

Grounds Of Appeal

Administrative Court Ref : CO/11112/2009

1. Timing

This application is late because fair and reasonable funding has been denied to Advance Software Limited to research and develop a 3D Internet web browser. I have therefore had to operate both the company and my personal affairs on a crisis budget for an extended period. Given the lack of clarity over the Parliamentary Ombudsman remit, my very legal experience and other commitments, I have had to restrict time allocated to preparing this legal challenge. Legal action is risky due to the time taken to research and prepare documentation and the potential cost of a failed challenge. I was unable to proceed until I was satisfied it was sensible to do so. This application has been submitted outside the usual three month limit due to circumstances beyond my control.

In associated case CO/421/2009 which considered the potentially criminal perspective to this case, Rt. Hon. Lord Justice Leveson and the Hon. Mr Justice Sweeney allowed consideration of the case substance – ie. they did not block the application because it was out of time. Is it not fair and reasonable for the same consideration to take place when considering the same case from a civil perspective ? They ruled that it was not clear that the Parliamentary Ombudsman was deliberately trying to cause me to suffer a financial loss. Though this may be the case, a financial loss has been suffered due to the Defendant's refusal to acknowledge what appears to be clear maladministration if interpreted using Lord Denning's definition below.

Mr Justice Collins (civil – CO/11112/2009) refused to accept my explanation for why this application was submitted late and ruled that permission was denied because the application was out of time. I put it to the Court Of Appeal that his decision was incorrect and consideration of the case substance should have taken place in the Administrative Court permission hearing.

When one is denied funding to undertake difficult research and development work, denied legal aid (companies do not qualify) and directed towards the ineffective Parliamentary Ombudsman who operates under ambiguous legislation, delay in understanding and documenting the situation in sufficient detail for others to work from is inevitable.

My primary responsibility is to ensure the commercial success of Advance Software Limited. Due to the unreasonable refusal of the former Department Of Trade And Industry (DTI) assist us and the unreasonable refusal of the Parliamentary Ombudsman to acknowledge that they failed to undertake a proper consideration of our funding application (project not scored using the European Commission approved "marking frame"), I have had to manage a crisis situation for some time.

To successfully manage a crisis with insufficient resources, only essential tasks are undertaken and time allocated to all essential tasks must be restricted and shared amongst them. Delay is unavoidable. Thanks in part to a crisis loan from the Department of Work and Pensions (details on request), I have been able to move matters forwards. I am not superman. I can only work so fast if I am to provide clear and accurate information for consideration by the court.

I do not understand how failure to complete a necessary "marking frame" document cannot be maladministrative. The former DTI should not have advised us to withdraw a grant application because this was not in our best interests, nor was it in the public interest.

HM R&C have cancelled a number of late filing penalties after accepting the reasons for delay were circumstances beyond our control. Details on request.

2. Legal Definition of Maladministration

I have asked the Court to provide a legal definition for the legal term “maladministration” so we can consider whether these circumstances fit within that definition. The request has been submitted as a Freedom Of Information Act request. Information Commissioner's Office ref: INFO293981. Please see the following email chain for details.

3. Case Law

Regina -v- Local Commissioner for Administration for the North and East Area of England ex parte Bradford Metropolitan City Council [1979] 2 All ER 881; [1979] QB 287

Source : <http://www.swarb.co.uk/lisc/Admin19701979.php>

The Court considered the meaning of 'maladministration'.

Lord Denning MR said: "It will cover 'bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on.' It 'would be a long and interesting list' clearly open-ended, covering the manner in which a decision is reached or discretion is exercised; but excluding the merits of the decision itself or of the discretion itself. It follows that 'discretionary decision, properly exercised which the complainant dislikes but cannot fault the manner in which it was taken, is excluded,' . . . In other words if there is no 'maladministration', the ombudsman may not question any decision taken by the authorities. He must not go into the merits of it or intimate any view as to whether it was right or wrong."

4. Consideration

Is the above definition appropriate for use in this case ?

The former DTI were clearly incompetent as their incomplete evaluation of our 3D Internet web browser project and closure of their Department shows. They should not have advised us to withdraw our funding application. What they should have done was to score our project and associated funding application against the European Commission approved marking frame document. They should have resolved the contradiction between their case officer's initial view that our project was too advanced to qualify for research and development funding and the view of their expert advisers that the project objectives were unlikely to be met. They should not have rejected the input of their technical advisers to avoid resolving the contradiction. You should not reject the input of technical advisers in areas where you are not an expert. Ineffective use of funding approved to stimulate growth in the economy is contrary to the economic well being of the UK.

5. Skeleton Argument

Unchanged. Please see page 13 of the Judicial Review bundle. Bundle “A”.

6. Political

6.1 The current government (Labour) have pledged to build a “hi tech” economy. One does not build a high technology economy by failing to support high technology projects and the organisations delivering said projects.

6.2. The view of the Shadow Minister for Small Business & Enterprise (Conservative) is on page 32 of the judicial review bundle (bundle A).

6.3 The European Commission have been following this dispute for some time.

7. Details Of Additional Parties

7.1. Business Innovation & Skills Department, represented by the Treasury Solicitor

Ref: LT93581B/RCL/3B

Richard Clarke
Treasury Solicitor's Department
One Kemble Street
London
WC2B 4TS

Email : Richard.Clarke3@TSOL.GSI.GOV.UK
DX 123242 Kingsway
Tel: 0207 210 3000
Fax: 0207 21-3147

7.2. European Commission.

Directorate-General Competition
Ref: EH - CP282/2006
Email : Stateaidgreffe@ec.europa.eu

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium.

Telephone: (32-2) 299 11 11.

Office: spa3 5/32A. Telephone: direct line (32-2) 2998785 Fax: (32-2) 296.12.42.

8. Supporting Documentation (email).

On 22/03/2010 15:04, Administrative Court Office, General Office wrote:

Dear Mr Williams

Thank you for your e-mail dated 8 March 2010, the contents of which I note. Further to your letter please note the following:

This office can only address the issues you have raised regarding the Administrative Court office, for all other enquires particularly those relating to the Court of Appeal you would need to get in touch with the Civil Appeals Division of the High Court.

Further to your enquiries regarding the Administrative court please note that the Administrative court documents you require can be collected at your convenience, your documents will be kept at the public counter in room C315 ready for collection.

Your application for permission to apply for Judicial Review was refused, there is no indication that permission has been refused for you to appeal this matter at the Court of Appeal. With regards to whether or not this case can be heard at the Supreme Court is something that cannot be decided at this stage as you would need to exhaust all alternative routes of appeal first (which in this case may be Civil Appeals office)

I trust this should suffice however should you require further assistance please do not hesitate to contact me.

Samira Ilyas
Customer Service/General Services & Management Support
Administrative Court Office
Tel: 020 7947 6359
Fax: 020 7947 7845

The following email chain has been edited to remove unnecessary headers.
The originals are available on request.

