

Case Name: *Lawrence, R (On the Application Of) v London Borough of Croydon* [2024] EWHC 3061 (Admin)

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Commentary: This was an unsuccessful application by the Defendant local authority to strike out the Claimant's claim on the grounds it was out of time.

Facts

The Claimant, a litigant in person, challenged the Defendant's decision to introduce a "low traffic neighbourhood" scheme by order under the Road Traffic Regulation Act 1984 (the "1984 Act").

Paragraph 35 of the 1984 Act provides that a claimant has 6 weeks from the grant of an order to "*make an application for the purpose* [of questioning the validity of an order] *to the High Court*". In this case, the deadline to challenge the order was 7 May 2024.

A fee was paid and a statutory review claim form under CPR Part 8 and supporting documents were emailed to KB Issues and Enquiries, i.e. kbenquiries@justice.gov.uk on 7 May for issue (that email address being provided to the Claimant orally by a court clerk as the relevant email address for filing Part 8 claims). On that date the Claimant also served an unsealed claim form on the defendant.

Subsequently, on 21 May 2024, the Claimant was informed by the Central Office of the King's Bench Division ("KBD") that the claim should have been filed with the Administrative Court Office ("ACO"), at which point the Claimant forwarded the claim papers to the ACO. Following an exchange of emails, in which the Defendant questioned whether the claim had been properly filed, the Claimant was told by the ACO:

"The correct date the application was received is on the 21st of May... the date an application is received is based on the date a compliant application is processed and accepted by the court. I understand the application was sent to KBD on the 7th but the date it was received by the Administrative Court was the 21st of May. KBD should not have accepted the filing as they do not have the remit to process the application".

Issue

Mr Justice Linden had to decide whether, for the purposes of the 1984 Act, the Claimant had "*made an application to the High Court*" when she sent her claim papers to the KBD email address on 7 May, within the limitation period.

Held

Linden J found that an application was “made” to the High Court (in accordance with paragraph 35 of the 1984 Act) on 7 May and the claim was therefore not out of time.

In relation to whether an application has been “made” for the purposes of paragraph 35 of the 1984 Act, the word contemplates “*steps which can and must be taken by the claimant unilaterally*”. The fact the claim had been filed with the KBD rather than the ACO did not mean the claim form was a nullity: paragraph 35 requires “*no more than that a claim form is filed in a court office of the High Court*”.

The error made by the Claimant was a procedural error in relation to a valid claim which was readily corrected by the transfer of the claim to the ACO. The date of filing was corrected under CPR Rule 3.10 to record as 7 May 2024 (rather than 21 May, the date the ACO received the claim form). There was no prejudice to the Defendant in doing so.

Linden J summarised that it would be “*wholly inconsistent with the overriding objective to refuse to correct this error given it was a genuine mistake, it had no material impact on the litigation (were it not for the Defendant’s application) and no other prejudice to the Defendant has been identified*”.

Case summary prepared by Anna Sidebottom