



Ministry of
JUSTICE

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**The Rt Hon Lord Falconer
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16 May 2007

Dear Mr Benyon,

UFTON NERVET RAIL CRASH - REPRESENTATION FOR MR MAIN

I write with regard to your exchange with the Rt Hon Jack Straw MP during business questions on 26 April. The matter in question was the Ufton Nervet train crash and the Judicial Review brought on the decision not to grant funding for your constituent, Mr David Main, to be represented at the Inquest.

Although many inquests will inevitably concern tragic events, it is important to bear in mind that representation at inquests is not – and never has been – within the scope of legal aid. This was confirmed by the Access to Justice Act 1999, although that Act introduced a provision to allow “exceptional funding” in cases outside the normal scope of legal aid. The Government has brought some types of inquest into scope, for example deaths in custody, but for all others, the Lord Chancellor has issued a direction setting out guidance on exceptional funding.

The two usual grounds for granting exceptional funding as set out in this direction are: that funded representation of the deceased’s family is necessary for the coroner to carry out an effective investigation, as required by Article 2 of the European Convention on Human Rights; or that there is a significant wider public interest (as defined in the Legal Services Commission’s Funding Code) in the applicant being represented at the inquest.

The decision under challenge was that the Minister did not consider that either of the usual grounds were apparent in this case.

As you are aware, the Judicial Review was allowed on 2 April, meaning the judge has found against the Minister’s decision to refuse exceptional legal aid funding in this case.

The Department carefully considered the judgment, and has decided to appeal as it is believed the judgment was flawed, and the Minister’s decision to refuse funding was correct. The Department lodged an application for permission to appeal against the judgment at the Court of Appeal on 16 April.

However, I am now able to confirm that funding has been approved for the representation of Mr Main (and Mr Webster, whose daughter was killed in the crash) at the Inquest. This will allow the Inquest to proceed, whilst the substantive issues in the judgment that the Department simply does not agree with are challenged by way of our appeal.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'J. Falconer', with a long horizontal flourish extending to the right.

PP **LORD FALCONER OF THOROTON**

Approved by the Secretary of State
and signed in his absence.