

Permission to appeal to the Supreme Court ANNEX 1 to FORM 1 APPLICATION FOR PERMISSION TO APPEAL 5. Information about the decision being appealed

I. Application

[1] Permission is sought to appeal the decision of the Court of Appeal Civil Division decision of Lord Justice Phillips on 4th August 2020 received by email and 30th July 2020. This application is for permission to appeal to the Supreme Court of the United Kingdom as the Court of Appeal has incorrectly and erroneously stated the law that there is no jurisdiction to hear the appeal in relation to the application for judicial review because it concerns a criminal matter. It is this decision that is challenged and it is respectfully submitted that the decision of the Court of Appeal is manifestly unfair and wrong. The decision to not allow for certificate on a point of law of public importance is also challenged and the decision that there is no right of appeal is wrong as this is not an incidental decision.

[2] This application arises from the request made to the Court of Appeal to appeal the decision of Mr Justice Kerr sealed 4th March 2020 of the Administrative Court sitting at Manchester of the High Court, Queens Bench Division and the failure to certify the matter on a point of law of public importance and failure to consider the judicial review in relation to the criminal aspects and the procedural impropriety and failure to consider the matter as a divisional court with at least two Judges sitting in accordance **Section 66 Senior Courts Act 1981**.

[3] The application before the Administrative Court was in relation to a judicial review of the Ruling of 16th September 2019 at Chester Crown Court sitting as Magistrates on appeal and the failure to state the case to the High Court. The judicial reviewed challenges the Chester Crown Courts decision of 4th October 2019, to not state the case. The judicial review further challenges the wholesale failures of the Manchester City Council including its failure to adhere to a document of the Manchester City Councils published policies known as the '*Corporate Enforcement Policy*'. The failures of the Manchester City Councils statutory and common law obligations and failures to disclose all relevant documentation at the time of the prosecution ('*Prosecution Case File*' and the lodging of '*Information*'), the local authorities decisions to prosecute in circumstances where new information that was provided on 6th November 2019 after the criminal trial on 12th and 13th September 2019 renders the decision to prosecute under **Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013** to be out-of-time, unreasonable, illegal and irrational and the conviction is unsafe and that a miscarriage of justice has occurred.

[4] The judicial review was lodged at the London High Court Administrative Court of the Queen's Bench Division. The matter was then transferred to Manchester despite the objections of the Appellant. The Administrative Court at Manchester unfortunately only dealt with the matter in relation to the civil nature of the Judicial Review and failed to consider the overlap of the criminal aspects of the Judicial Review, the fairness and failed to make a determination on the criminal aspects of the matter as a divisional court. Therefore, the Appellant brought a challenge of HHJ Kerr's 4th March 2020 order and failure to allow and accept jurisdiction and not consider the permission to proceed application given the great importance of the matters raised in the judicial review application. The Appellant submits that she has jurisdiction under (*Rules 25.3.1 and 25.3.2 of the Administrative Court Guide*.)and the Civil Procedure Rules: **CPR 52.15 (1A)** for Judicial Review in respect of the HHJ Kerr's order insofar as he dealt with the civil aspects.

[5] Insofar as the criminal aspects of the Judicial Review, the Appellant sought to challenge this decision (by way of the leapfrog procedure under **Section 1 (2) Administration of Justice Act 1960** and **Section 12 Administration of Justice Act 1969**, the alternative but unfortunately permission was not granted by the Manchester Administrative Court thus leaving her with the route to appeal to the Court of Appeal) as the Administrative Court had erroneously and wholly failed to consider the criminal aspects of the Judicial Review and failed to sit as a Divisional Court on the matter and as it concerns a type of prosecution that has not been challenged before the courts and the routes of appeal are therefore unclear.

[6] It is incorrect to state that the decision of 4th August 2020 is not amenable to appeal to the Supreme Court under **Section 58 (2) Senior Courts Act 1981** as that is a section that concerns incidental decisions, it is submitted that the closing of a case for want of jurisdiction is not an incidental decision and it is not incidental to deprive the right to appeal and remedies therefore, the decision of Lord Justice Phillips is incorrect to state no appeal lies to the Court of Appeal from any judgment of the High Court in any criminal cause or matter under **section 18 (1) Senior Courts Act 1981**. This is irrational and unfair as the High Court did not consider the matter for judicial review as a criminal cause nor did it consider the overlap of the issues of criminal and civil judicial reviews and the decision of HHJ Kerr 4th March 2020 was considered a civil decision by the Manchester High court itself as stated by them and therefore amenable to appeal.

