

## Protocol on Legal Costs

1. This Protocol relates to:
  - a. applications made under section 40 of the Inquiries Act 2005 (the Inquiries Act) for an award in respect of the costs of legal representation; and
  - b. following a decision to make an award, how legal expenses will be assessed and paid by the Inquiry.
2. Issues relating to Core Participant status and the designation of lawyers as Recognised Legal Representatives (RLRs) under the Inquiries Act and Inquiry Rules 2006 (the Inquiry Rules) are dealt with in the Inquiry's Protocol on Core Participants, which can be accessed [here](#).
3. The procedures set out in this Protocol:
  - a. have been formulated and will be applied in accordance with section 17 of the Inquiries Act, including section 17(3), which requires the Chair to act with fairness and with regard to the need to avoid unnecessary cost;
  - b. follow the approach contained within the Section 40 Determination made by the Minister which can be accessed [here](#); and
  - c. reflect the relevant provisions of the Inquiry Rules 2006 on costs.

### General Principles Concerning Applications for Awards

4. A person is eligible to be considered for an award only if they are:
  - a. attending the Inquiry to give evidence or to produce any document or other thing; or
  - b. in the opinion of the Chair, a person who has such particular interest in the proceedings or outcome of the Inquiry as to justify an award.
5. In exercising her power to make an award relating to legal representation at public expense, the Chair will also take into consideration the financial resources of an Applicant and whether making an award is in the public interest. To assist in the Chair's consideration, Applicants will be asked to confirm whether they have a disposable income and assets over a certain level. If necessary, they may be asked to provide further specific details of their financial resources.
6. Generally, awards will be made only in cases where the Chair considers that the Applicant fulfils one or more of the following criteria:

[www.LampardInquiry.org.uk](http://www.LampardInquiry.org.uk) Email: [Contact@LampardInquiry.org.uk](mailto:Contact@LampardInquiry.org.uk)

Address: Lampard Inquiry, PO Box 78136, LONDON, SW1P 9WW

Tel: 020 7972 3500

- a. has evidence to provide in respect of the matters set out in the Inquiry's Terms of Reference;
  - b. has a significant interest in the matters set out in the Terms of Reference;
  - c. may be subject to explicit or significant criticism during the Inquiry's proceedings or in any report produced by the Inquiry; and / or
  - d. it is fair, necessary, reasonable, and proportionate to make an award.
7. Awards will generally not be made in respect of the legal expenses of substantial bodies, or those of individuals or organisations who could reasonably expect their legal expenses to be met by such bodies.

### **The Scope of Legal Representation in the Inquiry at Public Expense**

8. The Chair will make awards only in respect of legal work undertaken by a person's legal representative, whom the Chair has designated to be that person's RLR in relation to the Inquiry.
9. Where the Chair determines to make an award for legal representation at public expense, it will normally be limited to an RLR undertaking the following tasks:
- considering and relaying initial instructions from a client they have been instructed to represent during the course of the Inquiry;
  - advising a client in relation to making a witness statement, and/or providing evidence to the Inquiry, in response to a request made by the Inquiry;
  - considering material provided by the Inquiry so far as is necessary to represent the client's interests;
  - advising a client in relation to any warning letter issued by the Chair;
  - making an opening statement, where permitted;
  - representing a client during their oral evidence (and the evidence of others, should that be necessary);
  - making an application for permission to submit questions to witnesses during oral evidence, as directed by the Chair; and
  - making final submissions on behalf of a client, where necessary.
10. In accordance with the Protocol on Core Participants and Rule 7 of the Inquiry Rules, the Chair may direct that two or more Core Participants shall be represented by a single RLR where she considers that:
- a. their interests in the outcome of the Inquiry are similar;
  - b. the facts that they are likely to rely on during the Inquiry are similar; and

- c. it is fair and proper for them to be jointly represented.
11. Where the Solicitor to the Inquiry has reason to believe that the interests of any Applicant may conflict with the interests of other parties, they shall ensure that the fact of such potential conflict is made known to those involved and to the Chair, and any public funding which is made available for legal assistance will take account of this fact in determining the application.

