

CO/5/2014

Neutral Citation Number: [2014] EWHC 2097 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

The Courthouse
1 Oxford Row
Leeds
West Yorkshire
LS1 3BG

Tuesday, 8th April 2014

B e f o r e:

HIS HONOUR JUDGE CLIVE HEATON QC
(Sitting as a Judge of the High Court)

Between:
GATESHEAD COUNCIL

Claimant

v

CROZIER

Defendant

Digital Audio Transcript of
WordWave International Limited
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165 Fleet Street London EC4A 2DY
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(Official Shorthand Writers to the Court)

Miss J Smith appeared on behalf of the **Claimant**
The Defendant appeared **in Person**

J U D G M E N T

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1. **HIS HONOUR JUDGE CLIVE HEATON QC:** On 26th June 2013 the Gateshead Borough Council revoked Mr Graham Crozier's Hackney Carriage driving licence. He made a complaint to the Gateshead Magistrates' Court primarily against the Borough Council's decision and on 10th September 2013 the Magistrates upheld his complaint and reversed the Borough Council's decision. Gateshead Borough Council now appeals to this court against the decision of the Magistrates' Court by way of Case Stated.
2. Before coming to the facts of the case and the respective contentions of the parties it is helpful to refer to the legislative regime which governs such grants of appeals.
3. Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that:

"(1)Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—

(a)unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence..."

Section 51(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides so far as relevant a similar regime in respect of private hire vehicles. That is relevant here as some of the helpful authorities in relation to private vehicles as opposed to Hackney Carriages.

Section 51(1) says:

"(1)Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

(a)unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence..."

4. Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides as follows:

"(1)Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—

(a)that he has since the grant of the licence—

(i)been convicted of an offence involving dishonesty, indecency or

violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or.

(b) any other reasonable cause."

5. It is to be noted that the convictions to be considered under section 61(1) are not confined to convictions whilst in the occupation of Hackney Carriage driver. As to any other reasonable cause that is something other than a conviction (Leeds City Council v Mehfoz) and again is not restricted to something connected with the occupation of Hackney Carriage driver.

6. There is no statutory definition of a fit and proper person, nor sensibly could there be given the wide range of matters a District Council might take into account. In Maud v Castle Point Borough Council [2002] EWCA Civ 1526, the court said:

"What are the council's functions under this legislation in relation to the licensing of taxi cabs? As I see it they are to achieve, so far as they can, the safety, convenience and comfort of passengers in hackney carriages, the safety of other road users and to ensure that there is some way in which those who wish to use either hackney carriages or private hire vehicles can readily distinguish the one type of vehicle from another."

7. As the then Lord Chief Justice said in McCool (John) v Rushcliffe Borough Council:

"One must, as it seems to me, approach this case bearing in mind the objectives of this licensing regime which is plainly intended, among other things, to ensure so far as possible that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers."

8. As to what the Borough Council or the Magistrates are entitled to take into account in coming to a view as to whether a person is or is not a proper person, again in McCool v Borough Council:

"But it is appropriate for the local authority or justices to regard as a good reason anything which a reasonable and fair-minded decision maker, acting in good faith and with proper regard to the interests both of the public and the applicant, could properly think it right to rely on. In my judgment the justices in this case did not exceed the bounds of appropriate evidence in reaching their decision."

9. A local authority is entitled to have a policy on the matter (Darlington Borough Council v Malcolm Kaye). Here the appellant does have such a policy. It says in its relevant part, firstly under the heading "Objectives" at B10:

"In setting out its policy Gateshead Council seeks to promote the following objectives:-

(i) The protection of health and safety

(ii) The establishment of a professional and respected Hackney Carriage and private hire trade (iii) Access to an efficient public transport service

(iv) Protection of the environment, improved standards of service and visibility of Hackney Carriages and private hire vehicles in support of the regeneration of Gateshead. It is the Authority's wish to facility well run and responsible businesses which display sensitivity for wishes and needs of the general public."

Later under the heading "Fit and proper person":

"Some areas give rise to particular concern including-

Honesty and trustworthiness. Drivers often have knowledge that a customer is leaving a house empty. They have opportunities to defraud drunken, vulnerable or foreign people or to steal property left in cars. They must not abuse their position of trust.