Subject: RE: " And equally for a company, you don't need a lobbyist. If you've got something to say, go directly to the government department and make your case. "
Date: Mon, 22 Mar 2010 09:26:39 -0000
From: Enquiries, CEU <CEU.Enquiries@hmtreasury.gsi.gov.uk>
Sender: "Goodwin, Adam" <Adam.Goodwin@hmtreasury.gsi.gov.uk>
To: <steve.williams@advance-software.com>

Dear Mr Williams,

Thank you for your e-mail. I write to confirm receipt of your request and to let you know that it is receiving attention. If you have any enquiries regarding your request do not hesitate to contact us.

Adam Goodwin
Correspondence and Enquiry Unit

From: Steve Williams [mailto:steve.williams@advance-software.com]
Sent: 21 March 2010 11:13
To: Enquiries, CEU; Enquiries, CEU; secofstate@justice.gsi.gov.uk
Cc: webmaster@pmo.gov.uk

Subject: " And equally for a company, you don't need a lobbyist. If you've got something to say, go directly to the government department and make your case. "

For attention : Alastair Darling (not that this will get anywhere near him).

Dear Mr Darling,

Re: Your comments today.

http://news.bbc.co.uk/1/hi/uk_politics/8578597.stm

" And equally for a company, you don't need a lobbyist. If you've got something to say, go directly to the government department and make your case. "

As the Chancellor will see below, I have done that. On many occasions. My valid concerns are being ignored. Please advise how to proceed.

Regards,

Steve Williams
Director
Advance Software Limited
Tel +44 (0)750 3557315

Date: Wed, 17 Mar 2010 11:02:33 +0000

From: Steve Williams <steve.williams@advance-software.com>

To: casework@ico.gsi.gov.uk, compliance@ico.gsi.gov.uk

CC: Enquiries(Supreme Court) <enquiries@supremecourt.gsi.gov.uk>, Civil Appeals - Registry <civilappeals.registry@hmcourts-service.gsi.gov.uk>, Administrative Court Office, General Office <administrativecourtoffice.generaloffice@hmcourts-service.x.gsi.gov.uk>, SPENCERJ@parliament.uk, secofstate@justice.gsi.gov.uk, Lucie.Hall@dmhstallard.com, priskm@parliament.uk, gummerj@parliament.uk, ryanj@parliament.uk, clwyda@parliament.uk, reidj@parliament.uk, CHICHESTER Giles <gchichester@europarl.eu.int>, HARBOUR Malcolm <malcolm.harbour@europarl.europa.eu>, hunterj@parliament.uk, millera@parliament.uk, whittlej@parliament.uk, jeremyhuntmp@parliament.uk, fieldm@parliament.uk, coakerv@parliament.uk, biggine@parliament.uk, bachw@parliament.uk, JLS-CRIMINALJUSTICE@ec.europa.eu

Subject: UK Freedom Of Information Act request ref : INFO293981.

European Commission / Directorate-General Competition Ref : EH - CP282/2006

Dear Sirs,

Please could the Information Commissioner consider UK Freedom Of Information Act request below, your ref : INFO293981.

To summarise, I have requested a UK legal definition for the legal term "maladministration" as applies to the UK Parliamentary Commissioner for Administration.

The term is referred to in section 5.1a of the Parliamentary Commissioner Act but not defined.

"a written complaint is duly made to a member of the House of Commons by a member of the public who claims to have sustained injustice in consequence of *maladministration* in connection with the action so taken"

Ref : http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1967/cukpga_19670013_en_1#pb2-l1g6

I require clarification of the term so I can challenge a decision of the Parliamentary Commissioner for Administration who refuses to acknowledge "maladministration" occurred in the processing of a research and development grant application by the former Department of Trade and Industry. Further details below and in referenced documents on our website.

I have found case law in the attachment which applies to a local commissioner for Administration. The Court has not stated whether this definition also applies to the Parliamentary Commissioner for Administration. The request was properly delivered. No request has been made for it to be delivered in any other way and the 20 working day period has expired with no request for extension.

Perhaps the Court is exempt from Freedom Of Information Act requests. I am not legally qualified, so welcome correction if I misunderstand the scope of the Freedom Of Information Act.

If the Act does apply to the Court and the information request considered acceptable, please take steps to ensure compliance with the Act.

If the request is considered invalid, if the Court has an exemption or there is some other query or difficulty, please contact me to explain why. Email is fine.

Thank you in advance for your consideration of this request. Please do not hesitate to contact me if you require further information or clarification.

Yours Sincerely,
Stephen J.H. Williams
Director
Advance Software Limited
Tel +44 (0)750 3557315

Appellant's notice

(All appeals except small claims track appeals)

| For Court use only | |
|-----------------------|------------|
| Appeal Court Ref. No. | 2010/0745 |
| Date filed | 29/03/2010 |

Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.



Section 1 Details of the claim or case you are appealing against

Claim or Case no. CO/11112/2009

Name(s) of the ☒ Claimant(s) ☐ Applicant(s) ☐ Petitioner(s)

Stephen John Henry Williams

Name(s) of the ☒ Defendant(s) ☐ Respondent(s)

Parliamentary Commissioner For Administration

Details of the party appealing ('The Appellant')

Name

Stephen John Henry Williams

Address (including postcode)

407 High Road
Wood Green
London
N22 8JB

Tel No. 0750 3557315

Fax

E-mail steve@advance-software.com

Details of the Respondent to the appeal

Name

Parliamentary Commissioner For Administration

Address (including postcode)

Millbank Tower
Millbank
London
SW1P 4QP

Tel No. 0207 217 4273

Fax 0207 217 4000

E-mail ann.abraham@ombudsman.org.uk

Details of additional parties (if any) are attached

☒ Yes ☐ No

Section 2 Details of the appeal

From which court is the appeal being brought?

- ☐ The County Court at
- ☐ High Court District Registry at
- ☒ The Royal Courts of Justice
- ☐ Other (please specify)

What is the name of the Judge whose decision you want to appeal?

Mr Justice Collins

What is the status of the Judge whose decision you want to appeal?

- ☐ District Judge or Deputy ☐ Circuit Judge or Recorder
- ☐ Master or Deputy ☒ High Court Judge or Deputy

What is the date of the decision you wish to appeal?

2nd February 2010

To which track, if any, was the claim or case allocated?

- ☐ Fast track
- ☐ Multi track
- ☒ Not allocated to a track

Nature of the decision you wish to appeal

- ☐ Case management decision ☐ Grant or refusal of interim relief
- ☐ Final decision ☐ A previous appeal decision

Section 3 Legal representation

Are you legally represented?

☐ Yes ☒ No

If 'Yes', please give details of your solicitor below

Your solicitor's name

Your solicitor's address (including postcode)

| | |
|---------|--|
| Tel No. | |
| Fax | |
| E-mail | |
| DX | |
| Ref. | |

Are you, the Appellant, in receipt of a Legal Aid Certificate or a Community Legal Service Fund (CLS F) certificate?

