

## Delays in Justice = Injustice?

In this country we are fortunate to be served by a judiciary which is both robustly independent and academically able. Most judges run their courts well and deal with matters before them expeditiously.

Given the volume and complexity of the issues heard by our courts, it is inevitable that it can take several weeks after a trial or hearing for judgment to be given. But when does proper time for consideration and drafting of a judgment turn into unacceptable delay and when might that delay interfere with the quality of justice?

This question was considered lately by the Court of Appeal in **Bond v. Dunster Properties Ltd & Others**. In this case, a business dispute between a father and son, the judge had taken 22 months from the trial to give his judgment. The father lost the case and appealed to the Court of Appeal on the basis that the extraordinary delay on the part of the judge had led to errors. The Court of Appeal held that findings of fact were not automatically to be set aside because of delay – it is necessary to ask whether the judge was plainly wrong - but if it can be shown that the judge’s recollection has been adversely affected by the delay, a retrial can be ordered. (In this particular case, the appeal was unsuccessful.)

It is generally acknowledged that delays, particularly when unexplained and where there is no apology, can be a denial of justice, leaving the parties in uncertainty and undermining confidence in the court’s judgment. Further, Article 6 of the Human Rights Act requires that judgments be delivered within a reasonable time. The Court of Appeal explained that what is reasonable will depend on the complexity of the legal issues, the volume and nature of evidence and other factors including the involvement of children, or litigants with terminal illnesses or other grounds of urgency. It recommended that delays beyond a reasonable period should be explained by letter or e mail to the litigants.

The 1998 case of **Goose v Wilson Sandiford** had already made clear that delays of the **Bond v Dunster** kind should not happen. In the circumstances, the Master of the Rolls now intends to look into whether procedures need to be introduced to prevent this type of problem arising again.

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