

Section 40 Determination

Notice of Determination by the Secretary of State for Health to the Chair of the Lampard Inquiry, formerly the Essex Mental Health Independent Inquiry, into inpatient deaths in Essex Partnership University Trust (EPUT) from 2000 to 2020 ("the Inquiry") under section 40(4) of the Inquiries Act 2005

1. The Secretary of State for Health has determined under section 40(4) of the Inquiries Act 2005 (the "Act") that the power of the Chair of this Inquiry to award amounts in respect of legal representation under sections 40(1) and (2) of the Act to persons eligible for an award in accordance with section 40(3) shall be subject to the conditions and qualifications set out below.
2. The conditions and qualifications 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 such 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 a person's legal representative whom the Chair has designated 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 in writing 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 The Chair shall specify in writing the broad areas of work that are to be covered by the award and the hourly rates applicable to all members of the person's legal team (subject to the maximum hourly rates specified at paragraphs 3 and 4 below.)
 - 2.6 The maximum number of hours that can be claimed by each member of the person's legal team in respect of an award made by the Chair shall be 40 hours per week save that exceptionally the Solicitor to the Inquiry may authorise an increase in the cap to a maximum of 60 hours per week in relation to specified members of the legal team for any specific week during the oral hearings or within a period of up to eight weeks prior to the oral

hearings, where she is satisfied that such an increase is justified in all the circumstances.

2.7 For the purposes of paragraph 2.6, a week shall be taken to commence on a Monday and end on a Sunday and no unused hours in any week may be set off against any other week.

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

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

Leading counsel: **£220**

(Whether a member of the Bar or a solicitor acting in the role of advocate)

Junior counsel: **£120**

(Whether a member of the Bar or a solicitor acting in the role of advocate)

Solicitors/ Legal Executives:

(a) Solicitors with over 8 years Post Qualification Experience: **£175**

(b) Solicitors / Legal Executives with over 4 years Post Qualification Experience: **£150**

(c) Other Solicitors / Legal Executives or fee earners of equivalent experience: **£125**

(d) Trainee solicitors/ paralegals & other fee earners: **£100**

4. The maximum hourly rates (exclusive of VAT) for travel and waiting by the members of the person's legal team shall be half of the applicable hourly rate in relation to legal work specified at paragraph 3.

5. Expenditure incurred by a person in respect of legal representation before an award is made by the Chair shall not normally be recoverable except where (and to the extent that) such expenditure has been incurred with the prior written agreement of the Solicitor to the Inquiry who in giving such approval shall have regard:

(a) 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

(b) to the maximum hourly rates prescribed in paragraphs 3 and 4.