

Georgina Downs address to Justice Collins – Tuesday 15th July 2008 10.30-10.45am

Good morning my Lord.

May I start by thanking you very much for giving me this opportunity to address you directly today, as I know it is an exceptional situation. In fact, I don't think my representatives will mind me saying that the overall management for this case has been rather unique in itself due to my direct involvement with all preparations relating to it, (and as you hopefully will have had a chance to see I have produced 3 detailed Witness Statements), as the case is based on a set of core arguments that I identified and have been presenting to the Government over the last 7 years.

Therefore as Mr. Fordham highlighted in his letter to you My Lord, this hearing is actually incredibly difficult for me as someone who has always argued my own arguments and presented my own case with meticulous accuracy and with great care and attention to detail, and as Mr. Fordham pointed out I have very actively considered returning to being a litigant in person for the purposes of the advocacy for this hearing, but my Lord I've made a decision to entrust the advocacy to someone else, which is definitely not what I would ordinarily do considering the very high level of detail and factual material involved.

There are a number of key points my Lord that I would very much like to highlight in this short address.

First of all, in light of some of the comments in the Defendant's Detailed Grounds I would like to reiterate the reasons for bringing this challenge.

As you will know My Lord from the documentation before the court I have lived next to regularly sprayed fields for over 24 years and have long-standing health problems. As a result of my own direct experience of this situation and lack of any assistance from the authorities, I decided in early 2001, to fully examine the Government's pesticides policy and regulatory approach, and it very quickly became apparent My Lord that there has been (and continues to be) an inherent fundamental failure at all levels to protect rural residents and communities from exposure to pesticides.

The Government's method of assessing the risks to public health from crop-spraying is based on the model of a '*bystander*', in which it assumes that there will only be occasional, short-term exposure to the spray cloud at the time of the application only, from a single pass of a sprayer, at 8 metres from the spray boom. It also assumes exposure will only be to one individual pesticide at any time.

As I have continued to argue My Lord, this model does not address residents like myself, who are repeatedly exposed to mixtures of pesticides and other chemicals, throughout every year, and in many cases, like mine, for decades. Obviously those living near pesticide sprayed fields will include vulnerable groups, such as babies, children, pregnant

women, the elderly, people who are already ill and who may be taking medication, amongst other vulnerable groups where the health risks are increased.

Therefore it has always been *my* case that there is not, and never has been, *any* risk assessment of the specific pesticide exposure scenario for rural residents or others exposed over the longer term, (including young children attending schools near sprayed fields) as residents have a completely different exposure scenario compared to bystanders, as residents exposure is long-term, chronic and cumulative.

So this is of course not a terminological debate as the Government has often stated, this is about the actual failure of the Government to carry out any exposure or risk assessment specifically for residents, which of course this case is arguing is contrary to EU and UK law.

There is a clear mismatch and inconsistency with the legislative requirement for the protection of a worker and the lack of any protection for residents and other members of the public exposed to pesticides from crop-spraying. An operator is legally entitled to know what chemicals they are using, the risks and potential adverse health effects and will be required to wear appropriate protective equipment, whereas members of the public who are only inches away breathing in the very same airborne droplets, particles and vapours that workers are required to have protection from do not currently have any access to information on what chemicals they are being exposed to, nor are they entitled to any prior notification, nor are they likely of course, to use personal protective equipment while going about their business in their homes, gardens and elsewhere.

This is completely unacceptable, as members of the public have a fundamental right to know the information necessary to make informed and knowledgeable decisions to protect their health and the health of their family from any harm. **(Although obviously the fundamental point my Lord is that people should have the right not to be exposed to these chemicals at all in the first place).**

The Government has continued to favour voluntary measures which have existed for decades, have not worked and are completely unacceptable in this situation, aside from the critical fact that DEFRA has previously given an undertaking for mandatory not voluntary access to information and prior notification for residents, which was a stated commitment, that was never carried through.

As you will be aware from the material before you my Lord, I have continued to present considerable evidence to the Government, its agencies and scientific advisors regarding the lack of *any* protection for residents from pesticides. In 2003, I produced a video that featured individuals and families from all over the country reporting acute and chronic long-term illnesses and diseases in rural communities surrounded by sprayed fields.

It is important to note that the acute effects that are recorded in the Government's own monitoring system (the so-called FOD reports), as well as in the manufacturers adverse incident reports, such as rashes, itching, sore throats, burning eyes, nose, blistering,

headaches, nausea, stomach pains, burnt vocal chords, asthma, amongst other symptoms and effects are symptoms that are regularly reported to me by rural residents, and the second video just referred to included just a few examples of the many such reports that I have received.