[7] This is an application for permission to appeal to the Supreme Court of the United Kingdom arising from a point of law of general public importance. It is important for the public to know what are the correct routes of appeal in light of the 'third category of prosecutions', namely those brought by a public authority under **Section 222** of the **Local Government Act 1972** '**(LGA 1972)**' - it is important for the public to know their rights, the routes and rights of appeal given that public authority decisions are amenable to judicial review. Clarity is sought and all rights should be read in a positive way given that local authorities are likely to bring these unusual criminal prosecutions against unemployed, disabled and low income families often on benefits. It is submitted that this is a legitimate interest in regards to citizens being able to bring such challenges and is a justiciable matter.

[8] This application seeks to determine the point of law of general public importance in relation to the position on when subsequent misfeasance of a local authority is discovered for a defendant to be able to go back to the remits of the court in regards to this 'third category prosecution' under **section 222 LGA 1972** for example, when the discovery of new information shows wrongdoing, lack of candour, abuse of process or a misrepresentation has been committed by the local authority. Please see the case of **R (K) v Leeds Magistrates' Court [2018] EWHC 1233 (Admin)** (referred to as **Kay** in HHJ Kerr 4th March 2020 Order) and the notice of judicial review.

[9] Furthermore, under this application permission is sought to appeal to the Supreme Court of the United Kingdom arising from a point of law of general public importance in relation to seeking clarity on whether the change of the scheme in 2014 and the new regulations gave rise to the councils and local authorities being able to bring a *pre-Police ad Criminal Evidence Act 1984* '**(PACE) (1984)**' style prosecutions under **Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013** and whether it is correct for them to act as both Prosecution and Investigation without independence giving them more powers than the Police and the Crown Prosecution Service ('CPS') and failing to provide rights to a legal representative.

[10] This application seeks permission to appeal to the Supreme Court of the United Kingdom that the local authority must adhere to the common law duty in *paragraphs 53 and 54* of **R v AB [2017] EWCA Crim 534** (referred to as **AB** in the HHJ Kerr 4th March 2020 Order) and that this is a point of law of general public importance. The leading case states that prosecutions either public or private cannot be brought by a local authority in these circumstances and are conferred by **Section 222 of the Local Government Act 1972** only. Please see the notice of judicial review.

[11] This application for permission to appeal to the Supreme Court of the United Kingdom seeks a declaration of incompatibility with the **European Convention on Human Right** and in particular **Article 6** right to a fair trial and the **Human Rights Act 1998** in relation to the **Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013**.

[12] Until 1 April 2013 there was a scheme in England for the payment of Council Tax Benefit (“CTB”) for the relief, in whole or in part, of certain persons from their annual obligation to pay council tax. The scheme was made by the Department for Work and Pensions and the duty of local authorities was only to operate it. From 1 April 2013, however, local authorities were required to operate a new scheme, entitled a Council Tax Reduction Scheme (“CTRS”), which they were required to have made for themselves as the CTB was repealed. **The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 (“the Regulations”)** make provision in connection with the CTRS. **The Regulations** enable billing authorities to authorise individuals to investigate offences committed in relation to council tax reduction schemes and created offences and penalties to be imposed in connection with the CTRS. **The Regulations** are made under powers in **section 14A to 14C The Local Government Finance Act 2012**. **The Regulations** are modelled on predecessor provisions (**repealed Part 6 of the Social Security Administration Act 1992**) which makes provision for investigatory powers, offences and penalties in relation to social security benefits which included the old style CTB.

[13] This application seeks to determine the point of law of general public importance in relation to a declaration that these **Regulations** do not extend the power of the local authorities beyond the powers of the Police or that of The Crown Prosecution Service (‘CPS’).

[14] This application seeks to determine the point of law of general public importance in relation to a declaration that these **Regulations** do not mean that the Council can breach its statutory public sector equality duty under **Section 149 Equality Act 2010**.

[15] This application seeks to determine the point of law of general public importance in relation to a declaration that these **Regulations** do not mean that the Council can be above the rule of law and that they do not allow for the creation of a local authority prosecution service and that they do not need to adhere to the *Farquharson guidelines* and the *Code for Crown Prosecutors* and Prosecution thresholds and that Parliament did not intend for these **Regulations** to have superseding and overarching power over the provisions of **PACE 1984**.

