

Rt Hon Gordon Brown MP
10 Downing Street
London
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The Treasury Solicitor
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5th July 2007

Dear Sir

Re: R v SSTI ex parte Greenpeace
Consultation "The Future of Nuclear Power"
Prime Minister's questions, 4th July 2007

We act for Greenpeace who, you will be aware, were successful in their judicial review of the government decision in the July 2006 Energy Review to support the building of new nuclear power stations.

In his judgment of 15th February 2007, Mr Justice Sullivan gave declaratory relief to the effect that there had been a breach of Greenpeace's legitimate expectation to the fullest public consultation on the future of nuclear power; that the consultation process which led to the decision in July 2006 was procedurally unfair; and that therefore the decision in the Energy review that nuclear new build "has a role to play..." was unlawful.

It follows that no government decision to support new nuclear power stations can lawfully be made without there having been the fullest public consultation.

Following the High Court judgment, and purportedly in accordance with its terms, the Government has published a number of consultation documents; "The Future of Nuclear Power" (May 25th 2007), "Consultations on the proposed processes for Justification and Strategic Siting Assessment" (25 May 2007), "Managing Radioactive Waste Safely" (June 25 2007).

The well established law on the principles of consultation include that the consultation must be undertaken at a time when the proposals are still at a formative stage and the responses must be conscientiously taken into account in finalising any proposals.

A consultation cannot be lawful if the decision which it is intended to inform has already been taken.

Yesterday in Parliament Hansard reports the following exchange:

Sir Menzies Campbell: When I look at the Prime Minister's door it appears to be more of a trap door than anything else—so there is not much evidence of change there. Will the Government now abandon their headlong rush towards a new generation of nuclear power stations? Will they undertake to tax pollution more than earnings? Finally, will they abolish the unfair and regressive council tax?

The Prime Minister: Surely the events of the past year should make it clear to everyone that we cannot rely on an energy policy that makes us wholly dependent on one or two countries or regions across the world. **That is why we have made the decision to continue with nuclear power, and why the security of our energy supply is best safeguarded by building a new generation of nuclear power stations.** (our emphasis).

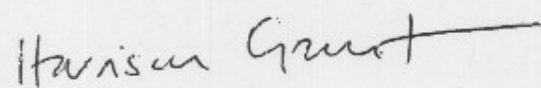
Our clients were preparing to enter fully into the consultation on the understanding that the government's view was preliminary only and that it was intending properly to take into account the responses that Greenpeace and others wish to make before making a final decision on the future of nuclear power. However, the remarks of the former Prime Minister, broadcast on the day of the High Court decision, that the consultation would make no difference to the policy have now been reinforced by the new Prime Minister's confirmation that a decision has already been made.

We ask that you immediately and unreservedly withdraw the government's decision to support the building of a new generation of nuclear power stations, and that you make public the fact that the decision has been quashed. If, thereafter, your

government's intention is still to consider whether or not to support nuclear new build, a new clear and transparent consultation process should begin, allowing (we suggest) a further six months for a full public consultation on the future of nuclear power.

Please reply as a matter of urgency and in any event by Friday 13th July 2007.

Yours faithfully

A handwritten signature in black ink that reads "Harrison Grant". The signature is written in a cursive style with a long horizontal stroke extending to the right from the end of the name.

Harrison Grant