

NOTICE OF DETERMINATION BY THE SECRETARY OF STATE FOR WORK AND PENSIONS AND THE SCOTTISH MINISTERS TO THE CHAIR OF THE ICL INQUIRY UNDER SECTION 40(4) OF THE INQUIRIES ACT 2005

The Secretary of State for Work and Pensions and the Scottish Ministers have determined under section 40(4) of the Inquiries Act 2005 (“the 2005 Act”) that the power of the chairman of the ICL Inquiry to award amounts in respect of legal representation under section 40(1) and (2) of the 2005 Act shall be subject to the qualifications and conditions set out below.

The qualifications and conditions are:

1. Awards in respect of legal representation may only be made in circumstances in which the chairman considers it necessary, fair, reasonable and proportionate for such an award to be made.
2. Any award must be subject to the condition that payment will only be made for work that is evidenced and can be identified as having been done in an effective and efficient manner, avoiding unnecessary duplication and making best use of public funds.
3. Awards may only be made in respect of legal representation provided by one or more named legal representatives whose involvement has been approved in advance by the chairman. The chairman must approve the size and composition of any legal team to be engaged, including the seniority and number of counsel where that is agreed to be necessary. Costs associated with work carried out by legal representatives who are not approved in advance of the work being carried out shall not be met for from public funds.
4. Any award must specify the nature and scope of the work that is to be publicly funded. Legal representatives must not be publicly funded for work that does not fall within the agreed scope. An Inquiry under the 2005 Act is inquisitorial in nature and legal representatives will not be paid for investigative work or for work in relation to obtaining expert reports unless the chairman gives express permission in advance for this work to be carried out.
5. The legal representatives will agree in advance, with the Solicitor to the Inquiry, hourly rates for counsel and solicitors, subject to the following maximum hourly rates:
 - Senior Counsel £200
 - Junior Counsel £100
 - Solicitors £150
6. The maximum number of hours that can be charged by a legal representative in receipt of an award made by the chairman shall be 40 hours per week save that exceptionally the Solicitor to the Inquiry may authorise an increase in the weekly cap up to 60 hours for counsel or a solicitor during the oral hearings and for a two month period before they commence where she is satisfied that such action is justified in all the circumstances, for example, when the work involved in any week clearly needs to exceed 40 hours.

7. In respect of paragraph 6 of this notice:

- (a) no unused hours in any week may be set off against any other week;
- (b) a week shall be taken as commencing on Sunday and ending on Saturday;

8. Expenditure incurred before notification of the chairman's award of funding and agreement with those terms, or expenditure in excess of the terms upon which approval is granted will not be recoverable.

**THE SECRETARY OF STATE FOR WORK AND PENSIONS
THE SCOTTISH MINISTERS**

21 February 2008