



Ministry of
JUSTICE



Civil Legal Aid
Ministry of Justice
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Code A

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Blake Laphorn
DX 155850 Eastleigh 7

Our ref: SF/6(8)(b)/Mac
Your ref: 558203/000001/JCW/RICHARD/JDB

3 October 2011

Dear Sirs,

Application for exceptional funding under Section 6(8)(b) of the Access to Justice Act 1999 – Gillian MacKenzie

You made an application for exceptional funding to the Legal Services Commission (LSC), on behalf of your client, Mrs MacKenzie, for legal representation at the inquest into the death of her mother, Mrs Gladys Richards. The LSC requested that the matter be considered by the Lord Chancellor. I am writing to let you know the decision that Jonathan Djanogly, the Parliamentary Under-Secretary of State, has taken on the Lord Chancellor's behalf. There has been some delay in dealing with this application, and I can only offer my sincere apologies, on behalf of the Department, for the length of time that this process has taken.

I am pleased to be able to inform you that the LSC has been authorised to grant funding of **Code A** pro rata, based on a 10-day inquest in this case. This grant of funding is backdated to 22 April 2009. We will assume that you accept this offer of funding, unless we hear to the contrary. The costs of **Code A** which you have claimed have been reduced, as they were excessive. We have reduced the number of hours payable in certain categories. We have also corrected the rates claimed for travel and waiting, for which uplifts are not applicable. In addition, we have allowed uplifts of 50% for the senior solicitor and solicitor preparation and attendance costs. A summary of the approved costs is set out at the end of this letter: **Code A**

The LSC's Special Cases Unit (SCU) has been authorised to deal with future management of this case, including arrangements for assessment and payment, and all future correspondence should be addressed directly to them. Any requests for an extension of the grant should be submitted to the SCU. Your bill will be subject to assessment by the LSC at the end of the case.

As you will know, the Lord Chancellor's guidance sets out requirements for exceptional funding in a case such as this. The client must be financially eligible, or the case must be suitable for a waiver of the financial eligibility limits, and there must be no alternative source of funding. Furthermore, the circumstances of the death must appear to be such that funded representation for the family is necessary to enable the coroner to conduct

an effective investigation as required by Article 2 of the European Convention on Human Rights. Alternatively, there must be a significant wider public interest, as defined by the funding code guidance, in the applicant being represented at the inquest.

The Minister considers that, on the evidence presented, the Article 2 criterion is met in this case.

Given the close connection between the inquest and any subsequent civil action, the statutory charge under section 10(7) of the Access to Justice Act 1999 will apply to the costs of representation at the inquest if, ultimately, civil damages are recovered. As a condition of this grant, and in compliance with regulation 20(1)(a) of the Community Legal Service (Costs) Regulations 2000, you will be required to inform the LSC of any civil damages recovered and implement the statutory charge in the usual way.

All bills and correspondence regarding payment should be addressed to:

Special Cases Unit
Legal Services Commission
11th Floor, Exchange Tower
Harbour Exchange Square
London E14 9GE
DX 100170 Docklands 2

Yours faithfully

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Selma Fisher
Policy Advisor
Civil Legal Aid

cc. **John Baker (LSC), Kulvinder Bagri (LSC)**

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