

The Government Legal Department
Litigation Group 102 Petty France
London
SW1H 9GL



3 July 2020

Dear Sir/Madam

107-111
Fleet Street,
London,
EC4A 2AB

Re: Good Law Project and EveryDoctor v SSHASC re Clandboye Agencies

Our Ref:
AIR/AIR/081

Thank you for your letter dated 2 July. In that letter you refer to your reply to our letter before claim in claim HT-2020-000226 (the PestFix Claim) dated 1 July and invite us, in light of what is stated in that letter, to withdraw our letter before claim in this matter.

As you are aware, in claim HT-2020-000226 the Interested Party is due to respond today and thereafter our clients have 7 days to amend their grounds of claim. We confirm that our clients do intend to amend their grounds and proceed with the claim. Accordingly, there is nothing in your letter dated 1 July which warrants the withdrawal of the letter before claim in this matter, and we do not intend to do so. In particular, we note that your client's position in relation to the circumstances surrounding the award of various contracts to PestFix has altered very significantly, not least as a result of our clients having pursued their claim, and our clients consider it would be premature to withdraw their letter before claim until a full and proper explanation is provided as to the circumstances in which a supplier of sweets and chocolates was awarded a PPE supply contract(s) worth £108 million.

Limitation

We also note your position that limitation in this matter (and in claim HT-2020-000226) runs from 27 March 2020, i.e. over a month before the Department of Health had awarded Clandeboye a public contract, nearly 2 months before the Department awarded Clandeboye the further contract worth £93.24 million, and nearly three months before the very fact of the award was made public. That is plainly wrong. Our clients did not know and could not have known at that time that the Department intended to contract with Clandeboye or indeed that it intended to enter into any substantial contracts for PPE without conducting any form of selection process or adopting any basis for distinguishing between interested bidders. We note that there is no authority to support your position, whether by reference to any legislative provision or case law. If you are aware of any, please do provide that to us when responding to the letter before claim.

Absent the provision of any such authority, our client is entitled to proceed on the basis that time runs in accordance with CPR r.54.5(6) and Regulation 92(2) of the Public Contracts Regulations 2015, namely, within 30 days beginning with the date when the Claimants first knew or ought to have known that grounds for starting the proceedings had arisen. That date was 23 June 2020.

We look forward to hearing from you substantively by 13 July 2020 in accordance with your client's obligations under the pre-action protocol for judicial review.

Yours faithfully

Rook Irwin Sweeney

Rook Irwin Sweeney LLP