☐ Yes ☒ No

Is the respondent legally represented?

☒ Yes ☐ No

If 'Yes', please give details of the respondent's solicitor below

The respondent's solicitor's address (including postcode)

Lucie Hall
DMH Stallard
Gainsborough House
Pegler Way
Crawley
West Sussex
RH11 7FZ

| | |
|---------|----------------------------|
| Tel No. | 01293 605564 |
| Fax | 01293 605049 |
| E-mail | Lucie.Hall@dmhstallard.com |
| DX | DX 57102 |
| Ref. | 0835/111832-58 |

Section 4 Permission to appeal

Do you need permission to appeal?

☒ Yes ☐ No

Has permission to appeal been granted ?

☐ Yes

☒ No

Date of order granting permission

Name of Judge granting permission

| |
|--|
| <input type="text"/> |
| the Appellant('s solicitor) seek permission to appeal. |

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal

Refusal to proceed with judicial review of Parliamentary Ombudsman decision PA-6994 in which the Parliamentary Ombudsman refused to acknowledge that the former Department of Trade & Industry acted maladministratively when they failed to complete a proper evaluation of a "SMART" research and development funding application for a 3D Internet web browsing project submitted by a company run by the Claimant. Former DTI/SBS ref : SEC/117/304.

Mr Justice Collins (Administrative Court / CO/11112/2009) refused permission to appeal because the application is out of time (3 months).

Reasons for delay are set out in the grounds of appeal and original claim bundle.

Does your appeal include any issues arising from the Human Rights Act 1998?

☐ Yes ☒ No

Are you asking for a stay of execution of any judgment against you?

☐ Yes ☒ No

If 'Yes' you must complete
Part A of Section 8

Have you lodged this notice with the court within 21 days of the date on which the Judge made the decision you wish to appeal?

☐ Yes ☒ No

If 'No' you must complete
Part B of Section 8

Are you making any other applications?

☐ Yes ☒ No

If 'Yes' you must complete
Part C of Section 8

Section 6 Grounds for appeal and arguments in support

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

☐ The arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice

OR

☒ The arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

No change. The skeleton argument is as described in the original claim bundle, page 13.

Section 7 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

- ☒ set aside the order which I am appealing
- ☐ vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

Grant permission to proceed with judicial review of Parliamentary Ombudsman decision PA-6994.

- ☐ order a new trial

Section 8 Other applications

Complete this section **only** if you are asking for orders **in addition** to the order asked for in Section 7.

Part A

I apply for a stay of execution because:

Part B

- ☐ I do not need an extension of time for filing my appeal notice because it has been filed within the extended time granted by the Judge whose decision I am appealing.

OR

- ☒ I apply for an extension of time for filing my appeal notice because (set out the reasons for the delay. You must also set out in Section 9 what steps you have taken since the decision you are appealing).

Part C

I apply for an order that:

because

Section 9 Evidence in support

In support of my application(s) in Section 8, I wish to rely upon the following evidence:

Since the decision I am appealing was issued, I have done the following

1. Obtained a re-issued decision notice from the Administrative Court acknowledging that I attended the hearing.
2. Have contacted the Administrative Court and Court Of Appeal on numerous occasions via email to try to obtain guidance on how to complete section 4 of this form, with no reply.
3. Issued a Freedom Of Information Act request to the High Court via email for a legal definition of the legal term "maladministration", UK Information Commissioner's Office Ref : INFO293981.
4. Contacted the UK Information Commissioner's Office to notify them that the 20 working day period had expired without a response from the public authority (High Court).
5. Received confirmation from the Administrative Court on 22nd March 2010 that the document bundles you require are available for collection.
6. Received clarification from the Administrative Court on the 22nd March 2010 that they have to not refused permission to appeal. I didn't ask for permission to appeal in the Administrative Court permission hearing due to my lack of legal experience. Sorry for any difficulty this might cause.
7. Finally gave up waiting for an email reply from the Court of Appeal yesterday and spoke to Jeff Denman via telephone. Mr Denman was very helpful and answered my outstanding questions regarding how to complete this form properly.
8. Have received correspondence from the Treasury that this matter is "receiving attention".

Please see attached email chain for further details.

Statement of Truth

I believe (The appellant believes) that the facts stated in this section are true.

Full name

Name of appellant's solicitor's firm

signed
Appellant

position or office held
(if signing on behalf of firm or company)

Section 10 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

- ☒ two additional copies of your appellant's notice for the appeal court;
- ☒ one copy of your appellant's notice for each of the respondents;
- ☒ one copy of your skeleton argument for each copy of the appellant's notice that is filed;
- ☒ a sealed (*stamped by the court*) copy of the order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal, together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ any witness statements or affidavits in support of any application included in the appellant's notice;
- ☐ a copy of the order allocating the case to a track (*if any*); and
- ☐ a copy of the legal aid or CLSF certificate (*if legally represented*).

A bundle of documents for the appeal hearing containing copies of all the papers listed below:-

- ☐ a sealed copy (*stamped by the court*) of your appellant's notice;
- ☐ a sealed copy (*stamped by the court*) of the order being appealed;
- ☐ a copy of any order giving or refusing permission to appeal, together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- ☐ any affidavit or witness statement filed in support of any application included in the appellant's notice;
- ☐ a copy of the skeleton argument;
- ☐ a transcript or note of judgment, and in cases where permission to appeal was given by the lower court or is not required those parts of any transcript of evidence which are directly relevant to any question at issue on the appeal;
- ☐ the claim form and statements of case (where relevant to the subject of the appeal);
- ☐ any application notice (or case management documentation) relevant to the subject of the appeal;
- ☐ in cases where the decision appealed was itself made on appeal (eg from district judge to circuit judge), the first order, the reasons given and the appellant's notice used to appeal from that order;
- ☐ in the case of judicial review or a statutory appeal, the original decision which was the subject of the application to the lower court;
- ☐ in cases where the appeal is from a Tribunal, a copy of the Tribunal's reasons for the decision, a copy of the decision reviewed by the Tribunal and the reasons for the original decision and any document filed with the Tribunal setting out the grounds of appeal from that decision;
- ☐ any other documents which are necessary to enable the appeal court to reach a decision; and
- ☐ such other documents as the court may direct.

