**Merrix v Heart of England NHS Foundation**

Appeal from a regional costs judge (Lumb).

 **In a nutshell:**

It is about the effect an approved costs budget has, or doesn’t have, on detailed assessment. Key is the proper interpretation of CPR 3.18.

The Claimant’s case, in essence, is that where a budget has been approved, then provided the phase of the budget has been completed and provided the total costs incurred in that phase are less than the approved budgeted figure, the costs should be allowed with no need for an assessment, unless there is ‘good reason’ to depart from the budget.

The Defendant’s case, in summary, is that a budget operates as a cap only. The receiving party cannot recover more than the budgeted figure (absent good reason), but the mere fact it is within budget does not prevent an assessment and there is no need to establish good reason. The court still has to assess whether the costs are reasonable, even if within budget.

In broad terms, the Defendant won and the Claimant lost. The Claimant is appealing.

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