Not abusive. Drivers are often subject to unpleasant or dishonest behaviour. The council does not consider that this excuses any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation and to address disputes through the proper legal channels. In no circumstances should they take the law into their own hands.

A good and safe driver. Passengers paying for transport service rely on their driver to get them to their destination safely. They are professional drivers and should be aware of all the Road Traffic Act legislation and conditions attached to the licence."

At 11 the policy goes on:

"The overriding consideration of members of the Regulatory Committee is to protect the public."

At 12 "Complaints against drivers":

"The Regulatory Committee should consider the history of all complaints made against the driver to assess any patterns. If a pattern is identified then the Regulatory Committee should consider whether the driver is a fit and proper person to hold such licence."

10. The Magistrates must accept and apply the policy as though standing in the shoes of the Borough Council. It does not have the right to challenge the policy (R (on the application of) Westminster City Council v Middlesex Crown Court & Anor[2002] EWHC 1104 (Admin) 31).

11. As to the burden of proof as to whether a person is a fit and proper person, whether in the context of application or revocation, assistance is again obtained from McCool v Rushcliffe Borough Council at paragraph 20:

"The relevant proviso to section 51 of the 1976 Act, which we have already referred to, is expressed to show that it is for the applicant to establish that he is a fit and proper person to hold a driver's licence."

The standard of proof is the civil standard of the balance of probability.

12. Where a person seeks to appeal a decision of the licensing authority he may do so to the Magistrates' Court. As to the approach of the Magistrates on hearing the appeal the Court of Appeal considered the correct approach in Sagnata Investments Ltd v Norwich Corporation [1971] 2 QB at page 614. The appeal is by way of rehearing and the Magistrates are entitled to reconsider all the evidence. However, the Magistrates must play great attention to the decision of the Borough Council which is a duly elected local authority, which has to come to an opinion on the matter. The magistrates thus ought not to lightly reverse its decision.

13. In Cherwell District Council v Anwar [2011] EWHC 2943 (Admin) at paragraph 12:

"It should also be noted, as appears from the judgment of Wilkie J. in Darlington Borough Council –v-Malcolm Kaye [2004] EWHC 2836 (Admin)... that although the Magistrates hearing an appeal against a refusal to renew under section 61(3) do so by way of rehearing, the Magistrates must have regard to the policy of the local authority and should not likely reverse the local authority's decision, or, put it another way, the Magistrates must accept the policy and apply it as if they were standing in the shoes of the council considering the application."

14. In R (on the application of) Hope And Glory Public House Ltd v City of Westminster Magistrates' Court [2009] EWHC 1996 (Admin) and then [2011] EWCA Civ 31, further guidance was provided on the approach the appellate court should take:

"45. It is right in all cases that the magistrates' court should pay careful attention to the reasons given by the licensing authority for arriving at the decision under appeal, bearing in mind that Parliament has chosen to place responsibility for making such decisions on local authorities."

The Court of Appeal said in paragraphs 43 to 45 of the appeal judgment:

"43. I conclude that the words of Lord Goddard approved by Edmund Davies LJ are very carefully chosen. What the appellate court will have to do is to be satisfied that the judgment below 'is wrong', that is to reach its conclusion on the basis of the evidence put before it and then to conclude that the judgment below is wrong, even if it was not wrong at the time. That is what this district judge was prepared to do by allowing fresh evidence in, on both sides....

45. At the end of the day, the decision before the district judge is whether the decision of the licensing committee is wrong. Mr Glen has submitted that the word 'wrong' is difficult to understand, or, at any rate, insufficiently clarified. What does it mean? It is plainly not 'Wednesbury unreasonable' because this is not a question of judicial review. It means that the task of the district judge – having heard the evidence which is now before him, and specifically addressing the decision of the court below – is to give a decision whether, because he disagrees with the decision below in the light of the evidence before him, it is therefore wrong.

What he is not doing is either on the one hand ignoring the decision below or on the other hand simply paying regard to it. He is addressing whether it is wrong. I do not see any difficulty nor did the District Judge in following this course."