### **Making an Application for an Award of Legal Expenses**

12. Anyone who wishes to apply for an award for legal expenses should complete the legal costs application form, published with this Protocol and accessible [here](#). They should provide a completed copy of the form to the Inquiry either by email to [Contact@LampardInquiry.org.uk](mailto:Contact@LampardInquiry.org.uk) or by post - The Lampard Inquiry, PO Box 78136, London, SW1P 9WW marked for the attention of the Solicitor to the Inquiry.
13. All applications should set out:
- a. the reasons why legal representation is considered necessary;
  - b. the extent of the Applicant's financial resources and confirmation that there are no other means by which such representation can be funded;
  - c. how any award made will be in the public interest;
  - d. the nature and extent of the legal representation for which the award is sought;
  - e. the size and composition of the team that the Applicant's RLR wishes to engage. This includes the seniority and proposed hourly rate for all legal team members;
  - f. where an Applicant wishes to instruct Counsel, they should include the reasons for so doing, the date of call of that Counsel and proposed hourly rate. Counsel will be funded only based on payment for time spent. Claims for 'brief fee', 'refresher' or 'preparation' are not permitted;
  - g. how long Recognised Legal Representation is expected to last;
  - h. the number of hours each week for which it is anticipated that the RLR's team will be engaged on Inquiry work;
  - i. the number of hours each week for which it is anticipated that Counsel will be engaged on Inquiry work; and
  - j. details of any other foreseeable expenses relating to legal representation.
14. In accordance with the section 40 determination issued by the Minister, the maximum hourly rates for team members of any RLR are set out below. All

rates are exclusive of VAT. Rates must be agreed with the Solicitor to the Inquiry prior to any work being undertaken.

<b>Role</b>	<b>Maximum Hourly Rate</b>
Leading Counsel (either barrister or solicitor advocate)	£220
Junior Counsel (either barrister or solicitor advocate)	£120
Solicitors or Legal Executives with over 8 years post-qualification experience	£175
Solicitors or Legal Executives with over 4 years post-qualification experience	£150
Other Solicitors or Legal Executives or fee earners of equivalent experience	£125
Trainee solicitors, paralegals and other fee earners	£100

15. The maximum number of hours that can be claimed by each member of a 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 they are satisfied that such an increase is justified in all the circumstances.
16. 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.
17. An award shall not be made in respect of any investigative work undertaken by an RLR or in relation to obtaining an expert report unless the Chair has given her express written permission and approved the proposed expert in advance for such work to be undertaken.
18. The hourly rate for travel or waiting time will be no more than half of the agreed hourly rate for legal work. Any travel or waiting time must be included within the cap on the maximum number of hours that can be charged by an RLR.

## **Determination of Applications for Legal Expenses / Award Letters**

19. The Chair will determine an application for an award of legal expenses within a reasonable time.
20. The Solicitor to the Inquiry will notify the Applicant and, where applicable, their RLR of the Chair's determination in writing. If the application is granted, the Solicitor to the Inquiry will provide an Award Letter which sets out the details and any conditions of funding. This may include:
- the nature and scope of the work that is to be funded;
  - the size and composition of the RLR's legal team, including the seniority and number of counsel where necessary;
  - the hourly rates for all counsel, solicitors and paralegals;
  - any capping of legal fees that is to be applied whereby legal teams (including Counsel) will be capped as to the maximum number of hours that can be charged for any working day or working week;
  - that disbursements in excess of £100 (exclusive of VAT) will not be paid unless authorised in advance by the Solicitor to the Inquiry;
  - disbursements under £100 will only be paid where the expenditure is considered to have been reasonable and necessary and where supported by evidence of payment;
  - 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;
  - that work is to be undertaken by an individual at an appropriate grade and that where work is undertaken by an individual at a higher grade, the hourly rate at the appropriate lower grade will be paid;
  - the form in which bills relating to legal expenses are to be submitted; and
  - the frequency with which bills are to be submitted.
21. As is set out in the Minister's Section 40 Determination, expenditure incurred before the making of an award will not normally be recoverable, except where (and to the extent that) it has been expressly agreed in advance by the Solicitor to the Inquiry. Any such prior agreement will have no bearing on the Chair's consideration of any subsequent application for legal funding which may be made.
22. It will be open to the Chair any time after making an award to impose further conditions on the award. In particular, she may determine that a lower cap

should be imposed in relation to legal expenses that may be claimed. This could amount to an overall financial limit and/or a limit on the number of hours to be spent on Inquiry work. The Solicitor to the Inquiry will review all awards with the Chair on a six-monthly basis.

