

# High Court Judge Slashes Claimants' Budget By More Than Half

Published 9 April 2020

Mr Justice Turner has reduced the claimants' disputed future budgeted costs in the British Steel Coke Oven Workers Litigation by some £2.19 million, allowing less than 42.3% of the sum sought. *Maurice Hutson and Others v Tata Steel UK Ltd* [2020] EWHC 771 (QB) serves as the most recent example of the courts exercising robust costs management powers to ensure only reasonable and proportionate costs are allowed. The claimants' application to vary a previously budgeted sum was also dismissed and the defendant was awarded its costs of dealing with it.

Even taking into account that any case subject to a Group Litigation Order will by its nature involve significant costs, the sums sought by the claimants are staggering. Against the disputed future budgeted sums of £3.79 million claimed, £1.6 million was deemed to be proportionate and reasonable. Against four of the phases in dispute claimed at £3.2 million, the defendant had offered just over £1 million and the court allowed £1.4 million. On any analysis it is clear that the defendant's sense of what was reasonable and proportionate accords with the objective view from the court, assisted by the Senior Costs Judge as an Assessor.

There are three particular points of interest to practitioners:

1. The impact of incurred costs. The 'over-generous' approach taken to the estimated amounts claimed was robustly reduced taking into account the significant sums already incurred. In the CMC phase a sum in excess of £876,000 had already been incurred and for the disclosure phase a the sum of over £1.3 million had already been incurred. Such a significant spend highlighted the excessive amounts being claimed on top for future costs.
2. The 'significant development' test in trying to justify a departure from a previous budget is a high hurdle and any party which applies to vary a previously budgeted sum must do more than bank on the court taking a 'leap of faith'. A party who wishes to try and recover more than a budgeted sum must weigh up whether to apply during the case or take their chances on detailed assessment.
3. When dealing with budgets, credibility is crucial. In trying to justify the sums sought and in trying to persuade the court to increase previously budgeted sums it was apparent that the claimants throughout the litigation have experienced significant reductions. Mr Justice Turner noted that '...some elements of the claimants' proposed budgets in this litigation have often significantly exceeded what the court has been prepared to allow.' Indeed, for the lead claimant selection phase the defendant's suggestion of what would be a proportionate and reasonable allowance was upheld.

In summary, this case highlights the robust stance to costs management that the courts are prepared to take to ensure only proportionate and reasonable costs will be tolerated. We reported on a recent DACB experience here. The danger of submitting budgets which cannot be justified will result in significant reductions and a lack of credibility which might well impact the litigation significantly.

For more information or advice, please contact one of our experts in our [costs team](#).

## Authors



**Adam Burrell**

Birmingham

+44(0)121 698 5322

[aburrell@dacbeachcroft.com](mailto:aburrell@dacbeachcroft.com)