



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

CO/3037/2014

In the matter of an application for Judicial Review

THE QUEEN

on the application of LONDON BOROUGH OF TOWER HAMLETS

Claimant

versus

**SECRETARY OF STATE FOR COMMUNITIES AND LOCAL
GOVERNMENT**

Defendant

On the Claimant's application for Judicial Review

Following consideration of the documents lodged by the parties

Order by the Honourable Mr Justice Kenneth Parker

1. Permission Refused

Reasons

1. The first ground is hopeless. PwC was not appointed as inspector until after the relevant legislation was in force on 4 April 2014. The Defendant, before that date, was plainly entitled to exercise his common law power to ask an expert body to assist him by providing advice on any aspect of public affairs that was of potential concern to him.

2. As to the second ground, there was no express statutory duty to give reasons, and any implied duty was limited to telling the local authority in brief terms why the Defendant had appointed an inspector. The matters set out in paragraph 2 of the letter of 4 April 2014 were sufficient, especially against a background of serious and responsible concern in the public domain, to inform the Council why the appointment had been considered appropriate. This is not a case where the Council can credibly complain that it was in the dark as to why PwC had been appointed.

3. As to the third ground, this is labelled 'irrationality'. That is a misnomer. What is alleged is that the Defendant exercised the relevant power for a purpose that was not within the proper scope of the legislative intent. However, that legislative purpose is broad: to carry out an inspection of an authority's compliance with its best value duty. That latter duty is itself broad: to secure continuous improvement in the way in which an authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Where concerns have been raised that a local authority is poorly governed, poorly managed financially and may even have engaged in fraud, it stands to reason that there must be concerns as to whether such an authority has exercised its functions as economically, efficiently and effectively as could properly have been expected. The contrary is simply not arguable.

4. There is also a serious issue as to delay. This is an application that plainly had to be brought within days, not months. All of the grounds relied on, though unmeritorious, were there to be advanced on 4 April when the decision was taken. A prompt challenge could have been dealt with expeditiously. Instead, the Council allowed the inspector to carry out its investigation for a substantial period, no doubt at considerable public expense and with the diversion of Council resources, before launching its belated challenge, and asking months later that the decision be quashed and that the national tax payer indemnify this Council for the inspection fees. In my view, there is no good reason for extending time beyond the prompt period in which this claim

should have been brought; and it is, furthermore, not arguable that, having regard to the Council's conduct, this Court, taking into account the interests of good administration (of which the Council is, or should be, fully aware) would grant the relief requested.

5. If the application for permission is renewed to an oral hearing, it must be heard by a High Court judge (not a Deputy).

Signed



Sent to the claimant, defendant and any interested party / the claimants, defendants, and any interested party's solicitors on (date): **29 AUG 2014**

FORM MPA