

## **JUDICIAL DEPARTMENT – PRESS STATEMENT 31 MAY 2018**

### **JOINT STATEMENT FROM THE CHIEF JUSTICE AND THE ACTING REGISTRAR OF THE SUPREME COURT AND COURT OF APPEAL**

On 23 March 2018, the Attorney General and Minister of Legal Affairs, the Honourable Kathy Lightbourne-Simmons presented the Budget Brief for the Judicial Department to the Senate. The Budget Brief was clear in outlining the ongoing staffing crisis of the Department. The Assistant Registrar, Alexandra Wheatley, who has effectively been appointed as the Acting Registrar for 2018, with the assistance of the Registrar Subair Williams (currently Acting Justice) and Senior Management have thrown themselves into attempting to bring resolution to this untenable position. Despite these valiant efforts, there has been little to no effective resolve.

This state of affairs is crippling the Judicial Department's ability to provide efficient and effective access to justice for Bermuda's residents. As a direct result of the continuing lack of resolution to filling the 51% of posts which are currently vacant within the Judicial Department (including both the Supreme Court and Magistrates' Court Divisions), Circular No 13 of 2018 was issued in respect of the difficulties being experienced in the Probate Division (see attached). This being just a snapshot of the overall picture.

Government policies for filling vacant posts, combined with the equally onerous procedures of the Department of Human Resources, are paralyzing the Department's ability to function effectively. Efforts by the Judicial Department to address the staff shortage crisis have been rigorous and continuous since 2016. Resolutions presented to gain exemptions from Public Service recruitment policies and procedures taking into account the constitutional status of the Judiciary as an independent branch of Government have been summarily rebuffed without appropriate deliberation. The Chief Justice has publically addressed these same concerns on several occasions (see e.g. attached Press Statement made by the Chief Justice on 18 January 2017).

A further Circular was issued on 31 May 2018 which gave notice of the reduction of services provided by the Judicial Department to Bermuda (see attached Circular No 15 of 2018). Given the Judicial Department's powerlessness in meeting the expectations set by practitioners and members of the public, this decision was inevitable. The inability to fulfill these reasonable expectations continues to be an insurmountable task without a full complement of staff. This deplorable situation not only impacts the Judicial Department, but its consequences are far reaching. Without a doubt, Bermuda as a whole is negatively impacted and quite arguably Bermuda's reputation in the International Business sector will be called into question.

Further rubbing salt into the Judicial Department's proverbial wounds, is the recent recommendation to cease the use of 113 Front Street which is now dedicated court space for the Court of Appeal on health and safety grounds. Consequently, the Court of Appeal Session commencing on 4 June 2018 has had to be relocated Court #1 in Sessions House as this is the only location with the required facilities. This has resulted in Supreme Court jury trials, where

citizens' liberty is at stake, having to be adjourned for a minimum of three weeks as there is no alternative location for either an additional criminal court or for the Court of Appeal. This is yet another repercussion of inadequate resources and attention being provided to the Judicial Department over the years.

The Judicial Department has exhausted its attempts to adequately resolve this crisis. It is neither helpful nor is it efficient use of our limited and precious resources to be further invested in fruitless exercises. The power to resolve this crisis is in the hands of the Honourable Attorney-General and Minister of Legal Affairs who is the Minister with responsibility for the Judicial Department and who, like many of her predecessors, has yet to take effect action to adequately meet the administrative needs of the Judiciary.

**CHIEF JUSTICE, IAN KAWALEY  
ACTING REGISTRAR, ALEXANDRA WHEATLEY**