

Phase 2 Costs and Funding Protocol relating to legal representation at public expense

Introduction and purpose of this Phase 2 Costs and Funding Protocol

1. This Phase 2 Costs and Funding Protocol is provided further to the Manston Inquiry's (the 'Inquiry') Phase 2 Overview Protocol and subject to, and should be read with, all other Protocols which govern the conduct of the Inquiry.
2. This Phase 2 Costs and Funding Protocol sets out the Inquiry's approach to the awards to be made to an eligible person in respect of expenses properly incurred or to be incurred in respect of obtaining legal advice or representation in connection with the Inquiry ('an award'). It builds upon the Inquiry's Phase 1 Costs and Funding Protocol, which provides legal funding for the provision of witness statements by individuals who were detained at Manston during the Relevant Period and as requested by the Inquiry.
3. The procedures outlined in this Costs and Funding Protocol are not intended to cover every eventuality or every procedural issue that may arise. It follows that, in exceptional cases, where the interests of justice and fairness require it, the Inquiry may need to depart from this Protocol.
4. An eligible person is a person who cannot afford representation, and who is required to participate in the Inquiry to ensure discharge of its Terms of Reference.

General principles concerning applications for awards of legal funding under this Protocol

5. A person is eligible to be considered for an award relating to legal representation at public expense only if they are:
 - a. Producing documents as requested by the Inquiry;
 - b. Providing a written statement as requested by the Inquiry;

- c. Answering written questions put by the Inquiry;
 - d. Attending a hearing to give oral evidence;
 - e. Attending a hearing to make opening or closing submissions;
 - f. A person who, in the opinion of the Chair, has such a particular interest in the proceedings or outcome of the Inquiry as to justify an award in respect of obtaining legal advice and / or being represented in the Inquiry.
6. In exercising the power to make an award relating to legal representation at public expense, the Chair will act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or witnesses or to others) and to make the best use of public funds.
7. The Chair will, when making a determination to award legal representation at public expense, take into account:
- a. whether making an award is in the public interest; and
 - b. the financial resources of the applicant.
8. An award may only be made where:
- a. the individual satisfies the criteria in paragraph 5 of this Protocol; and
 - b. without an award the applicant is likely to be prejudiced and the Chair considers it necessary, fair, reasonable, and proportionate to make an award.
9. In considering whether it is necessary, fair, reasonable, and proportionate to make an award, the Chair will (where relevant) have regard to the fact that persons are represented by the same legal representatives and / or that their representatives are acting with other legal representatives representing clients with the similar interests. Legal representatives will be expected to proactively collaborate to avoid duplication of work in these circumstances. The Chair will also have regard to the fact that legal representatives are not required to undertake investigative work, as this work will be undertaken by the Inquiry Legal Team.

10. The Chair intends to follow a process equivalent to r. 7(2) of the Inquiries Rules and must direct that Inquiry Participants shall be represented by a single recognised legal representative where she considers that:
 - a. Their interests in the outcome of the inquiry are similar;
 - b. The facts that they are likely to rely upon are similar; and
 - c. It is fair and proper for them to be jointly represented.
11. Therefore, wherever possible, and to minimise expense, applicants are, and will be encouraged, to instruct recognised legal representatives who are already retained by other parties.
12. The Chair intends to apply the following general criteria when considering applications for fundings:
 - a. The financial resources of the applicant; and
 - b. Whether making an award is in the public interest.
13. The purpose of an award of legal representation at public expense is intended to ensure that individuals can, where necessary, effectively participate in the Inquiry's work. Accordingly, awards will not be made, unless special circumstances apply, in respect of the legal expenses of substantial bodies or institutions (including Government departments and organisations) or those witnesses who could reasonably expect those expenses to be met by such individuals, bodies, institutions, departments and organisations or where there is an umbrella group which could adequately represent their interests.

The scope for legal representation in the Inquiry at public expense during Phase 2

14. Where the Chair determines to make an award, save for incidental expenses assessed as payable in accordance with paragraph 15 below, it will normally be limited to a recognised legal representative having a role in relation to some or all of the following matters only:
 - a. considering and relaying initial instructions;
 - b. considering material provided by the Inquiry so far as is necessary properly to represent the eligible person's interests;

- c. where necessary, advising the eligible person(s) in relation to the making of a witness statement and/or answering written questions posed by the Chair and/or advising in connection with the giving of evidence or the provision of documents to the Inquiry;
- d. making an opening statement where permitted;
- e. representing the eligible person during their oral evidence (and the evidence of others, should that be necessary);
- f. making an application to be permitted to examine any witness giving oral evidence, in the circumstances specified by the Chair;
- g. making final submissions on behalf of the eligible person where necessary;
- h. advising eligible persons in relation to any warning letter issued by the Chair.

Incidental expenses

15. Where an eligible person does not have a recognised legal representative the Chair has discretion to award incidental expenses where in the opinion of the Chair it is reasonable and proportionate for the expenses to be incurred in order that the eligible person may participate in the Inquiry. Expenses to be claimed under this paragraph must be approved in advance by the Inquiry in writing and may include (but are not limited to) travel and accommodation.