Reasons why you have not supplied a document and date when you expect it to be available:-

| Title of document and reason not supplied | Date when it will be supplied |
|---|-------------------------------|
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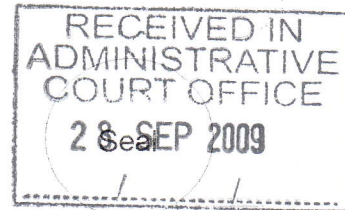
SignedAppellant('s Solicitor)

Judicial Review Claim Form

Notes for guidance are available which explain how to complete the judicial review claim form. Please read them carefully before you complete the form.

| For Court use only | |
|------------------------------------|--------------|
| Administrative Court Reference No. | Qd11112/2009 |
| Date filed | 28/9/2009 |

In the High Court of Justice
Administrative Court



SECTION 1 Details of the claimant(s) and defendant(s)

Claimant(s) name and address(es)

| | |
|--|---------|
| name | |
| Stephen John Henry Williams | |
| address | |
| 407 High Road Wood Green London N22 8JB | |
| Telephone no. | Fax no. |
| 0750 3557315 | |
| E-mail address | |
| steve@advance-software.com | |

Claimant's or claimant's solicitors' address to which documents should be sent.

| | |
|----------------|---------|
| name | |
| | |
| address | |
| | |
| Telephone no. | Fax no. |
| | |
| E-mail address | |
| | |

Claimant's Counsel's details

| | |
|----------------|---------|
| name | |
| | |
| address | |
| | |
| Telephone no. | Fax no. |
| | |
| E-mail address | |
| | |

1st Defendant

| | |
|---|---------|
| name | |
| Parliamentary Ombudsman | |
| Defendant's or (where known) Defendant's solicitors' address to which documents should be sent. | |
| name | |
| Ms Anne Harding | |
| address | |
| Legal Adviser To The Commissioner Parliamentary Ombudsman Millbank Tower London SW1P 4QP | |
| Telephone no. | Fax no. |
| 0300 061 4325 | |
| E-mail address | |
| Annette.O'Connell@ombudsman.org.uk | |

2nd Defendant

| | |
|---|---------|
| name | |
| | |
| Defendant's or (where known) Defendant's solicitors' address to which documents should be sent. | |
| name | |
| | |
| address | |
| | |
| Telephone no. | Fax no. |
| | |
| E-mail address | |
| | |

C15

SECTION 2 Details of other interested parties

Include name and address and, if appropriate, details of DX, telephone or fax numbers and e-mail

| | |
|--|---------|
| name Department Of Business, Innovation And Skills | |
| address The Treasury Solicitor One Kemble Street London WC2B 4TS | |
| Telephone no. 0207 210 3000 | Fax no. |
| E-mail address thetreasurysolicitor@tsol.gsi.gov.uk | |

| | |
|----------------|---------|
| name | |
| address | |
| Telephone no. | Fax no. |
| E-mail address | |

SECTION 3 Details of the decision to be judicially reviewed

| | |
|--------------------------------|-----------------------|
| Decision: PA-6994/0378 | BUNDLE P179, 153, 169 |
| Date of decision: 2/10/2006 | |

Name and address of the court, tribunal, person or body who made the decision to be reviewed.

| |
|---------------------|
| name Ann Abraham |
|---------------------|

| |
|---|
| address Parliamentary Ombudsman Millbank Tower Millbank London SW1P 4QP |
|---|

SECTION 4 Permission to proceed with a claim for judicial review

I am seeking permission to proceed with my claim for Judicial Review.

Is this application being made under the terms of Section 18 Practice Direction 54 (Challenging removal)?

☐ Yes ☒ No

Are you making any other applications? If Yes, complete Section 7.

☐ Yes ☒ No

Is the claimant in receipt of a Community Legal Service Fund (CLSF) certificate?

☐ Yes ☒ No

Are you claiming exceptional urgency, or do you need this application determined within a certain time scale? If Yes, complete Form N463 and file this with your application.

☐ Yes ☒ No

Have you complied with the pre-action protocol? If No, give reasons for non-compliance in the box below.

☒ Yes ☐ No

DEFENDANT REFUSES TO WORK WITH "AN INDIVIDUAL EXPERIENCED IN THE SUBJECT MATTER OF THE CLAIM" (AKA "TECHNICAL EXPERT") CONTRARY TO THE ADVICE OF PRE-ACTION PROTOCOL 3.2

Have you issued this claim in the region with which you have the closest connection? (Give any additional reasons for wanting it to be dealt with in this region in the box below). If No, give reasons in the box below.

☒ Yes ☐ No

Does the claim include any issues arising from the Human Rights Act 1998?

If Yes, state the articles which you contend have been breached in the box below.

☐ Yes

☒ No

SECTION 5 Detailed statement of grounds

☒ set out below

☒ attached

THE PARLIAMENTARY OMBUDSMAN IS BEING IRRATIONAL AND UNFAIR BY REFUSING TO ACKNOWLEDGE THAT THE DTI SHOULD HAVE UNDERTAKEN A COMPETENT RECONSIDERATION OF OUR GRANT APPLICATION AFTER INITIALLY MISCHARACTERISING OUR WORK AS OUTSIDE OF THE SCOPE OF THE "SMART" GRANT PROGRAMME.

SECTION 6 Details of remedy (including any interim remedy) being sought

1. Quashing of the decision of the Parliamentary Ombudsman, PA 6994.

Including the decisions reached in the initial report of 4/5/2006, the "tier 1" report of 3/8/2006 and the "tier 2" report of 2/10/2006.

2. Acknowledgement that the former Department of Trade and Industry did in fact act maladministratively by failing to complete a competent reconsideration of our "SMART" grant application following contradictory conclusions reached by their assessor and their technical advisers.

SECTION 7 Other applications

I wish to make an application for:-

1. An extension of time.

This applicaiton is very late due to the complexities of the case, an excessive workload (as a result of insufficient finance to be able to operate efficiently) and lack of legal experience of the claimant.

For further details, please see claim bundle.

SECTION 8 Statement of facts relied on

The former DTI failed to correctly analyse the status of a project put before them and incorrectly categorised the project as outside the scope of the "SMART" grant programme.

On appeal, they failed to properly consider evidence presented to them and so failed to correct their initial error.

The Parliamentary Ombudsman has failed to understand that an error occurred and so has refused to acknowledge that an administrative error occurred.

The administrative error was that the "marking frame" document that was supposed to be completed to score the application was never completed, either during the initial assessment or the incomplete reconsideration.

This is evidence a competent reconsideration of our application never took place, contrary to section 7.4 of the "SMART Guidelines For Officials" document on p136 of the Claim bundle.

The initial Ombudsman case officer referred to the "Review and Complaints Procedure" in annex/6 of her report on p168 of the claim bundle, but did not acknowledge that failure to complete a competent reconsideration constituted a violation of this procedure. Any competent reconsideration would have included a follow up discussion with DTI technical advisers and a scoring of the application against the marking frame on claim bundle page 21.

Rather than undertake such a reconsideration, the former DTI rejected the technical advice they had received (bundle page 47) and began ignoring our valid appeal (bundle page 48).

