



Department for  
Constitutional Affairs  
Justice, rights and democracy

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Sir Anthony Holland, Chairman  
Northern Ireland Legal Services Commission  
Waterfront Plaza  
8 Laganbank Road  
Mays Meadow  
Belfast BT1 3BN

29<sup>th</sup> June 2005

*Dear Sir Anthony,*

**Payment in Article 3 Family Care Centre Cases  
Including Direct Payment to Counsel**

I write to provide you with Guidance issued under Article 8 of the Access to Justice (Northern Ireland) Order 2003 which will facilitate counsel in lodging claims directly with the Commission, and receiving payments directly from the Commission, in respect of cases covered by the Guidance.

I understand that the Guidance has been agreed by the Commission, the Bar Council and the Law Society and forms part of a package of measures which you have agreed with the profession.

I am very pleased to learn that the Commission has reached agreement with the Bar and Law Society regarding the arrangements for payment of fees in Family Care Centre cases in which an 'Article 3 Certificate' has been granted by the Court. This is a welcome and important development.

Please find enclosed the Guidance which I would ask you to publish.

*Yours sincerely*  
*Bridget Prentice*

**BRIDGET PRENTICE**



INVESTOR IN PEOPLE

## LORD CHANCELLOR'S GUIDANCE

### **Processing claims for payment of cases in the Family Care Centre under the Children (Northern Ireland) Order 1995 which have been certified under Article 3 of the Legal Aid (Remuneration of Solicitors and Counsel in County Court Proceedings) Order (Northern Ireland) 1981**

1. I am issuing this guidance under Article 8 of the Access to Justice (Northern Ireland) Order 2003 to advise the Northern Ireland Legal Services Commission ("the Commission") as to the manner in which it should discharge its functions when processing claims for payment of cases in the Family Care Centre under the Children (Northern Ireland) Order 1995 ("the Children Order") where a certificate has been issued under Article 3 of the Legal Aid (Remuneration of Solicitors and Counsel in County Court Proceedings) Order (Northern Ireland) 1981 ("the Remuneration Order").
2. Subject to the terms of this guidance, where a judge has granted a certificate under Article 3 of the Remuneration Order in respect of a Family Care Centre case under the Children Order, the Commission may receive a claim for payment of fees directly from counsel as well as the solicitor concerned.
3. When the Commission receives claims as outlined at paragraph 2 above, the Commission should treat all claims submitted directly by counsel as satisfying the requirements of Article 4 of the Remuneration Order provided that counsel:
  - (a) submits full details of the fees which he/she is claiming;
  - (b) provides a copy of the Article 3 certificate granted by the court; and
  - (c) encloses a signed copy of a letter to his/her instructing solicitor advising that the claim has been lodged directly with the Commission.
4. When processing claims lodged in accordance with the provisions of paragraph 3 above, the Commission should assess all such claims in accordance with the requirements of the Remuneration Order.
5. Subject to the Commission authorising payment for a claim covered by paragraph 3 above, the Commission should pay counsel directly all authorised fees and should also send notification of the payment to counsel's instructing solicitor.

6. Nothing in this guidance shall prevent a solicitor submitting a case under the provisions of the Remuneration Order directly to the Commission for payment of his or her own fees, whether covered by an Article 3 certificate or not. Nor does this guidance alter the existing arrangements whereby counsel will submit claims for payment through his/her instructing solicitor which have not been certified under Article 3 of the Remuneration Order.
7. The Commission should not accept any claim submitted directly by counsel unless the conditions of paragraphs 2 and 3 above are satisfied.
8. If counsel or a solicitor wishes to have a reassessment of the fees which have been determined by the Commission as payable in respect of a Family Care Centre case under the Children Order in which a certificate has been granted under Article 3 of the Remuneration Order, the Commission should accept an application for reassessment directly from the counsel or solicitor covered by such a certificate.
9. The terms of this guidance, which are effective from 1 July 2005, have been agreed with the Bar Council, the Law Society for Northern Ireland, and the Northern Ireland Legal Services Commission.
10. The Commission shall publish this guidance under Article 8(4)(b) of the Access to Justice (Northern Ireland) Order 2003.

Signed by authority of the Lord Chancellor

*Bridget Bentice*

Parliamentary Under-Secretary of State,  
Department for Constitutional Affairs

Date: *29<sup>th</sup> June 2005*