



Company Name  
Address Line 1  
Address Line 2  
Town/City  
Postcode

Unit B8  
Berkley Way  
Viking Business Park  
Jarrow  
South Tyneside NE31 1SF  
DX 742350 Jarrow 2

FOR OFFICE USE ONLY:  GRANTED/REFUSED  GRANTED/REFUSED ON REVIEW
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Date: 27/03/2015  
Your Ref: Your Reference  
Our Ref: Certificate Number/JR Discretion

Dear Sir or Madam,

**Re: Application requesting exercise of discretion under regulation 5A(1)(b) of the Civil Legal Aid (Remuneration) Regulations 2013**

**In the matter of:** Client Name

**date of birth:** Client Date of Birth

I/We have recently finished work on an application for permission for judicial review on behalf of the above-named client. I/We consider that the circumstances of this case fall within regulation 5A(1)(b) of the *Civil Legal Aid (Remuneration) Regulations 2013*. Having considered the three factors outlined in regulation 5A(1)(b), I/We consider it reasonable for the Lord Chancellor to remunerate the work involved in making this application.

Please set out the reasons why you think the Legal Aid Agency should authorise payment in this matter on behalf of the Lord Chancellor, with particular reference to the factors in regulation 5A(1)(b) of the Civil Legal Aid (Remuneration) Regulations 2013. Before you complete this section you **must** have read the notes that accompany this pro forma.

I look forward to hearing from you.

Yours faithfully,

Your Name  
**Your Company**

Tel: Your Telephone Number  
Email: Your Email Address

## Notes on completing this pro forma

### Background

1. This guidance is designed to assist you with making an application under regulation 5A(1)(b) of the Civil Legal Aid (Remuneration) Regulations 2013. Regulation 5A governs the way that applications for judicial review under Part 54 of the Civil Procedure Rules 1998 or Part 4 of the Tribunal Procedure (Upper Tribunal) Rules 2008 are remunerated via legal aid.
2. Under these regulations, it is not possible for the Lord Chancellor to pay for work involved in making an application for judicial review except in the circumstances set out in sub-paragraphs (a)-(e) of regulation 5A(1). The Lord Chancellor will make payment in the following circumstances:
  - the court gives permission to bring judicial review proceedings
  - the defendant withdraws the decision to which the application for judicial review relates and the withdrawal results in the court:
    - i. refusing permission to bring judicial review proceedings, or
    - ii. neither refusing nor giving permission
  - the court orders an oral hearing to consider whether: (i) to give permission to bring judicial review proceedings: (ii) whether to give permission to bring a relevant appeal; or (iii) a relevant appeal, or
  - the court orders a rolled-up hearing.
3. If a case concludes prior to the court making a decision on permission, the Lord Chancellor also has a discretion (in practice exercised by the Legal Aid Agency) under regulation 5A(1)(b) to pay for this work. When exercising this discretion, the Lord Chancellor must consider whether it is reasonable to pay remuneration, taking into account the circumstances of case and the three factors in regulation 5A(1)(b).

### Work unaffected by regulation 5A

4. Regulation 5A does not apply to any work carried out under a certificate issued in relation to an application for legal aid made before 27 March 2015 (as per the transitional arrangements in regulations 3 and 4 of the Civil Legal Aid (Remuneration) Amendment Regulations 2015).
5. In addition, the following work will be paid regardless of the outcome of the application for permission:
  - Work on the earlier stages of a case to investigate the prospects of strength of a claim (including advice from Counsel on the merits of the claim) and to engage in pre-action correspondence under the Pre-action Protocol for Judicial Review
  - Reasonable disbursements such as expert fees and court fees (but not Counsel's fees), which are payable will continue to be paid

## PROTECT – PERSONAL INFORMATION

- Work carried out on an application for interim relief (e.g. in accordance with Part 25 of the Civil Procedure Rules)

### **How to apply**

6. It is your responsibility to apply to us setting out the reasons why you think this discretion ought to be exercised in your favour. You should pass on any representations received from Counsel in these matters for all certificates where you are instructed.
7. You should only make an application under regulation 5A(1)(b) once all substantive issues in the proceedings in question have been resolved. If you are intending to make an application, you should not submit detailed costs for assessment to the Legal Aid Agency (LAA) or the court until a decision on this matter has been made.
8. Where your case is being processed via the LAA's Client and Cost Management System (CCMS) there is a new process in place to allow you to make these applications electronically. This pro forma is to be used in cases subject to these proposals where your certificate has not been applied for using, or subsequently transferred to, CCMS.

### **The application**

9. It is important that you provide sufficient information in your pro forma to allow us to make a decision on this matter.
10. In particular, you should address the factors set out in regulation 5A(1)(b) of the Civil Legal Aid (Remuneration) Regulations 2013 explaining why the circumstances around each mean it is reasonable for payment to be made.
11. The factors are:
  - i. the reason why you did not obtain a costs order or costs agreement in favour of your client;
  - ii. the extent to which, and the reason why, your client obtained the outcome sought in the proceedings; and
  - iii. the strength of the application for permission at the time it was filed, based on the law and on the facts which you knew or ought to have known at that time.
12. If you are relying on documentation to support your application (e.g. court order, particulars of claims, correspondence dealing with costs etc.) this should be included with the completed pro forma. You do not need to send us any documents previously supplied.

**Where to send your request**

13. Once you have completed this pro forma it should be sent along with any enclosures to:

Legal Aid Agency  
Unit B8  
Berkley Way  
Viking Business Park  
Jarrow  
South Tyneside NE31 1SF

DX 742350 Jarrow 2