

**REVIEW AUTHORITY  
NEW ZEALAND**

**RA 001/2017**

**Applicant**

**AB**

**Respondent**

**Secretary for Justice**

**Date of Decision:**

27 March 2017

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**DECISION**

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1. In a decision dated 19 December 2016, The Secretary for Justice (“the Secretary”) declined approval of the Applicant as a Criminal Legal Aid Provider (Criminal Proceedings Level 3 and 4). Notice of the decision was given to the Applicant on 20 December 2016.
2. The Applicant applied to review that decision on 3 February 2017.
3. That application was filed out of time in that it was not made within 20 working days from the date of notice of the Secretary’s decision (Legal Services Act 2011, Section 82(2)). It was 8 days late.
4. The Review Authority may accept a late application no later than 3 months after the date on which the notice of the decision was given to an applicant, if the Review Authority is satisfied that exceptional circumstances prevent

the application from being made within 20 working days after the date on which notice is given (s82(3)).

5. The Applicant submits that the following matters create extraordinary circumstances such that his application for review should be considered by the Review Authority:
  - a. Since the date of the Secretary's decision he had been engaged in a High Court hearing until 21 December 2016 and further engaged in other hearings until 23 December 2016.
  - b. He miscalculated the working days specified by s.82(2) of the Act such that his application for review was filed late.
  - c. That his focus had been placed on the High Court trial which had extended over to January of the New Year and as at 23 February was still continuing.
6. It is not unusual for counsel to be involved in a number of matters at any one time and to put aside what are considered to be less pressing matters. While it is possible to have sympathy for the position in which the Applicant has found himself, the wording of Section 82(3) is strong and requires circumstances that are more than unusual.
7. I do not consider that the Applicant did not have time between 20 December 2016 and 26 January 2017 to attend to the filing of an application for review of the Secretary's decision given that he miscalculated the time period for doing so and that the High Court trial upon which he relies is still continuing.
8. I am not therefore, satisfied that the Applicant has made out extraordinary circumstance to permit acceptance of his late application for review.
9. I accordingly decline to accept the late application.

10. It follows that I cannot consider his application for review of the Secretary's decision.

BJ Kendall  
Review Authority