

In the High Court of Justice
King's Bench Division
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Respondent

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

Bundle of Documents

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APPEAL to Birmingham Crown Court by ANDREW LOGIE

I Andrew Logie seek to Appeal a total of three convictions in Birmingham Magistrates Court - case number 202100317773 dated 9 May 2022.

The Conviction

I have been found guilty of the offence of “*engaging in street trading in a consent street in Birmingham, without being authorised to do so, contrary to Schedule 4, Section 10(1)(b) Local Government (Miscellaneous Provisions) Act 1982 [LGMPA]*”.

I freely admit that I engage in street trading throughout the United Kingdom and I also admit that on three dates in December 2020 I was street trading in central Birmingham but the Court failed to acknowledge that my authorisation is protected under Statute.

I am a Certificated Pedlar acting under the national Pedlars Act which is currently in force and acknowledged within local street trading regulations under LGMPA.

The Pedlars Act 1871 provides a description of various types of pedlary and the ways in which a pedlar may trade in local police jurisdictions.

The jurisdiction limit was removed in the Pedlars Act 1881 to provide the right to act as a pedlar within any part of the United Kingdom and that includes Birmingham.

A Pedlar’s Certificate costs £12.25 per year and is issued by police acting for the Crown. A pedlar is a self-regulated trader who may lawfully trade in any goods, by any method (providing he is on foot and is mobile), at any time and in any place including at private houses and on any highway. A pedlar lawfully goes wherever customers are found.

The purpose of the LGMPA Section 4 Street Trading is to regulate and control large scale street trading vendors who obtain a licence or a consent from the local authority to occupy allocated locations on a highway.

These spaces are approved by the highways department to limit public liabilities caused by oversized static obstacles placed on the highway.

A licence costs the vendor hundreds of pounds a year and vendors are heavily regulated by local council enforcement officers for what, when, where and how they can trade.

Council officers and some police in places where I work such as Chester, Nottingham, Wirral and Birmingham are often confused by different interpretations between local legislation and national legislation because the term ‘street trader’ can refer to a licenced/consent trader and can also refer to a certificated pedlar because they each have the lawful right to operate in the street.

I have personal experience of a natural incentive for council enforcement officers to overreach their powers and drive pedlars away from any perceived competition with council approved traders.

The primary difference between the two types of trader concerns their modes of operating. Pedlary is mobile and any apparatus is readily moveable whereas licence holders erect larger static stalls that they then occupy for a full day’s trading.

A pedlar is more akin to a customer shopping, whereas a licenced stall-holder is more akin to a shop on the street.

The Court heard as evidence from various witnesses that, in their opinion:

that I was street trading and not acting as a pedlar because they allege that I did not go to my customers but waited for them to come to me;
 that I established a trading pitch like a licence/consent holder;
 that I stood still;
 that I should continually move like any other pedestrian;
 that I should only stop to make a sale and then keep moving.
 At no point in the supposed evidence by these various witnesses did they consider that I was in fact requested by the customer to stop so that they could inspect my goods and answer any questions they have before purchasing or not purchasing.

The Court was led to believe in a nonsense notion - that I must remain in perpetual motion avoiding people approaching me and if I stopped for any reason other than to make a sale then I was guilty of an offence.

The notion fails scrutiny by many measures - the notion does not make common sense, it is not cited in legislation or in case law; moreover the notion that a pedlar must remain in continuous motion was dismissed in a Parliamentary Committee Hearing about pedlary law, and, it has never been cited in any historic description of pedlary.

This unsafe notion underpins a wrongful interpretation of law by council witnesses and the prosecution.

Such ignorance of the law by council officers led them to believe I was committing an offence of street trading as laid out in Section 10 of Street Trading legislation:

(1) A person who -

(b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule...

(e) ... shall be guilty of an offence.

Council officers ignored the exemption for pedlary that is contained in the same legislation - Section 2 states:

The following are not street trading for the purposes of this Schedule –

(a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871/1881:

In the above LGMPA Section 10(1)(a) my authorisation is my Pedlars Certificate issued by police under the Pedlars Act.

Section 2 provides my trading exemption from the entire LGMPA Schedule 4.

There remained for the Court to determine whether or not I was acting as a pedlar and the prosecution failed to prove beyond reasonable doubt that I was not acting as a pedlar. It simply relied on the ridiculous notion of perpetual motion and alleged offence of street trading.

I contend that the only way a Court could reach a fair judgment on whether my activities were those of a pedlar is through full hearing of what differentiates and distinguishes the trading activities of pedlary when compared in the proper context with the trading activities of a trader at a licensed stall and this would require considering some fifteen Case Law references involving pedlars. Such cases are available verbatim on-line but were not cited in Court.

During my several years of pedlary I have maintained adherence to the Pedlars Act and an awareness of the LGMPA as previously mentioned but I have also adhered to the LGMPA Section 10 (2) which states:

(2) It shall be a defence for a person charged with an offence to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

It is my contention that the Court failed to take account of the pedlary exemption and failed to acknowledge the most fundamental principle of mobility that defines and differentiates the two types of authorised street trading being, a large scale licensed trader that is stationary for a whole day on a fixed pitch, and the other of pedlary that is mobile and able to move about in the public domain.

Case law has provided guidance as to how long and for what purpose a pedlar may remain stationary whilst exhibiting goods for sale and I abide by that.

My defence in Court was poorly represented by a solicitor who failed to convey my instructions, failed to comprehend pedlary case law, failed to distinguish the principles that differentiate but also make effective the legislation affecting a proper interpretation of pedlary in the context of other legislation.

The Sentence

One of the four tests for renewal of my Pedlars Certificate is for police to run a 'good character' reference check and I am conscious and concerned from the experience of other pedlars that, with any criminal conviction, my application for renewal will be refused. I am the primary income earner for my family and I am wholly reliant on renewal of my pedlars certificate to continue earning an income in my chosen profession of pedlary.

I contend that through too narrow interpretation of language the council has presented a wrong allegation and a wrongful Summons for an offence of street trading without authorisation if only to secure a criminal offence so as to prohibit me ever trading in Birmingham again.

I contend, and have shown, that pedlary is in fact street trading with authorisation.

The burden of proof was on the prosecution to prove beyond reasonable doubt that I was not acting as a pedlar and therefore carry a civil penalty under the Pedlars Act Section 14 rather than a criminal penalty under the LGMPA. This would allow me the possibility to renew my Pedlars Certificate.

I pray that it is not the intention of any Court to unintentionally impose such a burden as loss of my right to work.

For all of the above reasons and more I therefore humbly apply to the Court to strike out the conviction and sentence, or, to allow me to Appeal in a higher Court.

Signed:

Andrew Logie
30 May 2022

IN THE CROWN COURT AT BIRMINGHAM

A20220123

Queen Elizabeth II Law Courts
1 Newton Street
Birmingham
B4 7NA

Friday, 2 December 2022

Before:
HIS HONOUR JUDGE HENDERSON
JUSTICES NOT KNOWN

R E X
-v-
ANDREW LOGIE

The Appellant represented himself

MR BARBOUR appeared on behalf of the Respondent

APPEAL AGAINST CONVICTION
(12.30 pm to 1.04 pm, 2.15 pm to 3.38 pm and 3.59 pm to 4.07 pm)
Transcript prepared without the aid of documentation

Digital transcript of Epiq Europe Ltd
Lower Ground, 18-22 Furnival Street, London EC4A 1JS
Telephone: 020 7404 1400 Email: crown@epiqglobal.co.uk
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PROCEEDINGS

(12.30 pm)

(The appellant was identified)

JUDGE HENDERSON: Yes, Mr Barbour.

MR BARBOUR: May it please your Honour and your Honour's colleagues. I represent the respondent in this case. Mr Logie appears unrepresented, although is accompanied by another gentleman. I believe there's been an application for him to assist Mr Logie in the conduct of his appeal.

JUDGE HENDERSON: Yes.

MR BARBOUR: Perhaps if we deal with that matter first.

JUDGE HENDERSON: We are happy. It will help the appellant, no doubt, to present his case and we're help that he's helped in that way.

MR BARBOUR: Thank you, your Honour. I'm grateful. The case is listed for appeal.

Following his trial in Birmingham magistrates' court, Mr Logie was convicted of offences of engaging in street trading in a consent street, namely High Street in Birmingham, without the required authorisation, on three days, namely the 17th, 18th and 22 December.

JUDGE HENDERSON: Yes.

MR BARBOUR: I hope your Honour and your Honour's colleagues have had time to consider the material which has been provided.

JUDGE HENDERSON: Yes, I've seen -- we've seen and read first of all your submissions and your authorities, and we've also seen the very helpful submissions from Mr Logie himself that came in, I think, in various bits. But just so we're clear, we've got your document, Mr Logie, headed "Respondent note on law" where, effectively, you've gone through Mr Barbour's argument and put in your responses step by step.

MR LOGIE: Yes.

JUDGE HENDERSON: So, we've got all of that. We've got, Mr Barbour, your authority bundle and we've got your submissions as well.

MR BARBOUR: Thank you, your Honour.

JUDGE HENDERSON: I think those are the core documents.

MR BARBOUR: Thank you. In essence, the respondent says that street trading means -- well, street trading in schedule 4 of the Act, paragraph 1 says that it's selling or exposing or offering for sale of any article, including a living thing, in a street. It then says the following are not street trading for the purposes of the schedule.

JUDGE HENDERSON: Yes.

A MR BARBOUR: The first one, paragraph 1, subparagraph (2)(a), "trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act". So, that's where the distinction arises in this case.

B JUDGE HENDERSON: And it's plain you accept that Mr Logie at the relevant time did have a pedlar's certificate. So, the question is whether he commits the offence because he's acting outside the terms of that certificate.

MR BARBOUR: Yes.

C JUDGE HENDERSON: And in particular, the difficulty from his point of view, it seems to me today, is the decision of Mr Justice Mitting where he puts it in a very Mr Justice Mitting way, requiring a pedlar to be peripatetic and, what was his other word ... ambulatory.

MR BARBOUR: Yes.

D JUDGE HENDERSON: And the effect of it is -- I don't know by what means -- we don't know by what means Mr Logie came into the city centre on those occasions.

E MR BARBOUR: Yes. As I understand it, because I conducted the proceedings in the magistrates' court also, it was a matter explored -- I hope Mr Logie doesn't mind me saying -- but that wasn't an issue that was then relevant in those proceedings. So, really it's *Watson v Malloy* and the case of *Jackson* which are more relevant to this case. On the basis, as I understand, that it may well be different if he gives evidence -- when he gives evidence today.

JUDGE HENDERSON: Yes. But as we read Mr Justice Mitting's decision on that -- because the point of being a pedlar is you're on foot, literally on foot.

MR BARBOUR: Yes.

F JUDGE HENDERSON: That's where the word comes from. If, for example, he has come into town with a load of stuff on the bus, I think, on the train, in a van or a car, he is not a pedlar or he's not acting as a pedlar when he's selling that way.

G MR BARBOUR: Correct. That's what the case law says and I'm grateful to Mr Logie; I've been provided this morning with his response which your Honour had received but the council hadn't sent to me, it's not his fault. I've been making my way through that this afternoon. My general response to that response is that the case law is clear, unfortunately. There may be disagreement with it, but the law is as it is and your Honour rightfully summarises it.

H JUDGE HENDERSON: Yes, and we're bound by it. I mean, the reality is if he wants to attack that legal ruling, he has to go to a higher court. Because we are bound by a higher court, when it says this is the law, we have to apply it.

MR BARBOUR: Yes.

JUDGE HENDERSON: Yes. Let me just talk to Mr Logie for a second. Mr Logie, that's the difficulty. The law is clear, it seems to us, and we are going to have to apply it.

MR LOGIE: Yeah. On them particular three occasions, I was actually living in Birmingham. Actually, I was homeless at the time this offence occurred.

JUDGE HENDERSON: Okay.

MR LOGIE: And I was staying in Birmingham.

JUDGE HENDERSON: Okay. Well, that may get you out of the woods; we'll see.

MR LOGIE: Yeah, I told -- in the previous case, when it was at the magistrates, I did tell the magistrates this. Can you remember?

MR BARBOUR: Yes, that was what I was saying, that that particular point about how -- the means of arriving in Birmingham weren't an issue in the lower court.

JUDGE HENDERSON: Okay. I think in that case, we'll hear the case and see where it goes. Mr Logie, in terms of procedure, because I know you've been in contact with the court staff before in the last few days.

MR LOGIE: Yeah.

JUDGE HENDERSON: The procedure is it will be effectively a rerun of what you saw in the magistrates' court.

MR LOGIE: Yeah.

JUDGE HENDERSON: So, we'll hear if Mr Barbour wants to say anything more in setting out their case. We'll then go through the witnesses. Once each witness has had their say to him, you can cross-examine them but don't argue with them about the law. We'll come back to that at the end.

MR LOGIE: Yeah.

JUDGE HENDERSON: You'll be discussing with them the facts of the case; in particular, if you disagree with anything that they tell us or if you want to expand on something. So, we'll concentrate with them on the facts and then we'll come back at the end of the case to the law on the rights and wrongs and so forth, okay?

MR LOGIE: Thank you very much.

JUDGE HENDERSON: Okay, thanks. Yes, Mr Barbour.

MR BARBOUR: Your Honour, I won't address you any further in relation to the case law at this stage.

JUDGE HENDERSON: Okay.

MR BARBOUR: In fact, I'll just summarise what we say the cases represent. Firstly,

Watson v Malloy, that someone who sells -- a pedlar is someone who sells on the move, an

A itinerant seller. A pedlar is someone who trades as he travels, as distinct from someone who travels to trade. It's someone who comes to the individuals that wish to buy his wares as opposed to someone who sets up a pitch and allows customers to come to them. In a sentence, that's what we say Mr Logie was doing here.

B *Jones v Bath & North-east Somerset Council* relates to someone driving his goods in their own van or car to a town or city to offer goods for sale is not a pedlar as he has not travelled to the town on foot. There is a requirement to conduct the activities on foot both for travel and trade. In *South Tyneside Metropolitan Borough Council v Jackson*, the purpose in moving by a pedlar must be to bring his wares to the attention of customers. One cannot move just to take advantage of the defence available to pedlars. And of course, where they are referring to a defence there, they're talking about the exception to what is street trading in the Local Government (Miscellaneous Provisions) Act.

C JUDGE HENDERSON: Okay.

D MR BARBOUR: The issues, your Honour will have gleaned already. Mr Logie disputes our factual case about, as I understand it, how long he was stationary. You'll hear from a number of licensing enforcement officers from Birmingham City Council who dealt with him on a number of occasions. There are four occasions that they will give evidence about: 4 December 2020, 17 December 2020, 18 December 2020 and 22 December 2020. So, all but the first of those dates that you'll hear about give rise to the three charges.

E JUDGE HENDERSON: Okay.

F MR BARBOUR: The first date, there was a conversation and a warning about conduct which we say makes that relevant. So, with the court's permission, if I could call the first witness Janice Morrison, please.

F JUDGE HENDERSON: Yes.

G MR BARBOUR: Your Honour, I should have said I do have an exhibits bundle which, if you're content to deal with it in that way, may be a more convenient way of seeing all of the documents. It's exactly the same as was given to the magistrates.

G JUDGE HENDERSON: Okay.

G MR BARBOUR: (To Mr Logie) I've got another copy for you there as well, just the photographs and that sort of thing; thank you.

JANICE MORRISON, affirmed

Examination-in-chief by MR BARBOUR

H MR BARBOUR: Could you give the court your full name, please.

A. Janice Morrison.

Q. Thank you. What's your job, please?

A. Licensing enforcement officer.

A Q. Thank you, and you're here to give evidence in relation to events from December 2020, some time ago now. Were you still in the same role then?

A. I am. I was.

B Q. Because of the passage of time, it's important that if you can't remember something, say so. But with the court's permission, I'll lead the uncontroversial aspects of your evidence, all right?

A. Okay.

C Q. And Mr Logie, if there's anything that -- you'll be able to ask questions after this, as well, all right?

MR LOGIE: Yeah, thank you.

MR BARBOUR: Now, Ms Morrison, it's right that on 4 December 2020, you were taking part in an enforcement exercise in the city centre of Birmingham; is that right?

A. That's correct.

D Q. The aim of the exercise was to combat illegal street trading?

A. Correct.

Q. And you conducted that exercise together with street trading enforcement officer Rag Singh Kang?

A. Correct.

E Q. And you were also accompanied by two police officers; is that right?

A. That's right.

Q. The purpose of the exercise, correct me if I'm wrong, was to warn people that you suspected of street trading about the law and the council's approach to it, and that if they were seen again street trading, there might be enforcement action; is that right?

F A. That's it, yes.

Q. Now, the enforcement action took place between 11 am and 1 pm; is that correct?

A. That's correct.

G Q. And you were to meet at the bull outside the Bullring?

A. That's right.

Q. Could you describe please -- and if you can recall the time or, if not, give a rough indication of the time -- what you saw when you were walking towards the bull, please?

A. As I was walking towards the bull, I noticed who we now know to be Andrew Logie standing by a stall at approximately 10:46. I was early, so I took a photograph which I exhibited in my -- with my statement.

H Q. Is that exhibit JM1?

A. That's correct.

A Q. Which is at page 4 of the exhibits bundle, for your Honour's reference.

JUDGE HENDERSON: Yes.

MR BARBOUR: We can see there the clothing that's worn appears to be a Tommy Hilfiger jacket; is that right?

B A. That's right, yes.

Q. Sort of blue, white and red. We can see a stand which is on four wheels, about the size of a standard table, would you agree?

A. Yes.

Q. And could you help us, please, with what is on that table, what's on the stand?

C A. Well, there's some novelty lights around the side and toys and some masks on the top of it, from memory.

Q. After you took this photo, did you proceed to the bull?

D A. I did; I proceeded to meet street trading enforcement officer Rag Kang at the bull for 11 am. We met and then we decided that we would then start to patrol to look for any potential traders who were illegally street trading to warn, and so, we walked back to -- as we walked along we saw that Mr Logie was still in the same position.

Q. Do you recall what time that was?

A. Roughly sort of 11.10-ish. 11 minutes past.

E Q. Presumably, I think you approached Mr Logie and introduced yourself; is that right?

A. That's correct, yes.

Q. Showed him some identification and did you ask him in relation to -- did you ask him about what he was doing there?

F A. Yes. We did. He produced -- we explained what we were doing, that it was an exercise to identify illegal street traders to put them on warning, because the next time we did see any illegal street trading, there would be action taken. Mr Logie produced his pedlar's certificate. We explained that that would not cover standing and making sales. To peddle is you sell -- you stop only to make a sale. Peddling, you move as a pedestrian. So, we made it very clear that that -- he was not covered or free from illegal street trading by producing a pedlar's certificate. He was not moving consistently, stopping only to make a sale. He was stationary.

