



GOVERNMENT OF GIBRALTAR
Ministry of Tourism, Public Transport and the Port
Suite 771
Europort
Gibraltar

PRESS RELEASE

No. 145/2012

Date: 1st March 2012

Bus Company case cost more in legal fees than to settle

It is not surprising, given the negative political style to which they have Gibraltar accustomed, that the Opposition should react in a totally unwarranted knee-jerk fashion in its two latest press releases on the Gibraltar Bus Company without even making the slightest attempt to determine the facts.

The Government has been placed in the position of having no choice but to comment on the matter in order to rebut these baseless accusations.

The bottom line is that the previous Government had already spent more money in defending the case against the Bus Company taken by its former employee Peter Sardena than they would have spent if the case had been settled in the first place!

The new Government, since being elected into office, has commenced a review of all capital projects, the recurrent expenditure and costs incurred by government-owned companies and the services provided by such entities. It is a fact that Gibraltar Bus Company Limited has incurred a loss of approximately £2.5 million in this financial year alone. Whereas the Government notes that the Bus Company is not a profit-making organisation and that its primary role is to provide a vital service to the community, it is nonetheless the duty of the Government, on behalf of the taxpayer, to ensure that the service provided represents true value for money. The current financial losses of the Bus Company, as well as the Government's drive to rationalise any duplication of jobs and reduce costs, are important in the context of understanding the perfectly lawful and justifiable reasons for the decision of the Government to terminate the employment contracts of two of the directors. Whereas the Opposition may not like or accept the Government's decisions, they hardly amount to a "masquerade" or a "smokescreen".

By way of background, it is important to note that the outgoing directors were retired pensioners that the previous administration employed for the specific project of setting up the Bus Company and that they retained in post for over seven years at an annual salary to the tax payer of eventually £45,000 in addition to their tax free final salary pensions. The Employment Service has confirmed that these positions were

not proceeded with in the usual way, by advertising the posts, as required under Gibraltar's employment laws.

The Minister for Transport Neil Costa had asked for a written brief from the directors, the entirety of the documents in the Sardena case and personally proceeded to consider the entirety of the documents and correspondence. It was only after an exhaustive consideration of all of these documents that he recommended to the Cabinet that the Bus Company should discontinue its defence of the complaint of unfair dismissal.

On discussing the above matters with the full Cabinet, the Government decided, as representatives of the shareholders of the Bus Company, to instruct the directors of the Bus Company to write to the Secretary of the Industrial Tribunal to stipulate that that Company would no longer resist the complaint. Following the instruction, Minister Costa called a meeting of the then directors to discuss the reasons behind the Government's decision to no longer fund the defence of the case. It is vital to note that the directors both understood and accepted the Government's decision to no longer fund the defence in the light of the excessive legal costs. The directors, however, subsequently refused to write the letter of withdrawal, not because of the withdrawal per se, but only on the basis of the wording of the letter to be sent to the Secretary to the Industrial Tribunal.

Mr Sardena is yet to give evidence, call his witnesses and the parties are yet to make closing submissions; this is without taking into consideration the possibility of an appeal by either side. Therefore, it is totally inaccurate for the Opposition to claim the case "...was drawing to a close." The GSD Opposition, however, have clearly prejudged the matter and are happy to make quite scandalous statements about the merits of the case. It is inconceivable that any private client would agree to pay approximately £30,000 over the original fee estimate for a hearing that is, at most, half-way. Not even the critics of the Government would seriously suggest that the former directors did not have a duty to control the spiraling costs of this litigation in line with original fees estimate.

Quite apart from all of this, the Opposition should not be allowed to forget that, whilst in Government, it spent over one-hundred thousand pounds of tax payers' money in the Joanna Hernandez case. The public will recall that the GSD instructed its solicitors to argue a legal point it knew to be preposterous all the way to the Court of Appeal to, at the last minute, withdraw its defence of the unfair dismissal claim. To throw the colossal weight of the governmental machinery against a private citizen in this way could certainly be properly described as political corruption of the highest order, as well as a shameful abuse of the government's position of power.

Commenting on the matter, the Minister for Transport Neil Costa noted: "As a result of all of the above, it is abundantly clear that the actions of the Government are perfectly proper. The Opposition, to use their purposely misleading and inflammatory language, continue to manifest "very worrying signs" of their political style. It is patently obvious to any objective observer, that in their desperate attempt to remain politically relevant, the Opposition will stop at nothing in order to tarnish the implacable pursuit by the new Government of implementing the program that the people have chosen at the last general election."