

S Hannett. *Journal of Environmental Law* (2006) Vol 18 No 2, 313–322

**Significant United Kingdom Environmental Cases January–December 2005**

Each year the *Journal of Environmental Law* publishes highlights of the previous year's case law on environmental disputes. The great majority of cases are concerned with procedural issues e.g. taking regulatory steps in the wrong order. A few are of more general interest and have an effect on environmental liability exposure. The relevant extracts are included verbatim; they are already terse enough.

***Circular Facilities (London) Ltd v Sevenoaks District Council [2005] EWHC 865 (Admin); [2005] Env LR 35***

(Queen's Bench Division, Administrative Court, Newman J, 10 May 2005)

The Appellant developer appealed against a decision of the Magistrates' Court, which dismissed his appeal against a remediation notice issued by the Respondent local authority under section 78E of the Environmental Protection Act 1990 ('the 1990 Act'). The Court had determined that the Appellant was an 'appropriate person' within the meaning of the 1990 Act because it had knowingly permitted the presence of the contaminants. The knowledge was inferred from the act of submitting a soil investigation report to the Defendant in 1980, which disclosed the presence of various contaminants in the ground.

Held, allowing the appeal, that the mere existence of the soil investigation report was not sufficient to impute knowledge of its contents to the Appellant. By section 79F, however, a person needs only to have knowledge of a substance. He does not need to be aware of the potentiality for the chemical reaction or biological process which can affect the substance.

**Comment**

This result seems paradoxical. In the process of submitting a soil investigation report to a regulatory body it would seem natural to assume that it had first been read by the submitter!

***Andrews v Reading Borough Council [2005] EWHC 256 (QBD)***

(Queen's Bench Division, Calvert-Smith J, 7 February 2005)

The Claimant brought a claim against the Defendant public authority for compensation under sections 7 and 8 of the Human Rights Act 1998 representing the cost of noise insulation work carried out to his home to mitigate what he alleged to be excessive traffic noise created by a traffic regulation order (TRO) made by the Defendant under section 1 of the Road Traffic Regulation Act 1984. The Claimant contended that the increase in traffic noise interfered with his rights under Article 8 of the European Convention on Human Rights. The Defendant contended that the Claimant's claim was defeated by the existence of a statutory scheme for compensation in the Noise Insulation Regulations 1975 ('the 1975 Regulations') (even though the Claimant did not meet the criteria for compensation) and, furthermore, that the implementation of the TRO was justified by Article 8(2). Calvert-Smith J held, giving judgment for the Claimant, that the increase in noise levels and the corresponding effect on his rights under Article 8 were substantial. The existence of the 1975 Regulations does not preclude a claim under the Human Rights Act 1998: no immunity is conferred on highway authorities from any action by those not included within their scope. Although the Defendant had been entitled to conclude that the benefits of the TRO outweighed its disadvantages, there was no justification for failing to consider compensating the Claimant for the impact of the TRO on him. Damages of £2000 were awarded.

**Comment**

In this case the public authority acting in the interests of public policy still owed compensation to the victim of its actions even though the victim would, arguably, benefit from those actions.