G Q. If I can ask you to turn in the bundle of documents in front of to you page 25, although it has the same exhibit reference as the photograph you've just looked at, can you confirm that that's a photograph of the pedlar's licence that was produced to you on 4 December?

H A. Yes, that is.

- A Q. Is it right that you -- I think you've already indicated that you warned Mr Logie about his conduct and selling his wares in that way; is that right?
- A. Yes. Yes, I did warn him and we left a letter that we issue to anyone during the exercise that we identified as illegally street trading. That gave details of how to apply for a street trading licence with Birmingham City Council.
- B Q. Of course, you were there with Mr Kang but if I can ask you to turn to page 1, it's his exhibit so I'll ask him about it, but is that the letter that was given to Mr Logie on 4 December?
- A. It is, yes.
- C Q. Thank you. After that letter was handed over, did you have any further dealings with Mr Logie on 4 December?
- A. No, that was it.
- Q. 18 December is the next date you had dealings with Mr Logie; is that right?
- A. That's correct.
- D Q. Again, you were on an illegal street trading enforcement exercise?
- A. Correct, yes.
- Q. And on this occasion, you were with licensing enforcement officer Sarah Hemsell and again street trading enforcement officer Rag Singh Kang; is that correct?
- A. That's correct.
- E Q. Once again, you had the same remit as the previous occasion; is that right?
- A. That's right.
- Q. Again, it was to take place between 11 am and 1 pm?
- A. That's right, yes.
- F Q. Once again, you were accompanied by two police officers?
- A. That is right, yes.
- Q. Do you recall that it was raining on that particular date?
- A. Yes, it was quite wet and overcast.
- G Q. I believe at around 12 noon, you'd finished dealing with a different street trader and you walked away from Sainsbury's in Union Passage back towards the High Street; is that right?
- A. That's correct, yes.
- Q. When you got to the High Street, where did you go?
- H A. So, as we turned right to proceed towards the bull, I saw Mr Logie and his stall under covering by a disused unit beside Clinton Cards. He was sheltered because, obviously, it was raining. We then approached, started walking towards Mr Logie. As we started

A heading towards him and he saw us, he then started to -- I could see him move around to the front of his stall and as we got nearer, he said, "Oh, I was just moving."

Q. Did he then proceed to move the stall?

A. He did, yes. Sort of inched.

Q. Did he give any indication as to how long he'd been there for?

B A. I can't remember. I want to say he'd sort of just been there a few minutes but I can't remember exactly what he said, alluding to that.

Q. Yes, I don't think this is in dispute but if it is, Mr Logie will tell me.

A. Yes.

Q. But as I understand it, you cautioned him about street trading and he told you that he wasn't street trading because he was moving and that he'd only been there for a few minutes. Does that accord with your recollection?

C A. That sounds correct, yes. That's it.

Q. Now, is it right that ordinarily when you caution somebody, you have a pro forma which you have to complete; is that right?

D A. That's right, yes.

Q. Did you complete a pro forma on this occasion, on 18 December?

A. I did as much as I could, yes.

Q. You say "as much as I could"; can you help me with why you used that phrase, please?

E A. Mr Logie wasn't happy with me cautioning him and he proceeded to take a phone out and had a torch on and film me, I thought.

Q. So, your impression was that he was filming you?

A. Absolutely, yes.

F Q. Now, if I could ask you to turn to page 5 in the bundle in front of you, is this the pro forma that you completed on 18 December?

A. It is, yes.

Q. Now, we can see there the date and time, your name, the location and the initials of the accompanying officers. Name, Andrew Logie. Did he provide you with that name, can you recall, or is that simply your recollection from the previous occasion?

G A. It's the recollection from the previous occasion.

Q. And his address. Can you help me with where that information was from, please?

A. The previous occasion where he produced his pedlar's certificate.

H Q. The date of birth, even though it's slightly hidden by the exhibits sticker, appears to be empty. Did you ask him for his date of birth?

A. I asked him -- as I worked through the form and he was not giving me any information, he

was not happy.

A Q. So, the information in terms of his details on there, you put in whatever you could from the previous occasion but he wasn't providing it; is that right?

A. Absolutely, yes.

B Q. There's then a description which appears to suggest he was wearing the same coat as 4 December; is that right?

A. That's right, yes.

Q. Items for sale, face masks and novelty lights. The location again is listed. You list then his response, "I'm not street trading because I'm moving. I got here two minutes ago." Is that right?

C A. Yes, that's correct.

Q. The time, and then it says that he refused to sign the pro forma; is that correct?

A. That's correct.

Q. Did you try and read it back through to him before you asked him to sign it, from memory?

D (Pause) If you can't remember, just say so.

A. I can't remember.

Q. But in any event you asked him to sign to confirm his details --

A. I did.

E Q. -- and he refused and then you signed the form, and it appears as though your colleague's signed next to the words "refused to sign" to confirm that that's what happened; is that right?

A. That's correct, yes.

F Q. You then left at around -- do you recall what time it was or how long you had an interaction with him for?

A. Potentially five to seven minutes, just as long as it took to complete the form.

Q. And that concluded your engagement with him on 18 December; is that right?

A. It did, yes.

Q. Now, you're the lead officer in this case; is that right?

G A. That's correct.

Q. So, part of your role was then to go and seek CCTV evidence; is that correct?

A. That's correct.

Q. You received CCTV evidence from the police; is that right?

H A. From our control centre, yes.

Q. From the control centre?

A. Birmingham City Council.

- A Q. Right, from Birmingham City Council, from which you then produced a number of screenshots?
- A. That's correct.
- B Q. Before we come on to those, in terms of the CCTV, can you confirm that the dates and the timings are accurate to the best of your knowledge?
- A. They are accurate according to the footage.
- B Q. Thank you. If I could ask you turn to page 6, please, in the exhibits bundle; so, we're going slightly back in time now. Of course, we have a number of dates. We are dealing with the 4th, 17th, 18th and 22 December. We've dealt with the days that you personally dealt with Mr Logie. This CCTV relates to 17 December; is that right?
- C A. That's correct, yes.
- Q. And there are a selection of five screenshots. The first one on page 6 says "Thursday 17 December 2020 at 1445 hours". Is that your writing on there? Is that right?
- A. It is my writing. It's taken from the time at the bottom left-hand.
- D Q. And we can see the image and the time there as well. Now, could you help us, please, perhaps by holding up your copy. I think in fact there's a circle on there. Could you point out where Mr Logie is on that CCTV footage? Yes, I think I've got a circle on there. So, that's 14:45. If you could turn over the page, please, to page 7, 14:48; is it right that we can see there that the stand appears to be in the same location?
- E A. Correct, yes.
- Q. Now, turning over the page again, this appears to be less than a minute later. It's still 14:48, and if we follow the path up towards the middle, can we see the table, Mr Logie and the table in the centre of the picture? Again, I can see that you're holding your finger up directing His Honour and His Honour's colleagues to where that is at 14:48. If we then turn over the page again, at 15:08 -- so, 20 minutes -- here the stand appears to be in the same location; is that right?
- F A. Correct.
- Q. And turning over once more to 15:14, once again it appears to be in the same location, would you agree?
- G A. Correct. Yes.
- Q. So, summarised, we can see that the stand moves at 14:48 and remains there, so far as this CCTV is concerned, until 15:14; is that right?
- H A. That's correct, yes.
- Q. So, 25 to 30 minutes roughly, by my maths which may be incorrect, but that appears to be what we see, all right?

A. That's right.

A JUDGE HENDERSON: 26 minutes, isn't it?

MR BARBOUR: 26 minutes, yes. Penultimately, you produced as exhibit JM4 a number of emails exchanged with Mr Logie; is that right?

A. That's right, yes.

B Q. Relating to a request for interview?

A. Correct.

Q. Which was refused and a reason given; is that right?

A. That's right, yes.

C Q. And also Mr Logie, in fairness to him, putting forward his version of events, would you agree?

A. That's correct.

D Q. Finally, if I could deal with two other matters, you provided a further statement on 11 June 2021 confirming that from 6 December 2020, all streets apart from prohibited streets and designated parks and open spaces are considered consent streets in the Birmingham City Council area; is that right?

A. That's right, yes.

E Q. And that's under schedule 10 of the Local Government (Miscellaneous Provisions) Act 1982. You confirmed that any street trader selling items on the street requires a consent issued by the council to permit them to do that?

A. Correct.

F Q. Again, you refer to the pedlar's certificate, and then the further statement which you provided on 28 November this year simply produces -- and I can provide a copy to your Honour and your Honour's colleagues -- the resolution confirming what you'd put in your statement in 2021; is that right?

A. That's correct.

JUDGE HENDERSON: I think we've seen a copy of this already, haven't we, in fairness?

Yes. We'll hang on to it. There's a copy of that in our papers.

G MR BARBOUR: Thank you, your Honour. Ms Morrison, I have no further questions for you, but if you wait there.

A. Thank you.

H JUDGE HENDERSON: Mr Logie, perhaps I can help you in dealing with this witness. What I'm going to do is go through with you and her what you agree and disagree with --

MR LOGIE: Yeah.

JUDGE HENDERSON: -- in terms of what she said and then we'll go on from there. First of

all, do you accept that it was you there on 4 December?

A MR LOGIE: Yes.

JUDGE HENDERSON: Okay, good, thanks. I'll just make a note as I go through. And it was you there on 18 December?

MR LOGIE: Yes.

B JUDGE HENDERSON: Good, thank you. The witness says that she passed you on 4 December, the first occasion she passed you at 10:46 by the stall and then again at 11:10. Do you disagree with that?

MR LOGIE: Well, I didn't see her go past but the photos -- what the photos say, yeah.

C JUDGE HENDERSON: Okay, and are you saying -- maybe you don't remember this; are you saying that as far as that time is concerned you were in the same position between those two times, that you don't remember, that you moved or what?

MR LOGIE: No, I moved. I moved. I always have -- I have a timer on me table. Every 15 to 20 minutes I move. It's stated in case law.

D JUDGE HENDERSON: Okay. How far do you tend to move?

MR LOGIE: It could be all different, it could be all different. I don't just mean a metre or half a metre here, there and there.

JUDGE HENDERSON: Okay.

E MR LOGIE: It's like on -- I think on one occasion I moved from this stand to there, that's about --

JUDGE HENDERSON: We can see one where you moved probably about 30 yards or something, perhaps.

MR LOGIE: Probably 30, 40, yeah.

F JUDGE HENDERSON: Okay and, sorry, I think you said you moved every 15 or 20 minutes or so?

MR LOGIE: Yeah. On this particular time of these offences, I was selling face masks because it was the height of the pandemic and some of the face masks, I had a machine where you could like personalise 'em.

G JUDGE HENDERSON: Okay.

MR LOGIE: So, you had to actually make these things to personalise 'em. Just say like you wanted an A or a B on 'em. I had a machine that did it.

H JUDGE HENDERSON: Okay, thanks. In relation to the 18th, the second occasion, do you agree that it was raining? I don't know whether you remember that or not.

MR LOGIE: Yeah, yeah, I do. I remember that day really clear. On that particular day, I'd just literally got there, I was setting up me table, I put me wares on the table and literally

A these come round the corner. I weren't even setting me table up and it weren't just raining.
It was really raining hard.

JUDGE HENDERSON: And we can see, in at least one of the photos, it has wheels underneath, it has one of those clips, doesn't it, that sort of locks it in position, stops it sliding about.

B MR LOGIE: Yeah.

JUDGE HENDERSON: Is it always -- have you always in all the cases that we're going to deal with, it's always the same table, is it?

MR LOGIE: Yeah, it's always on wheels. You got to have -- everything's got to be on wheels so it's moveable.

C JUDGE HENDERSON: Okay, right. Sorry, go on.

MR LOGIE: There's just some paper in there I want to hand out to yer so you can go through a couple of rules of ... is it ... let me just find it.

MALE SPEAKER: (Sotto voce) It's the Local Government (Miscellaneous Provisions) Act that covers both of these two.

D MR LOGIE: Yeah, these nine ...

MALE SPEAKER: (Sotto voce) That's the exemption.

MR LOGIE: The statutory -- there's nine statutory exemptions where you can peddle on a consent street.

E JUDGE HENDERSON: We'll come back to that.

MR BARBER: Yes, I was just going to say I think that's not for this witness; that's Mr Logie's case itself.

JUDGE HENDERSON: So, I think there's anything you actually disagree with that this witness has said; is that right? Is there anything she said that you disagree with?

F MR LOGIE: Not really, no.

JUDGE HENDERSON: Okay, good. Right. We'll break for lunch now, we will let the witness go because the only reason for you to ask questions of the witness is if you disagree. So, we'll let the witness go.

G MR LOGIE: Hold on, can I just have a word quickly.

JUDGE HENDERSON: Yes. **(Pause)**

MR LOGIE: Far as I'm aware of the law on street trading, I can do it under the LGPM Act.

JUDGE HENDERSON: We'll deal with that later. That's legal.

H MR LOGIE: Oh, yeah.

JUDGE HENDERSON: So, we'll deal with that later. We'll let the witness go, and we will come back at 2.15 and we'll carry on working our way through it.

MR LOGIE: Thank you.

JUDGE HENDERSON: Thanks very much. 2.15.

(The witness withdrew)

(1.04 pm)

(The luncheon adjournment)

(2.15 pm)

JUDGE HENDERSON: Just to say that I received an email at 12.30, after we'd started, and I'm not sure who sent me this but it's a case of *Sample v Hulme*. I'm not quite clear who sent it because it's come to me and to my clerk. It was addressed to Susan Hart(?) who works in the court office, also addressed to Mr Logie, coming from Robert Campbell Lloyd, but it's signed Andrea(?) but it has the case of *Sample v Hulme* which seems to us to demolish the point that Mr Justice Mitting was making about, essentially, if you drive to the scene, as long as you're actually doing your trading on foot -- so, the ruling that Mr Justice Mitting made, his expressing that on the basis that he'd done it on brief discussions and without considering further authorities, it seems to us that destroys that point against the defendant, because it's the Lord Chief Justice, rather than, with all due respect to Mr Justice Mitting, a puny judge.

MR BARBOUR: Would your Honour give me time to consider that? I've seen reference to the case in the document that had been submitted by the appellant.

JUDGE HENDERSON: Yes, okay.

MR BARBOUR: All I had seen was the date of that case, which was 1956.

JUDGE HENDERSON: Yes.

MR BARBOUR: I hadn't had an opportunity yet to check whether it was considered by Mr Justice Mitting ...

JUDGE HENDERSON: I think, I mean I've not checked back against his -- against the decision in the *Jones v Bath*.

MR BARBOUR: No.

JUDGE HENDERSON: But I'm pretty sure he says, "I've made this decision without being referred to other authorities."

MR BARBOUR: Yes.

JUDGE HENDERSON: And it may be that they will be -- they will produce a different outcome and it seems to me, on the face of it -- that's the Lord Chief Justice, Lord Goddard, whom we'll all remember with great affection.

MR BARBOUR: Yes.

JUDGE HENDERSON: There we are. But that's not the core of your case, yes.

MR BARBOUR: Of course, I'm grateful for your Honour raising it, but it's not --

JUDGE HENDERSON: It's not the core of the case, is it?

MR BARBOUR: No.

JUDGE HENDERSON: Okay.

MR BARBOUR: It could be another case but not in this one, certainly.

JUDGE HENDERSON: Okay, good.

MR BARBOUR: Thank you. Your Honour, with your permission if I can call the next witness, Sarah Hempzell, please.

JUDGE HENDERSON: Yes.

SARAH HEMPSELL, sworn

Examination-in-chief by MR BARBOUR

MR BARBOUR: Thank you. Could you give the court your full name, please.

A. It's Sarah Hempzell.

Q. Is it right that you work as a licensing enforcement officer at Birmingham City Council?

A. That's correct.

Q. You're here to give evidence about your involvement in an exercise to identify illegal street traders which took place on 18 December; is that right?

A. That's correct.

Q. Now, of course that was some time ago now, almost two years ago. Were you still working as a licensing enforcement officer in December 2020?

A. Yes, I was.

Q. Now, on 18 December 2020, is it right that you were conducting that exercise along with licensing enforcement officer Jeanice Morrison?

A. Janice.

Q. Janice, sorry; and Rag Singh Kang?

A. That's right.

Q. And two police officers?

A. Yes.

Q. At around 12 noon, you as a group had finished dealing with a street trader near Sainsbury's on Union Passage; is that right?

A. Yes.

Q. You walked towards the High Street?

A. That's right.

Q. Now, when you got to the High Street, I believe you turned right; is that correct?

A. That's correct.

A Q. And what did you see when you turned round the corner?
A. I saw Mr Logie standing next to a wheeled stall.

Q. And could you describe what the stall looked like, if you can remember what was on the stall?
A. It was probably the sort of size of a wallpaper pasting table, and displaying face masks and light-up novelties for sale.

B Q. Did it have wheels?
A. Yes, it was wheeled.

Q. Mr Logie himself, can you recall what he was wearing, if he was wearing something distinctive?
C A. I remember he had on a red white and blue Tommy Hilfiger coat and, I think, jeans.

Q. Now, we've heard that officers approached him. Were you one of the officers that approached Mr Logie?
A. Yes, I was.

D Q. And that he was cautioned?
A. Yes.

Q. And we've seen a pro forma which I'll ask you to look at in a moment. Did Mr Logie reply to the caution?
A. He did. He said he wasn't street trading because he was moving.

E Q. Is it right that Janice Morrison was taking the lead --
A. Yes.

Q. -- so far that was concerned, but you were observing what was taking place; is that right?
A. That's right, yes.

F Q. You should have a bundle of documents in front of you; could I ask you to turn to page 5, please. Could you just confirm that this is the pro forma that you saw Janice Morrison complete on 18 December?
A. It is, yes.

G Q. Is that your signature towards the bottom of the page next to the words "refused to sign"?
A. Ya, it is.

Q. It sounds obvious, but why did you sign in that particular location?
A. To corroborate what had been said and what had been recorded by officer Morrison.

H Q. Now, you say when you turned the corner you saw Mr Logie with his stall. Was he moving when you saw him?
A. No, he was stationary when we saw him to start with, but then --

Q. I should have asked a slightly particular question. Were either Mr Logie or the stall that he

had with him moving?

A. Not when we first turned the corner but as we began to approach him, he started to move.

Q. Okay. And after you dealt with the pro forma, did he continue to move or did he stop somewhere else?

A. As far as I'm aware, he moved away from the area.

B. Q. Did that conclude your dealings with Mr Logie on 18 December?

A. It did, yes.

Q. And it in fact concludes your dealings with him altogether, doesn't it?

A. It does.

Q. I have no further questions for you, but if you could wait there.

C. A. Okay.

JUDGE HENDERSON: Again I don't think there's anything you disagree with that this witness has told us, do you?

