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## **Press Statement 01/04**

### **Lord Chancellor's Direction to the Legal Services Commission**

The Lord Chancellor has today issued a direction, under Article 12(8)(a) of the Access to Justice (Northern Ireland) Order 2003, to the Northern Ireland Legal Services Commission to make payments to a number of plaintiffs in relation to the civil action brought under Writ issued in 2001 No.3918. This action relates to the Omagh bombing on August 15 1998. The Commission will implement fully the terms of the Direction.

#### Note For Editors

1. The Northern Ireland Legal Services Commission is a NDPB sponsored by the Northern Ireland Court Service and it is responsible under the Access to Justice (NI) Order 2003 for the delivery and reform of publicly-funded legal services in Northern Ireland. Sir Kenneth Bloomfield is the Chairman of the Commission and Gerry Crossan is the Chief Executive.
2. The full Direction is attached to this statement and is also available on the Northern Ireland Legal Services Commission website at [www.nilsc.org.uk](http://www.nilsc.org.uk).
3. For further information contact the Secretary to the Commission, Eamon Mullan, on 028 90408861, mobile 07766 740978 or by e-mail at [eamonmullan@nilsc.org.uk](mailto:eamonmullan@nilsc.org.uk)

**DIRECTION UNDER ARTICLE 12(8)(a) OF THE**  
**ACCESS TO JUSTICE (NORTHERN IRELAND) ORDER 2003**

1. By virtue of the powers conferred on the Lord Chancellor by Article 12(8)(a) of the Access to Justice (Northern Ireland) Order 2003 I hereby direct the Northern Ireland Legal Services Commission to administer a sum not exceeding £804,322.51 plus VAT in accordance with the terms of this Direction. All payments made under this Direction are to be used solely for the costs of H<sub>2</sub>O Northern Ireland or H<sub>2</sub>O acting as agents for H<sub>2</sub>O Northern Ireland, disbursements incurred by H<sub>2</sub>O Northern Ireland or H<sub>2</sub>O, and in relation to the fees of counsel instructed by them in representing Mark Christopher Breslin, Catherina Anne Gallagher, Michael James Gallagher, Audrey Martha Mooney (née Gibson), Caroline Faith Martin (née Gibson), Edmund William Gibson, Elizabeth Catherine Gibson, Robert James Gibson, William James Gibson, Wilma Selina Kyle (née Gibson), Stanley James McCombe, Gerald George McFarland, Marion Elaine Radford, Paul William Radford, Edith White, Colin David James Wilson, a Minor, Denise Francesca Wilson, Garry Godfrey Charles Wilson, Geraldine Ann Rebecca Wilson and Godfrey David James Wilson in relation to the civil action brought under Writ issued in 2001 No.3918.
2. This Direction is based on a costs estimate prepared by H<sub>2</sub>O / H<sub>2</sub>O Northern Ireland dated 5 August 2003 and includes funding for all satellite litigation, whether in Northern Ireland or in other jurisdictions, directed by counsel as being essential for the progress of the action.
3. The payment shall cover only those costs incurred after the date of this Direction unless otherwise provided for in this Direction.
4. The Commission is hereby directed to make available funds, subject to paragraph 3, up to a maximum sum of £742,702 plus VAT as follows:
  - (a) £389,400 plus VAT in respect of H<sub>2</sub>O's professional fees.
  - (b) £259,875 plus VAT for one senior and two junior counsel.
  - (c) £93,427 plus VAT for all reasonable disbursements.
5. The Commission shall pay forthwith to H<sub>2</sub>O the sum of £250,000 by way of an interim payment of the amounts specified in paragraph 4 above.
6. Subject to the Commission receiving itemised invoices from H<sub>2</sub>O by the 1<sup>st</sup> of each month for the work undertaken, the Commission shall settle the invoices by the 18th of each month (once satisfied from the itemised invoices that the initial payment of £250,000 has been exhausted)
7. When the total expenditure on the case comes within £100,000 of the sum of £742,702 the Commission shall notify H<sub>2</sub>O and the Northern Ireland Court Service. Upon receipt of this notification H<sub>2</sub>O will submit a report to the Northern Ireland Courts Service, prepared by H<sub>2</sub>O's costs draftsman outlining whether it is projected that the case will

be concluded within the funding available, and if not, explaining why this is not possible and setting out details of the additional funds required to bring the action to a conclusion including an assessment of the prospects of success of the case. The Commission shall not pay funds in excess of £742,702 without an express direction.

8. The Commission shall, to the extent that the full amounts of any costs and damages awarded are not recovered from the defendants, recoup the costs incurred by it in funding the action from any monies recovered as a result of this action, in keeping with the following formula:
  - (a) the maximum sum recoverable from any monies recovered by the plaintiffs shall be limited to the total amount sum paid by the Commission under a Direction;
  - (b) the first £2,500 of any money recovered in respect of each plaintiff shall be exempt from this recoupment mechanism;
  - (c) a recoupment levy of 17.5% shall be applied to all monies recovered in excess of the first £2,500 for each plaintiff subject to paragraphs (a) and (d);
  - (d) if the recoupment levy as prescribed at 8(c) above would recover a sum in excess of the sum represented by 8(a) the Commission shall revise the recoupment levy to ensure that that all plaintiffs incur a levy which will recoup the total sum spent in funding the action.
9. The Commission shall pay the sum of £57,332.35 to H<sub>2</sub>O within 7 days of the date of this Direction in respect of its invoices numbered 4816, and 4828 being authorised work for the purpose of this Direction. This payment does not form part of the sum outlined at paragraphs 1 or 4 above.
10. The Commission shall publish this direction as required by Article 46(3) of the Access to Justice (Northern Ireland) Order 2003

Signed by authority of the Lord Chancellor

Lord Filkin

Parliamentary Under Secretary of State  
Department for Constitutional Affairs

Dated 4 February 2004