We undertook a "concept study" prior to making the grant application to enable us to consider whether the idea of creating a 3 dimensional web browser had merit. The output of this concept study was an early prototype which demonstrated what we were trying to achieve. The early prototype was a basic "shell" of an idea. An early draft. It contained minimal functionality and numerous technical limitations. I presented this early prototype to the DTI assessor during our 1 hour meeting and he incorrectly categorised our preparatory work as "fairly advanced" and outside the scope of "SMART" without undertaking any testing and without querying project status sufficiently to understand the status of the prototype. This is odd, because the DTI had received technical advice prior to the meeting that the project goals were unlikely to be achieved. Rather than raise the concerns of his technical advisers (bundle pages 25-30) during the meeting for discussion, the assessor advised (against our best interests) that we withdraw our grant application.

Following this meeting, the directors of the company discussed this advice and determined that withdrawing our grant application was not in our best interests. We therefore began an appeal that was never properly considered (p34, 43).

In order to qualify for SMART, we had to score highly on the marking frame (bundle page 21).

In order to score highly in the first category, one must show "t/t (technology transfer) from research".

The early prototype that I demonstrated during my one hour meeting with the DTI was the technology that we had developed during an earlier period of research (the Concept Study). The DTI failed to understand that it was this technology that we were proposing to transfer through into a "Feasibility Study". The purpose of a SMART "Feasibility Study" State Aid was help "investigate the technical and commercial feasibility of innovative technologies".

We intended to do just this but were unfairly excluded from financial support under this grant programme.

The Parliamentary Ombudsman irrationally claims that it was perfectly acceptable for the former DTI to have not scored our application against the marking frame either during the initial assessment or during the reconsideration.

I must therefore ask the Court to Judicially Review her decision. For further details, please see the claim bundle.

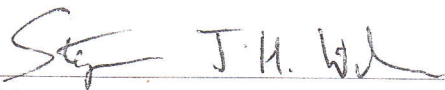
Statement of Truth

I believe (The claimant believes) that the facts stated in this claim form are true.

Full name STEPHEN JOHN HENRY WILLIAMS

Name of claimant's solicitor's firm _____

Signed


Claimant (solicitor)

Position or office held _____

(if signing on behalf of firm or company)

SECTION 9 Supporting documents

If you do not have a document that you intend to use to support your claim, identify it, give the date when you expect it to be available and give reasons why it is not currently available in the box below.

Please tick the papers you are filing with this claim form and any you will be filing later.

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Statement of grounds | <input checked="" type="checkbox"/> included | <input checked="" type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Statement of the facts relied on | <input checked="" type="checkbox"/> included | <input checked="" type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Application to extend the time limit for filing the claim form | <input checked="" type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> Application for directions | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input checked="" type="checkbox"/> Any written evidence in support of the claim or application to extend time | | |
| <input type="checkbox"/> Where the claim for judicial review relates to a decision of a court or tribunal, an approved copy of the reasons for reaching that decision | | |
| <input checked="" type="checkbox"/> Copies of any documents on which the claimant proposes to rely | | |
| <input type="checkbox"/> A copy of the legal aid or CSLF certificate (<i>if legally represented</i>) | | |
| <input checked="" type="checkbox"/> Copies of any relevant statutory material | | |
| <input checked="" type="checkbox"/> A list of essential documents for advance reading by the court (<i>with page references to the passages relied upon</i>) | | |

If Section 18 Practice Direction 54 applies, please tick the relevant box(es) below to indicate which papers you are filing with this claim form:

- | | | |
|--|-----------------------------------|-----------------------------------|
| <input type="checkbox"/> a copy of the removal directions and the decision to which the application relates | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a copy of the documents served with the removal directions including any documents which contains the Immigration and Nationality Directorate's factual summary of the case | <input type="checkbox"/> included | <input type="checkbox"/> attached |
| <input type="checkbox"/> a detailed statement of the grounds | <input type="checkbox"/> included | <input type="checkbox"/> attached |

Reasons why you have not supplied a document and date when you expect it to be available:-

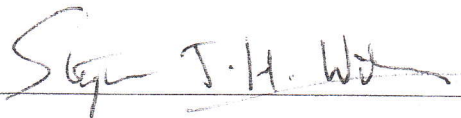
I do not yet have access to the "SMART" "Guidance Notes For The Review Procedure And Complaints Procedure" referred to in section 7.4 of the "SMART" "Guidelines For Officials" document (bundle page 136).

The content of this document is summarised by the Parliamentary Ombudsman on p168. (annex/6)

I made a Freedom Of Information Act request for this document on 24/9/2009.

I therefore expect this document to be available within twenty working days of this date.

Signed



Claimant ('s Solicitor)

Judicial Review

Application for urgent consideration

This form must be completed by the Claimant or the Claimant's advocate if exceptional urgency is being claimed and the application needs to be determined within a certain time scale.

The claimant, or the claimant's solicitors must serve this form on the defendant(s) and any interested parties with the N461 Judicial review claim form.

To the Defendant(s) and Interested Party(ies)
Representations as to the urgency of the claim may be made by defendants or interested parties to the relevant Administrative Court Office by fax:-

For cases proceeding in

London – 020 7947 6802 Birmingham – 0121 250 6730

Cardiff – 02920 376461 Leeds – 0113 306 2581

Manchester – 0161 240 5315

In the High Court of Justice Administrative Court

| | |
|--|---|
| Claim No. | CO / / 2009 |
| Claimant(s) <i>(including ref.)</i> | Stephen John Henry Williams |
| Defendant(s) | Parliamentary Ombudsman |
| Interested Parties | Department For Business, Innovation and Skills. |

SECTION 1 Reasons for urgency

Severe financial difficulties.

SECTION 2 Proposed timetable *(tick the boxes and complete the following statements that apply)*

- ☐ a) The application for interim relief should be considered within _____ hours/days
- ☒ b) The N461 application for permission should be considered within 7 ~~hours~~ days
- ☐ c) Abridgement of time is sought for the lodging of acknowledgments of service
- ☒ d) If permission for judicial review is granted, a substantive hearing is sought by as soon as possible (date)

SECTION 3 Interim relief (state what interim relief is sought and why in the box below)

A draft order must be attached.

Abridgement of time (7 days)

Expedition

SECTION 4 Service

A copy of this form of application was served on the defendant(s) and interested parties as follows:

Defendant

☐ by fax machine to
Fax no. time sent

☒ by handing it to or leaving it with
name

☐ by e-mail to
e-mail address

Date served
Date

Interested party

☐ by fax machine to
Fax no. time sent

☐ by handing it to or leaving it with
name

☐ by e-mail to
e-mail address

Date served
Date

Name of claimant's advocate

name

Claimant (claimant's advocate)

Signed



This order supersedes the order sealed the 3rd February 2010

**In the High Court of Justice
Queen's Bench Division
Administrative Court**

Ref: CO/11112/2009

In the matter of a claim for Judicial Review

**The Queen on the application of Stephen John Henry
Williams**

versus the Parliamentary Ombudsman

**NOTIFICATION of the Court's decision following an oral hearing on the
renewed application for permission to apply for Judicial Review**

IT IS ORDERED by the Honourable Mr Justice Collins that:-

Permission be refused.