Cross-examination by MR LOGIE

D. MR LOGIE: No, but you know, when you come round the corner and you said I was staying still, I only moved when you see me -- when apparently I see you, did can you tell the court what clothes you wear? Do you wear your uniform as a street licensing officer?

A. No, but we were with two police officers who were in uniform.

Q. So, you're just wearing normal clothes?

E. A. Yes.

Q. Yeah. Also, when you come round that corner, you said I moved when I see you. For a start, you don't wear a uniform, so there's that many hundreds of people coming past me. I wouldn't -- is that the first time I ever saw yer on that particular occasion or have you been to me before?

F. A. I believe it's the first time I ever saw you, yes.

Q. So, I wouldn't know who you are.

A. No.

G. Q. So -- and also and when you come round that corner, I was setting up me table to trade for the day and this was a particular day we was on about earlier, when it was really raining. So, I did -- I just packed up and went 'cause it was raining that heavy. So, I literally sat me stall up outside Card Factory, ready to go to a different location, it was raining that heavy, I looked on my phone, I could see it was gonna give heavy rain all day, so I was literally there, literally five to ten minutes. And in case law, you can stay in the same location 15 to 20 minutes. Have you ever read the case law about peddling?

H. A. Briefly.

Q. Briefly?

A. About a week ago.

Q. A week ago. Why have you never done it two years before or whenever you started your job?

A. It's very recently that we started doing street -- well, when I've started doing street trading.

Q. Can you tell the court actually when you started your job in street trading?

A. I'm not a street trading officer. I'm a licensing enforcement officer. We started doing -- I started doing the street trading around the time of December 2020.

Q. So, that's like when I got caught, was that your first job you actually went on to, when you saw me?

A. Yes, yes.

Q. No further questions.

JUDGE HENDERSON: Okay, good thanks very much indeed. You can leave.

A. Thank you.

(The witness withdrew)

MR BARBOUR: If we can call the next witness please, your Honour, Mr Shahid Ali.

JUDGE HENDERSON: Yes.

SHAHID ALI, affirmed

Examination-in-chief by MR BARBOUR

MR BARBOUR: Thank you. Could you give the court your full name, please.

A. Shahid Ali.

Q. Is it right, Mr Ali, that you work as a licensing enforcement officer for Birmingham City Council?

A. That's correct.

Q. Now, you're here to give evidence about your involvement in events on 22 December 2020; is that right?

A. That's correct.

Q. I believe that's a date we're yet to hear about today; of course that was some time ago, almost two years ago. Were you working as licensing enforcement officer at that time?

A. Yes, I was.

Q. On 22 December, is it right that you were taking part in an enforcement exercise with colleagues Rag Singh Kang and Esther Kempson?

A. That's right, yes.

Q. That was on High Street in Birmingham?

A. That's correct.

- A Q. And the purpose of that exercise was to identify those offering items for sale as street traders without the appropriate licence?
- A. That's correct, yes.
- Q. The exercise was scheduled to take place between 11 am and 1 pm; is that right?
- A. That's right, yes.
- B Q. You met your colleague Mr Kang at approximately 10.50 or shortly before 11 o'clock, I think. Can you remind me of the time? It was 10.51, I believe.
- A. I believe that's right, yes.
- Q. When you met Mr Kang, what was the nature of your conversation? What did you say to each other, please?
- C A. I met Mr Kang and Mr Kang was already observing a number of individuals who were -- appeared to be selling goods along the High Street. And when I met Mr Kang, he pointed out Mr Logie and he said he'd been there a few minutes and he'd observed him selling goods on the High Street.
- D Q. So, at the time that Mr Kang told you about Mr Logie, could you see Mr Logie from where you were standing?
- A. Yes, I could, yeah.
- Q. And what was -- was it just Mr Logie alone or did he have a trolley or a table of some variety with him?
- E A. I believe he had a sort of wheeled table or a wheeled trolley on which he was displaying, I think, face masks and various toys.
- Q. Was he moving or was he stationary?
- A. He was stationary at that time.
- F Q. Do you recall where particularly on High Street he was?
- A. I believe he was outside a place called The Gym.
- Q. How far away roughly was that from where you were standing?
- A. From where I was initially standing, I would say 50 to 60 metres away.
- Q. You and Mr Kang conduct your exercise on the High Street and you see Mr Logie again. Do you recall what time you saw Mr Logie?
- G A. Are we talking about the same day?
- Q. Yes, the same day.
- A. I believe it was around, if I remember correctly, about 11:25, 11:26 something like that.
- H Q. When you saw him at 11:26, was he in the same place that you'd seen him at 10:51?
- A. Yes, he was.
- Q. How do you know he was in the same place?

A. Because I did not see him move from that spot. I believe I'd observed him for about half an hour at least and he was stood in the same location.

Q. Now, in that intervening period, you were conducting your exercise presumably on High Street. Did you deal with any other street traders?

A. On that particular day, I just dealt with Mr Logie.

Q. So, your attention was on him throughout that period?

A. That's correct, yeah.

Q. After you saw him at 11:26, what did you do then?

A. I walked up to Mr Logie with my colleagues. I introduced myself and advised him who I was and the reason I was there. And I cautioned him at that point because I believed he'd been street trading without having obtained the consent from Birmingham City Council.

Q. Can you describe, if you can remember, what he was wearing?

A. I know he was definitely wearing a Tommy Hilfiger jacket, possibly -- I saw in my statement; I think it was jeans and white trainers.

Q. Once you cautioned him, going back to the caution, did you ask him to confirm he understood the caution?

A. Yes, I did.

Q. Did he confirm that he understood?

A. No.

Q. What happened next?

A. He then just continued to walk along the High Street at quite a pace while I was obviously trying to fill in this pro forma.

Q. You say he was walking at pace. Was it just him or did he take his trolley with him?

A. He took his trolley with him.

Q. So, I'm imagining a scene where you're both walking, you're trying to keep up with him and you're asking him questions trying to fill in this pro forma. Is that accurate?

A. That's correct, yeah.

Q. I think if we turn to -- you should have a bundle of documents in front of you. If you could turn to page 27, please. Is this the pro forma that you were completing on 22 December?

A. Yes, it is.

Q. We can see there the date, 22 December, your name; location is High Street in Birmingham and the initials of the officers that you've indicated accompanied you. Trader details, it says "refused to give name", but Esther your colleague identified him as Mr Logie. Where it says "refused to give name", is that the whole story or was there another element to it?

- A. He did give a name. But my colleague Esther, who had some previous dealings with Mr Logie, advised me that wasn't the correct name that he'd given me.
- Q. Do you recall the name he gave?
- A. I believe it was something like Mr Brooks or something like that.
- Q. Now, moving down the pro forma, we have a description of the trader, items for sale, and you can see there the time, 11:26. I think you said earlier that was the second time you saw him. You'd said about 11:25, 11:26?
- A. That's right.
- Q. Having seen that, would you say it was 11:26?
- A. Yeah.
- Q. Location, High Street Birmingham. Offences pointed out by you; so, presumably you informed Mr Logie that you suspected he was street trading without a licence?
- A. That's correct.
- Q. And reply after caution, "No reply, ignored me." Time again 11:26. "Refused to sign." Did you ask Mr Logie to sign this form to confirm its accuracy?
- A. Yes, I did.
- Q. And presumably he refused to do so before you signed the form; is that correct?
- A. That's right.
- Q. Now, offences pointed out by you and you've indicated that you informed Mr Logie that you had reason to suspect he was street trading without a licence. We've heard your evidence about what you observed. In your experience, why did you suspect that he was street trading without a licence?
- A. Because prior to me approaching him, he was stood in the same position which is normally what a street trader would do. He wasn't moving along the High Street. I know, from speaking to my colleagues who had had dealings with him before, he'd produced a pedlar's licence when asked for some sort of ID. And obviously I'm aware that he did not have a street trading consent from Birmingham City Council. He's not on our list.
- Q. Thank you. So, after the proforma was signed, did Mr Logie continue to walk away from you and the other officers?
- A. Yes, he did.
- Q. And did you have any further dealings with Mr Logie?
- A. Not on that day, no.
- Q. Just to confirm, on that particular day, we've heard about other occasions where licensing officers and street trading enforcement officers were accompanied by two police officers. Were there any police officers with you on 22 December, as best you can recall?

A. No, there wasn't.

A Q. Thank you, officer. I have no further questions for you, but if you could wait there.

JUDGE HENDERSON: Yes, Mr Logie.

Cross-examination by MR LOGIE

MR LOGIE: Yeah. You said I was standing still for like 30 minutes.

B A. Approximately, yes.

Q. Have you got any photos of me standing still or any CCTV?

A. No, I haven't.

Q. 'Cause on that location, is it covered by CCTV?

A. I believe so.

C Q. Yeah. Also, you said I gave a false name to yer, Mr Briggs or something like that?

A. I believe it was Mr Brooks.

Q. Something like that. Yeah. Why did you think I said Mr Brooks?

A. Because that's what I heard.

D Q. Can everyone turn to page 28, the picture. It's this picture. Is that you talking to me, on page 28?

A. No, it's not me talking to you. Was that photo taken on the same day?

Q. Is that a picture of you?

A. I believe so; I can only see my back but it does look like me.

E Q. Yeah. Can you see what I'm wearing? I'm wearing the white and red and blue coat like you said, yeah? Yeah? Can you see my coat I'm wearing? Was it you on that particular day who come up to me, can you remember?

A. In this picture?

F Q. Yeah. **(Pause)**

A. Is that yourself in the photo? I'm not sure if it is.

Q. Oh. Did you come up to me on that day? Do you say that's you? I say that's you.

A. I'm not sure who's taken the photo. Was it yourself who's taken the photo? I'm not sure.

G MR BARBOUR: I think, just to assist Mr Logie and the witness, the exhibit is EK01 which indicates it was taken by Esther Kempson.

A. That's correct, yes.

MR LOGIE: So, obviously one of your colleagues took that picture and you keep saying

H I gave you this false name; you said that in the magistrates' court. Can you see what I'm wearing on my mouth? A face mask.

A. Yes.

Q. So, I'm muffled. This was the height of the pandemic. We just come out -- I think this

A was two days before we come out of lockdown -- two days after, sorry. Are you wearing a face mask?

A. Me?

Q. Yeah.

A. It doesn't appear to be I'm wearing a face mask, no.

B Q. And you can see how close you are to me, yeah? I think there was either a 1-metre or 2-metre rule in place. So, you broke a social distancing rule coming to me. Can you see?

A. Um ... I can see, I can see that from the picture.

Q. Your Honour, does that look like a metre or 2 metres, that photo?

JUDGE HENDERSON: Well, we see the photo.

C MR LOGIE: Yeah. You broke the social distancing rules.

A. I'm not sure if I did, to be honest with you. I did try and keep my distance away.

Q. So, why didn't you wear a face mask?

A. Sorry?

D Q. Why didn't you wear a face mask?

A. I wasn't wearing a face mask on that day. I was out and about.

Q. I'm not just saying this thingamabob(?) but after this photo, I've got proof here I got coronavirus and I was in hospital for two weeks. And I believe I caught it off you.

A. Okay. I can't say whether or not you did or you didn't.

E Q. So, why weren't you a wearing a face mask?

A. As far as I know, I didn't have coronavirus --

Q. If you know you was doing an exercise that day, why did you not wear a face mask when you're approaching me?

F A. Um ... I'm not sure.

Q. So, why didn't you ask for CCTV? You said it's covered in this location. Why didn't ask you for it? To back up your evidence.

A. I didn't think I needed it because I was relying on my observations.

Q. What you're doing here, you're victimising me. This is my job. It's my livelihood.

G A. If that's what you believe, but I wasn't victimising you.

Q. You're not doing your job properly. You should get the CCTV and actually watch it. That's it, your Honour.

JUDGE HENDERSON: Thank you. Thank very much indeed. You can go.

H A. Thank you.

(The witness withdrew)

MR BARBOUR: Your Honour, the next witness and the final live witness, Mr Rag Singh

Kang, please.

RAGINDER SINGH KANG, affirmed

Examination-in-chief by MR BARBOUR

MR BARBOUR: Could you give the court your full name, please.

A. Raginder Singh Kang.

Q. Is it right, Mr Kang, that you're employed as a street trading enforcement officer by Birmingham City Council?

A. Yes, I am.

Q. Now, you're here to give evidence today in relation to events from December 2020. It's some time ago. Was that still your job or was that your job in December 2020 as well?

A. Yes, it is.

Q. Now, in fact, you're here to give evidence in relation to the events of 4 December, 17th, 18th and 22nd, so you were there on all of the dates we've heard about; is that right?

A. Yes, that's correct.

Q. Before we move on to the specific dates, I was wondering if you could assist me by setting out just in brief terms what your view is, what your professional opinion is as a street trading enforcement officer on the difference between street trading and peddling?

A. Yeah, certainly. A pedlar's certificate is issued by the local police authority which is £12.50 a year. A street trading consent is applied to Birmingham City Council via an application process and an application fee, and the application is consulted with many agencies before permission is granted, and the cost for the city centre is approximately £5,500.

Q. Thank you. Do you know off the top of your head how many street trading licences are issued by Birmingham City Council? If you don't know off the top of your head, please say so, because it's perhaps an unfair question to put you on the spot.

A. Across the city, including the city centre and football matches, approximately 40.

Q. Now, dealing with the first date, 4 December 2020, you were taking part in an exercise with Janice Morrison and I believe you were accompanied by two police officers. Is that correct?

A. Yes, that's correct, yes.

Q. The purpose of the exercise is to identify people street trading without appropriate licence; is that correct?

A. That's correct, yes.

Q. The exercise was focused on High Street in Birmingham; is that right?

A. High Street and New Street.

- A Q. And the exercise was due to take place from 11 am to 1 pm; is that right?
A. That's correct, yes.
- Q. Now, on the way to meet -- or where were you due to meet your colleague?
A. Outside the Bullring, statue by the Bullring.
- Q. On the way to meet your colleague, was there something that caught your eye?
B A. Yes, I saw Mr Andrew Logie with his stall, trading outside Primark, I believe.
Q. What time was that, please?
A. I'd need to refresh my mind from my statement but it would have been approximately after 11.
- Q. You were meeting at 11 o'clock and it was before that. I don't think there's any dispute about what's in the statement. If I said it was 10:35, would that accord with your recollection?
C A. That's about right. I would have parked up and walked via that area to the statue.
- Q. After you met your colleague, did you return to Mr Logie?
D A. Yes, we did.
Q. And do you recall what time you approached him?
A. Again, 11.30-ish, 20 past 11, something like that.
Q. If I said it was shortly before 11:15, would that jog your memory, so to speak?
A. Yes, it would do, yeah.
- Q. Yourself and Janice Morrison identified yourselves; is that correct?
E A. Yes, we showed our ID badges.
Q. And your colleague, I believe, informed Mr Logie, we've heard, about the enforcement exercise?
F A. Yes, she did, yes.
Q. Do you recall what Mr Logie's response was?
A. I recall him saying that he's peddling.
Q. And did he produce a pedlar's licence?
A. Yes, he did.
- Q. We've seen that already in the exhibits bundle, I won't take you to it, but do you recall it was issued by Staffordshire Police?
G A. Yes.
Q. And it had on there his name, address, details those sorts of things?
H A. Yes.
Q. And I believe your colleague took a photograph of that?
A. Yes, he did.

- A Q. And then the licence was returned to Mr Logie, was it?
A. Yes, it was.
- Q. Do you recall what the pedlar's licence allowed him to trade and sell?
A. I believe it was toys, novelty toys.
- B Q. And what was it that was being displayed on Mr Logie's trolley, as best you can recall?
A. I can recall face masks, and sort of -- it was face masks, laminated signs and sort of other illuminated toys.
- Q. If I could ask you to turn, please, to page 4 in the bundle of documents in front of you.
A. Yep.
- C Q. Does that accord with your recollection of what was for sale on the trolley on 4 December?
A. Yes, that's correct, yes.
- Q. I believe that was a photograph. We've heard from Janice Morrison that that was a photograph she took on 4 December. Your colleague asked Mr Logie for his details; is that right?
D A. That's correct, yes.
- Q. And the details were recorded on the enforcement pro forma?
A. Mm-hm.
- Q. We don't have a copy of that pro forma but is your recollection that the details provided matched up with those that were on the pedlar's certificate?
E A. Yes, that's correct.
- Q. Was Mr Logie informed that you believed he was committing offences of street trading without consent?
A. Yes, he was.
- F Q. And is it right that you issued a warning letter to Mr Logie which we can see at page 1 in the bundle?
A. That's correct, yes.
- Q. We can see there Mr Logie's details, the date is 4 December, Mr Logie's name and address; it says location, High Street. Was that a standard letter that you were carrying with you on the day to warn people about street trading without consent?
G A. Yes, that's correct.
- Q. Can we see there under "yours sincerely", is that your signature?
A. Yes, it is.
- H Q. Thank you. As I say, your colleague took a photograph of the trolley which we've looked at. You then left and that was the end of your dealings with Mr Logie on that date; is that correct?

A. That's correct, yes.

A Q. The next involvement you had was on 17 December 2020; is that right?

A. That's correct, yes.

Q. And on that day, did you see Mr Logie again?

A. Yes, I did.

B Q. Do you recall where you saw Mr Logie?

A. On High Street.

Q. Do you recall precisely where on High Street you saw him?

A. It would have been Primark, outside Primark.

Q. And do you recall the times that you observed him?

C A. It was probably about a half-an-hour period just after 3, before 4.

Q. So, if I told you it was 3.30 to 3.55, would you tell me that sounds about right?

A. Yes.

Q. And did he move in that time?

D A. No.

Q. I believe you took a photograph of the trolley. If I could ask you to turn to page 2, there are in fact two photographs on there. Are these the photographs that you took on 17 December?

A. Yes, they are.

E Q. It may just be me looking at it. Is the trolley in two different places there or is the angle just slightly deceiving?

A. I think the angle is deceiving.

MR LOGIE: What page is it?

F MR BARBOUR: Page 2. That then concluded your dealings on 17 December; is that right?

A. That's right, yes.

Q. You then saw Mr Logie again on 18 December; is that right?

A. That's correct, yes.

G Q. When again you were with your colleagues Sarah Hemsell and Janice Morrison conducting a similar exercise, same time and also accompanied by two police officers; is that right?

A. Yes, that's correct.

Q. You had been outside -- dealing with somebody else outside Sainsbury's at Union Passage; is that right?

H A. Yes.

Q. And then moved towards the High Street?

A. Back on to the High Street, yes.

A Q. You turned right on to the High Street?

A. Yes.

Q. What did you see when you turned on to the High Street please?

A. We saw again Mr Logie with his trolley. And it looked like he was avoiding the rain but he was on High Street.

B Q. And was he stationary or was he moving?

A. Stationary.

Q. When you turned the corner with the police officers and your colleagues, what happened then?

C A. We approached him, and I believe Janice cautioned him again, at which he became a little bit agitated and took his phone out to record, and he wouldn't provide his details.

