiry work to 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 he 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.

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

3.2 Leading Counsel

Whether a member of the Bar or a Solicitor acting in the role of advocate - £180.00 to £220.00

3.3 Junior Counsel

Whether a member of the Bar or a Solicitor acting in the role of advocate - £120.00

3.4 Solicitors

Solicitors with over eight years post qualification experience - £175.00

Solicitors and legal executives with more than four years experience - £150.00

Other solicitors and legal executives - £125.00

Trainee solicitors, paralegals and other fee-earners - £100.00

3.5. 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.

