

PRESS RELEASE

NEWHAM DOUBLE BLUNDER IN PET SHOP FIASCO

Simon Gilbert, and the staff of his well-known pet shop “Simon’s Pets” in Balaam Street E13, have been pillars of the community in the London Borough of Newham (“Newham”) for more than a quarter of a century.

For the last two years, however, Mr Gilbert, like other pet shop owners, in Newham, and more generally in London, has been the subject of repeated regulatory action by the Council and the RSPCA. The RSPCA is an animal charity which opposes the sale of animals from pet shops¹ for political reasons. Events follow on from pressure² brought by the RSPCA on local councils to licence pet shops out of existence.

On 12th April 2005, seven local pet shops were raided by the RSPCA’s “Special Operations Unit”, the police and other agencies, including, of course, Council staff. Mr Gilbert’s pet shop was one of them. The inevitable consequence of this was animal rights activity so severe that Mr Gilbert was forced to take his wife Deborah and their family to Ireland in order to protect them.

In two damning judgements, two courts have just thrown out two separate criminal cases brought by Newham against Mr Gilbert arising from the raid and other matters. Mr Gilbert faced the best part of 100 summonses in two cases, mainly for alleged technical breaches of his pet shop licence (which continues to this day).

Last Thursday (23/11/06), Judge Andrew Collender QC, sitting at Snaresbrook Crown Court, declared 12 summonses to be a nullity. However, his judgment³ has called into question whether any criminal or civil proceedings taken by Newham⁴ have actually been approved by the Council. Finding that the first prosecution of Mr Gilbert was both a nullity and an abuse of process, Judge Collender QC held:

- (1) “The delegation of the discretionary power to institute proceedings was to Helen Sidwell [Head of Newham’s Legal Services] alone. She did not authorise this prosecution. She need perhaps have done little to authorise it. For example, she could have signed an authorisation attached to a recommendation from a junior legal officer for her to consider ... It seems to us that the process by which prosecution was decided in this case was sloppy and informed to a degree that renders these proceedings a nullity and they cannot proceed.”
- (2) “It seems to us that the decision-making process was made in breach to a considerable degree of both [the Code for Prosecutors and the Enforcement Concordat], although Council officers professed to have followed them. What makes the matter particularly difficult when reviewing the decision is that simply no

¹ See a letter from the RSPCA, dated 5th November 1999, a copy of which is available upon request.

² See, for example, the letter from the RSPCA to all local authorities, dated 5th November 1999.

³ Transcript of the judgment is available upon request.

⁴ Since 1999, when the new Scheme of Delegation came into effect.

records were made of when decision were made, why decisions were made or the process by which the decisions were arrived at.”

- (3) *“The initial decision to recommend for prosecution was made before any written evidence had been gathered ... It is extraordinary that that should be the position ... it seems to us that it is axiomatic before a prosecution is commenced that there is at least a document recording the evidence ... It is unfortunate that there seems to have been some commerce between Mrs Pole and Ms Delaney, the investigating officer before the final decision to prosecute was made.”*
- (4) “Mr Allen [the Council’s Head of Department] is the officer who grants the annual licence to run the pet shop to Mr Gilbert ... He has never personally been to Mr Gilbert’s premises ... We consider that to be slightly curious.”

Putting to one side the obvious criticisms of the Council in this particular case, Nigel Weller, the specialist animal welfare Solicitor who defended Mr Gilbert in both cases, that the “sloppy” and “extraordinary” conduct in this case has probably been replicated by the London Borough of Newham in other cases since its new scheme of delegation was put in place in 1999:

“The consequences would be that any prosecution could be a nullity. Every case which the full Council or Ms Sidwell have not approved must be examined forthwith. Mr Gilbert calls on the Council to contact every person prosecuted by the Council since 1999, without the approval of the Council or Ms Sidwell, and accept that each such case is a nullity, an abuse of process and has not been properly authorised.”

District Judge Hayden Gott, sitting at Stratford Magistrates in the second case today (29/11/06), had already dismissed 17 summonses at half time because there was no evidence to support them. However, in a reserved judgment, Judge Gott dismissed the remaining 31 summonses saying that:

- (1) Mr Gilbert has always:
 - (a) been licensed to operate a pet shop by Newham;
 - (b) taken veterinary advice in relation to the running of his shop and the welfare of his animals on at least a weekly basisand he still is and does.
- (2) It was unfortunate that Newham had chosen to issue 48 separate summonses against Mr Gilbert, many of which were “not sustainable on any view” and this had caused the case to run for 7 days of court time.
- (3) The expert reports from Mr Martin Lawton⁵ and Mr Peter Scott, the prosecution veterinary surgeons, tendered by Newham as independent expert witnesses, were “unduly hostile” and were not to be relied upon – however, Mr Scott, at least, had had the “good grace to make a qualified apology” for what he had said about Mr Gilbert and the genuinely independent expert evidence from Dr Sue Haslam and Mr Ronald Gardener, who had given evidence during the defence case.

⁵ For more on Martin Lawton refer to the RCVS article:

Essex vet criticised for reprehensible behaviour

<http://www.rcvs.org.uk/Templates/Internal.asp?NodeID=91582>

(4) The comments by Mr Martin Lawton, comparing the pet shop to facilities licensed under the Scientific Procedures legislation, was, in particular, “not helpful”.

Sir Robin Wales, Labour Leader of the London Borough of Newham, quoted in the Evening Standard yesterday⁶, branded Londoners “too lazy to host the Olympic Games”. Plainly, if a good deal of the legal action taken by the Council which he has led since 1999 is illegal, then their local authority may also be too short of funds to host the games as well.

Simon Gilbert and his Solicitors are unable to comment on a new third case, involving a further 60 summonses, which Newham has recently brought against Mr Gilbert. However, Simon Gilbert, speaking today (29/11/06) said:

“I can tell Sir Robin Wales and Mr Mike Allen that running a pet shop is very hard work for me and my staff. We get here at 6 o’clock in the morning and we work a very full day, rarely leaving before 9 at night. I can reassure them both that I have my finger on the pulse of my business – my staff are not ‘sloppy’ and their conduct is not ‘extraordinary’”.

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⁶ <http://www.thisislondon.co.uk/news/article-23376203-details/Londoners%20too%20lazy%20to%20host%20the%20Olympics/article.do>