Q. Again, was he asked to fill in a pro forma?

A. Yes, Janice asked for his information. She wanted to record that on the enforcement pro forma but he refused to provide that information.

D Q. And then after that exchange which we've heard evidence about, did Mr Logie stay where he was or did he move away?

A. He sort of moved a short distance away from us.

Q. Did that conclude then your dealings with him on that occasion?

E A. Yes, it did.

Q. The final date that you saw Mr Logie was 22 December as well; is that right?

A. That's correct, yes.

Q. Again you were on an operation, this time with your colleague Shahid Ali and Esther Kempson on the High Street in the city centre; is that right?

F A. That's correct, yes.

Q. Again you saw Mr Logie; do you recall what time you saw Mr Logie? If I could jog your memory, this was the same 11 to 1 o'clock exercise.

A. Yeah, it would have been probably about 11.30.

G Q. I think you did see him around 11.30. Perhaps if I could -- have you got a copy of your statement with you?

A. Yes, I have.

Q. Your Honour, perhaps would the witness be permitted to refresh his memory from that document?

H JUDGE HENDERSON: Mm.

MR BARBOUR: If I could ask you to turn, please, on to continuation sheet number 2.

- A. Yes, okay, yeah.
- A Q. And the second paragraph, the final time is in relation to 22 December; the paragraph after that, perhaps if you could read to yourself to the end of that page and I'll ask you again.
(Pause)
- A. Okay.
- B Q. So, what time did you first see Mr Logie on 22 December?
A. It was 10:51.
Q. And where on the High Street was he?
A. He was outside the Primark store.
- C Q. Again, was he with his trolley, the same trolley you'd seen on the 18th, 17th and 4 December?
A. Yeah, same trolley, same set-up.
Q. In terms of the clothing he was wearing, was there anything distinctive about the clothes?
(Pause) Or if I ask it this way, was he wearing the same or similar clothes to those he'd been wearing on the 18th, 17th and 4th?
- D A. Yes. It's -- yes, identical. This red and white and blue jacket.
Q. Now, I believe you saw Mr Logie again on 22 December. Do you recall what time that was?
A. Yeah, 11:26.
- E Q. Was he in the same location he had been when you'd seen him at 10:51?
A. He was still on the High Street.
Q. Do you recall whether he was in the same location?
A. Yeah, he'd moved near the gym.
- F Q. And when you saw him outside the gym, did you speak to him?
A. My colleague spoke to him. Shahid spoke to him. Shahid tried to caution him.
Q. What happened when he tried to caution him?
A. Mr Logie gave fake details, a fake name, and my colleague Esther Kempson picked up on that and advised Shahid that that's the incorrect name given.
- G Q. What happened then?
A. At this point, Mr Logie became quite agitated and he tried to move his trolley away, and at one point he did sort of shove his trolley away from us, causing his trolley to sort of get jammed, and the face masks did fall off on to the floor.
- H Q. Is it right that you took some photographs whilst your colleague was trying to deal with Mr Logie?
A. That's correct, yes.

A Q. I think if you turn to page 3 in the bundle of documents in front of you -- in fact, sorry, I've got it mixed up myself. We can see a photograph there of what appears to be Mr Logie and the trolley. I think that blue building behind, can you confirm what -- it's obstructed by part of the building, but can you confirm what that is, please?

A. That's the gym.

B Q. Thank you. After your colleague had tried to deal with Mr Logie, is it right that he walked away with his trolley?

A. Yeah, he just moved away.

Q. And that concluded your dealings with him; is that right?

A. That's correct, yes.

C Q. Thank you. I have no further questions for you, but if you could wait there.

Cross-examination by MR LOGIE

MR LOGIE: Yeah. You said on the 18th, you come to me and it was raining.

A. Sorry?

D Q. About 18 December, you come up to me, you come round Union Street, then up High Street on 18 December --

A. Yes.

Q. -- with two police officers. Can you remember?

A. Yes, on the 18th.

E Q. Yeah. And you said I failed to give my details to you or to one of your --

A. It was my colleague you failed to give details to, yeah.

Q. Did I try and speak to you but you wouldn't speak to me?

A. No, I don't recall that.

F Q. You can't remember. You had a face mask on but is it like a snood right up to here, can you remember, and I kept speaking and speaking and I kept saying I've got a pedlar's licence, I'm literally just setting up but you wouldn't speak to me at all.

A. My colleague Janice was speaking to you.

Q. I was speaking to you.

G A. Yeah, but she was speaking to you, so if you had spoken to me I would have spoken back to you.

H Q. No, you didn't. I kept speaking and speaking to you and saying, look, I'm literally setting me table up to trade for the day, it was really raining that hard and I looked on my phone and I could see it was gonna rain all day, heavy rain, so ... I didn't trade that day on the 18th, at all. I just literally got there, put me face masks on the table, took my face masks off and went.

- A. No, your stall was set up.
- A Q. All right then. Your other colleague here, Shahid Ali -- you said in your statement when you saw me, I moved location. He said I went.
- A. Was that on the 22nd?
- Q. On the 18th.
- B A. I don't think I was --
- Q. Your statement is different to his?
- A. I don't think I was in the same exercise with Shahid on the 17th.
- Q. 18th.
- A. On the 18th.
- C Q. You are 'cause you're on the picture. Also, on page 2, page 2 is a photo, it's the bottom photo, you said I stayed in the same location. Can you see the bottom photo? You said you took this picture. It was my table and some other people at the back of it?
- A. Mm-hm.
- D Q. Why didn't you come -- any one time, have you ever come up to me and said, "Can you move please, you've been here like, say, 15, 20 minutes, can you move, please?"
- A. We have had conversations where I've reminded you that you need to be moving.
- Q. Did you come up to me and say, "Can you move, please?"
- A. I have on many occasions.
- E Q. Is it in your statement? So, you put in your statement you've come up to me and said, "Can you move, please, I've been observing you for, like, 15 minutes. Can you move?"
- A. Is this in relation to -- which date are we talking?
- Q. Any of the dates, really.
- F A. We've always had conversations. I said you should be moving --
- Q. You've never come up to me (overspeaking) --
- A. -- and I've always explained to yourself that you're illegally street trading, you're not peddling.
- Q. Why am I illegal street trading?
- G A. Because you're in one location persistently, day in and day out.
- Q. Have you ever heard of case laws?
- A. Sorry?
- Q. Have you ever heard of case laws? Have you ever read into 'em?
- H A. Sorry, I'm not familiar with the law.
- Q. Cases what have gone before the judges and the magistrates is called the case law.
- A. Okay.

A Q. In most case law, it's 15 to 20 minutes that you can move?
A. I can't determine the yes or no for that.

Q. On some of these particular occasions you said I was staying still, I was making personalised face masks. So, I had a face mask and just say you wanted one with the letter D on, it would take me like 10 minutes and people used to come back for 'em.

B A. I really don't recall you making personalised face masks. I really don't.
Q. You also said I stayed in the same location. Have you got video evidence of that? They are just screenshots?
A. Just photograph evidence.

C Q. Did you never think about -- is that covered by CCTV, that location?
A. I've not looked into that, no.
Q. I say it is covered by CCTV.
A. I've not -- I'm not aware, I've never asked the question.

D Q. Since these offences were committed, I always wear now a body cam, so I can prove in a court of law I'm acting as a pedlar.
A. That's your interpretation. I can't argue with you. But I can certainly disagree to the fact that you weren't peddling.

E Q. And also, when this face -- really, this is all in the witness -- when all these offences were committed, I know this ain't an excuse, but me daughter was in an eating disorder clinic and she -- I think she got admitted on beginning of November 2020 and this were when Covid was on, so we couldn't go -- **(Pause)** So, um ...
JUDGE HENDERSON: Have a sit-down for a second. I don't think this is really -- I think you need to ask this -- I want you to tell us about it --

F MR LOGIE: No. So, I used to go to one corner in the town --
JUDGE HENDERSON: Okay. Leave that for the moment. We are going to hear evidence from you in a second and you can tell us then, okay? I don't think you need to ask this witness about that.

G MR LOGIE: No.
JUDGE HENDERSON: We'll let this witness go, okay? Do you just want to sit down?
Good. Okay.
MR LOGIE: Just one question.
JUDGE HENDERSON: Yes. **(Pause)**

H MR LOGIE: Can you tell me what is the difference between LGMPA and the Pedlars Act?
A. Sorry?
Q. What is the difference between the LGMPA and the Pedlars Act?

A A. One is local government miscellaneous law 1982, one is the pedlars' law.
A Q. Have you ever read into 'em?
A. I've looked into them, yes.
Q. You knew of these nine exemptions where you can trade in a consent street?
A. No.
B Q. So, you never really read deep into 'em?
A. I wouldn't say I'm an expert or divulged(sic) that deep into that.
Q. But this is your job, this paperwork is quite simple to get on the Internet?
A. Yeah.
Q. This tells you nine thingamabobs where you're not street trading.
C A. When I've looked into that and spoke to my manager, we've agreed that you'd been illegally street trading and not peddling.
Q. These are so easy to get off the Internet; it will make your job so much easier and clearer for everyone not just me, for other pedlars who operate in Birmingham.
D A. I have seen those but obviously I can't recall every point or area of law, but I have seen those, yes.
Q. The point is pedlars are exempt, if you read into it, we are not street trading.
A. I think that's all about interpretation.
MALE SPEAKER: No, it's not. It's the law.
E JUDGE HENDERSON: We will decide.
MR LOGIE: Yeah. All right. Thank you.
A. Thank you.
JUDGE HENDERSON: Thanks very much.
F MR BARBOUR: Your Honour I just have one piece of re-examination.
JUDGE HENDERSON: Of course.

Re-examination by MR BARBOUR

MR BARBOUR: Officer, you've been asked about the difference between street trading and peddling. I don't think you dispute or -- you can tell me. Do you dispute that peddling is distinct from street trading with consent, under the Birmingham City Council consent?
G A. Yes, it is, absolutely.
Q. It is a separate thing, they are different, aren't they?
A. Both entirely different.
H Q. Yes. Thank you. That's the only question I've got.
JUDGE HENDERSON: Thank you.

(The witness withdrew)

A MR BARBOUR: Your Honour, there's one witness Esther Kempson whose name you've heard. It's been agreed that her statements can be read. She's been ill for a number of years now.

JUDGE HENDERSON: Okay.

MR BARBOUR: So, I'll read her statement and then two very brief statements as well.

B JUDGE HENDERSON: Yes.

MR BARBOUR: The statement of Esther Kempson; occupation is listed as street trading enforcement officer. Statement consisting of three pages with the standard statement of truth, signed and dated 27 January 2021. She lists her occupation with the Birmingham City Council as a licensing enforcement officer, and says she's authorised under the Local Government (Miscellaneous Provisions) Act 1982. She says:

ESTHER KEMPSON, read

D "On 22 December 2020 I took part in an enforcement exercise to identify illegal street trading in Birmingham city centre. I was occupied by licensing enforcement officer Shahid Ali and street trading enforcement officer Rag Kang. At approximately 10:51, I saw a white man who I recognised and know to be Andrew Logie. Despite Logie wearing a face mask, I recognised him from photographs and when I'd seen him in Birmingham previously. On this occasion, Logie stood behind a wheeled trolley. He was set up outside the Primark store in High Street, Birmingham city centre. He was wearing a distinctive red white and blue padded coat that stood out, a black face mask and baseball cap and blue ripped jeans. The wheeled trolley consisted of a large table top. Underneath the work surface was a storage space which held large brown cupboard boxes. Various face masks were arranged in neat rows covering the top of the trolley. An arrangement of children's light-up toys, plastic wands and swords were attached vertically to a weld mesh panel by using cable ties. There were signs saying, 'Flashing lights £3 each or two for £5', and 'Washable face masks, £2.50 each', and finally, 'Card and cash payments'. Logie moved across the road towards the gym where it is a bit more sheltered from the wind; it was a bitterly cold day.

H "At approximately 11.26 Logie was still on the High Street near the gym when the three of us decided to walk over to talk to him. Officer Ali advised Logie that he believed he'd been street trading without a street

A trading consent and gave him a caution. Almost immediately, Logie
became annoyed and started to argue with officer Ali. As Ali was trying
to record details on the illegal street trading enforcement pro forma,
Logie became uncooperative and tried to move the trolley and move it
away from officer Ali. When Ali asked Logie for his full name, he
B answered, 'Bridges.' I called over to Ali, 'No, his name is
Andrew Logie.' Logie became agitated and started to move his trolley
away. I took three photographs of the scene which I produce as exhibits
EK1, 2 and 3, signed and dated by myself."

C And for your Honour and your Honour's colleagues' reference, they are at pages 28 to
30 in the exhibits bundle:

D "I could see Logie was having difficulties manoeuvring the trolley. He
was pulling and pushing it back and forth to get it moving and trying to
steer away from us. As Logie turned the trolley, he gave it a sharp jerk
with speed sufficient to dislodge the stock. Many of the face masks
which were arranged on the top of the trolley fell off and into a pool of
water. I could see Logie becoming increasingly distressed and we
decided to withdraw to calm things down. We were without a police
attendance. We had no further dealings with him and left the scene at
E approximately 11:36."

F Two further very short statements; I don't intend to read them completely. They are
the two police officers, PC Purrell(?) and PC Millwood who just confirm, with an ordinary
statement of truth, that they attended with licensing enforcement officers on 18 December.
That's the case for the respondent.

JUDGE HENDERSON: Good. Thank you very much. I think it will be easier, Mr Barbour,
just so we can focus our minds on what your case is. I'm not asking you to argue it but just
to confirm it. In relation to 17 December --

MR BARBOUR: Yes.

G JUDGE HENDERSON: -- your case is largely -- well, is based to a significant extent on the
CCTV.

MR BARBOUR: Yes.

H JUDGE HENDERSON: That demonstrates on the face of it that he's in the same position
between 14:45 and 14:48; that's pages 5, 6 and 7, I think. It looks as though at 14:48 he
then moves the stall because at page 8, which is also 14:48 timed but 45 seconds, the stall
has moved.

A MR BARBOUR: Yes.
JUDGE HENDERSON: The stall is in the same position at 15:08 and I think then 15:14.
MR BARBOUR: Yes.
JUDGE HENDERSON: In that same position. So, effectively, you're saying that's the top and bottom of your case, in relation to that.

B MR BARBOUR: With one addition, which is Mr Kang's evidence that he also saw him in one place on the same date between -- I believe it was around 3.30 to 3.55.
JUDGE HENDERSON: Okay. On 18 December, effectively your people meet up with him, there's no evidence of him doing anything for any significant length of time because he's setting up and he's sheltering from the rain, by the sound of it.

C MR BARBOUR: Yes, I think the officer's evidence was, in essence, that he was already set up because the items were on the trolley but they happened to turn the corner and see him under cover.
JUDGE HENDERSON: Okay. And then in relation to 22 December, the case is that -- I think

D he's involved, you say, for 35 minutes in the same position?
MR BARBOUR: Yes.
JUDGE HENDERSON: Good, okay. Thanks very much. Mr Logie, I imagine you'll want to give evidence to us, do you?

E MR LOGIE: Yes.
JUDGE HENDERSON: Good.
MR LOGIE: On some things, yeah.
JUDGE HENDERSON: Do you want up to the witness box please, bring all the papers that you want with you and then we'll hear what you've got to say.

F MALE SPEAKER: (Sotto voce) Am I allowed to just discuss ...
MR BARBOUR: You've got to ask His Honour.
MR LOGIE: Your Honour, am I allowed to discuss it with my friend just for a couple of minutes?

G JUDGE HENDERSON: Yes. Of course. **(Pause)**
MR BARBOUR: Your Honour, I wonder if it might be more appropriate for me to leave court while they have those discussions. I'm just conscious that I'm sitting right next to them.
JUDGE HENDERSON: Yes, okay. **(Pause)**
MR LOGIE: (inaudible) this -- the respondent's --

H MALE SPEAKER: (Sotto voce) If you want to just make the point clear --
JUDGE HENDERSON: We'll wait until you --
MR LOGIE: Have you read through my submission what I sent through?

JUDGE HENDERSON: Yes.

A MR LOGIE: There's this one paperwork I just want to show you. When I was saying me daughter was if hospital, this proves she was in hospital.

JUDGE HENDERSON: I'm not going to doubt it.

MR LOGIE: Yeah (inaudible).

B JUDGE HENDERSON: (Sotto voce) Do you want to ask Mr Barbour to come back in, please?

MR LOGIE: What it was, sometimes, 'cause of Covid we couldn't go and see her. She used to ring home. I used to go one side of Birmingham (inaudible) I'm not using it as an excuse. And these are my pedlar's licence before. I've been doing it for quite some time. I've never been in trouble in my life. So, there's like one, two, three, four, five, six, seven.

C

JUDGE HENDERSON: How long do they last for?

MR LOGIE: One year.

JUDGE HENDERSON: Okay. How big an area do they cover?

D MR LOGIE: The whole of the UK.

JUDGE HENDERSON: Okay. **(Pause)**

MR LOGIE: Have you saw the nine -- you know on these forms, the nine ...

JUDGE HENDERSON: Yes. This is the nine categories of people, yes.

MR LOGIE: Yeah. **(Pause)**

E JUDGE HENDERSON: Yes. If you want to come and give evidence to us, come up to the witness box. Bring up your papers.

MR LOGIE: It was just this I was gonna show you, about me daughter.

F JUDGE HENDERSON: Okay. I just need to warn you about this. We've heard evidence from the prosecution witnesses. If you are going to disagree with them about any of the facts of the case, you'd better come into the witness box and tell us, because otherwise we'll have sworn evidence against you just saying your piece. But if you just want to argue the legal business, you don't need to go in the witness box to deal with that. **(Pause)**

ANDREW LOGIE, sworn

G JUDGE HENDERSON: I'll take you through some things.

A. Yeah.

JUDGE HENDERSON: I'm not going to stop you saying what you want to say but I'll just take you through some things first of all. First of all, your full name is Andrew Logie?

H A. Yeah, Andrew Logie.

JUDGE HENDERSON: And you live at 25 Kinder Avenue in Swadlincote, Newhall?

A. Yeah.

A JUDGE HENDERSON: Okay. I'll just make a note of that. Just while Mr Barbour was out, you said you've got, in fact we don't need to look at them, you've got a number of pedlar's licences.

A. Yeah.

JUDGE HENDERSON: They all last for a year.

B A. One year.

JUDGE HENDERSON: They cover the whole of the UK. How long have you held a pedlar's licence for? When did you first have one?

A. Um ... I've been doing it about nine or ten years.

C JUDGE HENDERSON: Okay. First of all, I'm just going to go through the dates that these charges relate to and see what you want to say about each one of them. First of all, you agree that on the 17th, 18th and 22 December it is you with the trolley?