Government officials and advisors have been fully aware for years of the adverse effects that are being confirmed by its own monitoring system, but the Government is wrongly accepting such effects as not being *serious* and so again my case is arguing that this is contrary to EU and UK law.

As I detailed in my second Witness Statement when these acute effects are repeated again and again, as they are for people living near sprayed fields, then it can increase the risk of long-term cumulative effects resulting in chronic illnesses and diseases, as recognised by the European Commission in recent and important statements as detailed in paragraph 1 of my second Witness Statement. Just to point out that the most common chronic long-term illnesses and diseases reported to me by rural residents include various cancers, leukaemia, non-Hodgkin's lymphoma, neurological conditions, including Parkinson's disease, ME, asthma and many other medical conditions. Reports of this nature have gone on for decades and many are related to young children.

DEFRA has previously stated that there is not supposed to be a trade off when it comes to the risks to health from pesticides with the benefits and that if there is scientific evidence that use of a pesticide *may* harm human health that is to be considered unacceptable.

However, the Government has continued to adopt the improper approach of *balancing* harm to human health against the benefits of pesticide use, in which it accepts a degree of damage to human health on the basis that it is outweighed by other benefits (eg cost/economic benefits for farmers), rather than on the absolute protective approach of the Directive, which requires pesticides policy to have the objective of ensuring that there is no harmful effect to human health *at all*.

As I said at the end of both my first and second Witness Statements, I have been astonished at the Government's complacency and absolute inaction over this issue since I first started presenting my arguments at the beginning of 2001. The Government, its agencies and scientific advisors have a legal duty to protect public health and, despite all my efforts over the past seven years, this is not happening with the existing Government policy on pesticides.

Therefore I wanted it to be absolutely clear that my decision my Lord to bring this Judicial Review challenge is not as the Defendant quite wrongly suggested in its detailed grounds to "*continue before this court a debate which has already been conducted along very similar lines for a number of years*" but quite correctly to challenge on a number of points of law the *legality* (in EC and domestic public law terms) the Government's policy and approach in view of the overriding public safety duty as required by the European Directive and the UK equivalent legislation regarding the protection of human health.

I would also like to stress that considering the considerable amount of very intensive work involved from my part in the preparation for this case and my ongoing health status then I can assure you my Lord that the decision to bring this challenge was not taken lightly. Over the last 7 years I have found myself having to do something that I should never have had to do.

The second point that I would very much like to highlight in this address is in response to the comments in §199 of the Defendant's Skeleton which stated, "*In this case the Claimant has no convincing evidence of a probability of damage to health or quality of life due to inadequate precautions by the authorities.....*"

I did point out in my third Witness Statement that this statement was somewhat ambiguous, as it is not clear whether this is a reference to me personally or in relation to residents more generally. If related to me personally then I would like to reiterate that as stated in my first Witness Statement, in relation to my own personal health problems, I have received medical advice to the effect that "*the most important aspect is to avoid ongoing exposure*" to pesticides, which is obviously impossible my Lord in the kind of situation that myself and other rural residents are living in. For example, last year, my family and I experienced approximately 20 spraying applications near our home over a period of about three months, some of which were only one day apart. In 2 weeks recently we have had about 6 spraying applications in the fields adjoining our property.

Therefore aside from the inherent health risks and adverse health impacts, everyone has a right to enjoy their own home, but this is something I, and many other rural residents experiencing this situation, are simply not able to do.

The FOD reports contain many illustrations of the extent to which residents living near sprayed fields suffer interference with their enjoyment of their homes, gardens and other property (along with, in many cases, environmental damage). Therefore my case is arguing that crop-spraying near residents homes is in violation of Articles 8 and 14 ECHR [the European Convention on Human Rights].

The third point my Lord of this address is in response to the comments in §218 of the Defendant's Skeleton regarding the Costs Order that has been agreed in this case between myself and the Defendant. I absolutely must clarify this, as the wording of that paragraph was not quite right. It was actually myself that approached the Defendant to make the suggestion that each party bears its own costs in this case, regardless of the outcome, which I thought was a very sensible thing to do considering the considerable costs that could be incurred and therefore it was appropriate that such an agreement was reached.

I would like to thank you again my Lord for giving me this opportunity to address you directly today, it is very much appreciated. Thank you very much.

Georgina Downs.