

**Judicial Review**

**Section 2 Pre-Action Protocol**

**Standard Paragraphs**

**1. Where a representative has sent a letter direct to a caseworking unit and not to the UKBA designated contact (i.e. Judicial Review Unit.)**

I am writing to acknowledge receipt of your /your clients letter of [.....] which is headed "Pre-action protocol"/"Letter before claim" purportedly in accordance with the procedures of the pre-action protocol for Judicial Review in connection with the decision of.....which has been sent directly to a UKBA caseworking unit

In order to comply with the pre-action protocol claimants/legal representatives should send the letter before claim to the UKBA designated contact i.e. Judicial Review Unit The letter needs to provide correct address and email for JRU. Any letters before claim which have not been sent to the UKBA designated contact will not be accepted as being compliant with the pre-action protocol process and accordingly your letter will not be treated in accordance with this process.

Full consideration will be given to the issues raised in your letter in due course however in the event that you chose to pursue judicial review proceedings UKBA will take the point of your non-compliance in any subsequent Court proceedings in disputing that UKBA is liable to pay any costs.

**2. Where a representative/claimant has sent a letter headed "Pre-action Protocol" or "letter before claim" but it does not contain any key information e.g HO reference, or full name, date of birth or any information UKBA can usefully act on**

I am writing to acknowledge receipt of your/your client's letter of [.....] which is headed "Pre-action Protocol"/"letter before claim" purportedly in accordance with the procedures of the pre-action protocol for Judicial Review in connection with the decision of [.....] to [.....].

The letter contains insufficient information to enable the UKBA [either] to readily identify your/your client's Home Office file so a caseworker can usefully act on this/ [or ]does not set out clearly the issues you wish UKBA to address to permit meaningful consideration of the points raised.

Accordingly UKBA disputes that your letter of [insert date] constitutes a valid letter before claim and it is not accepted that this should be treated in accordance with the pre-action protocol process. We will of course provide a full response in due course, but not within the prescribed deadline, should you supply the additional information.

**3. Where a letter before claim has been sent in an urgent case and the pre-action protocol is not appropriate.**

You/your client wrote to this Directorate on [.....] notifying that this was a letter before claim in accordance with the provisions of the pre-action protocol for Judicial Review in connection with the decision of [.....] to [.....].

The pre-action protocol is not appropriate for use in the circumstances of this case, because removal directions have been set/are in force. Your attention is drawn to the note above paragraph 7 of the Introduction to the protocol.

Action will now continue to [.....] unless confirmation is received by [.....] that a claim for Judicial Review has been made where such proceedings constitute a legal barrier to removal.

**4. No letter of authority enclosed by the solicitors**

I am writing to acknowledge receipt of your letter of [.....] which is headed "Pre-action Protocol"/"letter before claim" purportedly in accordance with the procedures of the pre-action protocol for Judicial Review.

Unfortunately we do not have any record of you representing [insert name] prior to this correspondence and no letter of authority has been enclosed with your letter.

Given our duty of confidentiality we are unable to enter into any further correspondence on this matter and your letter is not being treated in accordance with the pre-action protocol process.

Should you provide a letter of authority UKBA will of course provide a full response.

**5. Where it is not possible to send a letter of response within 14 days of the receipt of a letter before claim.**

I am writing to acknowledge receipt of your/your client's letter before claim in accordance with the procedures which are set out in the pre-action protocol for Judicial Review. Full consideration is being given to the points which have

been made, but because of [insert reasons] it will not be possible to reply in full within 14 days. However, I anticipate that it will be possible to send a substantive reply by [.....] and it is therefore proposed that the time in which the letter of response should be sent should be extended until that date.

Whilst there is an obligation to issue a judicial review promptly and in any event within 3 months of the decision being challenged, if the application is made late as a result of UKBA's delay in responding to your letter before claim UKBA will not take any point in relation to delay in any subsequent Court proceedings .

**6. Where a letter before claim has been sent in a case where the pre-action protocol is not appropriate because it is seeking to challenge an Immigration Judge's or the Tribunal's determination.**

You/your client sent to this Directorate on [.....] a letter before claim purportedly in accordance with the provisions of the pre-action protocol for Judicial Review in connection with the decision of [.....] [ to[.....].

The pre-action protocol is not appropriate for use in the circumstances of this case, because the Secretary of State does not have the legal power to change the decision that you are seeking to challenge. Your attention is drawn to the note under paragraph 6 of the Introduction to the protocol about this point.

{delete if inappropriate} The Secretary of State has however considered the points made in your letter about [.....] and because of [.....] it has been decided that the decision of [.....] should stand/will be granted [.....]

{delete if inappropriate} Action will now continue to [.....] unless confirmation is received by [.....] that a claim for Judicial Review has been made, where such proceedings constitute a legal barrier to removal.