A. Yes.

JUDGE HENDERSON: It's the same trolley each time?

D A. Yes.

JUDGE HENDERSON: Okay, and we can see the kind of stuff, we can see in some of the photos the kind of stuff you're selling.

A. Yeah.

E JUDGE HENDERSON: As you say, masks, toys and so on. Okay. Right. I'll ask you specifically about the case, then I'm just going to ask you about some general things. First of all in relation to 17 December, that's the first one that they say you committed an offence on.

A. Yeah. Is that when they give me the warning?

F JUDGE HENDERSON: Not the warning. The warning, they would say you were committing an offence then but they've not charged that. So, it's the second of the four, effectively. So, 17 December, it's the one where we've seen the stills from the CCTV.

A. Yeah.

G JUDGE HENDERSON: What they show is that between 14:45 and 14:48, you're in one position.

A. Yeah. Can I just get my bundle?

JUDGE HENDERSON: Yes, of course. I can see you're about to get stuck without. **(Pause)** These start at page 6.

H A. Yeah.

JUDGE HENDERSON: At page 6 they've helpfully put a circle round it.

A. Yeah.

A JUDGE HENDERSON: Over the page, to 14:48.
A. Yeah.
JUDGE HENDERSON: And in fact if we look at the top of the picture, it's 14:48:03. It's still in the same position. They've not put a circle round this one.
A. Yeah.

B JUDGE HENDERSON: It's in the same position. Over the page, 14:48:45 -- so, 42 seconds later -- you've moved it from, so to speak, A to B.
A. Yeah.
JUDGE HENDERSON: Okay. And the next picture, 15:08, it's still in apparently that same place.

C A. Yeah.
JUDGE HENDERSON: And then 15:14, it's in the same place. So, that is 26 minutes.
A. Yeah.
JUDGE HENDERSON: Okay.

D A. I've actually watched the video to this, 'cause they sent me a video.
JUDGE HENDERSON: Okay.
A. Now, I don't know if we've got time to watch the video today or if you've got it. You can see me from the first photo, what's on page 6.
JUDGE HENDERSON: Yep.

E A. Can you see this stall here?
JUDGE HENDERSON: Yes.
A. They sell like curly fries and doughnuts and stuff like that. You can actually see me, if you watch the video, me going to there and I got some curly fries that day. And then I went back, you can actually see me because I've got a red and white coat on.

F JUDGE HENDERSON: Yep.
A. Then I went up to the top and I was eating.
JUDGE HENDERSON: Okay. So, you --

G A. So, if you see the video, it's quite -- 'cause I wandered up there. Then I could see me go to this lickle stall and you see me holding like a white lickle bag.
JUDGE HENDERSON: Okay. And so, on the face of it it's in the same position between 14:48:45 and 15:14, so 26 minutes.
A. Yeah.

H JUDGE HENDERSON: Do you say that you stayed in one position -- that it stayed in the one position during that time?
A. I was having -- I was eating.

A JUDGE HENDERSON: Right. So, it did stay put but you were saying you were eating.
A. Yeah, I was on me break, yeah. If you could watch the video, you could actually see it.
JUDGE HENDERSON: Right. And also you've heard Mr Kang say that he saw you before --
sorry, after this, between 3.30 and 3.55; again I think he's saying in one position. Do you
agree with that?

B A. Has he got photos of it?
JUDGE HENDERSON: Do you agree with it or not?
A. No.
JUDGE HENDERSON: Okay.
A. 'Cause on me table, I have like a lickle timer.

C JUDGE HENDERSON: Okay.
A. I used to do it on my phone but now I've got like a lickle egg timer.
JUDGE HENDERSON: Right. Okay. Going on then to 18 December, it was raining; you
said something about looking, checking the weather forecast.

D A. Yeah.
JUDGE HENDERSON: To see that it was going to carry on raining. What did you do --
basically, as I understand it, the interaction with you and them on that day is a pretty short
time?

E A. Was literally minutes, yeah.
JUDGE HENDERSON: Did you have any more interaction with them after that on that day?
A. No, no.
JUDGE HENDERSON: Okay. Finally in terms of the charges, 22 December, again they say
that you stayed in one position for, I think, 35 minutes. What do you say about that? Do
you agree or not?

F A. Have they got -- no, I don't agree.
JUDGE HENDERSON: Okay.
A. Have they got video evidence of that?

G JUDGE HENDERSON: Well, they haven't shown us if they have. Okay. Now, I just want to
ask you some general questions. First of all, you've told us about this timer. What's your
-- you've got a kind of policy, have you, a strategy about how you deal with these things?
A. Well, I've contacted -- it's called pedlars.info and in most case law it's 15 to 20 minutes.
JUDGE HENDERSON: I was going to ask you about that. We've not seen any case law that

H says there's a time like that. Have you got any legal cases that say that?
A. Legal cases saying you can stand still for 15 or 20 minutes?
JUDGE HENDERSON: Yes.

A. I would have, yeah.

A JUDGE HENDERSON: We'll need to see them now because you're saying to us the law is that. If that is the law, then we need to know about it.

A. Yeah.

B JUDGE HENDERSON: But if it isn't, well, it isn't. But we can't take it just on your say-so that the law is that.

A. Oh, no.

JUDGE HENDERSON: And you've been waiting for this case for a long time. Okay. Right. I'll leave that as far as I'm concerned now. But I mean, that's the core of your case. You say, "The reason I'm not a street trader but I'm a pedlar is because I'm mobile."

C A. Yeah.

D JUDGE HENDERSON: "Because I don't stop for too long at a time, and that gets me sort of out of one category and into the other category." And of course everyone agrees that if you are indeed correctly a pedlar at that time, you're not covered by -- you're not prohibited and therefore you've not committed these offences, and that's the core of your case, isn't it?

A. Yeah.

JUDGE HENDERSON: Okay. Right, I'll let Mr Barbour ask some questions.

E MR BARBOUR: If you wait there, Mr Logie --

JUDGE HENDERSON: He's going to ask you --

A. Oh, sorry.

Cross-examination by MR BARBOUR

F MR BARBOUR: I've only got a few questions; I'll be as brief as I can. We know that you have a pedlar's licence because we've seen a photograph of it and you produced it to the officers on 4 December 2020, didn't you?

A. Yeah.

Q. But just to confirm, you don't have consent to street-trade in the Birmingham City Council area, do you?

G A. I do not, I don't have a street traders' licence, no. I have a pedlar's certificate.

Q. Because there's a difference between having a licence to street-trade and having a pedlar's certificate, isn't there?

A. Yeah.

H Q. We've heard about one of the major differences, which is that a pedlar's licence costs £12.50?

A. Yeah.

A Q. And a licence to street-trade costs £5,500. We've heard the evidence?
A. Yeah.

Q. Now, on 4 December 2020, you were approached outside Primark -- I think you accept that it was you, of course -- and that the officers spoke to you. Do you accept that you were stationary outside Primark on 4 December?

B A. Have you got evidence I was stationary?
Q. The officers all swore --
A. The warning one, was it the warning one?
Q. Yes, it was.
A. So ...

C Q. You've heard the officers give evidence that you were there?
A. Yeah, yeah.
Q. They saw you at 10:46 and again at 11:13 in the same place outside Primark, all right? Do you accept that you were stationary on that date for that period?

D A. Yeah.
Q. This isn't one of the offences, obviously; I'm just --
A. I can be stationary. I don't have to continuously keep moving.
Q. No, no. I'm just going to ask you about the factual issues, all right? The officers cautioned you and they told you that in their opinion you were street trading without a licence?

E A. Yeah, and I told them I had a pedlar's certificate.
Q. And that's when you produced it; that's how we have a photo of it in the exhibits bundle today.
A. Yeah.

F Q. You were issued with a warning letter with a link to more information and information about how to get a licence to street-trade in Birmingham?
A. Yeah, that's when I contacted pedlars.info.com(sic).
Q. And the officers told you that if you were illegally street trading again, that you'd be prosecuted. Is that right?

G A. Yeah.
Q. You've heard that that's why they were out there, to see who might be street trading without a licence?
A. Yeah.

H Q. Now, 17 December; His Honour has taken you through the CCTV. It shows you in one place at 14:45, you move at 14:48 and then you're in one place from 14:47 until 15:14. Now, you said that towards the beginning, I think 14:45, I think you said if we look at the

- A footage we can see that you were eating. But the reality is whether you were eating at the same time or not, you were at your stand; is that right?
- A. Where do you want me to go to eat?
- Q. But you were at your --
- A. Yeah, what can I do? If I got a stall with me, where can I put it if I'm eating?
- B Q. You were stationary, I suggest, so that customers --
- A. I was stationary 'cause I was eating me dinner.
- Q. Mr Logie, I suggest you were stationary --
- A. Have you got that video we can play now?
- Q. Mr Logie, I've got to ask you the question and then you can answer it, all right?
- C A. Yeah, yeah.
- Q. I suggest you were stationary so that customers could come to you to make a sale?
- A. No.
- Q. You're disputing that because you know that if customers were simply coming to you, you'd be street trading; is that right?
- D A. Where does it say that in the Pedlars Act 1871?
- Q. Pedlars Act deals with peddling?
- A. I was peddling.
- Q. Now --
- E A. There's a difference between peddling and street trading.
- Q. I agree with you.
- A. Yeah. If you got a street trader licence, it's from the council. Mine is issued by the police. I can go where and when I like.
- F Q. We agree on that. There is an issue of law about what is peddling and what is street trading. I just want to ask you about the CCTV when you were moving and why you were moving, all right? Because I'm going to suggest that when you moved your trolley from 14:48, from the first position near to the food van to further up the street, you moved it to take advantage of the defence you know is available to a pedlar. Do you agree?
- G A. No. Have you got the video? There's a lickle stick they sent me. Have you got it so we can play it, please. Then you will see me go into this stall here, you'll see me with a lickle, lickle white bag and carrying it back, then I'm eating -- I've got like curly fries in it.
- Q. What I'm suggesting is you moved your trolley to take advantage of the defence available to pedlars. Do you agree?
- H A. No. I was eating.
- Q. Mr Kang; you heard him give evidence --

- A. If you got time to watch the CCTV, you will clearly see me go into this stall with my red and white coat on, like you keep saying, this red and white coat, I go to there, I pick a lickle white bag up. You will see me a couple of times 'cause I ordered 'em, then I went back for 'em.
- Q. I'm not asking about whether you were eating something. I'm asking about why you moved your trolley and how long you were stationary (overspeaking) --
- A. Yeah, 'cause I was eating. I went further down.
- Q. I understand your evidence. I just have to ask you questions and put our case, all right? Mr Kang; you heard him give evidence that he then saw you outside Primark later on 17 December, stationary between 3.30 and 3.55. Do you agree that you were stationary outside Primark at those times?
- A. No. This area here is covered by CCTV. These are only screenshots. Why haven't you got the CCTV as evidence?
- Q. Mr Logie, you've asked the officers that question. I'm not a Birmingham City Council officer. You've already heard their answer. I'm asking whether you accept that you were stationary between this --
- A. Well, I asked them as well. They never gave me an answer.
- Q. They did give you an answer. The officers did give you an answer, with respect. Mr Ali, in particular, told you that he -- I think it was Mr Ali who said he didn't think it was necessary to get the CCTV because there was a combination of photos and his evidence.
- A. Well, I do. I think it's quite important because this is my livelihood.
- Q. Do you accept that you were stationary outside of Primark from 3.30 to 3.55?
- A. No.
- Q. I suggest that you were and that you were stationary because you were street trading, weren't you?
- A. No, I weren't street trading. I've got a pedlar's licence, I was exempt in a consent street.
- Q. Now, 18 December, you accept that officers saw you underneath a covered area on High Street?
- A. Yes, yes. I literally just got there, set up and went literally I was there less than ten minutes.
- Q. Now, it was raining at the time, wasn't it?
- A. Yes.
- Q. If you'd just set up your stall and you were about to go, all your things would get wet, wouldn't they?
- A. No. I take 'em off and put 'em under me table. It was really, really raining heavy.

- A Q. So, when you say that you'd just set up and you were about to move off, all your things would get wet if they are on your trolley, wouldn't they?
- A. They wouldn't. They'd go underneath.
- B Q. So, when officers were set up and they could see your items on the trolley --
- A. I was setting up at the particular time. I was literally -- I got there, set up and it was -- it washed it down that heavy and I thought -- and I looked at my phone, I thought oh, it's giving rain out all day now.
- C Q. If items weren't going to go on to the trolley and remained under the trolley, what is there to set up?
- A. The top of the trolley, where all the face masks are, there's all string through 'em and it's got like eye hooks each end. So, I put the string on, so when I'm pushing me trolley to a different location they don't just fall off. Do you understand?
- D Q. My point is, I'm suggesting the face masks would just get wet if you're about to move off and sell them.
- A. No, 'cause I took 'em back off and put them under the table in like Bags For Life.
- Q. Okay. But the officers say that the table was set up?
- A. Yeah, I was setting up at the time.
- Q. Right.
- E A. All right then.
- Q. Now --
- A. You're setting the stall up -- how do you think it sets up? It can't just set up itself. I've got to have time to set the stall up, just say it takes five or ten minutes to put all them strings up make them nice and tight so they don't wobble off.
- F Q. Mr Logie, I suggest that the stall was set up under cover for customers to come to you?
- A. No.
- Q. So, you could stay out of the rain, do you agree?
- A. No, not at all.
- G Q. And you started moving the trolley when officers saw you because you know that as a pedlar --
- A. No.
- Q. -- you have to be moving.
- H A. I even contacted the police and asked 'cause one had a camera on his -- is that the body cam, to see if I could get the body cam, and I couldn't get it. 'Cause when he come round the corner, if he's got that body cam he will see half my stall is not set up.
- Q. Mr Logie, I suggest that you were stationary --

A. No.

A Q. -- and that you were street trading?

A. No, I completely disagree.

Q. 22 December, you were seen by officers on the High Street outside the gym, and again their evidence is that your stall was stationary. Do you agree with that?

B A. No.

Q. Mr Kang says he saw you at 10:51 and again at 11:26. Do you agree?

A. No, no.

Q. You were stationary between those times?

A. No.

C Q. When the officers --

A. You can stay stationary -- like I told your Honour, it's 15 to 20 minutes in case law, I'm just going to try and find it out. You got --

Q. Now --

D A. Can I just get the case law.

JUDGE HENDERSON: We'll do that in a second.

A. Thank you.

JUDGE HENDERSON: We'll just finish the evidence and then we'll deal with the law in a moment.

E A. Okay. Thank you.

MR BARBOUR: Now, when the officers approached you, you started to move the trolley. Do you agree?

A. What --

F Q. On 22 December.

A. Like I said to them, did they wear uniform? No. I've never saw this blonde lady before in my life, so I wouldn't know who she is. It's like you coming up to me in a street. "Ooh, she could be the council, I'll move"? I dunno who you are.

G Q. Well, if somebody approaches you and cautions you for the offence of illegal street trading --

A. Yeah, but they said I moved before they said I moved before I see 'em. How can I move if I don't even know who the council are? It's like in Manchester, when I used to peddle there when I was homeless, they wear actually uniform. They wear like all red and -- a red Vیزی vest.

H Q. Now, the officers cautioned you. They tried to get your details and you gave them a false name?

- A. No, no. That's all fabricated, made up, completely.
- A Q. You refused to give your details --
- A. Why would I say a fake name? I was saying to him -- I had a face mask on, I was telling this gentleman here to put his face mask on. That's why I weren't speaking to him. When you wear a heavy-duty face mask, it's like muffled slightly. Why would I say I'm
- B Mr Briggs or Bridges when they've saw me before? I don't need to lie who I am. I'm a lawful pedlar. Why do I need to lie? To have a pedlar's licence, you've got to have a good character. Why would I say I'm Mr Bridges?
- Q. Mr Logie, I suggest because you knew that you were street trading without a licence. Do you agree?
- C A. So, why would I -- no. Why would I lie saying I'm Mr Bridges when they've been to me before and they know I'm Andrew Logie?
- Q. Your evidence is you didn't recognise them.
- A. I did recognise them. That was after they come to me.
- D Q. Right.
- A. You're saying that, you're saying when the council come, before they come I spot them, I move. It could be Joe member of the -- it could be anyone coming up to me. I dunno who they are.
- Q. You then tried get away from the officers or you walked away from the officers, didn't you?
- E A. No. When that occasion it was Shahid Ali, I was telling him to wear a face mask. He never had a face mask. On his job, he should have a face mask on. Do you agree?
- Q. You then became aggressive --
- F A. Do you agree?
- Q. -- with the officers -- it's not for me to answer the questions, Mr Logie. You just have to answer the questions I'm asking you. I think your answer was no, you disagreed with me that you walked away, and then gave a different answer. Do you agree that you walked away from the officers? Yes or no?
- G A. Yeah, because he didn't have a face mask on.
- Q. And you became aggressive towards the officers.
- A. No, I'm not even -- I'm not an aggressive sort of person. You can ask anyone who knows me. I'm not aggressive.
- H Q. Mr Logie, you understand that our case is that in order for you to be covered by your pedlar's licence -- you've seen the case law set out, I'm not going to go into detail about it -- but that you need to be moving and then stopping only to make a sale, all right?

A. So, where does that say -- can you tell me in law where it says that?

A. It's in writing. We've given it to you. I suggest that you --

A. Have you ever looked at case laws?

Q. Mr Logie, I've got to put my case to you.

A. Go on then.

Q. I suggest that you set up your stall in a stationary position and that you waited for customers to come to you. Would you agree?

A. No.

Q. And that on the 17th --

A. I always say if you go to the customer, you'll always sell more. You're talking -- at the time that this offence was committed, I think it was either 1-metre or 2-metre rule in place. Do you recall?

Q. I don't recall. I don't remember what the rules were in 2020.

A. You don't remember the pandemic?

Q. I remember the pandemic --

A. You don't remember how many people died in the pandemic?

JUDGE HENDERSON: Let's not get into that.

MR BARBOUR: Yes, that's not what we are here for, Mr Logie. I suggest that you were waiting for customers to come to you.

A. No.

MR BARBOUR: That on the 17th, 18th and on the 22nd --

A. The pandemic -- the pandemic made it harder for me to approach a customer because obviously some people -- say you approach a customer, they're like, "Ooh." Do you understand what I'm saying.

Q. Peddling isn't that you have to approach customers; it's that you have to be on the move to advertise your wares to customers --

A. Yeah, if you're approaching customers, you've got to be on the move, haven't yer? Do you agree?

Q. Sorry?

A. If I'm approaching customers, I've got to be on the move.

Q. I think you've misunderstood what I was saying. What I'm suggesting is that you were stationary --

A. No.

Q. -- waiting for customers to come to you and that you were street trading on the three days representing the three charges. Would you agree?

A. No, no, I don't agree.

A Q. And that you were street trading without consent and therefore committing an offence?

