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PRESS RELEASE

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Noisedirect Client is Successful in Overturning a Judge's Decision in the High Court Ordering a Complainant to Pay the Defendant's Costs in Section 82 Proceedings Under the Environmental Protection Act 1990

In *Bentley-Thomas v Winkfield Parish Council [2013] EWHC (Admin)*, the complainant (Dr Bentley-Thomas) had laid an information in Reading Magistrates' Court in accordance with Section 82 of the Environmental Protection Act 1990, alleging that the defendant (Winkfield) had caused a statutory noise nuisance.

The information was dismissed by District Judge Vickers having heard evidence from a number of residents and experts. Following the dismissal the Judge ordered the complainant to pay the defendant's costs in the sum of £18,008.10 pursuant to s.19 of the Prosecution of Offences Act 1985.

The complainant appealed by way of case stated against the decision on the grounds that the Judge was wrong to have ordered the complainant to pay the costs of the defendant. The complainant asserted that the correct approach was to make an order that the defendant's costs be paid out of central funds in accordance with s.16 of the 1985 Act.


Fulford J (with whom Goldring LJ agreed) held that the Judge was wrong, as a matter of law and fact, to make an order for costs against the complainant pursuant to s.19 of the 1985 Act, following her decision to bring proceedings in accordance with s.82 of the 1990 Act.

Fulford J stated that Dr Bentley-Thomas had conducted her case properly throughout the proceedings. It was held that the complainant had produced a significant quantity of evidence to demonstrate that a noise nuisance was in existence.

The Court made an order quashing the decision of the Judge and requiring the defendant to pay the complainant's costs of the appeal.

The Claimant was represented under Direct Public Access by Mr Simon Butler at the Chambers of Grahame Aldous QC, London.

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1. Noisedirect is the UK's first independent, National Noise Advice Line provided by Sanctum Consultants; an Environmental Health Consultancy. Noisedirect operates Monday to Friday. Callers, whether noise makers or sufferers, can discuss any noise issue under a fixed fee of £39 for a 30 minute consultation and speak with a qualified and experienced Environmental Health Practitioner by phoning a low cost national number. Noisedirect Experts can carry out nuisance and acoustic assessments and regularly appear in Magistrates, County Court and appeals and case listed for hearing in the High Court. www.noisedirect.co.uk
2. Simon Butler is an experienced Barrister practising at the Chambers of Grahame Aldous QC, London. Simon represents many types of Clients and provides professional, creative and cost-effective advice to ensure all litigants receive the best possible service at the best possible price. Simon is licensed to provide representation under Direct Public Access. To Find out more about Simon and his cases visit www.simondbutler.com