

1 February 2008

LORD CHIEF JUSTICE SAYS PAROLE BOARD IS NOT SUFFICIENTLY INDEPENDENT

The Court of Appeal today rejected an appeal made by Jack Straw, the Secretary of State for Justice, against a High Court decision which decided that the Parole Board is not sufficiently independent from the executive to fulfil its duties as a court.

The case which was the subject of the appeal was brought by David O'Connell and three other prisoners who complained that the Board's independence was unlawfully compromised because of its close links with, and sponsorship by, the government department responsible for managing prisoners.

The High Court in September last year accepted the prisoners' arguments. The Parole Board was set up 40 years ago primarily to provide advice to ministers, but this role has radically changed so that in the majority of cases it is now required to act judicially in deciding whether prisoners should be released. In these circumstances the High Court decided that its close relationship with the government department that was a party to its deliberations was unlawful.

The Lord Chief Justice in upholding the High Court's ruling stated today:

"Neither the Secretary of State nor his department has adequately addressed the need for the Parole Board to be and to seem to be free of influence in relation to the performance of its judicial functions. Both by Directions and by use of his control over the appointment of members of the Board the Secretary of State has sought to influence the manner in which the Board carries out its risk assessment. The close working relationship between the Board and the unit acting as its sponsor has tended to blur the distinction between the executive role of the former and the judicial role of the latter".

Hamish Arnott, the solicitor for David O'Connell stated:

"Prompt steps should now be taken by the Secretary of State to ensure compliance with the judgment. Decisions made by the Board in its current structure now risk being set aside purely on the basis that it is insufficiently independent. Although the Court of Appeal did not specify how the Board should be restructured, it clearly indicated that should it be relocated within either the Court or Tribunal Service its independence would not be compromised."

For further information contact Hamish Arnott or Simon Creighton at Bhatt Murphy Solicitors: 020 7729 1115