A. No. No.

Q. Mr Logie, I have no further questions for you. Does your Honour have any questions --

A. Your Honour, can I just get them case laws, please?

B JUDGE HENDERSON: Yes.

A. Thank you. **(Pause)**

MR LOGIE: Can my friend just give a little bit of advice to yer? 'Cause I don't really understand

JUDGE HENDERSON: You'll need to show us the documents first of all.

C MALE SPEAKER: Yes. Thank you. Can I explain to the clerk ... (Sotto voce discussion amongst various speakers). You've already said you've seen that.

MR BARBOUR: No, I think that's what you tried to show -- you showed me a different --

MALE SPEAKER: I showed you, it's there, 15 to 20.

D MR BARBOUR: No, no. I'm not suggesting -- I'm just saying this is different to what you showed me earlier. It's a slightly different document.

MR LOGIE: (Sotto voce discussion) **(Pause)**

JUDGE HENDERSON: Yes. That's not an authority. That's an argument -- I don't mean argument in a formal sense. That's a discussion between two people. It doesn't carry any

E status. It's not a decided case.

MR LOGIE: This was in -- is it the *Pepper v Hart*?

JUDGE HENDERSON: I don't know.

MR BARBOUR: I think *Pepper v Hart* is the authority that says that the court can rely on

F discussions in Parliament, where appropriate, to understand --

A. And this was done in Parliament.

MR BARBOUR: It's a point on statutory interpretation but I would say it doesn't apply here or carry weight.

JUDGE HENDERSON: Okay. That's the thing you wanted us to see?

G MR LOGIE: Yeah. All I can do, when I contact pedlars.info, they tell West Midlands -- if you go on the West Midlands Police website, it says if you need any more information about pedlars, go to pedlars.info. That's how I can go there for advice. Soon as this offence was -- alleged offence was committed, I can go to them and ask for advice.

H JUDGE HENDERSON: Yes.

MR LOGIE: So, that's where I can go from, that's what I do.

JUDGE HENDERSON: Okay. Right. Anything else that you want to say to us about the

case?

A MR LOGIE: No.

JUDGE HENDERSON: Okay. Good. Well, we'll rise and we'll discuss it and we'll come back with our decision in due course. Thank you very much.

(3.38 pm)

(A short adjournment)

B (3.59 pm)

RULING

JUDGE HENDERSON: Please sit down, everybody. This is an appeal against conviction in respect of three offences alleged of being a street trader trading without a licence.

C Mr Logie represents himself. He very helpfully provided the court with some documents setting out his position in the case well in advance. We found them very helpful indeed and we are grateful to him for that, and we are very grateful to Mr Barbour who appears on behalf of the respondent prosecutor.

D Street trading is regulated in England by the Local Government (Miscellaneous Provisions) Act 1982, schedule 4. There is a licensing structure set up under that Act. The appellant does not hold a licence under that Act and never has. Subject to one significant and relevant exception, someone who trades in the street without a licence is guilty of an offence. But there is an exception under Section 1(2)(a) of schedule 4, I think it is, in the case of someone acting as a pedlar under the authority of a pedlar's certificate. Mr Logie was, at the relevant time, the holder of such a certificate and has been for some time. The practical difference between holding such a certificate is it is relatively cheap to buy, as opposed to a street trader's licence which costs over £5,000.

E F The issue in this case is whether he comes within the exception in the sense that he was truly to be described as acting as a pedlar under the authority of a pedlar's certificate. The authorities that relate to this, in particular the case of *Jones v Bath City Council*, I think it is, in which Mr Justice Mitting put it in this way, "Being a pedlar requires a person to be both peripatetic and ambulatory." Concretely, that means somebody who is transporting themselves during the process and ambulatory as that case, and the other authorities which are consistent on the point, confirm. This needs to be a small-scale and mobile undertaking.

G H This case turns on its facts. Was the defendant on the relevant occasion trading in the way that would exempt him from the regulations? We remind ourselves in terms of assessing this case that the burden of proof is on the prosecution and they only support their conviction if they make us sure of the defendant's guilt.

A On each occasion, the defendant was using a mobile stall. It had four wheels, at least
some of them with a kickdown brake to keep it still. The defendant in fact agrees most of
the alleged facts. First of all, in relation to 17 December, the CCTV stills that we have
seen, and he confirms, show first of all that he's in one position for at least three minutes or
so from 2.45 to 2.48 pm. He then moves his stall, if that is what we call it, for a distance
B of something like 30 yards or so, and it is in one position between 14:48 and 15:14;
26 minutes. The defendant says he was eating his lunch during that time, which may well
be, but we know perfectly well you can eat your lunch whilst standing behind the counter.

C He does not agree the assertion that he was in one place near Primark between 3.30
and 3.55 on 22 December. On 18 December, his stall was set up. There was a brief
interaction between him and the authorities. It was raining. As I say, he had just set up. It
was there, on his account, for something like ten minutes. On 22 December, we accept
that he was set up for 35 minutes.

D It is a question of fact and degree whether the defendant was peripatetic and
ambulatory. He certainly does not need to be on the move all the time, as the authorities
make clear. But being peripatetic and ambulatory is the essence of being a pedlar and it is
a question of scale and duration.

E We are sure that what the defendant was doing on all three of these occasions in
respect of which he is being charged was outside the protection of being a pedlar. He was
a street seller.

F He has given us a document which is the basis of his assertion that there is some kind
of informal 15 to 20-minute rule that allows someone to remain in one place and to remain
within the pedlars' exemption, if I can put it that way. We do not know the source of that
document. It is plainly not a legal authority. It has some kind of discussion but has no
authority so far as we are concerned, and it is central to his case. It simply does not reflect
our view of the law. There is no such informal 15 to 20-minute rule. It may be that people
G sometimes do not enforce it, in the way that people do not enforce speed limits when
people travel a couple of miles an hour over the limit, but it does not mean they are not
breaking the speed limit. So, as I say, it has no formal value as far as we are concerned.

But quite apart from that, the scale of what he was doing and his being in a fixed
position for significant lengths of time take him outside the exception for pedlars, and he
was a street trader and is, therefore, guilty of these offences and we dismiss the appeals.

H MR BARBOUR: Your Honour, in relation to sentence, each offence has a maximum fine of
£1,000 which is a level 3 fine.

JUDGE HENDERSON: Yes. The magistrates effectively fined him £1,000, dividing it up --

MR BARBOUR: Yes.

JUDGE HENDERSON: -- in the way they did. We don't propose to interfere with that.

MR BARBOUR: They did. There is an application for costs of the appeal in a total of £1,352.40, comprising counsel costs of £500, officer costs of £243.30 and legal costs of £609.10. I note, and I say this for Mr Logie's benefit, that certainly in the magistrates' court he informed the court he was of limited means, but I'll let him address you in relation to that.

JUDGE HENDERSON: Okay. Yes, Mr Logie, anything you want to say about that?

MR LOGIE: No, your Honour. You said the principle of law would be done today. I just want to know if I could take it to a higher court. I mean, I want this as a case statement in law.

JUDGE HENDERSON: I wouldn't give you legal advice but I'll tell you this much legal advice. You can take this to a higher court. You could go to the administrative court but you'll have to -- I'm not going to give any more advice than that. You can seek to appeal it and a court may or may not consider it, but you can, in that sense, take it further.

MR LOGIE: Can you make this as a case statement?

JUDGE HENDERSON: I'm not going to deal with that today but if you decide to go down that road and put in a formal request, then I'll consider it, okay?

MR LOGIE: Thank you.

JUDGE HENDERSON: Okay. Thanks very much. Do you want to say anything about the costs? We are liable to order you to pay them.

MR LOGIE: Well, I won't have a job after this, will I. **(Pause)**

JUDGE HENDERSON: We will direct that the defendant pay £500 towards the prosecution costs as before. Thanks very much indeed. We will rise.

(4.07 pm)

(The court adjourned)

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Claim No.
CO/816/2023

Name of Claimant
Andrew Logie

Name of Defendant
Birmingham City Council

What documents did you serve?

Please attach copies of the documents you have not already filed with the court.

Judicial Review Form N461

On whom did you serve?

(If appropriate include their position e.g. partner, director).

Birmingham City Council City Solicitor

How did you serve the documents?

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by first class post or other service which provides for delivery on the next business day

by delivering to or leaving at a permitted place

by personally handing it to or leaving it with (.....time left, where document is other than a claim form) (please specify)

City Solicitors Office

by other means permitted by the court (please specify)

by Document Exchange

by fax machine (.....time sent, where document is other than a claim form) (you may want to enclose a copy of the transmission sheet)

by other electronic means (.....time sent, where document is other than a claim form) (please specify)

Give the address where service effected, include fax or DX number, e-mail address or other electronic identification

50 Newton Street, Birmingham, B4 6NE

Being the claimant's defendant's
 solicitor's litigation friend

usual residence

last known residence

place of business

principal place of business

last known place of business

last known principal place of business

principal office of the partnership

principal office of the corporation

principal office of the company

place of business of the partnership/company/ corporation within the jurisdiction with a connection to claim

other (please specify)

I believe that the facts stated in this certificate are true.

Full name Andrew Logie

Signed

(Claimant) (Defendant) ('s solicitor) ('s litigation friend)

Position or office held

(If signing on behalf of firm or company)

Date

09/03/2023

Judicial Review

Claim form

For Court use only

Name of court

High Court of Justice
Administrative Court

Reference number

Date

Day

Month

Year

Help with fees reference number

H W F - -

The rules relating to applications for Judicial Review are contained in CPR Part 54, and Practice Directions 54A – D. Search for the CPR on www.justice.gov.uk.

Additional information about judicial review proceedings can be found in the Administrative Court Judicial Review Guide. Search for the Guide on www.gov.uk.

SEAL

Time Limit for filing a claim

A claim form must be filed promptly, and in any event **not later than 3 months** after the grounds to make the claim first arose: see CPR54.5(1).

Section 1 – Details of the claimant and defendant

Note: If there is more than one claimant, see the details required by questions 1, 1.1 and 1.1.1 on a separate sheet, make that sheet so that it relates to this part claim form.

1. Claimant name and address(es)

First name(s)

Andrew

Last name

LOGIE

Address

Building and street

25 Kinder Avenue

Second line of address

Newhall

Town or city

SWADLINCOTE

County (optional)

Derbyshire

Postcode

DE11101R9

Phone number

07496377526

Email (if you have one)

Samlayla@live.co.uk

Claimant or claimant's legal representative's address to which documents should be sent.

Note 1.1: CPR 6.23 requires each party to proceedings to provide an address for service which must be an address in the United Kingdom. Communication concerning the claim is sent to this address. If a solicitor or legal representative acts for you, give that address (if in the United Kingdom). If not, provide an address to which communication concerning this claim should be sent.

Name of claimant or claimant's legal representative's

litigant in person

Name of firm (if applicable)

Address for service

Building and street

Second line of address

Town or city

County (optional)

Postcode

| | | | | | | |

Phone number

Email

Reference number (if applicable)

1.2 Claimant's Counsel's details

First name(s)

N/A

Last name

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

--	--	--	--	--	--	--	--

Phone number

Email

1st Defendant's name

BIRMINGHAM CITY COUNCIL

Defendant or (where known) Defendant's legal representative's address to which documents should be sent.

Address

Building and street

50 New Street

Second line of address

Town or city

Birmingham

County (optional)

Postcode

B14 1BN/E

Phone number

Email

Reference number (if known)

1.5 2nd Defendant's name

1.6 Defendant's or (where known) Defendant's legal representative's address to which documents should be sent.

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

Phone number

Email

Reference number (if applicable)

Section 2 - Interested parties

Interested party

Name

Organisation (if applicable)

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

Phone number

Email

Reference number (if applicable)

Note 6 An interested party is someone other than a defendant who is directly affected by the claim.

Where the claim for judicial review relates to proceedings in a court or tribunal, any other parties to those proceedings must be named in the claim form as interested parties. Full details of interested parties must be included in the claim form. For example, if you were a defendant in a criminal case in the Magistrates or Crown Court and are making a claim for judicial review of a decision in that case, the prosecution must be named as an interested party. In a claim which does not relate to a decision of a court or tribunal, you should give details of any persons directly affected by the decision you wish to challenge.

If you consider there is more than one interested party, set out their details on a separate sheet, marking that sheet so that it is clear it relates to this part of the claim form.

Section 3 – Details of the decision to be judicially reviewed

Note 3.1: Use a separate sheet if you need more space for your answers, marking clearly which section the information refers to.

3.1 Give details of the decision you seek to have judicially reviewed.

The decisions of the Magistrates Court and the Crown Court to allow only examination of the facts under the Local Government (Miscellaneous Provisions) Act (LGMPA) Schedule 4 Section 10 Offences, and the decision by each court to deny my right to examination of the facts and relevant law under the LGMPA

Schedule 4 Section 2(A) and the Pedlars Act.

3.2 Date of decision

Day Month Year
02 12 2022.

3.3 Name and address of the court, tribunal, person or body who made the decision to be reviewed.

Name

Andrew Loeie

Address

Building and street

25 Kinder Avenue

Second line of address

Newhall

Town or city

Swadlincote

County (optional)

Derbyshire.

Postcode

DE111029

Section 4 – Permission to proceed with a claim for judicial review

This section must be completed. You must answer all the questions and give further details where required.

I am seeking permission to proceed with my claim for Judicial Review.

Is this application being made under the terms of paragraph 17 Practice Direction 54A (Challenging removal)?

Yes

No

4.2 Does your claim, or any interlocutory application, for example for interim relief or expedition, need to be decided urgently – i.e. within 7 days?

Yes. Complete form **N463** and file this with your application.

No

4.3 Are you making any non-urgent interlocutory applications?

Yes. Complete Section 9.

No

4.4 Does any part of the claim allege a breach of Convention rights protected under the Human Rights Act?

Yes. Identify the Convention rights you contend have been breached in the box below

No

Note 4.5: See Practice Direction 54C.

4.5 Have you complied with the pre-action protocol?

Yes

No. Give reasons for non-compliance in the box below.

I am uncertain as to how to complete this box as I suffer with dyslexia and require further assistance as I cannot find the Pre-action Protocol reference in PD54C as per Note 4.5 I have informed Birmingham

City Council that ~~we~~ intend to take the matter to Judicial review.

4.6 Have you filed this claim in the region with which the claim is most closely connected?

Yes. Give any additional reasons for wanting it to be dealt with in this region in the box below

No. Give reasons in the box below

4.7 Is the claimant in receipt of a Civil Legal Aid Certificate?

Yes

No

Section 5 - Statement of facts relied on

set out below

attached

Please See attached 2 page
answers to Section 5 and
Section 6.

Note 5: Set out the facts on which your claim is based: see Practice Direction 54A, paragraph 4.2. Use separate sheets if you need more space; mark the sheets so that it is clear they relate to this section of the claim form.

Section 6 – Detailed statement of grounds

6.1 The detailed statement of grounds are:

set out below

attached

Please See attached 2
Page answers to Section
5 and Section 6.

Note 6: Set out each ground of challenge in separate sheets if you need more space; mark the sheets so that it is clear they relate to the section of the claim for

Section 7 – Aarhus Convention claim

Is this claim an Aarhus Convention claim

Yes. Give reasons why in the box below.

No

2 Do you wish the court to vary or remove the limits on costs recoverable from a party?

Yes. Give reasons why in the box below.

No

Note 7: For the definition of an Aarhus claim, see CPR 45.41. The cost limit provisions are at CPR 45.43 – 44.

Section 8 – Details of remedy (including any interim remedy) being sought

I am Seeking a quashing order for decisions made in the Magistrates Court and the Crown Court in this matter.

Note 8: State precisely the terms of the order you ask the court to make. Available remedies are CPR 54.2 – 3. The court may make any/all of the following orders:

- (a) a mandatory order;
- (b) a prohibiting order;
- (c) a quashing order; or
- (d) an injunction restraining a person from acting in any office in which he is not entitled to act.

A claim for damages may be included but only if you are seeking one of the orders set out above.

Section 9 – Other applications (non-urgent)

9.1 I wish to make the following applications for directions and/or interlocutory orders:

Note 9: If you wish to make any interlocutory application now, set out the application and the reasons and/or evidence relied on in support of it in this Section. Use separate sheets if you need more space; mark the sheets so that it is clear they relate to this section of the claim form.

If, after this claim form has been filed, you wish to make an interlocutory application, use form N244.

Section 10 – Supporting documents

Claim Form must include or be accompanied by certain documents:
Practice Direction 54A, paragraph 4.4(1) – (2).

Please complete the checklist below

- 1 Statement of Facts
- 2 Statement of Grounds
- 3 Any written evidence relied on in support of the claim.
- 4 Any written evidence in support of any other application contained in the claim form
- 5 If the claim seeks to have any order quashed, a copy of the order.
- 6 If the claim for judicial review is directed to a decision of a public authority, a copy of the decision challenged.
- 7 If the claim for judicial review is directed to the decision of a court or tribunal, an approved copy of the reasons for the decision.
- 8 Copies of any documents relied on.
- 9 A copy of any statutory material relevant to the claim.
- 10 A list of essential documents for advance reading by the court.
- 11 If paragraph 17 of Practice Direction 54A applies to the claim, copies of the documents specified at paragraph 17.2(1) (a) – (d).

If it has not been possible to file any of the above documents, state the reason why the document is not available.

Reasons why you have not supplied a document and date when you expect it to be available:-

I have applied for, made Payment 22.02.2023 and await transcript of the Crown Court hearing to provide reference to the facts entered herein.

I expect the transcript to arrive within the next month, and request another month to fulfill.

I enclose copies of.

- ① * Original charge Summons
- ② * letter from court refusing case statement
- ③ * Copy of the Crown Court appeal result
- ④ * Copy of transcript application
- ⑤ * Copy of receipt
- ⑥ * Copy of LGMPA S4 S2A
- ⑦ * Copy of LGMPA S4 S10
- ⑧ * Copy of Pedlars Act 1871
- ⑨ * copy of PA 1881
- ⑩ * Pedlars Certificate.

10.12 If you contend the claim is an Aarhus Convention claim, the financial information required by CPR 45.42.

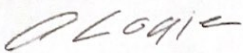
10.13 A copy of the legal aid or Civil Legal Aid certificate (if applicable)

Statement of truth

I understand that proceedings for contempt of court may be brought against a person who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

- I believe that the facts stated in this form are true.
- The claimant believes that the facts stated in this form are true. I am authorised by the claimant to sign this statement.

Signature



- Claimant
- Litigation friend
- Claimant's legal representative (as defined by CPR 2.3(1))

Date

Day Month Year

Full name

If claimant's legal representative, state name and firm

If signing on behalf of firm or company give position or office held

28 February 2023

Judicial Review Form N461 Section 5 & Section 6 [inserts]

Section 5 – Statement of facts relied on:

Magistrates Court Hearing:

I was charged with the allegation of “*street trading without authority under LGMPA Schedule 4 Section 10 Offences*”.

