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Dear Amit,

I am responding to the various points you have made in your e-mails of 21 April, 15 May and 16 May.

We intend to give effect to the HSMP Forum Ltd JR judgment as soon as we can. As I'm sure you will appreciate, because of the many different categories of people that may be affected by the judgment it is not a simple matter to ensure that we have in place appropriate policies and practical arrangements both in the UK and overseas. We want to make sure we have got it right before making any announcement and, realistically, we are unlikely to be in position to do this before 16 June at the earliest. I know this will be disappointing but it would not help those covered by the judgment if we put something in place that was ill-thought out.

It has always been our intention since the HSMP Forum Ltd JR judgment was handed down that people covered by it should neither be refused further leave under Tier 1(General), nor be arrested as overstayers pending reconsideration of their cases. The two specific cases that you mention were genuine oversights inconsistent with that intention and I regret that they occurred. Action has been taken to correct those errors and we have re-iterated across the Agency the requirement to take the judgment into account in such cases.

The HSMP Forum Ltd JR claim was about the rules changes we made in December 2006; specifically about introducing the new further leave test into the Highly Skilled Migrant Programme (HSMP). There was no claim in relation to either settlement nor fees, and the judgment does not have a bearing on these matters, both of which are independent of the December 2006 rules changes.

The qualifying period for settlement was extended from 4 to 5 years in April 2006 for all immigration categories, not just HSMP. This pre-dates the HSMP changes that were the subject of the JR brought by your organisation. Consequently, putting people in the position they would have been in had the test not changed in December 2006 does not include reversing that earlier rules change. I note your views on this subject but we have no plans to reduce the current 5 year qualifying period on the basis of the HSMP Forum Ltd JR judgment.

Fees are subject to change independently of any rules changes. Consequently we will be charging people who are coming up to an application for FLR the standard highly skilled FLR fee. This is the fee they would have been charged whether or not the December 2006 Rules change had occurred, and whether or not HSMP Forum had won its judicial review. People who have applied for and been refused HSMP FLR in the past and are covered by the judgment will not be charged for any reconsideration of that decision.

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