

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
Administrative Court**

Before: Mr Justice Simon

Between

The Queen (on the application of **Hidden Hearing Ltd**)

Claimant

v

The Hearing Aid Council

Defendant

RULING ON COSTS

1. The only outstanding issue now is the issue of costs.
2. Although the award of costs is discretionary, see CPR 44.3(1), the usual approach is that the unsuccessful party will be ordered to pay the costs of the successful party.
3. A different approach may be adopted in certain circumstances; and each side has given instances where a different approach has been adopted generally and in the area of Public Law.
4. In the present case the Claimant brought Judicial Review proceedings to quash the Guidance (in whole or in part). That claim has entirely failed.
5. The Claimant submits that it should not have to pay the costs on a number of grounds (including a sufficient public interest to justify a special order for costs). None of these grounds, in my view, justifies a departure from the usual approach.
6. The Claimant's alternative submission is that there should be an adjustment to the usual approach to take into account various matters for which the HAC was responsible and/or which inhibited the sensible resolution of the dispute.
7. I am not persuaded that this case was capable of sensible resolution in view of the entrenched position adopted by each side; and, in circumstances where the unsuccessful party is not able to point to an item of costs which was incurred (or increased in amount) due to the unreasonable conduct of the successful party, the usual approach should apply.
8. Accordingly, I order that the Claimant pays to the HAC its costs on the standard basis
9. I exclude from this order the costs of preparing the submissions on costs. Each party must bear its own costs of these submissions.

27 January 2009