The process for making applications for awards of funding and their determination

16. Having due regard for the principles and processes laid out in this protocol, the Chair may, at any time, exercise her discretion to make an award on an application of her own initiative.

17. An eligible person, or their legal representative on their behalf, who wishes to apply for an award must submit an application to the Solicitor to the Inquiry specifying the following:-

- a. the reason(s) why the obtaining of legal advice or representation is considered necessary and confirmation that duplication of work across applicants with similar interests will be avoided where possible;
- b. the extent of the applicant's financial resources and confirmation that there are no other means by which such legal advice or representation can be funded;

- c. the nature of the public interest that will be served by an award being made from public funds;
- d. the nature and function and extent of the legal advice or representation for which the award is sought;
- e. whether they have already produced a witness statement or other written evidence in other proceedings which could, albeit in a different form or format, serve to satisfy the Inquiry's request;
- f. details of the lawyer(s) to be so engaged, subject to the maximum hourly rates specified in the Schedule to this Protocol;
- g. the estimated duration of the legal advice or representation for which the award is sought;
- h. the number of hours each week for which it is anticipated that the recognised legal representative's team will be engaged, having regard to the specific interests of the applicant;
- i. particulars of any other foreseeable expenses, including estimated hours and costs, relating to legal advice or representation. This should include any expenses related to interpretation;
- j. where it is thought necessary to instruct counsel, the reason for so doing, the date of Call of the counsel and proposed hourly rate, subject to the maximum hourly rates specified in the Schedule to this protocol. Please note that counsel will be funded only on the basis of payment for time spent.

18. Where applicable, and as a reasonable and proportionate approach to the unnecessary expenditure of costs and public funds, the Inquiry is content to receive applications from legal representatives acting for a number of eligible persons on a "group" basis.

19. Subject to any cap on the maximum number of hours that can be charged by an applicant's legal representative, as set out in the award, and the maximum hourly rates set out in the Schedule to this Protocol, the relevant legal representative will agree with

the Solicitor to the Inquiry in advance the hourly rates that are to apply to them and/or anyone else appointed to assist them (e.g. paralegals), if approved by the Chair, in the discharge of their functions.

20. The maximum hourly rates for travel and waiting time by the applicant's legal representatives shall be half the agreed hourly rate relating to legal work. Any travelling and/or waiting time must be included within the cap on the maximum number of hours that can be charged by an applicant's legal representative and must not be in addition to the cap on the maximum number of hours.

Determination of applications by the Inquiry

21. Having regard to the provisions of this Protocol, the Chair will determine an application for an award within a reasonable time, usually within 14 days of receipt of that application.
22. The Solicitor to the Inquiry will notify the applicant and, where it relates to amounts to be incurred, the applicant's legal representative, in writing of the Chair's determination and, where an award is made, the terms of that award. Such terms may include (but are not limited to) the following:-
- a. that the award is 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;
 - b. the nature and scope of the work that is to be funded;
 - c. the nature of the public interest that will be served by an award being made from public funds;
 - d. the details of any lawyers or paralegals and the size and composition of the applicant's legal team including Counsel;
 - e. where it is thought necessary to instruct counsel, the reasons for so doing, the date of call of that counsel and the proposed hourly rate, subject to the maximum hourly rates specified in the Schedule to this Protocol. Use of counsel will be funded only on the basis of payment for time spent on specific areas of

work agreed in advance; it will not be acceptable to submit general claims along the lines of 'brief fee', 'refresher' or 'preparation';

- f. the estimated duration of the recognised legal representation;
- g. the hourly rates which will be paid, having regard to the Schedule to this Protocol;
- h. the upper limit or limits on the sums or the number of hours which will be paid over a particular time period and/or by a particular category of legal representative;
- i. the frequency with which bills must be submitted to the Inquiry. Unless stated otherwise, this will be at monthly intervals in accordance with paragraph 28 below; and
- j. the form in which bills relating to legal expenses must be submitted to the Inquiry.

23. Expenditure incurred before the making of an award will not normally be recoverable, except where it has been expressly agreed in advance by the Chair. Any such prior agreement will be without prejudice to the Chair's consideration of any subsequent application made.

24. It will be open to the Chair, either initially or at any time after making an award, to impose further conditions on the award that she considers fair and reasonable. In particular, the Chair may determine that a lower limit be imposed in relation to legal expenses that may be incurred at public expense. This may amount to an overall financial limit and/or a limit on the number of hours to be spent on Inquiry work.

25. Any legal expenses or fees which are incurred as a result of work which exceed the terms and conditions of the award made by the Chair will not be paid.

26. In the event that the applicant(s) legal representatives consider that they are likely to incur legal fees and expenses in excess of the award made by the Chair, an application should be made for an award for any anticipated further fees and/or expenses. In any

such application, the legal representative must include clear reasons as to why they expect to incur such fees and/or expenses in excess of the award.