## **Billing Procedures**

23. An Applicant who has been granted an award by the Chair should submit bills relating to their legal expenses at monthly intervals to the Solicitor to the Inquiry at the email address or postal address stated below. Bills must be received no later than 14 days following the end of the month to which they relate. Should additional time be needed, an application for an extension must be sought in advance of this two-week grace period expiring. Where bills are submitted late, without prior approval, the Inquiry reserves the right to impose an appropriate percentage reduction on any amount paid, or decline payment in accordance with paragraph 35 below.
24. Bills must be submitted on the template supplied by the Inquiry with the Award Letter, and should contain the following information:
  - a. a breakdown of the number of hours worked by each person on each day, specifying details of the work undertaken and the time spent on it;
  - b. the hourly rates charged for each person;
  - c. a list of all disbursements claimed; and
  - d. where work has been undertaken by Counsel, details of Counsel's fees (supported by detailed fee notes).
25. The relevant part of the United Kingdom for the purposes of the assessment of an award shall be England and Wales.
26. The Solicitor to the Inquiry (or such member of the legal team as they may delegate this task to) will assess the amount of the award. In assessing the amount that is to be awarded in respect of each bill submitted, the Solicitor to the Inquiry will have regard to all the circumstances, including in particular whether the expenses:
  - a. were proportionately and reasonably incurred;
  - b. are proportionate and of a reasonable amount; and
  - c. claimed in accordance with the procedures set out in this Protocol.
27. Any work undertaken by an Applicant's RLR which relates to matters outside the Inquiry's Terms of Reference and/or the issues which the Inquiry identifies

for investigation, or which otherwise does not comply with the terms of the award, will be disallowed.

28. Where the Solicitor to the Inquiry determines that the full amount of an Applicant's legal expenses should be paid, that assessment is also the final assessment.
29. If an Applicant or their RLR disagrees with the Solicitor to the Inquiry's initial assessment of a bill relating to their legal expenses, they must notify the Solicitor to the Inquiry of this as soon as reasonably practicable and, in any event, within 21 days of the initial assessment being sent. The procedure set out in Rule 29 of the Inquiry Rules will then be followed.
30. Where there remains a disagreement following completion of the procedure set out in the Inquiry Rules the Chair must either:
  - a. engage the assistance of a Costs Judge of the Senior Courts of England and Wales by referring the assessment together with all relevant evidence and documentation to that Costs Judge; or
  - b. require the Solicitor to the Inquiry to issue a final assessment of the disputed Bill of Costs.
31. Where:
  - a. the Chair decides that an award is not to be reviewed; or
  - b. the Solicitor to the Inquiry and the Applicant agree on the amount of the assessment at any time after the Chair's referral of the application to the Costs Judge and before the date of the review hearing,the Chair will make an award and arrange for payment of the final assessment.
32. Where the Costs Judge has reviewed the amount of the award, the Chair will make an award and arrange for payment of the Costs Judge's assessment.
33. All payments will be made either by Bankers' Automated Clearing System (BACS) or payable order at the Inquiry's discretion. To enable payment to be made, bank account details must be provided.
34. All applications, correspondence or queries about awards should be sent to the Inquiry by email at [Contact@LampardInquiry.org.uk](mailto:Contact@LampardInquiry.org.uk) or by post – The Lampard Inquiry, PO Box 78136, London, SW1P 9WW. Should you wish to speak to a member of the Inquiry team, you may also call 020 7972 3500.

35. Failure to adhere to, and comply with, any of the matters or procedures set out in this Protocol could result in payment being delayed, appropriately reduced or refused.
36. The Chair and Solicitor to the Inquiry have discretion to vary the application of the terms of this Protocol on a case-by-case basis where it is considered necessary for the proper conduct of the Inquiry, subject to the constraints of the Minister's Section 40 Determination.

### **Review**

37. If this Protocol requires amendment during the course of the Inquiry, an updated version will be published on the Inquiry's website at the earliest opportunity. Any amendments will be subject to the review and approval of the Chair.

**April 2024**