I entered a not-guilty plea on the basis that I had authority to street trade under the LGMPA Schedule 4 Section 2 (a) as an authorised pedlar.

The court heard only the allegation of a charge under the LGMPA Schedule 4 Section 10 Offences and the court denied hearing my defence under LGMPA Schedule 4 Section 2 (a) that provides statutory provision for street trading by a pedlar with a valid Pedlars Certificate. I was found guilty of an offence of street trading without authority.

I was granted the right to appeal the Magistrates decision.

Crown Court Hearing:

The Hearing was conducted on the same allegation and facts as in the Magistrates Court.

I was denied the right to address the Court with my defence in law being LGMPA Schedule 4 Section 2 *The following are not street trading for the purposes of this Schedule – (a) trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.*

I am a pedlar authorised to street trade with a current Pedlars Certificate.

I was denied the right to examine whether the witnesses had knowledge of the law, specifically LGMPA Schedule 4 Section 2 (a) and how that is relevant to the charge brought against me as it grants me authority to street trade as a pedlar with a current Pedlars Certificate.

The judge gave no instruction as to the law except at the outset stating *law was not to be discussed in this court.* Instead I was directed to refer to a higher court for matters of law. I was found guilty of an offence of street trading without authority.

I made Application to State a Case but was refused.

I now apply for Judicial Review to test the judicial process and lawfulness of these decisions.
I have applied for and await the Crown Court Transcript to support this statement of facts.

Section 6 – Detailed statement of grounds

By only allowing examination of facts under LGMPA Schedule 4 *Offences* I have been denied my fundamental right by both Magistrate and Crown courts to address the fact that my statutory defence lies within the LGMPA Schedule 4 Section 2 (a).

I have been denied the right to proper judicial process which is legal interpretation and application of statutory law.

I contend that Birmingham City Council acted beyond their powers by failing to acknowledge my right to street trade as a pedlar within the LGMPA and I consider that being denied the provisions cited by both the LGMPA and the Pedlars Act is Wrong in law, Illegal and has been a matter of Procedural Impropriety.

Signed:

Andrew Logie

In the High Court of Justice
King's Bench Division
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Respondent

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

EXPERT OPINION REPORT

Prepared for: Mr Andrew Logie

Prepared by: Mr Robert Campbell-Lloyd, Pedlars.Info, Branchfield House, Ballymote,
County Sligo, F56VF29 Republic of Ireland – email: pedlars.admin@gmail.com

Date: 14 April 2024

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Executive Summary

The facts of this case are in essence various accounts by various witnesses of periods of time that Mr Logie a certificated pedlar was allegedly stationary whilst trading resulting in him being found guilty of street trading without authority contrary to local street trading regulations.

Mr Logie admits to being a street trading pedlar with the authority of a Pedlars Certificate and therefore entitled to claim the exemption for pedlary from local street trading regulations. A guilty verdict was handed down in both Magistrate and Crown Court and Mr Logie seeks Judicial Review of the decisions based on dubious case law.

Mr Logie contends that the primary Authority relied on by the prosecution in both Courts *Watson v Malloy* was unreliable in that opinions and more especially a novel aphorism and its many subsequent interpretations relied on since *Watson v Malloy* were incompatible with the historic nature of pedlary and its statutory wording under the Pedlars Act.

Mr Logie contends that *Watson v Malloy* failed to prove beyond reasonable doubt that the words in the *Pedlars Act* 'travels and trades' can only be interpreted as 'travels whilst trading' implying that the pedlar commits an offence if he stops between sales.

Mr Logie relied on but failed to produce in Court two cases subsequent to *Watson v Malloy* 1988 being *Manchester v Taylor* 1989 and *Tunbridge Wells v Dunn* 1996 in which the pedlar was found not guilty for stationary periods of 10-20 minutes.

Mr Logie contends that if courts continue to uphold *Watson v Malloy* as reliable then the Pedlars Act in effect been undermined and made redundant and a Pedlars Certificate rendered worthless.

Introduction and Expert's Background

I Robert Campbell-Lloyd was a professional pedlar during the years 1995-2002 trading throughout the UK under the authority of a Pedlars Certificate under the *Pedlars Act* and as a result of the entrepreneurship provided by the *Pedlars Act* to offer my unique product in the public domain I subsequently established an online trading portal.

I no longer trade under a Pedlars Certificate but provide pro bono assistance to others.

I am administrator of pedlars.info a not-for-profit online pedlary reference centre for regulators and the regulated that I established in 2007 with two professional colleagues Mr Nic McGerr and Mr Simon Casey RIP.

In 2009 I published a [40 page briefing paper](#) as part of government stakeholder consultation that summarised the History of Pedlary, Chronology of Legislation, Chronology of Precedents, Chronology of Government Reports, Chronology of Discrimination and Abuse by language, Definitions, Language and Glossary, National Legislation Proposals Outstanding Issues etc.

I have acted as a Roll B Parliamentary Agent in several [Select Committee Hearings on Private Bills](#) modelled on the City of Westminster Act that negatively affect pedlary, namely those in Bournemouth, Manchester, Canterbury, Leeds, Nottingham and Reading.

In 2012 I formalised a [complaint to the European Commission](#) concerning HMG failure to comply with the European Services Directive regarding pedlary.

I have consulted widely with [HMG](#), police and councils regarding guidance on pedlary and related laws.

I together with colleagues have published some 150 articles online at pedlars.info regarding legislation affecting pedlary.

I have advocated against HMG attempts to find the *Pedlars Act* incompatible with the European Services Directive and its later attempt to repeal the *Pedlars Act*.

In 2015 I was invited by the Bishopsgate Institute London to present an update [Briefing to Government on The Profession of Pedlary – History, Politics, Policy and Legislation](#).

Although not qualified to practice law I consider myself competent on the subject of pedlary and related law through long and direct experience.

In 2020 Mr Logie enquired through pedlars.info to advise him regarding interference with his trading activity by council operatives in Birmingham. Mr Logie is severely dyslexic and

requested assistance in drafting coherent responses during the following years concluding in his application for this Judicial Review. Mr Logie is not competent to produce or speak to legal argument but is a competent entrepreneur pedlar that understands and expresses the oral traditions of pedlary and how it differs to Schedule 4 Street Trading.

The purpose of this report is to assist the process of Judicial Review of decisions made in Birmingham Courts based wholly on what I consider is dubious case law and the unfair consequences of its application.

The scope of this report includes clarification of terminology; analysis of the Summons charge; analysis of the transcript of the Crown Court Hearing dated 2 December 2022 and various authorities relying on mischievous interpretation and unrealistic opinions unfounded in historic fact.

Essential Terminology

Mr Logie admits to ‘street trading’ and also denies allegations of ‘street trading’ and whilst both are valid statements this anomaly is simply explained.

I contend that there is no historical analysis of the origins of early trading in the UK that can deny that pedlars and hawkers were the original street traders even prior to the 1871 [Pedlars Act](#) so this report for clarification will refer to ‘pedlars’ also as ‘street trading pedlars’ and/or ‘pedlar street traders’.

In 1982 the [Local Government \(Miscellaneous Provisions\) Act \[LGMPA\]](#) introduced *Schedule 4 Street Trading* to tightly regulate the licencing of static spaces on the public highway and so this report to provide clarity and differentiation refers to those particular street traders as ‘Schedule 4 street traders’.

The act of trading is described in the *Pedlars Act* as *carrying to sell or exposing for sale any goods wares or merchandise* and similarly in the *LGMPA Schedule 4* as *the selling or exposing or offering for sale any article in a street*. The distinguishing word is ‘carrying’.

The *Pedlars Act* provides discretion to trade any place throughout the UK whereas Schedule 4 street traders are restricted to static allocated licensed/consent spaces in a particular town. This then is the first important difference between the two types of street traders one having discretion with an ability to move about and the other not.

Schedule 4 provides that illegal/unauthorised street traders in Schedule 4 designated streets commit an offence and may be prosecuted and Mr Logie endorses the fact that such traders cause a problem for lawful traders.

The Summons that Mr Logie received alleged that he *did engage in street trading in a consent street ... without being authorised to do so, contrary to Schedule 4*.

Mr Logie admits to street trading because he is a street trading pedlar and he also admits that he is not authorised by council under Schedule 4 because he is authorised by police acting under the Crown to issue his Pedlars Certificate under the *Pedlars Act* and he denies the Schedule 4 allegation of an offence for being without a Schedule 4 licence or consent. A local council does not issue pedlars certificates and therefore cannot authorise pedlary.

Mr Logie has no reason, desire or intention to obtain a Schedule 4 licence or consent because such licence limits his ability to move from an allocated static pitch in for example Birmingham; it limits what goods he can sell; it limits what hours he can work; it requires

public liability insurance for large stalls erected on the highway; it is simply too restrictive because he travels and trades in different places around the country such as Manchester, Leeds, Blackpool, Derby, Stafford, Rugeley, Hanley, Long Eaton, Walsall, Wolverhampton, Beeston, Sheffield, Matlock, Chesterfield, Tamworth and Birmingham.

In 2009 I produced in consultation with HMG a [7 page document](#) that differentiates and compares certificated with licensed/consent traders and can be summarised as follows:

A street trading pedlar is mobile and able to move about – a Schedule 4 street trader is not;

Scale and proportion of a pedlar's apparatus is small - a Schedule 4 street trader stall is large;

Pedlars do not obstruct the highway because they can move – a Schedule 4 trader's pitch is an obstruction requiring approval by the Highway Department;

Pedlars cause no public liability – Schedule 4 traders incur public liability requiring insurance;

A pedlar's authority is a Certificate – Schedule 4 authority is a licence or consent;

A pedlar acts under the Pedlars Act – Schedule 4 traders act under LGMPA;

Pedlars are self-regulating – Schedule 4 traders are heavily regulated by the local authority;

Pedlars are subject to civil penalty for offences – Schedule 4 traders are subject to criminal penalty for offences.

I submit that the wording of the Summons is anomalous and an intended abuse of language that obscures rather than defines the two distinct and separate types of street trader. Mr Logie presented with the language of this Summons is purposefully conflicted because he is on the one hand 'guilty' and on the other hand 'not guilty' of such charge that leads to unnecessary confusion in court.

The intention of Parliament in introducing Schedule 4 I contend was not to prohibit street trading pedlars. This is evidenced by the Schedule 4 exemption for *a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871*. This exemption from the whole of Schedule 4 regulation is dependant exclusively on Mr Logie 'acting as a pedlar acted in 1871' and every year up to today and be subject to any alterations to the *Pedlars Act* that may have occurred but none have been cited.

Civil or criminal penalty

Regulating pedlary is not within the remit of Local Authorities. It is police that retain powers under the Pedlars Act to penalise offences as a civil matter whereas local authorities now choose criminal legislation to prosecute pedlary.

I contend that a fair and more precise wording of a Summons for a civil offence would allege that the person ‘did not act/was not acting as a pedlar under the authority of a pedlars certificate issued under the *Pedlars Act* 1871 contrary to Schedule 4 Section 1 subparagraph (2) (a)’ and if found guilty be subject to a civil penalty under the *Pedlars Act* Section 16 *any court before which any pedlar is convicted of any offence...may deprive such pedlar of his certificate*. This wording makes clear the charge with the only question before a court ‘whether or not the person was acting as a pedlar acts under the *Pedlars Act*.

What has changed since 1871 – did Schedule 4 change provisions in the Pedlars Act?

I submit to this hearing that there is no reliable or realistic historical evidence or legal authority that can negate Mr Logie's common sense understanding that the *Pedlars Act* provides his trade with complete discretion to trade any place throughout the UK; to trade any goods; to trade any time of the day or night; to trade by whatever means he chooses providing it be on foot and of a pedestrian scale and proportion; to be mobile and have the ability to move; to trade in any one public place, village, town or city for as long as his customers want to trade with him. He is a self governing sovereign trader operating within the terms of private business with private people in the public domain and limited by the Social Contract.

Was it in case law that the description of a pedlars activity was corrupted?

I will submit in this report that most Authorities subsequent to Schedule 4 introduction in 1982 that have successfully led the way to alter the meaning of how a pedlar may act under the *Pedlars Act* have done so on novel unsubstantiated opinions and wishful thinking, void of historical evidence, void of legal precedent, void of common sense, with the single intent to restrict, hinder and/or punish street trading pedlars in Schedule 4 jurisdictions where councils have preferred traders.

Mr Logie urges this court to be mindful of the lack of historic or factual evidence supporting the many opinions about pedlary originating and cited in case law.

On behalf of Mr Logie I will now submit my analysis of the transcript of the Hearing.

Crown Court Hearing - Analysis of the Transcript

On page 4 at para B Henderson J poses the question *whether he [Logie] commits the offence because he's acting outside the terms of that [pedlars] certificate*. In other words - was he acting as a pedlar?

He goes on to offer his personal opinion by inferring that Logie will be outside the terms of his certificate because he has *the difficulty to explain his means of travelling to the city centre* citing Mitings J in [Jones v Bath & NES 2012](#) reference to such words as *peripatetic*¹ and *ambulatory*² and he goes on at E *the point of being a pedlar is you're on foot, literally on foot* and at F reveals the judge's particular ignorance that *if he comes into town with a load of stuff on the bus, I think, on the train, in a van or a car, he is not a pedlar or he's not acting as a pedlar when he's selling that way*. The particular ignorance is that Henderson J's presumption of Mr Logie's guilt fails to comprehend that a person is not engaged in the activity of pedlary nor is a pedlar 'selling' whilst on a train, or driving a van or car because at such time he is just 'a person' who hasn't arrived at the desired destination where trading or acting as a pedlar may begin.

I submit that Henderson J sought to prejudice the hearing at this very early stage by offering his belief that the pedlar's activity of travelling has to be carried out at the same time as the activity of trading. At para H he says *if he [Logie] wants to attack that legal ruling [case law Watson v Malloy], he has to go to a higher court*. This is what brings Mr Logie to judicial review.

After setting out his opinion he finally on page 5 at para A examines the 'facts' of Mr Logie's means of travel to Birmingham and after Mr Logie's explanation at para B says *Okay. Well, that may get you out of the woods; we'll see* inferring that it may not get him out of committing an offence.

Later in the hearing at page 16 para B he finally read Mr Logie's bundle copy of [Sample v Hulme 1956](#) and realised that his opening legal commentary is in doubt in the light of the Lord Chief Justice Goddard's ruling [page 448 para F] that *it seems to me that it is impossible*

¹ Walking about from place to place, itinerant

² Having the ability to walk

to say that because a man arrives at a fixed point and there leaves his vehicle and proceeds to walk through the town, it may be for a mile or it may be for six miles, he is not travelling on foot. He is going from house to house and he is travelling from house to house. The word “travelling” cannot be used here as meaning travelling by train or travelling from one town to another.

This common sense interpretation of law supports the reality that acting as a pedlar begins once he displays and offers to trade his wares to the public rather than whilst travelling between places. This issue arises again in *Watson v Malloy* and I will come to that shortly.

At page 5 para C Henderson J is informed by Mr Barbour that the means of Mr Logie’s arrival in Birmingham is not an ‘issue’ in this case and Henderson J ceases that line of examination without apology.

On page 5 para F Henderson J directs Mr Logie not to raise matters of law until the end but does not prevent Mr Barbour beginning at para H referencing in detail three authorities doing exactly what Mr Logie was refused, raising matters of law.

On page 5 para H Mr Barbour summarises [*Watson v Malloy 1988*](#) with an extract *a pedlar is someone who sells on the move, an itinerant seller. A pedlar is someone who trades as he travels, as distinct from someone who travels to trade.*

Mr Logie has accepted the direction from Henderson J on page 4 para H that on his behalf I take issue with *Watson v Malloy 1988* and subsequent authorities by way of judicial review to scrutinise the Hutchison J opinion that does not clarify but alters without substantiation the statutory activity of a pedlar.

Interpretation concerns with *Watson v Malloy*

Having studied most authorities concerning pedlars I submit that *Watson v Malloy* has affected all subsequent successful prosecutions of pedlars under the *Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 Street Trading [LGMPA]* on the basis that prosecutions invariably cite Hutchison J's fanciful opinion about what he refers to as *the vital conjunctive "and" between travels and trades ... encapsulated in an aphorism... a pedlar is one who trades as he travels as distinct from one who merely travels to trade*. This is the argument relied on by Mr Barbour et al but I contend is without basis because the *Pedlars Act* does not proscribe a pedlar to for example 'travel whilst trading' or 'travel as he trades' or even 'travel to trade'. Instead it accommodatingly provides for *travels and trades* as one might expect from an itinerant person.

An 'itinerant' is one who travels from place to place and a pedlar is no different to an itinerant preacher or an itinerant judge that travels from place to place to carry out their profession at some destination be it a village, a town or another man's house. The fact that they are itinerant does not mean they have to keep travelling whilst doing the activity of their profession at an appointed destination.

The pedlar, the preacher and the judge are just 'persons or people' whilst travelling. Their different professions are not activated 'whilst' travelling. A preacher's profession begins when he reaches the church. The judge's profession begins when he reaches the Court. The pedlar's profession begins when he reaches his trading destination.

Citing *Watson v Malloy* has persisted since 1988 and I agree with Mr Logie that it is open to and requires challenge.

I contend that *Watson v Malloy* is an unsound authority in that it purposefully misrepresents how a pedlar must act whilst trading and as such and without declaration it effectively changes the statutory legislation, the *Pedlars Act*.

Mr Barbour on page 6 para B then introduces further law [*Jones v Bath & NES Council* 2012](#) by quoting Mitting J's opinion para 13 (as with Henderson J's opening remarks) *someone driving his goods in their own van or car to a town or city to offer goods for sale is not a pedlar as he has not travelled to the town on foot. There is a requirement to conduct the*

activities on foot both for travel and trade. I contend that Mitting J errs in relying on Hutchison J's opinion in *Watson v Malloy*.

Mr Barbour continues discussion about law by introducing [South Tyneside Metropolitan Borough Council v Jackson](#) in which Kennedy LJ's opinion is *the purpose in moving by a pedlar must be to bring his wares to the attention of customers. One cannot move just to take advantage of the defence [under Schedule 4 LGMPA] available to pedlars.*

I contend that Kennedy LJ failed to appreciate the ingenuity and creativity allowed by the category 'other persons' in Section 3 of the *Pedlars Act*. If a person chooses to display his goods [in that case CD's] whilst mounting and playing a mobile piano in a busy shopping street then the *Pedlars Act* allows such performing 'other persons'. The only test should have been whether or not the pedlar's modus operandi was of a pedestrian scale and mobile? A pedlar's ability to move is important for reasons of safety on the public highway - for example he may need to move himself and his apparatus for an emergency vehicle.

It is quite spurious to allege that the only reason a pedlar moves is to take advantage of the *LGMPA* exemption and in my opinion this puts Kennedy J's opinion in doubt.