[16] This application seeks to determine the point of law of general public importance in relation to a declaration that these **Regulations** do not mean that the Council can have unqualified employees acting as prosecutors.

II. Facts

[17] Appellant was given a Conditional Discharge and was unrepresented and represented herself whilst she was ill due to her disability and fainted and taken to hospital at Warrington Magistrates where a six day trial took place in November 2018. She subsequently appealed that decision to Chester Crown Court. The Appellant was represented for two days in September 2019 and unfortunately Mr Hayton QC did not put her case or challenge the witnesses for the Manchester City Council as the Council was represented by Deans Court Chambers and he is the head of that chambers and because of a lucrative financial contract with the Manchester City Council he deliberately sabotaged her case. The Ruling of Recorder Hannam QC despite giving the Appellant a Community Order makes a finding that the Appellant's case was not put and the Manchester City Council's witnesses were not challenged.

[18] On 11th March 2020, an application was lodged with the Civil Court of Appeal at the Royal Courts of Justice after refusal for Judicial Review was given by the Manchester Administrative Court sealed 4th March 2020. The Appellant's Notice was sealed, set down administratively and accepted on 11th March 2020 by the Court of Appeal. The Court of Appeal provided directions under letter dated 11th March 2020 and the Appellant complied with those directions and duly carried out service as directed.

[19] On 22nd June 2020, further directions were provided, one can only assume due to COVID19 and the global pandemic and these were received on 15th July 2020 and therefore the Appellant corresponded with the Civil Appeals office relating to these on 16th July 2020 due to issues with the postal service caused by the global pandemic.

[20] On 20th July 2020, by email timed at 12.00 the Civil Appeals office of the Court of Appeal wrote stating an administrative error had occurred and the appeal should not have been set down for want of jurisdiction. On the same day, the Appellant wrote to the Court of Appeal office by email at 14.06 and believed that an administrative error had occurred and that she had jurisdiction for the matter to be heard.

[21] On 30th July 2020 at 18.23 and 18.26, the Office of The Court of Appeal emailed stating that the matter was one that involved criminal proceedings and therefore no jurisdiction.

[22] On 4th August 2020 at 11.46 the Office of The Court of Appeal emailed stating that there was no right of appeal.

III. Appeal to the Supreme Court

Error of law - jurisdiction of the Court of Appeal

[23] In relation paragraph 1, above, the Court of Appeal's decision is unfair and incorrect as it failed to consider the civil aspects of the appeal and also in having now concluded that the matter was of a criminal nature as well, the Court should have considered that a certificate should be provided given the importance of the issues that arise and its conclusion.

[24] It is submitted that appeals from the Court of Appeal as stated in **Section 33(1) Criminal Appeal Act 1968** states that: "*1) An appeal lies to the Supreme Court, at the instance of the defendant or the prosecutor, from any decision of the Court of Appeal on an appeal to that court*

under Part 1 of this Act or Part 9 of the Criminal Justice Act 2003 or section 9 (preparatory hearings) of the Criminal Justice Act 1987 or section 35 of the Criminal Procedure and Investigations Act 1996 or section 47 of the Criminal Justice Act 2003. 1b) An appeal lies to the Supreme Court, at the instance of the acquitted person or the prosecutor, from any decision of the Court of Appeal under section 76(1) or (2) of the Criminal Justice Act 2003 (retrials for serious offences).”

[25] It is therefore, submitted that this decision should be challengeable and that a certificate should have been granted given that the routes of appeal in relation to the **section 222 LGA 1978** (third type) prosecution routes are not clear and the English legal system was developed to allow for appeals particularly in criminal prosecutions.

[26] The Court of Appeal’s decision did not consider the impact of the fact that the Court below, the Administrative Court at Manchester had erroneously failed to set the matter down as a Divisional Court as stated by the High Court in London when the Appellant’s Notice was lodged prior to the transfer of this to the Manchester Administrative Court and the failure to sit as a divisional court amounts to a clear error of law and administrative error.

Procedural Impropriety/Administrative Errors/Jurisdiction/Overlap of Civil and Criminal matter

[27] The Appellant’s Notice was correctly lodged with the Court of Appeal and as advised by the Manchester Administrative Court Office of the High Court under Rules 25.3.1 and 25.3.2 of the Administrative Court Guide. The Administrative Court had wholly failed to consider the Criminal aspects of the Judicial Review and therefore it is submitted there is jurisdiction to hear the appeal.

