

The Rt Hon Gordon Brown MP
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Our ref: FH01/WN01/34338.1/NEVIL

Your ref:

28 January 2008

When telephoning please ask for: William Neville

Dear Prime Minister

Letter before Claim - The Queen on the application of Mr John Stuart Wheeler v (1) the Prime Minister and (2) the Secretary of State for Foreign and Commonwealth Affairs

We are instructed by Mr Stuart Wheeler of Penthouse A, 21 Davies Street, London, W1K 3DE. This is a letter before claim written pursuant to the pre-action protocol for judicial review.

1 Matter being challenged

The subject matter of the intended challenge is your refusal to hold a referendum on whether the United Kingdom should incorporate the Treaty of Lisbon into domestic law.

2 The issues

In your manifesto launched on 13 April 2005, you made the following promise:

"The EU now has 25 members and will continue to expand. The new Constitutional Treaty ensures the new Europe can work effectively, and that Britain keeps control of key national interests like foreign policy, taxation, social security and defence. The Treaty sets out what the EU can do and what it cannot. It strengthens the voice of national parliaments and governments in EU affairs. It is a good treaty for Britain and for the new Europe. We will put it to the British people in a referendum and campaign whole-heartedly for a 'Yes' vote to keep Britain a leading nation in Europe." (emphasis added)

As such, you made an unequivocal promise to put the Treaty to the British people in a referendum. You have refused to abide by that promise. The explanation you have given is that the Treaty of Lisbon is not the same as the Constitutional Treaty that was being proposed at the time of the promise. However, in our client's view, and in the views of numerous experts and committees, there are no significant or material differences between the two documents or their effect.

Our client therefore considers that your refusal to hold a referendum is unlawful as being in breach of our client's legitimate expectation.

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3 The timing of this claim

We are aware that, in April 2007, the Prime Minister indicated that a referendum would not be held in respect of the Treaty of Lisbon. However, at that stage the Treaty was in draft form and negotiations were continuing as to its final content. It was not finally signed until 13 December 2007. Our client does not therefore consider that he has delayed unduly in bringing this challenge. In any event, in our client's view, the very serious nature of the issues is such that the Court would exercise its discretion to extend time, should that be necessary.

4 The details of the action that the defendants are expected to take

Our client says that you should abide by your promise and hold a referendum on whether the United Kingdom should incorporate the Treaty of Lisbon into domestic law.

5 The details of the legal advisers dealing with the claim

The legal advisers dealing with this claim on behalf of Mr Wheeler are ourselves, Burgess Salmon LLP of Narrow Quay House, Narrow Quay, Bristol, BS1 4AH. The partner with responsibility for the matter is Mr William Neville.

6 The details of any interested parties

None.

7 The details of any information sought

No information is sought, save for that set out below.

8 The details of any documents that are considered relevant and necessary

Please supply copies of any correspondence or other documents setting out or touching upon your decision to hold a referendum and your subsequent decision not to hold one.

9 The address for reply and service of court documents

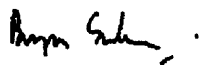
The address for reply and service of court documents is the address of this firm, marked for the attention of Mr William Neville.

10 Proposed reply date

You are asked to reply within 14 days of the date of this letter, which letter will be sent by ordinary post and by fax.

We are sending further copies of this letter to the Foreign Secretary, as co-defendant, and to the Treasury Solicitor.

Yours faithfully



BURGESS SALMON LLP