

Financial assistance for legal and related costs before the Equine Influenza Inquiry

Guidelines

These guidelines apply to the provision of financial assistance to an individual or not for profit organisation involved in the Equine Influenza Inquiry.

Criteria for assistance

Financial assistance may be provided to cover reasonable legal costs and expenses relating to those legal costs of an appearance before the Inquiry where:

- the applicant's personal interests could be exposed to prejudice, as a result of appearing before the Inquiry, or
- the applicant is, or is likely to be, central to the proceedings and thus likely to be involved to a major degree in those proceedings, or
- the applicant's appearance as a witness before the Inquiry is likely to assist the Inquiry in its task.

Financial assistance may also be provided to cover the reasonable legal costs of preparing a submission to the Inquiry where the applicant is, or is likely to be, central to the proceedings, or where the submission is likely to assist the Inquiry in its task.

Financial assistance may also be provided to cover the reasonable legal costs of responding to a notice issued by the Inquiry requiring the production of documents or things.

In appropriate cases, information will be sought from other departments and agencies, including from the Inquiry, in considering an application for financial assistance.

The decision maker

The Attorney-General, or his delegates in the Attorney-General's Department, will make decisions on applications for financial assistance.

Amount of assistance and conditions

Amounts (which include GST) and conditions of financial assistance are as follows:

- (a) a solicitor's fees are payable at 80% of the Federal Court Scale. The solicitor's professional fees are payable at \$208 per hour up to a maximum of \$1664 per day
- (b) junior counsel's fees are payable in the range of \$200-\$250 per hour up to a maximum of \$1600-\$2000 per day depending on the complexity of issues and experience of counsel¹
- (c) senior counsel's fees are payable in the range of \$300-\$400 per hour up to a maximum of \$2400-\$3200 per day depending on the complexity of issues and experience of counsel²
- (d) travel expenses by lawyers are payable at economy class rates unless exceptional circumstances justify business class

- (e) accommodation, meals and other travelling expenses are payable at non-Senior Executive Service rates
- (f) photocopying is payable at 27.5 (inclusive of GST) cents per page
- (g) transcript is payable at cost, and
- (h) other properly incurred disbursements are payable at cost on production of an invoice or receipt.

In exceptional circumstances, financial assistance for junior and senior counsel fees may be provided outside the range specified above. However, in such cases the approval of the Attorney-General, or the Secretary or a Deputy Secretary of the Attorney-General's Department, will be required.

Solicitors and counsel may not charge more than the maximum daily rate even if a solicitor or counsel represents a number of clients at the Inquiry.

In appropriate cases, financial assistance will be provided in stages. At the end of each stage a decision will be made as to whether it is reasonable to continue assistance. It should not be assumed that financial assistance will continue beyond the stage for which approval has been given.

Financial assistance is not available to cover legal costs and related expenses that are recoverable by or on behalf of the applicant under an insurance policy or similar indemnity arrangement. An applicant must provide information in writing at the time of lodging the application as to whether there is a possible right to claim for legal costs or related expenses under an insurance policy or similar indemnity arrangement. Where an insurance policy or indemnity arrangement exists the applicant must undertake that they will make a claim under the policy or arrangement, make all reasonable efforts to pursue the claim, and provide to the Commonwealth the proceeds of the claim to the extent that the Commonwealth has paid financial assistance under these guidelines.

Financial assistance cannot be authorised retrospectively. Generally, a grant of financial assistance will date from the date of receipt by the Attorney-General's Department of the application for assistance.

Financial assistance does not extend to:

- (a) costs incurred in completing an application for assistance or interviews and consultations between an applicant and their legal representative for the purpose of making an application for financial assistance or concerning the grant or refusal of financial assistance
- (b) an attendance upon, or correspondence with, the Attorney-General's Department in relation to the making of an application for assistance or the terms of assistance, or
- (c) preparation for and work done in connection with an invoice or itemised bill of costs.

A person or organisation to whom financial assistance is granted is not permitted to pay, or agree to pay, a lawyer any amount in addition to the payment received under the grant of assistance in respect of work covered by the grant, except with the approval of the Attorney-General, or the Secretary or a Deputy Secretary, of the Attorney-General's Department.

A breach of this condition entitles the Department to terminate the grant and recover from the financial assistance recipient any amount previously paid.

Approval to provide the legal services determined by the Attorney-General or his delegate to the applicant in this matter involves acceptance by the legal service provider that the Attorney-General or his delegate instructs the legal service provider as to the services to be provided and the terms and conditions applicable to those services.

In the exercise of these terms and conditions, the Attorney-General or his delegate will, in the grant of assistance or from time to time thereafter, specify the nature or ambit of the legal services the legal service provider is to provide to the applicant and/or the terms on which those services are to be provided.

Notes:

- 1 *Financial assistance for junior counsel will only be provided if it is shown that a solicitor is unable to adequately represent the interests of the client.*
- 2 *Financial assistance for senior counsel will only be provided if it is shown that this is justified having regard to the complexity of the issues raised.*

Review of decisions

An applicant who disagrees with a decision under these guidelines may have the decision reviewed by an officer of the Department who did not make the original decision. An application for review must be made in writing within 28 days of receipt of notice of the decision and must specify the grounds on which review is sought. An application for review in relation to the disallowance, write down or deferral of any item in an invoice will open all items in that invoice to review.

Applications for review should be addressed to the First Assistant Secretary, Indigenous Justice and Legal Assistance Division, Attorney-General's Department, National Circuit, BARTON ACT 2600.

Enquiries and lodgement of applications for assistance

Enquiries and applications, with supporting material, should be addressed to:

Assistant Secretary
Legal Assistance Branch
Indigenous Justice and Legal Assistance Division
Attorney-General's Department
National Circuit
BARTON ACT 2600

Telephone: (02) 6250 6770
Facsimile: (02) 6250 5934

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