

17 June 2005

Mr Michael Tant
Policy Adviser: Civil Legal Aid
Public Legal Services Division 1
PP 1B. 3rd Floor, Selbourne House
Department for Constitutional Affairs
54-60 Victoria Street
London
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Dear Mr Tant

Department for Constitutional Affairs (DCA) – ‘Legal Aid for Inquests: Proposed Changes to Financial Regulations - Waiving the Legal Help limit in Article 2 type inquests when limits for Legal Representation are waived’

APIL welcomes the Government’s long overdue proposals to allow for the appropriate funding of legal representation for families in cases where Article 2 of the European Convention of Human Rights (ECHR) is invoked. While APIL is supportive of the proposals and the wording of the suggested amendments, we are concerned about the wording of the guidance which will go to the Legal Services Commission (LSC).

Following the Khan decision, APIL believes that where Article 2 is engaged the state is under a duty to provide the family with sufficient funds for legal representation so that it is able to participate in the ongoing inquiry or inquest. We are therefore concerned with the statement in the consultation letter that the DCA will “*propose to amend 38 (8A) to allow the LSC to waive some or all contributions in any inquest case in which they fund advocacy, and where it is equitable to do so*”¹. If confirmation is provided that Article 2 is applicable to the case, then APIL considers that the funding of legal representation should follow **automatically** from the LSC on receipt of a completed application.

In terms of APIL’s views concerning the other elements of the proposed amendments to the guidance on the public funding of legal representation at inquests, please find included our previous consultation response on the subject (April 2004).

¹ Consultation Letter – page 2 – paragraph headed ‘Waving Contributions’

If you require any further information, or there is anything else I can help you with, please do not hesitate to contact me.

Yours sincerely

Miles Burger
Policy Research Officer