

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT IN WALES**  
**BEFORE THE HON MR JUSTICE HICKINBOTTOM**

**Claim No CO/12090/2013**

**BETWEEN:**



**THE QUEEN ON THE APPLICATION OF**

- (1) CARL CUMMINGS
- (2) SUPATAX 2000 LIMITED
- (3) PRIMEOUTLET LIMITED
- (4) STEPHEN MEARS
- (5) FARZAND ALI

**Claimants**

**-v-**

**THE COUNCIL OF THE CITY AND COUNTY OF CARDIFF**

**Defendant**

**ORDER**

**UPON** the Claimants' application to amend their claim and the final hearing of the claim for judicial review

**AND UPON HEARING** Leading and Junior Counsel for the Claimants and Leading and Junior Counsel for the Defendant

**IT IS ORDERED THAT:**

1. The Claimants' application to amend is refused.
2. The claim for judicial review be granted.
3. The decisions of the Defendant made on 3 June 2013 as they relate to hackney carriage and private hire vehicle and respective drivers' licence fees be quashed on the basis that they are unlawful for the following reasons:
  - 3.1 the level of fees set failed to have regard to and/or account for any surplus or deficit generated in previous years dating back to 1 May 2009;
  - 3.2 the level of fees set failed to account for any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes within the regime under

which they have accrued: both between each regime and in respect of each licence within those regimes; and

- 3.3 the level of fee set for hackney carriage licences in 2013 included part of the cost of funding taxi marshals for the Council's administrative area.
4. It be declared that:
  - 4.1 A local authority when determining hackney carriage and private hire licence fees under section 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees as provided by section 53 and 70.
  - 4.2 A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes; and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not to be used to subsidise a deficit in another.
5. The Defendant do pay the Claimants the following sums by way of restitution in respect of sums unlawfully obtained from the Claimants in respect of hackney carriage and private hire license fees from 1 May 2009 (but on the footing and basis that this order and subsequent payment shall not of itself prevent the Claimants from pursuing any claim that (i) the Defendant is obliged to make restitution in respect of such payments prior to 1 May 2009 and (ii) the Defendant is under an obligation to make restitution in respect of any greater sum should the Defendant's decisions of March 2014 re-calculating the sums that should have been claimed for the period after 1 May 2009 be set aside):
  - 5.1 The Defendant shall pay the First, Second and Third Claimant £84,314 and £7,861 interest within 21 days of the provision by the First, Second and Third Claimant to the Defendant of details of a bank account into which the payment is to be made;
  - 5.2 The Defendant shall pay the Fourth Claimant £77 and £10 interest; and
  - 5.3 The Defendant shall pay the Fifth Claimant £343 and £36 interest.
6. The following costs order be made:
  - 6.1 The Claimants to pay the Defendant's costs of the application to amend the claim.

6.2 The Defendant do pay the Claimants' costs of the claim up to 5 May 2014.

6.3 The Claimants do pay the Defendant's costs of the claim from 5 May 2014.

In each case, in default of agreement the costs shall be assessed on the standard basis, and the costs of the Claimants and the Defendant shall be set-off against each other.

7. The Claimants' application for permission to appeal is refused.

**DATED** this 18<sup>th</sup> day of June 2014