

Developments in Judicial Review in 2017

Fees, Costs and Access to Justice

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The UNISON case

- The fees regime
- Basis of the challenge
- Justification



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- Lord Reed's Judgment
- Access to Justice and the Rule of Law
- Indirect Discrimination against women
- EU law argument upheld



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The RSPB case

- The Aarhus cost regime
- Modification of the regime
- The RSPB challenge



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- Dove J's judgment
- Regime consistent with EU law
- But constrained by requirements of CPR

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- Applications for cost caps at an early stage
- Private hearings necessary
- Claimant's own costs to be included in assessment of what was prohibitive expense

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JACKSON COSTS REVIEW



- Extension of Aarhus to all JRs
- Opt out and variation of default caps to be determined at an early stage
- No power to override costs budgets

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JR update



- *FENSA* – when will a private company be amenable to JR?
- *Re M* – can treatment be withdrawn from a minimally conscious patient by doctors without a best interests determination?

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- *CAMPAIGN AGAINST ARMS TRADE* – is it lawful for the UK to sell arms to Saudi Arabia despite reports of use in breach of human rights in Yemen?
- *R (A and B)* – Is the Government obliged to provide free NHS abortions in Northern Ireland?

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- *PALESTINE SOLIDARITY CAMPAIGN* – Can the Government prevent local authorities pursuing boycotts against Foreign states and UK defence industries?
- *CLIENTEARTH* – can the Government be required to publish a delayed consultation draft on nitrogen dioxide pollution?

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- *T v WEST YORKSHIR CORONER* – Can a Coroner investigate the death of a stillborn child?
- *R (P)*– Is the police system of retaining information about past misconduct compatible with Article 8?

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- *CONWAY* – does the operation of the Suicide Act 1961 breach the Article 8 rights of a motor neurone disease sufferer?
- *MINTON MORRILL* – Does the HRA give the ECHR the direct force of law in England and Wales?

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