The Claimant in person and the Defendant not being present nor represented

(time of the court: 11.43am to 11.52am)

Date 2nd February 2010

By the Court

Where permission to apply has been granted, claimants and their legal advisers are reminded of their obligation to reconsider the merits of the claim in the light of the defendant's witness statement

Claimant: Stephen John Henry Williams, 407 High Road, Wood Green, London, N22

8JB

Defendant's Solicitor: DMH Stallard, DX 57102 Crawley **Ref:** 0786/111832-58

SO

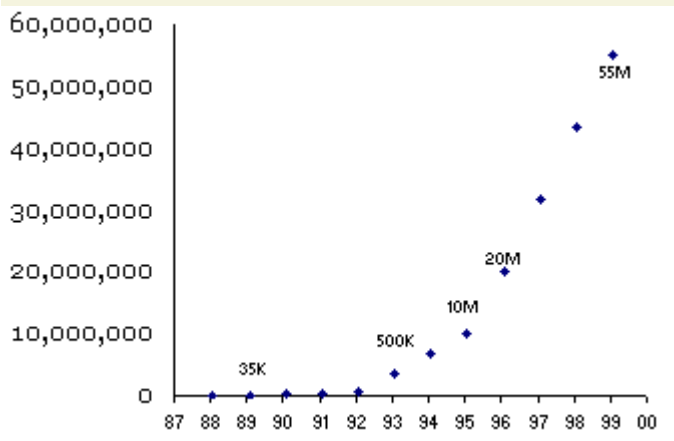
C23

Joel on Software

Good Software Takes Ten Years. Get Used To it.

by Joel Spolsky
Saturday, July 21, 2001

Have a look at this little chart:



[Source: [Iris Associates](#)]

This is a chart showing the number of installed seats of the Lotus Notes workgroup software, from the time it was introduced in 1989 through 2000. In fact when Notes 1.0 finally shipped it had been under development for *five years*. Notice just how dang *long* it took before Notes was really good enough that people started buying it. Indeed, from the first line of code written in 1984 until the hockey-stick part of the curve where things really started to turn up, about 11 years passed. During this time Ray Ozzie and his crew weren't drinking piña coladas in St Barts. They were writing code.

The reason I'm telling you this story is that it's not unusual for a serious software application. The [Oracle RDBMS](#) has been around for 22 years now. [Windows NT development](#) started 12 years ago. Microsoft Word is positively long in the tooth; I remember seeing Word 1.0 for DOS in high school (that dates me, doesn't it? It was 1983.)

To experienced software people, none of this is very surprising. You write the first version of your product, a few people use it, they might like it, but there are too many obvious missing features, performance problems, whatever, so a year later, you've got version 2.0. Everybody argues about which features are going to go into 2.0, 3.0, 4.0, because there are so many important things to do. I remember from the Excel days how many things we had that we just *had* to do. Pivot Tables. 3-D spreadsheets. VBA. Data access. When you finally shipped a new version to the waiting public, people fell all over themselves to buy it. Remember Windows 3.1? And it positively, absolutely needed long file names, it needed memory protection, it needed plug and play, it needed a zillion important things that we can't imagine living without, but there was no time, so those features had to wait for Windows 95. But that's just the first ten years. After that, nobody can think of a single feature that they really need. Is there anything *you* need that Excel 2000 or Windows 2000 doesn't already do? With all due respect to my friends on the Office team, I can't help but feel that there hasn't been a useful new feature in Office since about 1995. Many of the so-called "features" added since then, like the reviled ex-[paperclip](#) and auto-document-mangling, are just [annoyances](#) and O'Reilly is doing a nice business selling books telling you how to turn them off.

So, it takes a long time to write a good program, but when it's done, it's *done*. Oh sure, you can crank out a new version every year or two, trying to get the upgrade revenues, but eventually people will ask: "why fix what ain't broken?"

Failure to understand the ten-year rule leads to crucial business mistakes.

Mistake number 1. The [Get Big Fast](#) syndrome. This fallacy of the Internet bubble has already been thoroughly discredited elsewhere, so I won't flog it too much. But an important observation is that the bubble companies that were trying to create *software* (as opposed to pet food shops) just didn't have enough time for their software to get good. My favorite example is desktop.com, which had the beginnings of something that would have been great if they had worked on it for 10 years. But the build-to-flip mentality, the huge overstaffing and overspending of the company, and the need to raise VC every ten minutes made it impossible to develop the software over 10 years. And the 1.0 version, like everything, was really morbidly awful, and nobody could imagine using it. But desktop.com 8.0 might have been seriously cool. We'll never know.

Mistake number 2. the Overhype syndrome. When you release 1.0, you might want to actually keep it kind of quiet. Let the early adopters find it. If you market it and promote it too heavily, when people see what you've actually done, they will be underwhelmed. Desktop.com is an example of this, so is Marimba, and Groove: they had so much hype on day one that people stopped in and actually looked at their 1.0 release, trying to see what all the excitement was about, but like most 1.0 products, it was about as exciting as watching grass dry. So now there are a million people running around who haven't looked at Marimba since 1996, and who think it's still a dorky list box that downloads Java applets that was thrown together in about 4 months.

Keeping 1.0 quiet means you have to be able to break even with fewer sales. And that means you need lower costs, which means fewer employees, which, in the early days of software development, is actually a really great idea, because if you can only afford 1 programmer at the beginning, the architecture is likely to be reasonably consistent and intelligent, instead of a big mishmash with dozens of conflicting ideas from hundreds of programmers that needs to be rewritten from scratch (like Netscape, according to the defenders of the decision to throw away all the source code and start over).

Mistake number 3. Believing in [Internet Time](#). Around 1996, the New York Times first noticed that new Netscape web browser releases were coming out every six months or so, much faster than the usual 2 year upgrade cycle people were used to from companies like Microsoft. This led to the myth that there was something called "Internet time" in which "business moved faster." Which would be nice, but it wasn't true. Software was not getting created any faster, it was just getting released more often. And in the early stages of a new software product, there are so many important things to add that you can do releases every six months and still add a bunch of great features that people Gotta Have. So you do it. But you're not writing software any faster than you did before. (I will give the Internet Explorer team credit. With IE versions 3.0 and 4.0 they probably created software about ten times faster than the industry norm. This had nothing to do with the Internet and everything to do with the fact that they had a fantastic, war-hardened team that benefited from 15 years of collective experience creating commercial software at Microsoft.)