Furthermore, it is clear that Justices is considering any appeal must focus on the relevant statutory test rather than procedural deficiencies in the regulatory process that they perceive (Canterbury City Council v Ali [2013] EWHC 2360 (Admin) and R (South Northamptonshire Council) v Towcester Magistrates' Court [2008] All ER (76)).

The Factual Background

15. On 26th June 2013 a meeting of the Regulatory Committee of the Borough Council revoked Mr Crozier's Hackney Carriage Licence. The reason for the holding of the meeting to consider Mr Crozier's licence appears at the outset of the record of the hearing at B121 in the court bundle and says:

- Mr Crozier having appeared before the Regulatory Committee on 30th June 2009 as a result of his conduct towards council staff and having been warned severely as to his future conduct

- A complaint then being received from the Gateshead Housing Company, details of which are set out in the report of the Committee, that on 19th June 2013 he telephoned the Gateshead Housing Company and made remarks about a Council Housing Options Officer which caused the Gateshead Housing Company to have concern for the safety of that officer

- The licencing section having been provided with a copy of a police information notice dated 19th June 2013, issued to Mr

Crozier following a complaint made to Northumbria Police by a Council Housing Options Officer (a copy of which was attached to the report to the Committee.)"

The record goes on to state that Mr Crozier's licence will be revoked for the following reasons at B1212:

- the comments he had made about a Council Housing Options Officer on the 19th June 2013 to the Gateshead Housing Company and the impact that those remarks had on the Housing Options Officer's well-being, those comments having been made the Housing Options Officer feel harassed, alarmed and distressed.

- his ongoing aggressive and intimidating manner towards council staff.

- previous warnings by the Committee and its officers about his conduct towards council staff and the fact that Mr Crozier had demonstrated over a number of years a pattern of behaviour which is perceived by the recipients to be abusive as set out in the Reports Committee on 7th November 2006, 30th June 2009 and 26th June 2013.

- that Mr Crozier admitted and accepted that he has shown his anger on numerous occasions and failed to understand the impact that this has on the recipient of his comments."

The Committee decided that due to Mr Crozier's conduct he should remain revoked with immediate effect.

“(2) Revocations as immediate effect. The Committee found that the interests of the public and officer safety required that the revocation of Mr Crozier's licence have immediate effect such that he shall not be permitted to provide Hackney Carriage services pending the outcome of any appeal of its decision. The reason that the Committee believe this to be the case is that they consider Mr Crozier to have demonstrated over numerous occasions an aggressive and intimidating manner which made people fearful of their safety."

16. The Committee took into account the relevant legislation, Department of Transport guidance and its own policy. In respect of the circumstances of the case it took into account the following at B124:

"Individual Circumstances

In making its decision to revoke Mr Crozier's Hackney Carriage driving licence the Committee had regard to

- the information and documentation contained in the Regulatory Committee report dated 26th June 2013, which was read out by the council's licensing manager and which Mr Crozier confirmed

to be accurate.

- Mr Crozier's oral presentation and the answers he gave to questions asked by members of the Committee
- information from officers of the Gateshead Housing Company.
- information from Northumbria police officers.
- information and advice from the council's legal adviser."

17. Mr Crozier appealed to the Gateshead Justices. The appeal is by way of Case Stated. The document prepared for this appeal sets out with care the matter the Justices took into account. The Borough Council's case is set out at A2:

"Gateshead council submit that Mr Crozier is no longer a fit and proper person to hold a Hackney Carriage driving licence due to (reasons given when revoking Mr Crozier's licence)..."

Then the bullet points are set out as before. Following on the Case Stated records in relation to the local authority case under the heading "Summary of evidence submitted":

"The local authority submitted a bundle of evidence which included all correspondence between then and Mr Crozier as well as reports to and minutes of the regulatory meeting. The only sworn evidence heard on behalf of the council was from Rebecca Louise Sparrow, licencing officer, who simply confirmed the contents of the statement. All matters put to her in cross-examination and her response confirmed that the only complaint made against Mr Crozier by a member of the public was made in 2006."

