



Litigation and Employment
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To: Leigh Day & Co
Fax No: 020 7253 4433

From: Alexander Smeath

Date: 4 March 2008

Subject: Public Law Project

Total Number of pages including this cover page: 4

Message: Please see attached letter dated 4 March 2008.

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Your Reference: RS SB Admin D

4th March 2008

Dear Sirs

PUBLIC LAW PROJECT - DELAYS IN THE ADMINISTRATIVE COURT

We are writing to update your client of the various developments that are taking place to address the delays in the Administrative Court.

In our letter of 22nd January 2008, we explained that our client was concerned about the delays and the effect that this was having on Court users. We also explained that a number of measures were being considered to reduce the current workload and to relieve the pressure on the Administrative Court.

We can inform you that the Working Group to review the handling of immigration and asylum work in the higher courts has already met on two occasions, and is planning to report to the Lord Chancellor, Lord Chief Justice and Home Secretary by the end of April 2008. As explained previously, and without prejudging the outcome of any report, our client is hopeful that the Working Group will identify ways of reducing the current load on the Administrative Court whilst ensuring an appropriate and timely judicial remedy.

We can also inform you that the proposal to establish four regional centres for the Administrative Court, in addition to its main base at the Royal Courts of Justice in London, is being progressed. There are, as your client will surely acknowledge, a number of

Philip Kent – Head of Division
Zane Denton – Team Leader



complex issues that need to be resolved before this project can come to fruition. Nevertheless, our client tells us that there appears to be a great deal of enthusiasm for this project in the proposed regional centres, and a commitment to see this project being realised as quickly as possible. This project will significantly increase the level of judicial resource available to the Administrative Court through the assignment of two supervisory High Court Judges and the appointment of up to twelve Deputy High Court Judges to the regional centres. Whilst it is difficult, in advance, to predict workload levels and trends it is reasonable to assume that this expansion in the capacity of the Administrative Court will help to relieve current pressures.

It is acknowledged by our client that the aforementioned measures will not reduce the delays in the short-term. Nevertheless, it is believed that other steps that are being taken will achieve that goal.

Our client has asked us to inform your client that for the Easter and Trinity terms, a commitment has been made to assign two more High Court Judges from within the existing judicial resource to sit in the Administrative Court. The judicial capacity within the Administrative Court will be further enhanced by the ongoing use of Section 9 Deputy High Court Judges. In addition to making full use of the existing cohort of Deputies authorised to sit in the Administrative Court, more Deputies will become available as a result of the recruitment exercise initiated last September. This process is almost complete, the President of the Queen's Bench Division having submitted his recommendations to the Judicial Appointments Commission.

Alongside this process, consideration is also being given to extending the Administrative Court 'ticket' to a number of existing Section 9 Deputy High Court Judges who, it is understood, would be interested in sitting in the Administrative Court.

It is anticipated that appropriate training for the newly appointed/ticketed Section 9 Deputy High Court Judges will take place in early June 2008, and that they will be available to sit in the Administrative Court shortly thereafter. Our client also informs us that a further

measure that is presently being contemplated is to set aside a number of days during the Summer Vacation on which special arrangements can be made for a number of Administrative Court judges to deal with applications for the reconsideration of decisions under section 103A of the Nationality, Immigration and Asylum Act 2002 thereby ensuring that these numbers are kept in check. The effect of these various measures will be to bring about an immediate expansion in the capacity of the Administrative Court which our client is committed to make full use to reduce the delays.

As we explained in our letter of 22nd January 2008, our client does not accept that the present situation within the Administrative Court gives rise to any unlawfulness. Nevertheless, the present situation is one which our client wishes to improve, and the aforementioned measures demonstrate the seriousness with which this matter is being dealt with. Our client believes that the combination of measures described above should reduce the delays by some considerable margin in the short and medium term, and it is hoped that your client will no longer think it necessary to threaten legal proceedings.

Our client has carefully considered your letter of 14th February 2008, and wishes us to inform you that it is not in a position to provide your client with the kind of workload and other projections that it seeks. Our client considers that any projections are likely to be subject to so many caveats and conditions that they will be of little use to anyone. However, our client appreciates your client's concerns about the present delays, and is grateful for the way in which your client has conducted itself in highlighting those concerns. In a spirit of continuing co-operation, our client is willing to continue providing your client with regular statistics relating to the workload, sitting days and time-frames for cases within the Administrative Court. Our client is also prepared to arrange a meeting with your client in the next few months to continue the dialogue on their shared concerns and to review progress on the steps that are being taken to reduce the delays.

Yours faithfully

Alexander Smeath
For the Treasury Solicitor