Mr Logie goes to where he thinks there may be customers. He may travel 100 miles to 'bring his wares to the attention of customers' [Kennedy LJ]. Mr Logie freely admits that he often also moves to avoid confrontation, intimidation and harassment by officers hell bent with stop watch mentality seeking to get rid of any trader the local authority has not licensed.

I submit on Mr Logie's behalf *Watson v Malloy* is unreliable on the basis that its novel opinions lack substantiation by way of historical evidence and/or evidence from pre 1988 case law. I also submit that it undermines the intent of Parliament in providing pedlars with the specific exemption from Schedule 4 because it effectively leads to prohibition of pedlary.

The transcript and examination of witnesses by Mr Barbour will now be examined to show the prohibitive effect of *Watson v Malloy* on Mr Logie.

Transcript Examination of the Witnesses by Mr Barbour

Each of the witnesses produced stop watch evidence to support their understanding that if a pedlar stopped for any other reason than to make a sale he fell outside the Schedule 4 exemption for acting as a pedlar and was guilty of criminal offence. The many combinations of exactly recorded minutes formed the facts of Mr Barbour's case and with confidence in applying *Watson v Malloy*, Henderson J concurred that those facts alone took Mr Logie outside the protection of the Schedule 4 exemption.

Henderson J following the hearing wrote *I will not state a case. This was a decision on the facts of the case.*

Mr Logie explained to the court that he relied on a period of 15-20 minutes referred to in case law and is why he says on page 14 at para C that he timed his movements but when pressed by Henderson J he could not lay his hands on his copies of the Authorities to assist the Hearing.

I now provide links to the two said Authorities [Manchester v Taylor 1989](#) and [Tunbridge Wells v Dunn 1996](#). The pedlars stopped for 10-15 and 15-20 minutes respectively and were found to be acting as pedlars in spite of opinions cited in *Watson v Malloy*.

I can confirm as administrator of pedlars.info that many pedlars rely on the 15-20 minutes before moving if only to avoid negative interaction with zealous officers. Mr Logie relies on the fact that under the *Pedlars Act* there is no time limitation on how long a pedlar may stop. That a pedlar remain in perpetual motion is an unrealistic invention originating in *Watson v Malloy* and in my opinion a nonsense. The activity of exposing, displaying, selling and procuring orders for goods is a static activity and common sense.

In an extreme example of zealotry the witnesses on page 10 of the transcript at para B-C observed Mr Logie for a few minutes as he was standing, not trading but setting up his stall under shelter from the rain preparing his stall to begin trade. He was immediately cautioned for committing an offence under Schedule 4 and subsequently prosecuted.

Further witness examination continued throughout the hearing with little variation in statements of fact concerning precise numbers of minutes Mr Logie was observed but during each recorded interval failed to log the times he made sales and how long each took.

It is my opinion that the evidence having been judged primarily on the basis of Mr Logie falling foul of *Watson v Malloy* that Henderson J was content to find Mr Logie guilty on the fact that he stopped moving during trading.

Mr Barbour was content with the witness understanding on page 23 para F that any trader not on the council's approved Schedule 4 authorisation list commits an offence. This reveals shocking ignorance by officers unchecked by Henderson J or Mr Barbour and indicates why there is such blatant disregard for Mr Logie's authorisation being his Pedlars Certificate rather than a council list of approved traders.

It is my considered opinion that the witness statements provide the essential evidence that Mr Logie was at all times in fact acting as a statutory pedlar was entitled to act between 1871 and 1988; that he was further entitled to continue in the same manner from 1988 to today; that he was entitled to street trade as a pedlar; that he carried one of two lawful authorisations being a valid pedlars certificate; that he fulfilled the terms of the *Schedule 4* exemption; that his only trading similarity to a Schedule 4 trader was/is that they both lawfully trade in the street; that the scale and proportion of his operation is by no metric comparable to a Schedule 4 trader; and that there is no justification for imposing the burden of guilt and criminality.

Other Case Law not cited

I now cite the case of [*Chichester v Wood 1997*](#) for the purpose of indicating (half way down page 2) that case law attempted to establish a test or checklist for determining what a pedlar can and cannot do. Brooke LJ and Blofeld J went on to share the opinion that *there is a point of law here of general public importance*. I contend that this persists to this day.

Various case law was relied on in drafting the list of 9 tests summarised at page 6 and I now address each in order.

So called tests for determining pedlary

In [*Chichester-v-Wood 1997*](#) Brooke LJ provides a contextual prerequisite for interpreting and applying legislation (page 8, 2nd para) *the words in an Act of Parliament are to be interpreted in the context of the Act in question at the time the Act was passed*.

Pedlars come from an oral tradition and the habits of 18th & 19th century pedlars and how they acted precisely whilst trading relies on understanding the wide variety of freedoms described in Section 3 of the Pedlars Act in that very few restrictions apply. As described already pedlars had complete discretion over what, where, when, and how to trade.

Nine findings from various authorities were listed as tests in pedlary cases and I provide essential commentary on the shortcomings of each.

1 Each case depends on its own facts.

I have previously submitted that historic/traditional and contemporary principles that differentiate pedlary from Schedule 4 trading provide essential understanding and context to facts and without which the facts such as a fact that a pedlar was stationary for a few minutes or an hour should be considered inconsequential.

The first principle that differentiates the 2 types of trading activity is that a pedlar's apparatus can be moved as a pedestrian means of exposing, demonstrating, selling, taking orders for procurement, finding different locations, seeking engagement with people & customers all on the basis of private business with private shoppers. In comparison a Schedule 4 trader cannot move his apparatus, is static on a highway in a controlled and allocated space approved by

the highways department and heavily regulated by council to limit public liability from large obstacles placed on the highway.

The second principle that differentiates the 2 types of trader concerns scale and proportion and whereas a pedlar's apparatus can be no bigger than any other shopper handling a bag, a basket, a push-chair, a wheelchair or a trolley a Schedule 4 trader is in effect a static shop in the street some 10-20 times larger in scale.

The third principle that differentiates is that a pedlar can choose when to trade or not to trade, how long to trade, what to trade whereas a Schedule 4 trader has rigid conditions and controls on each.

Such pedlar freedoms may be an anathema to council enforcement officers but they are historic liberties granted under the Pedlars Act and in force today. It may be that the local authority seeks to limit pedlary in favour of revenue streams from allocated pitches but it is not within their remit to discriminate against a lawful trader with lower overheads.

I consider that the facts require realistic context.

2 *A pedlar goes to his customers rather than allowing them to come to him.*

There is no historic or statutory foundation other than the Hutchins J off-the-cuff aphorism from *Watson v Malloy* to the notion that a pedlar goes to his customers rather than allowing them to come to him. It is common sense to understand that if someone with a box or a trolley full of goods comes up to people in the street one after the other attempting to sell something that there is any potential for trade and rather a suspicion of bad faith and dishonesty at play. A pedlar senses where potential customers are and his movements follow that sense and successful trade is dependent on stopping for such time as is required by various types of private interest in what shoppers can see close up or from a long distance away.

I consider the test has no foundation in the *Pedlars Act* and based on wishful thinking originating in *Watson v Malloy* and is not a valid test.

3 *A pedlar trades as he travels rather than travels to trade.*

This imagined aphorism is from Hutchins J in *Watson v Malloy*.

I consider the test spurious for previously addressed reasons

4 *A pedlar is a pedestrian.*

The origin of the word is to be found in the Latin 'pedus' the foot, hence Pedlars Act an Act of Parliament that is an enabling legislation that provides bona fides for mobile traders to go any place throughout the UK without fear of being prosecuted under the [Town Police Clauses Act 1847](#) [Clause 28] for wilfully and wantonly disturbing any inhabitant.

This test is simply a statement from the *Pedlars Act*.

5 *If a pedlar is a seller, rather than a mender he sells reasonably small goods.*

There is no legislative restriction on the size of a pedlars goods. A pedlar can by law trade 'any goods'. The only relevant condition is that the trading is mobile. Menders of chairs and handicraft traders have been removed from the Pedlars Act under [The Provisions of Services Regulations Act 2009](#) Section 45.

I consider this test not useful and is no longer relevant.

6 *He is entitled to have some small means of assisting his transport of goods such as a trolley.*

There exists no legislative restriction on the scale and proportion of a pedlars means provided only that he is mobile and the means of operation are pedestrian.

This test simply confirms how a hawker can operate under the Pedlars Act so not a valid test.

7 *It is necessary to consider his whole apparatus of trading and decide if it is of such a scale to take the person concerned out of the definition of pedlar.*

There is no legislative restriction other than applying common sense that the means are pedestrian means. If the scale and proportion of the means are so similar to an unmovable Schedule 4 stall then clearly his means are outside the definition of a pedlar but in this case the pedlar's means are pedestrian and some 20-30 times smaller in scale.

I consider this test lacks definition and is invalid.

8 *The use of a stall or stand or barrow may indicate an intention to remain in 1 place or in a succession of different places for longer than is necessary to effect the particular sale or sales indicating that he is a street trader and not a pedlar.*

A pedlar is one who carries goods and a hawker uses any pedestrian means of carrying goods. Nothing in the Pedlars Act prohibits a pedlar from remaining in one place or in a succession of different places. Nothing in the Pedlars Act obliges a pedlar to stop only to effect a sale. Nothing in the Pedlars Act prevents customers approaching, nor does it states that he must go to the customer. The act of trading includes exposing for sale, demonstrating, conversing, exchanging ideas, telling stories, enticing, inviting and all manner of novel time consuming advertising and promotion. Nothing in the Pedlars Act forces perpetual motion.

I consider this test is without merit.

9 *If he sets up a stall or barrow and waits for people to approach him rather than approaching them that is an indication that he is a street trader and not a pedlar.*

A person whose profession is pedlary will have travelled from home to a destination in a town or city where consumers gather. During that travelling time the person remains just a person or perhaps a driver or a bus customer and cannot be regarded an active pedlar. Having reached the town the person prepares to begin trading by going on foot with or without means of carrying goods to where he thinks shoppers have gathered. The travelling has ceased and the trading begun thus confirming the person is then a street trading pedlar.

I consider this test is without merit and invalid.

I do not believe that these 9 so called tests assist in clarifying the point of public importance noted by Blofeld LJ to define the distinction between a pedlar and a Schedule 4 trader. Instead I believe that they intentionally blur language so as to make genuine pedlary indistinguishable from Schedule 4 street trading.

A more accurate test

Throughout this report I have proposed more specific tests based on a realistic and historic understanding of the *Pedlars Act* rather than on anomalous authorities subsequent to the LGMPA:

- 1 Does the trader have a valid pedlars certificate?
- 2 Is the modus operandi mobile and pedestrian?
- 3 Is the person's trading operation comparable to a Schedule 4 trader?

I believe that these are the only relevant tests in determining if a person is acting as a pedlar.

Is a 10-20 minute rule reasonable?

Mr Logie admits that he exposes his goods for sale and finds that 10-20 minutes being distinctly different to a Schedule 4 trader that remains stationary for up to 8 hours every day is a reasonable period of time for customers in a street to feel comfortable to approach him to enquire about his goods and purchase or not. If the pedlar secures a sale then that 10-20 minutes repeats. If there are no sales then a pedlar has no incentive to remain in that place and moves on to find another location with greater potential for trade.

Pedlars throughout history have travelled to a town to trade in the busiest places where other pedestrians and potential customers congregate and were never prevented from stopping for a minute or a day until recent imposition of *Watson v Malloy* and it is not only common sense for a pedlar to avoid zealous council officers but also common sense to adopt findings in alternative Authorities that affirm a reasonable compromise between 8 hours and a few minutes remaining stationary.

Conclusion

Mr Logie has brought this action to Judicial Review because he believes his pedlary in Birmingham has not been treated fairly, justly or in proper context of primary legislation in either the Magistrates Court or the Crown Court.

In neither court was he permitted to speak about his understanding of the historic activity of pedlary or challenge case law and told that discussion about the law were for a higher court because the lower courts were bound by case law.

On Mr Logie's behalf I have prepared this report to challenge opinions and judgments in case law beginning with the most toxic being *Watson v Malloy*.

The inevitable questions for judicial review are as follow:

Is it misleading to say that a pedlar cannot be a street trader?

Is a Pedlars Certificate a lawful authority to trade in Schedule 4 designated streets?

Is a pedlar guilty of an offence for stopping between sales?

Is Hutchison J's interpretation of the *Pedlars Act* that a pedlar 'travels whilst trading' or 'trades as he travels' based on historic and factual evidence or is that interpretation a corruption of the *Pedlars Act* text 'travels and trades' rendering *Watson v Malloy* unreliable?

In considering this case and for the reasons I have outlined from my 29 year specialist expertise it is clear to me that unreliable language, unfounded opinions and unsafe judgments have prejudiced proper protection of Mr Logie's pedlary.

If *Watson v Malloy* is upheld by this judicial review then the *Pedlars Act* provides no benefit to pedlars and renders a Pedlars Certificate worthless and I trust that judicial review justice has the authority and ability to properly scrutinise the weaknesses in case law and judge *Watson v Malloy* unreliable.

References

This report is presented in Word/pdf format with live links to legislation, authorities and reference documents.

Statement of Truth

I believe that the information and opinions expressed in this report are true to the best of my understanding and ability.

Signed: Robert Campbell-Lloyd
administrator pedlars.info

Date: 14 April 2024

Andrew Logie
25 Kinder Avenue
Newhall
Swadincote
Derbyshire
DE11 8RQ

In the matter of Judicial Review

I have been a Pedlar for the past 12 years without any issues

In early December 2020 I was approached by two Birmingham Council enforcement officers who said I was illegal street trading. Even after showing my Pedlars Certificate.

After the next few days I done some research into this matter going on different websites, then I come accross West Midlands Police website. They recommended if you needed further support regarding Pedlary go to Pedlars.info

I contacted Pedlars.info for further advice and recieved a response from Robert Campbell-Lloyd who runs Pedlars.info

I explained my situation what happened in Birmingham and also explained I have dyslexia and struggle with reading and writing and have to have help from people helping me write and fill forms out.

I also explained I was going to be litigant in person.

Robert has been a exceptional help for me and has guided me throughout the whole process.

Without the help from Pedlars.info I dont know where I would be.

Andrew Logie
23 April 2024

In the High Court of Justice
King's Bench Division
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Respondent

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

ORDER FOR LAY REPRESENTATION

UPON the application of Mr Andrew Logie, the Appellant in this matter, made on 24th April 2024 for an order permitting lay representation due to the Appellant's life-long dyslexia and difficulties in reading and writing;

AND UPON considering the Appellant's letter to the court dated 23 April 2024 attesting to the Appellant's condition;

AND UPON hearing from the Appellant and the Respondent;

WHEREAS the Court recognises the need for the Appellant to have equal access to justice and the challenges presented by the Appellant's difficulties;

IT IS HEREBY ORDERED THAT:

1. The Appellant Andrew Logie is permitted to be represented by a lay representative in all proceedings related to this case, included but not limited to hearings and submissions.
2. The lay representative shall be Mr Robert Campbell-Lloyd whose contact details are pedlars.info, Branchfield House, Ballymote, County Sligo, F56VF29 Ireland.
3. This order is made in accordance with Rule 27.2 of the Civil Procedure Rules and is intended to ensure that the Appellant receives appropriate support to participate fully in the legal process.
4. The lay representative is authorised to perform the following duties on behalf of the Appellant:
 - Communicate with the Court and Respondent;
 - Prepare and file documents;
 - Attend and speak at hearings on behalf of the Appellant.
5. This order does not permit the lay representative to conduct litigation on their own behalf but solely as a representative of the Appellant under the supervision and direction of the Appellant.

DATED this [Day] of [Month], [Year]

SEAL OF THE COURT

By the Court,

[Name of Judge]

Justice in the High Court of Justice, King's Bench Division, Administrative Court

In the High Court of Justice
King's Bench Division
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Respondent

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

DRAFT ORDER TO OVERTURN

UPON hearing the appeal for judicial review of decisions made in Birmingham Crown Court case number A20230112 dated 23rd January 2023;

AND UPON reading the documents filed and considering the submissions presented by the appellant and representatives of the defendant and interested party involved;

WHEREAS the appellant has challenged the authority of the decision *Watson v Malloy 1988* as applied in the Queen's Bench Division;

AND WHEREAS this court has considered the matter and finds that the aforementioned case law should be reconsidered in the light of Hutchison J citing no historic or factual evidence to justify beyond reasonable doubt a narrow and proscriptive definition of pedlary by imposing textual alterations to interpretation of primary legislation being the *Pedlars Act* that in its application unlawfully restrains self-regulating pedlary in *Local Government (Miscellaneous Provisions) Act 1982* Schedule 4 street trading jurisdictions.

IT IS HEREBY ORDERED THAT:

1. The decision of the Queen's Bench Division in *Watson v Malloy 1988* is OVERTURNED/SET ASIDE.

2. The legal authority of *Watson v Malloy 1988* as applied in this matter is hereby OVERTURNED/DECLARED NO LONGER BINDING.

3. It is ORDERED THAT subsequent authorities that rely on *Watson v Malloy 1988* are UNRELIABLE.

COSTS:

Costs to be assessed.

DATED this [Day] of [Month], [Year]

SEAL OF THE COURT

By the Court,

[Name of Judge]

Justice in the High Court of Justice, King's Bench Division, Administrative Court

In the High Court of Justice
King's Bench Division
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Defendant

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

DRAFT ORDER TO QUASH

UPON reading the application dated 23 April 2024 of the Appellant to quash the decision to dismiss the Claimant's Appeal against conviction for 3 dates 17, 18 & 22nd December 2020 made on 2nd December 2022 in Birmingham Crown Court;

AND UPON hearing the Appellant's [LIP] and counsel for the Defendant and Interested Party;

AND UPON consideration of the submitted evidence and arguments;

IT IS ORDERED THAT:

1. The application to quash the decision to dismiss the Claimant's Appeal against conviction dated 2nd December 2022 is GRANTED.
2. The decision to dismiss the Claimant's Appeal against conviction dated 2nd December 2022 issued by Birmingham Crown Court is hereby QUASHED.

3. It is ORDERED THAT the matter be returned to Birmingham Crown Court for reconsideration on the basis that the authority *Watson v Malloy* is OVERTURNED.

4. It is ORDERED THAT authorities relying on *Watson v Malloy* are UNRELIABLE.

5. It is ORDERED THAT the appellant's subsequent prosecution and judgment case number 2300034031 dated 10 July 2023 be returned to Birmingham Crown Court for RECONSIDERATION.

COSTS:

Costs of £1577.00 to be made by the Defendant to the Appellant.

DATED this [Day] of [Month], [Year]

SEAL OF THE COURT

By the Court,

[Name of Judge]

Justice in the High Court of Justice, King's Bench Division, Administrative Court