Mistake number 4. Running out of upgrade revenues when your software is done. A bit of industry lore: in the early days (late 1980s), the PC industry was growing so fast that almost all software was sold to first time users. Microsoft generally charged about \$30 for an upgrade to their \$500 software packages until somebody noticed that the growth from new users was running out, and too many copies were being bought as upgrades to justify the low price. Which got us to where we are today, with upgrades generally costing 50%-60% of the price of the full version and making up the majority of the sales. Now the trouble comes when you can't think of any new features, so you put in the paperclip, and then you take out the paperclip, and you try to charge people both times, and they aren't falling for it. That's when you start to wish that you had charged people for one year licenses, so you can make your product a subscription and have permission to keep taking their money even when you haven't added any new features. It's a neat accounting trick: if you sell a software package for \$100, Wall Street will value that at \$100. But if you can sell a one year license for \$30, then you can claim that you're going to get recurring revenue of \$30 for the next, say, 10 years, which is worth \$200 to Wall Street. Tada! Stock price doubles! (Incidentally, that's how [SAS](#) charges for their software. They get something like 97% renewals every year.)

The trouble is that with packaged software like Microsoft's, customers won't fall for it. Microsoft has been trying to get their customers to accept subscription-based software since the early 90's, and they get massive pushback from their customers every single time. Once people got used to the idea that you "own" the software that you bought, and you don't have to upgrade if you don't want the new features,

that can be a big problem for the software company which is trying to sell a product that is already feature complete.

Mistake number 5. The "We'll Ship It When It's Ready" syndrome. Which reminds me. What the *hell* is going on with Mozilla? I made fun of them [more than a year ago](#) because three years had passed and the damn thing was *still* not out the door. There's a [frequently-obsolete chart](#) on their web site which purports to show that they now think they will ship in Q4 2001. Since they don't actually have anything like a [schedule](#) based on estimates, I'm not sure why they think this. Ah, such is the state of software development in Internet Time Land.

But I'm getting off topic. Yes, software takes 10 years to write, and no, there is no possible way a business can survive if you don't ship anything for 10 years. By the time you discount that revenue stream from 10 years in the future to today, you get [bupkis](#), especially since business analysts like to pretend that everything past 5 years is just "residual value" when they make their fabricated, fictitious spreadsheets that convince them that investing in sock puppets at a \$100,000,000 valuation is a pretty good idea. Anyway, getting good software over the course of 10 years assumes that for at least 8 of those years, you're getting good feedback from your customers, and good innovations from your competitors that you can copy, and good ideas from all the people that come to work for you because they believe that your version 1.0 is promising. You have to release early, incomplete versions -- but don't overhype them or advertise them on the Super Bowl, because they're just not that good, no matter how smart you are.

Mistake number 6. Too-frequent upgrades (a.k.a. the [Corel](#) Syndrome). At the beginning, when you're adding new features and you don't have a lot of existing customers, you'll be able to release a new version every 6 months or so, and people will love you for the new features. After four or five releases like that, you have to slow down, or your existing customers will stop upgrading. They'll skip releases because they don't want the pain or expense of upgrading. Once they skip a release, they'll start to convince themselves that, hey, they don't *always* need the latest and greatest. I used Corel PhotoPaint 6.0 for 5 years. Yes, I know, it had all kinds of off-by-one bugs, but I *knew* all the off-by-one bugs and compensated by always dragging the selection one pixel to the right of where I thought it should be.

Make a ten year plan. Make sure you can survive for 10 years, because the software products that bring in a billion dollars a year all took that long. Don't get too hung up on your version 1 and don't think, for a minute, that you have any hope of reaching large markets with your first version.

Good software, like [wine](#), takes time.

About the author.

I'm [Joel Spolsky](#), founder of [Fog Creek Software](#), a New York company that proves that you can treat programmers well and still be highly profitable. Programmers get private offices, free lunch, and work 40 hours a week. Customers only pay for software if they're delighted. We make [FogBugz](#), an enlightened project management system designed to help great teams develop brilliant software, [Kiln](#), which provides distributed version control and code reviews, and [Fog Creek Copilot](#), which makes remote desktop access easy. I'm also the co-founder of [Stack Overflow](#).

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joel@joelonsoftware.com

27th April 2010

Case Reference Number INF0293981

Dear Mr Williams

Information request to Supreme Court.

Thank you for your further correspondence in which you complain that you have not received a response from the Supreme Court to your request for a legal definition of the term "maladministration."

The Freedom of Information Act 2000 ("the Act") places a duty on public authorities to respond to requests for information. The definition of 'public authority' is given in section 3 of the FOIA.

A public authority is defined as any body which under the FOIA is:

- (i) Listed in Schedule 1, or
- (ii) Designated by order under section 5 (in the form of commencement orders, passed since the Act received royal assent), or
- (iii) A publicly-owned company as defined by section 6

Public authorities include:

- Central Government Departments and Agencies
- Local Government
- Police
- NHS
- State schools, colleges and universities
- Publicly owned companies

The Supreme Court (and, indeed, all other courts) does not meet any of the criteria outlined above and is not a public authority as defined by the FOIA. Therefore, the Supreme Court does not have a duty to respond to information requests made under the FOIA. For this reason the Information Commissioner is unable to proceed with your complaint.

Furthermore, the right to information (where a request is made to a public body which is subject to the Act) is only the right to information which is already held in a recorded form at the time the request is received. Public authorities are not required to create new information, or provide opinions in response to requests and, as your request was effectively asking either for new information to be created, or an opinion to be provided, it would not constitute a valid request.

In view of the facts that your request was not made to a public authority which is subject to the Act, and was asking that new information be created, we are unable to progress this matter and this case will now be closed.

I have appended to the end of this message some information explaining our approach to handling complaints. Should you have any questions about this please contact our Helpline on 0303 123 1113.

Yours sincerely

Bernard McNally

FoI Case Reception Unit

Information Commissioner's Office

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

CO/11112/2009

Royal Courts of Justice
Strand
London WC2A 2LL

Tuesday, 2nd February 2010

B e f o r e:

MR JUSTICE COLLINS

Between:

THE QUEEN ON THE APPLICATION OF STEPHEN J.H. WILLIAMS
Claimant

v

PARLIAMENTARY OMBUDSMAN

Defendant

Computer-Aided Transcript of the Stenograph Notes of
WordWave International Limited
A Merrill Communications Company
165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

The Claimant appeared in person
The Defendant did not appear and was not represented

