

COMMUNIQUE ON THE PRIVY COUNCIL DECISION IN THE MEDPOINT CASE

The Judicial Committee of the Privy Council has today delivered its judgment in the appeal of DPP v Pravind Kumar Jugnauth [2019] UKPC 8. The Office of the Director of Public Prosecutions welcomes the decision of the Privy Council as it sheds light on matters which were up to now in controversy.

In a Communiqué issued by this Office on 08 June 2016, we explained our decision to appeal to the Privy Council. Our Office was of the view that the judgment of the Supreme Court gave rise to important questions, crucial to establishing an offence under section 13(2) of the Prevention of Corruption Act (the POCA), in particular –

- (a) the requisite degree of knowledge and criminal intent of a public official to establish an offence of Conflict of Interests, and whether good faith can be invoked as a defence;
- (b) the meaning of the term “personal interest” and whether it excludes the shareholding of the relative of a public official in a company;
- (c) the nature of participation in proceedings prohibited under that provision and whether a public official is precluded from taking any step in the execution of a contract which has been awarded by a public body to a company in which a relative of that public official has shares.

In granting leave to appeal to the Privy Council, the Supreme Court agreed that the matters referred to above raised substantial and significant issues of law of great general or public importance which ought to be submitted to the Privy Council for determination.

We note that the Privy Council in its judgment has accepted our position on the points of law in issue in this case and has confirmed the legal reasoning adopted by the Intermediate Court. However, it has also found that on the facts of the present case, payment to Medpoint would have been effected irrespective of the re-allocation of funds and, therefore, Mrs Malhotra had no personal interest within the meaning of section 13(2) of the POCA.

The judgment of the Privy Council will undoubtedly be of valuable assistance to our Office when deciding future cases under section 13(2) of the POCA.

Office of the Director of Public Prosecutions

25 February 2019