

MONDAY 12TH FEBRUARY 2018

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO31712015

BEFORE LORD JUSTICE GROSS
AND LORD JUSTICE MCFARLANE
AND LORD JUSTICE SALES

B E T W E E N

THE QUEEN ON THE APPLICATION OF THILAKAWARDHANA
APPELLANT

- and -

THE OFFICE OF THE INDEPENDENT ADJUDICATOR
RESPONDENT

- and -

UNIVERSITY OF LEICESTER
INTERESTED PARTY

RULING AS TO COSTS

1. The Court thanks the parties for their respective submissions and further submissions as to costs.
2. *Overall order:* The Court orders that the Appellant (A) pays:
 - (i) The Respondent (R) 75% of its costs, summarily assessed below;
and
 - (i) The Interested Party (IP) 75% of its costs, summarily assessed below.
3. In the Court's view, this order is fair and does overall justice between the parties.
 - (i) The A should not have to pay 100% of both the R's and the IP's costs. There was considerable overlap between the position of the R and the position of the IP. More cooperation between them could and should have reduced their own costs.
 - (ii) The IP should receive a substantial percentage of its costs. The A



ON PAPER
Appeal No.

C1/2015/4253



joined the IP to the proceedings. The legal challenge principally related to its decision.

(iii) The R should not receive 100% of its costs. The R essentially left the defence to the IP. On the single distinct issue it raised (in shorthand, double deference), it lost. The offer it made was, of course not a Part 36 offer and was in any event open for 8 days only.

(iv) The decision in *Bolton MDC v Secretary of State for the Environment* [1995] 1 WLR 1176 does not tell against the Court exercising its discretion in the manner explained and for the reasons given above.

4. *Quantification*: By way of summary assessment, the Court is of the view that the fair and reasonable figures for 100% of the R's and the IP's costs are as follows:

(i) R: £10,000

(ii) IP: £15,000

5. Accordingly, 75% of the costs in question produces the following amounts:

(i) R: £7,500;

(ii) IP: (rounding down slightly) £11,000

6. The A should pay these amounts to the R and the IP within 28 days of this Ruling.



By the Court

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ORDER

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* This order was drawn by A Marie Smith (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to A Marie Smith, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is