PROCEEDINGS

Crown copyright©

1. THE CLAIMANT: Can I move to the stand there?
2. MR JUSTICE COLLINS: Yes.
3. THE CLAIMANT: Is it OK to turn the computer on?
4. MR JUSTICE COLLINS: Yes. Well, Mr Williams --
5. THE CLAIMANT: Morning, my Lord.
6. MR JUSTICE COLLINS: -- whatever may be the merits of your claim, you are way out of time.
7. THE CLAIMANT: I know.
8. MR JUSTICE COLLINS: Well, I am afraid there is no good reason to extend time.
9. THE CLAIMANT: That is rubbish.
10. MR JUSTICE COLLINS: Do not talk to me like that.
11. THE CLAIMANT: It is nonsense.
12. MR JUSTICE COLLINS: It is not nonsense.
13. THE CLAIMANT: Yes it is.
14. MR JUSTICE COLLINS: Claims have to be brought within three months, unless there is a very good reason. There is not a good reason.
15. THE CLAIMANT: There is a very good reason.
16. MR JUSTICE COLLINS: And what is that?
17. THE CLAIMANT: I am running a computer software company which is making a very technically complicated product. My job is just as difficult as yours is.
18. MR JUSTICE COLLINS: Maybe.
19. THE CLAIMANT: In a different field, but it is very, very difficult. We put in a claim -- sorry, we put in an application, to the Department of Trade and Industry for funding towards the project after that department has made it clear, through numerous channels, that they support, encourage and partly fund the type of work that we do. A DTI case officer came to visit us to take a look at the project that we were doing to form an opinion and did not do his job properly. His job was to evaluate the project --
20. MR JUSTICE COLLINS: Mr Williams, this has nothing to do with --

21. THE CLAIMANT: It has absolutely everything to do with it.

22. MR JUSTICE COLLINS: It has nothing to do with why you delayed. You were informed at the time that you had --

23. THE CLAIMANT: Are you telling me or are you asking me?

24. MR JUSTICE COLLINS: I am telling you.

25. THE CLAIMANT: Right, so you are me now, are you? You know what I have been through.

26. MR JUSTICE COLLINS: Mr Williams, if you want to be offensive, you are not going to get anywhere before this court.

27. THE CLAIMANT: I am not going to get anywhere anyway, because you have already told me no before you have even given me an opportunity. I have half a hour, I am going to use it.

28. MR JUSTICE COLLINS: No, you are not going to use it, you are going to deal with the question of delay and only with the question of delay at the moment.

29. THE CLAIMANT: Okay.

30. MR JUSTICE COLLINS: If you get over that, then it may be that you can go into the merits of your claim.

31. THE CLAIMANT: Okay. So the issue --

32. MR JUSTICE COLLINS: So, deal with delay, why you spent two years and ten months before you issued proceedings.

33. THE CLAIMANT: Right. I am one guy.

34. MR JUSTICE COLLINS: Yes.

35. THE CLAIMANT: With very limited funds, undertaking a very ambitious project. My primary objective is to realise the project and make a return to our shareholders. My primary objective is not to hold the Parliamentary Ombudsman to account for failing to do her job, which is to acknowledge maladministration. My job is also not to bring to the attention of the judiciary that the term maladministration is not even defined in the first place and to argue with you about the fact that it should be when it is plainly obvious that, if you have got something in legislation, we should all know what we are talking about, because we have the Parliamentary Ombudsman going, "oh, this is not maladministrative". We have the Cabinet Office with a different definition of maladministration. You have got whatever you have in your head, the same with every other judge I speak to, and we cannot get to a point of mutual understanding because the term is not defined. So she says, "oh no, this is not maladministrative" and I am going, well, hang on, it has to be because they did not complete

a necessary form and meanwhile I am trying to do my job as an engineer. This is probably very interesting subject matter academically from a legal perspective, if that is your thing; it is not mine, but I am thrown into the middle of this situation and I am dealing with it as best I can. I am pushing this forward for several reasons. One is because, I suppose, a greater good issue, the Parliamentary Ombudsman should not be acting like this, maladministration should be properly defined and the DTI, or whatever it is called this week, should be properly evaluating --

36. MR JUSTICE COLLINS: It is not for you to fly the flag on behalf of everyone else. You deal --

37. THE CLAIMANT: I can fly my flag when I choose to, sir.

38. MR JUSTICE COLLINS: You make your claim in order to achieve something for you.

39. THE CLAIMANT: That is part of my -- sorry, are you saying I cannot look out for the national interest as well? Of course I can.

40. MR JUSTICE COLLINS: If you want to --

41. THE CLAIMANT: I choose to.

42. MR JUSTICE COLLINS: -- but that is not a good reason for delaying.

43. THE CLAIMANT: I have one pair of hands. I can only do so much at a time.

44. MR JUSTICE COLLINS: Two years and ten months. All right.

45. THE CLAIMANT: Yes, two years and ten months, and what?

46. MR JUSTICE COLLINS: You were aware, were you not, that there was a time limit for judicial review?

47. THE CLAIMANT: I am aware now.

48. MR JUSTICE COLLINS: You were aware then, were you not?

49. THE CLAIMANT: What then are you referring to?

50. MR JUSTICE COLLINS: When you received the decision of the Ombudsman.

51. THE CLAIMANT: Yes, and then we went to a Divisional Court before the Right Honourable Lord Justice Levinson and Sweeney J, where I alleged -- well, I asked the court to consider whether the Parliamentary Ombudsman was acting in a criminal fashion due to -- sorry, I have to go back to this now -- by dishonestly refusing to acknowledge maladministration, which was causing me a financial loss.

52. MR JUSTICE COLLINS: Yes. Well, you did not get anywhere on that, did you?

53. THE CLAIMANT: No, I did not get anywhere. What happened was the court did not agree that I -- well, I had not convinced the court that the Parliamentary Ombudsman was deliberately trying to cause me a financial loss and, I acknowledge, her actions may not be -- that may not have been her intent. She may genuinely think that the situation I have put before her is not one that she can do anything about. I think she is away with the fairies, if that is her decision, but maybe that is her decision. They said I should seek a remedy in some other way. They did not say you are too late, out of time, go away.

54. MR JUSTICE COLLINS: When was this?

55. THE CLAIMANT: That was a year ago, 26th February 2009. I have the decision letter in front of me. They said I should seek a remedy in some other way. I have gone criminal. This is now the civil side. If we go nowhere here, I believe this is a matter of general public interest and so the next stage would be the Supreme Court --

56. MR JUSTICE COLLINS: No, it would not. The next stage would be the Court of Appeal, if you want to pursue it any further.

57. THE CLAIMANT: Really? Okay, you know better than I. So the Court of Appeal, then Supreme Court, then the Court of Justice, if we go all the way. If we go all the way, we go all the way. I do not care.

58. MR JUSTICE COLLINS: I cannot stop you.

59. THE CLAIMANT: No, you cannot. That is absolutely true. You could move the process forward immediately by saying out of time, go away.

60. MR JUSTICE COLLINS: Yes, which is what I am going to do.

61. THE CLAIMANT: So do it.

62. MR JUSTICE COLLINS: I will.

63. THE CLAIMANT: So do it.

64. MR JUSTICE COLLINS: Yes. Well sit down.

65. THE CLAIMANT: Okay.

Williams vs. Parliamentary Ombudsman

Court Of Appeal Ref: C1/2010/0745

Bundle Volume C

Appellant's Notice & Attachments

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