[28] In relation to the civil nature of the appeal and challenging of HHJ Kerr’s 4th March 2020 decisions and permission to proceed application the Appellant submits that she has jurisdiction under **(Rules 25.3.1 and 25.3.2 of the Administrative Court Guide.)** and the Civil Procedure Rules: **CPR 52.15 (1A) for Judicial Review.**

[29] In relation to the criminal aspects of the appeal and insofar as the application relates to the criminal cause of this matter. The cases of **Amand v Home Secretary [1942] 2 All ER 381/1942/** and **Re McGuinness (application for judicial review)(Northern Ireland); Re McGuinness (application for judicial review) (No 2) (Northern Ireland) [2020] UKSC 6, [2020] All ER (D) 110 (Feb)** are helpful and show that the Appellant has cause to proceed.

[30] The Manchester Administrative Court failed to consider the criminal aspects of the judicial review and there has been procedural impropriety as the matter should have been considered by a divisional court with at least two Judges in accordance with **Section 66 Senior Courts Act 1981**. The Appellant was informed that this would happen when she lodged her court bundles in London and relevant copies of all documents and clearly this did not resulting in HHJ Kerr’s 4th March 2020 decision, which she appeals. It is submitted that the High Court/Administrative Court’s position are directly at odds with the decision of the Court of Appeal.

[31] The Manchester District Registry of the High Court and Administrative Court stated the correct route of appeal from the Administrative Court in relation to the civil order it had made was to the Court of Appeal Civil Division. The civil aspects of the appeal relate to the Chester Crown Courts decision to not state the case dated 4th October 2019 and the decisions of Manchester City Council

in their letter of 6th November 2019 and not adhering to published policies and guidelines are amenable to judicial review and furthermore, a decision to commence proceedings is susceptible to judicial review.

[32] Judicial review from the Crown Court is an established route of appeal as the High Court has the power to review decisions of the Crown Court under the **Senior Courts Act 1981, s 29(3)**. The High Court has jurisdiction to make mandatory, prohibiting or quashing orders except in matters relating to trial on indictment to avoid serious delay to the trial. It is submitted that because this case involves **Section 222 LGA 1972** - 'third category Prosecution' and the Court of Appeal was confused and so was the High Court Administrative Court. It is argued that if the Courts are confused by the matter then the lay public will find these matters challenging also.

[33] In relation to the review by way of case stated under the **Magistrates' Courts Act 1980, s 111** and the **Senior Courts Act 1981 s 28(1)** the High Court has the power to give an opinion on a case stated from the Magistrates' or Crown Court where an order, judgment or other decision is wrong in law or in excess of jurisdiction. This procedure overlaps with the procedure for judicial review, as both can be used to challenge the way a decision has been reached and, the effect of both applications may be to set aside the decision of the court. An appeal by way of case stated is to a Divisional Court of the Queen's Bench Division of the High Court.

[34] Both the Administrative Court at Manchester and the Court of Appeal have erred in law and are respectfully wrong and the net effect is that the Appellant has been deprived of her right to appeal. The Appellant has been totally prejudiced, and this has occurred as this appeal is borne out of an unusual prosecution by a local authority (a third category of prosecution borne out of statute and not what the public would consider the usual police type prosecutions or the private prosecutions by a private individual or corporate entity where the DPP (Director of Public Prosecution and/or the CPS can step in at the request of a Defendant upon application). This is the impact of the legislation and the **Regulations 2013** that were brought forward in 2014 without public consultation or parliamentary scrutiny and is a matter of great public importance as Parliament would not have intended to deprive the ordinary person in the street of their right to an appeal. The right to an appeal is a strong feature of the rule of law in a democratic society and enshrined by the right to a fair hearing and human rights. It is submitted that the Court of Appeal could have granted the certificate even where jurisdiction had been refused.

[35] In any event, the Appellant submits that the Civil Division of The Court of Appeal does have jurisdiction and that the decisions in the emails of 30th July 2020 and 4th August 2020 are respectfully wrong, and the Supreme Court is invited to reconsider and overturn this decision, if they cannot be reconsidered or overturned then it is respectfully requested that the permission to appeal to the Supreme Court of the United Kingdom be granted.