The Council also provided the case law as follows: Stepney Borough Council v Jopay, McCool v Rushcliffe, Nottingham City Council v Farooq, Leeds City Council v Hussain, R (on the application) of Westminster Council and Middlesex Crown Court, Darlington Borough Council v Kaye, Cherwell District Council v Anwar and R (on the application of) Hope and Glory Public House Ltd v City of Westminster Magistrates' Court.

18. Mr Crozier's case is equally set out in the document, again at A2. The Justices record:

"Mr Crozier submitted that, even in light of all those facts (which he did not dispute) he remains a fit and proper person to hold a licence."

Later the Justices record:

"Mr Crozier gave evidence in support of his appeal and his submission that he is a fit and proper person to hold a Hackney Carriage licence and did not call any other evidence. His evidence was challenged in cross-examination."

19. As to findings of fact the Magistrates at A3 say as follows:

"The court was not called upon to adjudicate on any specific factual evidence. The court was not invited to determine issues of fact in relation to Mr Crozier's conduct as Mr Crozier accepted his conduct in dealing with Gateshead Council."

20. The Justices reasons for their decision are recorded at A3 and they read in full as follows:

"Having listened carefully to all the evidence the representations made and read the evidence submitted, we can understand the approach which the Licencing Committee of Gateshead Council took. We too have been concerned by some of what we have read about and heard in relation to Mr Crozier's conduct. However, we have also been influenced by the fact that the only matter which has arisen from a complaint from the public was dealt with in its entirety in 2006. In considering whether Mr Crozier is a fit and proper person to hold a Hackney Carriage licence, we have given careful consideration to all the circumstances and on the balance of probabilities have concluded that he is. This appeal is therefore granted.

We reiterate that the Council's approach to their decision was not flawed, it is simply that we have reached a different conclusion."

The Case Stated.

21. In the Case Stated the Magistrates' reasons are significantly amplified and explained in a way that goes well beyond their reasons announced at the time. Despite the length of the document I propose to read significant parts into thus Judgment as it amounts to the Magistrates' explanation of their decision and not to do so would it seems to me be discourteous:

"• The Magistrates accept in the light of the case of R (on the application of) Hope and Glory Public House v City Westminster Magistrates' Court, that the pronouncement made in court on 10th September 2013 should have been more explicit and more detailed in relation to the thought process of the Justices when making the determination to which they referred in their pronouncement. This is particularly applicable to the single question of the Justices' view of the correctness or otherwise of the decision of the Regulatory Committee. It is acknowledged that the Magistrates did not go so far as to state openly and specifically that they felt the decision of the Regulatory Committee was wrong, although it was clear from their decision that this is a view they took.

• The Magistrates were aware that this was hearing de novo and that in considering the question of Mr Crozier being a fit and proper person they needed to apply the policy as if the Bench was standing in the shoes of the Council considering the application.

As per R(on the application of Westminster City Council v Nunshead Crown Court & Anors they accepted that Mr Crozier's behaviour towards Gateshead Council and some of its officers was not as it should have been.

- The court was however significantly influenced by the fact that Mr Crozier's record in dealing with members of the public in the course of his work was positive. There is only one complaint about Mr Crozier in his dealings with the public, in relation to which he accepts the fixed penalty notice and served a seven day suspension of his Hackney Carriage licence. It is noteworthy that this incident dates back to 2006.
- In addressing the issues brought before the court, the Magistrates were aware they must apply the council's relevant policy as if the court was standing in the shoes of the council. The contents and objectives of the policy are of crucial consideration.
- In the light of their consideration of the Gateshead Council's policy and the application of this policy to the case in question, the court reached the conclusion that Mr Crozier was a fit and proper person to hold a Hackney Carriage driver's licence.
- The Justices' decision on the essential question of fitness and propriety when considering the evidence as a rehearing involved a different conclusion to that of the initial Regulatory Committee.
- The court believe that having regard to the issues considered by the council and the reasons given by the Regulatory Committee at its hearing on 26th June 2013 the council was wrong in determining that Mr Crozier was not a fit and proper person to hold a relevant licence.
- At no stage does the council indicate that it any way attributed to the age of these matters nor to the impact of the time lapse without incident prior to the conflict with housing and other council staff.
- The local authority reasons state that there have been numerous occasions when Mr Crozier has behaved in an aggressive and intimidating manner to council staff (particularly housing staff) but do not refer to the fact that equally there have been no incidents of aggression during his working life as a taxi-driver in this period of time. There is nothing in the reasons given by the Regulatory Committee to indicate any assessment by that Committee of the relevance of this fact, nor any inference that the council gave any consideration to the need to balance these factors by addressing the question of the impact of the two potentially contradictory states. Additionally the local authority's reasons do not adequately address why the behaviour towards council staff (particularly outside any reference to other behaviour) gave them grounds to believe that to allow him his licence would be to fail to

protect the public.

