



22 July 2015

## PRESS SUMMARY

### **Hunt (Appellant) v North Somerset Council (Respondent) [2015] UKSC 51**

*On appeal from [2013] EWCA Civ 1320*

**JUSTICES:** Lady Hale (Deputy President), Lord Wilson, Lord Reed, Lord Hughes and Lord Toulson

#### **BACKGROUND TO THE APPEAL**

Mr Aaron Hunt, born on 17 April 1991, suffers from ADHD, learning difficulties and behavioural problems. As a result, North Somerset Council (the “Council”) are statutorily required, so far as reasonably practicable, to secure access for him to sufficient educational and recreational leisure-time activities for the improvement of his well-being.

On 21 February 2012, the Council made a decision to approve a reduction of £364,793 from its youth services budget for 2012/2013. Mr Hunt, concerned about the impact this would have on the provision of services for young persons with disabilities, brought judicial review proceedings of that decision. He argued that the decision was unlawful on two grounds: (1) the Council had failed its duty under section 507B of the Education Act 1996 to take properly into account the views of young persons with difficulties such as his; and, (2) it failed to fulfil its public sector equality duty under section 149 of the Equality Act 2010 to have due regard to the statutory equality needs of disabled individuals. He sought a declaration that the Council’s decision was unlawful and an order that the decision be quashed.

At the end of the High Court hearing, but before giving judgment, Wyn Williams J asked the parties’ barristers for written submissions on relief in the event that he found in favour of Mr Hunt. The note provided by Mr Hunt’s barristers stated that he sought a quashing order but made no reference to a declaration. Ultimately, Wyn Williams J rejected Mr Hunt’s challenges to the legality of the decision. Mr Hunt was ordered to pay the Council’s costs, subject to a proviso against enforcement of the costs order without further permission of the Court.

The Court of Appeal allowed Mr Hunt’s appeal on both grounds. It, nonetheless, refused to make a quashing order, considering that it was too late to unwind the entire revenue budget for the financial year. It also ordered him to pay half of the Council’s costs. Mr Hunt’s barristers did not make alternative submissions about declaratory relief so no mention was made of this in the Court of Appeal’s judgment. Mr Hunt’s barristers did not raise this omission on receiving the judgment in draft and did not make suggestions as to the appropriate form of the order in light of the judgment. The Council’s barristers prepared a draft order stating that the appeal was dismissed. Mr Hunt’s barristers stated in written submissions that the parties were agreed on the order except in relation to costs.

Mr Hunt appealed to the Supreme Court on the basis that the Court of Appeal should have made: (1) a declaration that the Council had failed in its statutory obligations; and, (2) an order for costs in his favour.

#### **JUDGMENT**

The Supreme Court unanimously allows the appeal in relation to costs but dismisses it in relation to declaratory relief. Lord Toulson delivers the judgment of the Court.

## REASONS FOR THE JUDGMENT

### *Declaratory relief*

Lord Toulson rejects Mr Hunt's argument that the Court of Appeal should have made a declaration of its own initiative. The judgment of the Court of Appeal itself contained a ruling that the Council acted unlawfully and the authority of its judgment would be no greater or less by making or not making a declaration in the form of the order to the same effect. A court is not required to make declaratory orders where, although a finding of illegality has been made, it is not asked to make a declaratory order by a party's experienced legal representatives [12].

### *Costs*

In relation to costs, although courts have wide discretion in this matter, the Court of Appeal fell into error by treating the Council as the successful party. As the Court of Appeal rejected the Council's case on the two issues, it was only successful in the limited sense that the findings of failure came too late to do anything about what had happened in the past, although this occurred through no fault on Mr Hunt's part. It was unsuccessful on the substantive issues regarding its statutory responsibilities [15]. Indeed, the Court of Appeal judgment contained a lesson of general application for local authorities regarding the discharge by committee members of the Council's equality duty. In such circumstances, where a local authority is shown to have acted unlawfully, some good reason would have to be shown why a claimant should not recover his reasonable costs [16]. Despite this, the reasons for limiting Mr Hunt's order for costs in his favour in this case are that: he raised issues much wider than the issues on which he was given permission to appeal and which required detailed rebuttal; and, he persisted in seeking an unrealistic remedy – a quashing order [17].

Consequently, the Court of Appeal's order should be set aside and substituted with an order that Mr Hunt recover two thirds of his costs both in the High Court and in the Court of Appeal [18]. As to costs in this Court, although Mr Hunt is entitled to his reasonable costs, having succeeded in reversing the costs orders made by the courts below, a significant proportion of his argument was directed to the question of a declaration. This had no merit. Therefore, Mr Hunt should recover two thirds of his costs subject to either party making written submissions as to why a different order should be made [19].

*References in square brackets are to paragraphs in the judgment*

### **NOTE**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [www.supremecourt.uk/decided-cases/index.html](http://www.supremecourt.uk/decided-cases/index.html)**