[36] The Supreme Court is respectfully requested to grant permission to appeal on a point of law of great importance to society and the public.

IV. An arguable point of law of general public importance which ought to be considered by the Supreme Court at this time (s. 40A(3), 1988 Act)

[37] In any event, the Appellant invites the Court to grant permission to appeal based on wider public interest and the importance of the issues involved in this case, especially, in relation to the

thresholds that are required by local authorities in bringing prosecutions against individuals and that they should adhere to the same policies and procedures as the Crown Prosecution Services including adhering to **PACE 1984**. In **R (Gentle) v Prime Minister [2007] QB 689 at paragraph 1**, the Court of Appeal granted permission to apply for judicial review and the Court noted that permission was granted not on the basis that the application for judicial review had a real prospect of success, but **because of the importance of the issues involved** (*emphasis added*).

[38] This judicial review highlights the local authorities powers and the power to bring prosecutions and in what limited circumstances and what it must do when contemplating such prosecutions. It is important to consider the breaches of the **PACE 1984** and will look at whether the local authorities are qualified to bring these kind of cases in the way that it has done here by not adhering to **PACE 1984** and not adhering to published policies and guidelines. It is an important matter of law and matter for the public to be aware on how far local authorities have to adhere to **PACE 1984** and that it cannot be right that local authorities can go to *pre-PACE*; and flout the law even when it has written policies stating that it would adhere to laws of **PACE 1984**. The actions of Manchester City Council are *ultra vires*.

[39] This case has wide public ramifications and impacts everyones right to a fair trial. The case will have ramifications for everyone that is a UK citizen and actions that can be taken by local authorities when bringing criminal proceedings. It cannot be right that this case as it stands means that Manchester City Council have more powers than the Crown Prosecution Service and Police. It cannot be right that Manchester City Council have effectively changed the law to a *pre-PACE* position by being both investigator and prosecutor and have no qualifications as prosecutors and making determinations on decisions to prosecute without adherence to safeguards and reference to better qualified people such as the CPS. The actions of Manchester City Council are draconian and backwards. The matters are retrograding to a Dickensian era and the public should be made aware that these illegal actions are not reflective of the democratic society that we live in today.

[40] It is therefore of general public interest and clarification is sought on what remit the local authorities have and what power can be exercised and by whom, as matters currently stand this sets a dangerous precedent that Manchester City Council can bring prosecutions without being qualified and do not have to adhere to the law and can bring illegal prosecutions and do not adhere to the legal safeguards and standards and cannot even complete important documents competently (*Prosecution Case File*) for the purposes of expenditure of vast public sums of money and do not have adhere to their own published policies guideline. This is clearly wrong in law and an example of a local authority acting beyond the powers conferred upon it.

[41] It cannot be right that a Crown Court can just ignore a Defendant's defence and documents and deprive a right to a fair trial. These are validly arguable and the application for judicial review in relation to these grounds is in time and strongly supported by the fact that the Appellant was not interviewed under caution and no legal representation was given and the prosecution was brought out of time. It is submitted that the case is arguable given that the prosecution is the type of prosecution requiring fulfilment of certain criteria by law before it can proceed, as explained in the case of **AB**. The Crown Court should have therefore have stated the case particularly as the case was not brought by the CPService and not investigated by the Police and was dealt with by incompetent and unqualified individuals at the Manchester City Council.

[42] It cannot be right that the Appellant is denied remedy or relief in circumstances where important documents have not been disclosed and goes to the heart of fairness. It is important for the public to know that severe, unfair and wrongful convictions can happen and innocent people are punished for a crime they did not commit when a local authority manipulates and abused the court process by not disclosing documents and lacking in candour and not following the processes enshrined by law and failing to adhere to its own published policies and procedures. It is submitted that Courts can intervene where it is established that there are breach of an authority's clear and settled policy as stated in **Metropolitan Police Commissioner, ex party Thompson [1977] 1 WLR 1519; R (Mondelly) v Metropolitan Police Commissioner [2006] EWHC 2370 (Admin).**

[43] It is totally unfair when the Appellant could not have known about the document (*'Prosecution Case File'*) and was told there was nothing to disclose at the Warrington Magistrates Court and no consideration had been given of the date of the Appellant's knowledge by HHJ Kerr in his order dated 4th March 2020 and no consideration that of the fact this was disclosed on 6th November 2019 nearly 3 months after the Chester Crown Court hearing on 12th and 13th September 2019. The omissions and the failure of the duty by the Manchester City Council and the deprivation of fairness caused to the Appellant by such underhand tactics are a matter of public inquiry especially as Manchester City Council had misled in open court that there was nothing to disclose.