- The pronouncement made on 10th September in the Magistrates' Court makes clear the court on the other hand did consider this to be a valid exercise and did, standing in the shoes of the Regulatory Authority, look at both the behaviour (acknowledged by the court in their decision-making process and their pronouncement) of Mr Crozier towards the Housing Department staff and his behaviour in the course of his professional life as a taxi-driver, in answer to the events of the hearing on 10th September makes clear that the Bench gave considerable weight to this fact and to the relevance of the balance between Mr Crozier's conduct and his more recently dealing with the Housing Department staff and the lapse of time since the local authority dealt with any aspects of his demeanour when dealing with members of the public.

- In summary the local authority's Regulatory Committee's reasons restate the factual concerns of the local authority with regard to Mr Crozier's behaviour towards some members of the council staff but do not apply these concerns adequately for their own policy and gains in determining the factual question as to whether Mr Crozier is a fit and proper person to hold a Hackney Carriage driving licence.

- The council's policy requires every case to be determined on its own merits but the reasons simply restate the concerns of the council without reference to their impact, weight and relevance to the policy. In the view of the Justices this apparent failure to give weight to the other potentially relevant factors addressed above sheds doubt on the correctness of the council's initial decision. The court, on the other hand, approached the matter by properly weighing in the balance the concerns expressed by Gateshead Council in dealing with Mr Crozier and his lengthy employment record as a taxi-driver and operator in the Gateshead area without complaint for members of the public for whom you are serving save for one incident in 2006. In conducting that exercise they concluded on the balance of probability that Mr Crozier was a fit and proper person to hold a Hackney Carriage driver licence. The court therefore, after having specifically addressed the decision of the council, the evidence and the reasons given by the council to the decision, disagreed with the decision that the council make, as noted in the court pronouncement and addressed above."

The Argument Before Me

22. In a skeleton argument on behalf of the appellant Borough Council, Counsel makes the following points extracted from her skeleton argument:

"66. The only finding the court was required to make is whether the appellant is fit and proper. The process was not a criminal

trial and there are no findings of guilt.

67. The appellant seeks to uphold principles of the licensing regime. It is submitted that the taxi-drivers are professional driver and high standards of driving safely in compliance has to be expected from them. The grant of a licence is a privilege not a right.

68. The Appellate Court must have regard to the licensing regime as well as the safety of public at large placing itself in the shoes of the Regulatory Committee. Parliament ordained licensing regimes to the local authorities, therefore appropriate consideration should be applied to their decision and policy when addressing an appeal.

69. The Gateshead Magistrates failed to give due weight and consideration to licensing policy; indeed it felt it have had to regard to how confrontational has been and abusive. The Magistrates were too prescriptive and restricted when considering and applying the policy.

70. The Magistrates failed to give any due weight or consideration to the statutory regime. The Magistrates appear to have an adversely decision making process rather than applying the statutory test to the facts presented applying Ali and Towcester.

71. The personal circumstances of the driver are irrelevant. The financial circumstances of the respondent cannot be a factor in regard to the licence.

72. The respondent has demonstrated over a consistent period of time willingness and ability to use threats, harassment and intimidation and an inability to deal with situations in a rational and civilised manner including situations that are linked directly to his licensed profession."

Mr Crozier's Argument

23. Mr Crozier was unrepresented before me. He told me that he had been a Hackney Carriage driver for 32 years and had never had a complaint from a user of his vehicle. The 2006 matter arose as he asked a member of the public to move his car off a taxi rank.
24. As for the first question he agreed with the appellant Borough Council that it was not appropriate to single out a class of person and suggest that they were entitled to less respect than others or that in some way bad behaviour towards them was of less significance to that of the wider public. He told me that his complaint was with a specific a housing officer in relation to a specific complaint. His argument was, of course, that the Justices were right to say that his excellent record as a Hackney Carriage driver outweighed his concerning conduct in other areas but that is for another day.