27. The Chair will determine any such application but will only grant further awards where there are good reasons for the applicant to exceed the amounts previously determined by the Chair. The Solicitor to the Inquiry will communicate the Chair's determination to the applicant and/or their legal representative accordingly.

Billing procedures

28. Where the Chair has decided, in accordance with this Protocol, that an award should be made to an applicant, the applicant or, as applicable, their legal representative for the relevant eligible person(s) should submit bills relating to their legal expenses to the Solicitor to the Inquiry at the email address stated in paragraph 43.b. below at monthly intervals.

29. Bills submitted in accordance with this Protocol shall contain the following information:-

- a. a breakdown of the number of hours worked by each person on each day specifying, in each case, details of the work undertaken, and the time spent on it;
- b. the hourly rates charged for each person. These will be those specified by the Chair in her original determination of the award;
- c. a list of all disbursements claimed with supporting evidence; and
- d. where work has been undertaken by Counsel, details of Counsel's fees (supported by fee notes which must specify precisely which work was done and how much time was spent on it).

Procedure for the assessment of amounts payable under an award

30. Where a bill is submitted in accordance with paragraphs 28 and 29 of this Protocol, the Solicitor to the Inquiry will make and issue an initial assessment of the award within 14 days of the receipt of the bill. The initial assessment will be in writing and will be sent to the applicant or, as applicable, the applicant's legal representative.

31. In assessing the amount that is to be awarded pursuant to the application, the Solicitor to the Inquiry will have regard to all of the circumstances, including in particular whether the expenses:
- a. were proportionately and reasonably incurred; and
 - b. are proportionate and reasonable in amount; and
 - c. are claimed in accordance with the procedures set out in this Protocol.
32. For the avoidance of all doubt, any work undertaken by an applicant's legal representative which relates to matters outside of the Inquiry's Terms of Reference and/or the scope of the award will not be paid.
33. Where the Solicitor to the Inquiry determines that the full amount of an applicant's legal expenses should be paid, that assessment also represents the final assessment.

Procedure where the initial assessment is not agreed in relation to an award

34. Paragraphs 35 to 40 apply where the applicant or the applicant's legal representative acting on the applicant's behalf disagrees with the initial assessment of a bill relating to their legal expenses, or part of it.
35. In such circumstances, the applicant or the applicant's legal representative must notify the Inquiry as soon as reasonably practicable and, in any event, within 14 days of the date that the initial assessment of the award was sent to the applicant or the applicant's legal representative.
36. Where the applicant has not responded within 14 days, the Solicitor to the Inquiry will issue the final assessment. The final assessment will be issued in writing and sent to the applicant or, as applicable, their legal representative.
37. Where notification has been given under paragraph 35 above, the Solicitor to the Inquiry must send the applicant or, as applicable, their legal representative, in writing, points of dispute within 14 days of receipt of the notification. The points of dispute must:-
- a. identify each item to which the Solicitor to the Inquiry objects;

- b. state the nature of the objection for each item; and
 - c. propose an amount to be allowed for each item in respect of which a reduction is sought.
38. The applicant must provide a written response to the points of dispute to the Solicitor to the Inquiry within 14 days of the points of dispute having been sent to the applicant or their legal representative as applicable. The Solicitor to the Inquiry will then review the written response and issue their final assessment within 14 days.
39. Where a dispute remains after the issuing of the Solicitor to the Inquiry's final assessment, an appeal may be made within 7 days of that decision to the Chair to determine the issue. Such a determination should be given within a reasonable time and shall be communicated in writing to the applicant and/or their legal representative by the Solicitor to the Inquiry.
40. The Inquiry and the applicant or their legal representative may agree to extend the deadlines set out in paragraphs 35 to 39 above.

Payment

41. All payments will be made by Bankers Automated Clearing System (BACS) transfer. To enable payment to be made, an applicant will be required to complete the appropriate documentation which will be provided by the Inquiry and/or provide bank account details.
42. When completed and signed, all invoices and supporting documentation will be sent by the Inquiry to the Home Office for payment.
43. The Inquiry's contact details are as follows:
- a. **General:** info@manston.independent-inquiry.uk
 - b. **Solicitor to the Inquiry:** Solicitor@manston.independent-inquiry.uk
44. Failure to comply with this Protocol may result in payment being delayed or refused.

Subsequent phases of Inquiry work

45. As the Inquiry determines the scope of work to be covered in subsequent phases, this Protocol may be extended, added to or replaced in due course. Any such amendment, extension or replacement versions will be published on the Inquiry website.

Issued under the authority of the Chair on 19 December 2025.

SCHEDULE

The maximum hourly rates for legal work by an applicant's lawyers shall be:

Solicitors	£
Solicitors with over eight years' post-qualification experience	150
Solicitors and legal executives with more than four years' experience	125
Other solicitors, legal executives and fee-earners of equivalent experience	100
Trainee solicitors, paralegals and other fee-earners	75
Counsel (where instruction is approved – see paragraph 21 above)	£
King's Counsel	180- 200
Junior Counsel	100