

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY SENATOR J.L. PERCHARD  
ANSWER TO BE TABLED ON MONDAY 13th SEPTEMBER 2010**

**Question**

Would H.M. Attorney General advise which legal firms have been involved in representing and advising Family X and the individual members of Family X and the Crown in respect of this case and how much each legal firm have been paid from 1st January 2008 to date?

**Answer**

H.M. Attorney General is not responsible for the appointment or payment of legal firms in public law cases and keeps no records about the level of remuneration paid. This information is held by the Deputy Judicial Greffier who is responsible for the payment out of public funds of lawyers in public law children's cases. In order to assist members the Deputy Judicial Greffier has advised as follows:

The case concerned public law children proceedings instituted by the Minister for Health and Social Services in respect of children of Family X and subsequent judicial review and appeal proceedings.

At the commencement of the proceedings and pursuant to Article 72 of the Children (Jersey) Law 2002, the Royal Court appointed (1) an independent (social worker) guardian for the eldest children of the family; (2) another independent (social worker) guardian in respect of the youngest children; (3) an advocate from the firm of Hanson Renouf to represent the eldest children; and (4) an advocate from Appleby to represent the youngest children. The social worker guardians were supplied by the NSPCC.

An advocate from Bedell Cristin and an advocate from Viberts were appointed by the Bâtonnier under the legal aid scheme to represent the father of some of the children of Family X and the mother of all the children respectively.

The total expenditure from public funds on the case amounted to £606,606.80. This figure includes all lawyers' fees, all costs of the Guardians and all costs of expert reports ordered by the Court etc.

Payments made to Hanson Renouf include costs of experts' reports and assistance from English counsel.

Each of the law firms and the NSPCC received payments in the bands set out below:-

<b>Amount £</b>	<b>Law Firm – NSPCC</b>
0 – 50K	Appleby and Bedell Cristin
50 – 100K	NSPCC and Viberts
100 – 200K	- -
200 – 300K	- -
300 – 400K	Hanson Renouf

Payment to the Court appointed lawyers acting for the children (Appleby and Hanson Renouf) was made on a different basis to the payment made to the lawyers appointed by the Bâtonnier under the legal aid scheme to act for the parents (Bedell Cristin and Viberts).

In the latter case payment was made on the basis that the case represented an unduly onerous legal aid obligation for the appointed legal aid lawyers. The amounts paid to Bedell Cristin and Viberts reflect the fact that (a) the first 60 hours of work was not remunerated; (b) payment was made at the Court approved rate for legal aid

appeals in criminal cases, and (c) payment was made for two-thirds of time spent on the case having discounted the first 60 hours unremunerated work.

The hourly rates specified by the Court during the years 2008 and 2010 in relation to legal aid appeals in criminal cases equate to hourly rates ranging from £132.50 to £141.00 for an advocate who is salaried and hourly rates ranging from £165 to £175 for an advocate who is a partner.

Following a decision of the Royal Court in the case of B –v- J [2008] JRC102 payment to the Court appointed lawyers for the children was to be made on the indemnity basis. On the indemnity basis all costs are recoverable except those unreasonably incurred or unreasonable in amount and any doubt as to reasonableness is resolved in favour of the receiving party - in this case the lawyer.

Following negotiations between the Deputy Judicial Greffier and the lawyers acting for the children payments were made at an hourly rate below the rate that would have been applicable for award of costs on an indemnity basis<sup>[1]</sup>. During the relevant period the hourly rate on an indemnity basis for a salaried advocate, barrister or solicitor would have been £300 or more and the hourly rate for an advocate who was a partner between £375 and £400. The agreed hourly rates were reduced to £265 for a salaried advocate, barrister or solicitor and £336 for a partner. In addition a deduction of 10% of the time claimed was made prior to payment of the fee note.

In the recent judgment of the Deputy Bailiff in the case In Re B (Separate representation of minors in public law children cases) 2010 JRC150 (17<sup>th</sup> August 2010) the Royal Court has ruled that for all future cases the costs of the court appointed lawyers shall be assessed on the standard (rather than the indemnity) basis. On the standard basis any doubt as to reasonableness is resolved in favour of the paying party e.g. public funds. The Deputy Bailiff also recommended that until such time as appropriate hourly rates could be negotiated with the Treasury the rates should be the same as the legal aid rate for appeals in criminal cases.

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<sup>[1]</sup> In the related judicial review proceedings in which Hanson Renouf were involved payment was made at the lower legal aid rate.