25. Mr Crozier told me that he understood the appellate Borough Council's argument that the reasons of the Justices suggested that they had applied the wrong test.

Discussion and Conclusions

26. I shall undertake my analysis by reference to the questions posed, firstly:

Were the Justices correct to draw a distinction between complaints about improper conduct made by members of the public and by council officers?

27. The starting point here is that it could never be right for the Justices to single out a class of person, such as council officers, and find that bad behaviour towards them were in some way less significant than the same behaviour towards the wider public. It is not clear to me, however, that this is what the Justices did here. Rather, the conclusion I draw from the reasons as given is that the Justices weighed Mr Crozier's conduct in respect of his general work as a Hackney Carriage driver and the conduct he had exhibited to various council officers.
28. For so long as the Magistrates remained within the parameters set by the higher courts for the hearing of these appeals as described above, and that of course is a crucial proviso, they were entitled to assess and evaluate each part of the evidence and give such weight to each part as seemed to them fit (see for example the discussion upon the approach of the Recorder in Sagnata Investments v Norwich Corporation).
29. Thus, my answer to this question is not that the Justices were correct to do so, nor indeed incorrect. Rather, properly directing themselves as to law, it was open to them to weigh the evidence in respect of complaints, concerning council officers as part of their overview of all the evidence and to come the view that Mr Crozier's good driving record was more significant in assessing whether he was a fit and proper person than his behaviour towards council officers.
30. Next

Were the Justices correct in law to overturn the decision of Gateshead Council's Regulatory Committee when they came to a different decision but did not expressly state that the Council's decision was wrong either at the time it was made or in the light of the evidence it heard?

31. There is a difference, recognised by appellate courts between the appellate court coming to the view that the decision of the lower court was not what the appellate court would have done but was within the discretion of the lower court, and a decision, on the other hand, which the appellate court finds was simply wrong.
32. As is clear from the authorities cited above the Justices were only entitled, as a matter of law, to set aside the decision of the Regulatory Committee and substitute their own decision if they came to the conclusion that the decision of that Committee was wrong. Here, it is abundantly clear that the Justices did not

come to the conclusion that the decision of the Regulatory Committee was wrong. To the contrary, the Justices specifically say in terms that the decision of the Regulatory Committee was not flawed but that they had come to a different view. It is therefore clear that the Justices fundamentally misdirected themselves as to law on this point.

33. Thus, I would reformulate the question in this way:

"Were the Justices correct in law to overturn the decision of the Gateshead Council Regulatory Committee when they came to a different decision but did not find that the Council's decision was wrong?"

The answer to that question is a clear "no".

34. Turning to the final question:

Were the Justices correct in law, taking into account the evidence before the court, including the Home Office and the Department of Transport guidance and the Council's policy in finding Mr Crozier to be a fit and proper person to continue to hold a Hackney Carriage licence?

35. I have already explained above that it is open to the Justices, having properly directed themselves as to law, to assess and evaluate each part of the evidence and give such weight to each part as seems to them fit. Governmental guidance is part of that feature. I can take that question no further than that.

Conclusion

36. Thus, I remit this case back to the Justices for them to reconsider the appeal in the light of this direction as to law. I make it clear that I have not considered the merits of the cases of either party and all possible conclusion are open to the Justices at the rehearing. For my part, given that the difficulty arises here for a misdirection in law, I would have no difficulty with the original Bench dealing with the rehearing. That is, at the end of the day, a matter for these who organise the Justices' calenders.

Postscript

At the outset of the analysis of the Magistrates' decision-making process in the Case Stated document there is a concession that the reasons given for the Magistrates' decision should have been more explicit and more detailed. This court was very grateful for that concession. It is clearly properly given. It is trite law but important to remind ourselves that it is important for all courts to make clear, firstly, the law it has applied, and secondly, the way in which it has evaluated the evidence so as to reach the decision that it has.