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### ***Cases posted by the Task Force on Access to Justice***

#### **R (on the application of Littlewood) v Bassetlaw District Council [2008] EWHC 1812 (Admin)**

1. <i>Key issue</i>	Costs - The Court of Appeal upheld a High Court costs order for the unsuccessful claimant (Mr Littlewood) to reimburse the defendant up to a maximum of £50,000 on the basis that the figure did not breach the UK's duty under the Aarhus Convention to "be fair and not be prohibitively expensive".
2. <i>Country/Region</i>	United Kingdom
3. <i>Court/body</i>	High Court and Court of Appeal
4. <i>Date of judgment /decision</i>	20 <sup>th</sup> June 2008
5. <i>Internal reference</i>	[2008] EWHC 1812 (Admin)
6. <i>Articles of the Aarhus Convention</i>	Article 9(4)
7. <i>Key words</i>	Prohibitive costs
8. <i>Case summary</i>	<p>The unsuccessful claimant in the High Court (Littlewood) was ordered to pay the defendant council's costs subject to a cap of £50,000.</p> <p>The claimant appealed to the Court of Appeal, submitting that the sum ordered in this case was disproportionate and unreasonable on the basis that costs in environmental cases are subject to special considerations under Article 9(4) of the Aarhus Convention, as given effect in EC law by Article 10a of the amended EIA directive. The claimant referred to the duty on member states to ensure that effect is given to these requirements (as stressed in the report of a working group chaired by Sullivan J on access to environmental justice) and submitted that a costs order of up to £50,000 in a case of this nature made the proceedings unfair and prohibitively expensive and involved a breach of duty under EC law.</p> <p>In considering the judgment in <i>(R) Davey v Aylesbury Vale DC</i> [2008] 1 WLR 878, the Court of Appeal upheld the making of a costs order of some £50,000 on the basis that "<i>Nor do I think that a costs order of this size in proceedings of this nature could properly be said to give rise to a breach of the duty to ensure that proceedings in environmental cases should be fair and not be prohibitively expensive</i>" (para 28).</p> <p>The Court of Appeal also held that:</p> <p><i>"In my view the judge was entitled to find that a costs figure capped at £50,000 was proportionate to the nature of the case and the work to which the council had been put in defending it, and that the costs awarded should properly include the fees of leading counsel."</i></p>

9. Link address	<a href="http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/UNITED_KINGDOM/Littlewood/LittlewoodJudgment.pdf">http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/UNITED_KINGDOM/Littlewood/LittlewoodJudgment.pdf</a>
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