

## Chapter 7 (Appeals from magistrates' courts and youth courts): Update

### 7.2 Appeals to the Crown Court

#### 7.2.1 Procedure for appeal to the Crown Court

The procedure for appealing to the Crown Court is unaltered but is now to be found in Part of 34 of the Criminal Procedure Rules.

#### 7.2.3 The hearing of the appeal in the Crown Court

The rules governing the constitution of the Crown Court when hearing appeals are now to be found in rule 34.11 of the Criminal Procedure Rules.

##### 7.2.4.1 Reasons for the decision

In *R (Alabi) v Crown Court at Ipswich* [2014] EWHC 895 (Admin), Rafferty LJ (at [12]) cited with approval the words of Hickinbottom J in *R (Aitchison) v Sheffield Crown Court* [2012] EWHC 2844 (Admin), at [18]:

[I]t is insufficient merely to declare or announce that the appeal is dismissed, because that does not amount to any substantive reasoning at all ... In its reasons, the Crown Court must show that it has adopted a proper approach and has not misdirected itself: it must at least identify the main issues in the appeal, and indicate how it has determined those issues.

Rafferty LJ went on to say that there is 'no particular magic' to the language used to state the reasons.

### 7.3 Appeal to the High Court by way of case stated

#### 7.3.1 Procedure for appealing by way of case stated

The procedure for appealing by way of case stated is unaltered but may now be found in Part 35 of the Criminal Procedure Rules.

In *Woolls v North Somerset Council* [2016] EWHC 1410 (Admin), Jeremy Baker J declined to hold that the initial 21-day limit could not be extended. His Lordship said (at [5]-[6]):

It may be that a preliminary issue arises in this case, namely the jurisdiction of this court to consider the appeal in view of the fact that the original application to state a case may have been made on a date beyond that provided by s 111(2) of the Magistrates' Court Act 1980, namely within 21 days of the day on which the decision of the Magistrates' Court was given.

In this regard, although rule 35.5(1) of the Criminal Procedure Rules 2015 provides that its own time limits may be extended, as the note to rule 35.5(2) makes clear, this does not permit a similar extension of time to the making of the original application to state a case under s 111(2) of the Magistrates' Court Act 1980. However, CPR 52.6(1) provides that application may be made to this court to vary the time limit for filing an appeal notice. In regard to the question as to whether the time limit should be extended, I remind myself of what Brooke LJ had to say in *Foender v Bond Lewis & Co* [2001] EWCA Civ 759 concerning the practical consequences which may flow from refusing such an application. In the event, if an extension is required in this case, then I consider that it is appropriate that an extension be granted so as to allow its merits to be determined.

## 7.6 Case stated or judicial review

In *R (Kracher) v Leicester Magistrates' Court* [2013] EWHC 4627 (Admin), Hickinbottom J (at [18]) said

... I would emphasise the importance of challenges to magistrates' court convictions being by way of appeal by way of case stated, in those cases where the challenge is other than one of some procedural failure by the court below. One important practical advantage is that in an appeal by way of case stated the court below sets out the relevant facts and the process by which it arrived at its decision which is valuable, if not vital, for a proper consideration of the challenge in this court. It is not a good reason to bring judicial review proceedings merely because the 21 days for applying for a case stated has expired before any challenge is brought. The appropriate course is then to apply for a case stated out of time.

It should be noted that it is questionable whether there is, in fact, any power to extend the 21-day time limit for asking the court to state a case (see chapter 7.3.1).