[44] In relation to the incorrect decision at paragraphs 2 and 3 of HHJ Kerr dated 4th March 2020, it is submitted that the grounds for judicial review are fully arguable, as this was a rare and costly prosecution brought by Manchester City Council where they have spent more resources on this matter than they have on things that actually matter to the residents of Manchester such as homelessness. There is no analysis in the decisions in relation to the cases of **AB** and **Kay**. None of the safeguards of **PACE** have been adhered to and Manchester City Council have been making the rules up as they go along. In bringing the prosecution Manchester City Council need to ensure that they adhered to the *Corporate Enforcement Policy* and on numerous occasions they did not and they did not complete the requisite report that is legally required of them in accordance with the **AB** case. The decision of Mr Justice Kerr does not answer the point that the prosecution was not validly brought and they did not validly exercise their statutory power. The failings of the requisite to provide a report and adhere to the *Corporate Enforcement Policy* highlights this and this is a requirement as per the case of **AB**. The fact that the *Prosecution Case file* refers to an offence that does not even exist on the statute books defies any common sense, logic, fairness and justice.

[45] Furthermore, the failure of Manchester City Council to not disclose a document in existence at the time of the prosecution and only disclose it on 6th November 2019 the day after the Appellant's father had died on 5th November 2019 is a breach of their duty of candour and a breach of their public law duties. The proper analysis of the case of **Kay** supports the Appellant's position on this. The case is arguable and should not be shied away from because of the complex nature of the matter which highlights matters of great public importance. The Order of HHJ Kerr failed to deal with the points raised in the grounds of appeal and the claim form for judicial review and no reasons have been given as to why all the **PACE** and policy failures by Manchester City Council are not arguable. This case is about the breach in adhering to a published policy and goes to the heart of justice and fairness. It is a breach of public law in failing in the duty of adherence to published policy as stated in **Lumba [2012] 1 AC 245 §30** and **Tesco Stores Ltd v Dundee CC [2012] PTSR 983** especially at **[18]-[19]**.

[46] Furthermore, the decision of Mr Justice Kerr at paragraph 3 of the order dated 4th March 2020 are wrong is that there is no consideration of the arguments and submissions on a lack of candour by Manchester City Council are arguable. A real world view is that the failure to disclose all documents and knowingly withholding document from the Judge at the trial because it does not disclose an offence committed by the Appellant is an embarrassment for the local authority and shows incompetence and makes a mockery of justice and in fact are a matter of general public importance. Manchester City Council have failed to complete a document that is important and required by law without diligence and competence amounting to negligence and hence its failure of disclosure lacks candour as they have spent nearly £50, 000 and counting for a matter that should not have been prosecuted in circumstances where the right to a fair trial was deprived. The public have a right to know that Manchester City Council are experimenting with innocent peoples liberty at great public expense.

[47] It is submitted the deliberate concealment of the *Prosecution Case File* document amounts to a lack of candour and is a matter of public importance and a matter for public inquiry and therefore, of great significance and great importance to the public. Deliberate interference and misfeasance by the investigating officer at the Warrington Magistrates hearing. Christopher Radford, employee of the council, not qualified in prosecutions, this prosecution being the first matter of this nature under these **Regulations**, apologised in open court during cross-examination as he had accepted that he deliberately interfered with the decision to prosecute in that he sought the reassessment before he could proceed, this was evidenced by the 2 x anomalous letters of January 2017. This was an important aspect of the abuse of process case and was not put to this witness at Chester Crown Court.

[48] Additionally, the significance of this issue goes to the heart of fairness in that he was both investigator and prosecutor as the Appellant now knows from the Council's letter of 6th November 2019, since the disclosure of the '*Prosecution Case File*' disclosed with that letter. This shows he was the signatory of that document along with the other individuals the Appellant had complained about previously prior to the prosecution being brought forward by him after his inadequate and discriminatory investigation. He and the other individuals are not qualified prosecutors and who have provided this document purporting to be a report, that is irrational and cannot possibly be in anyway in compliance of the Manchester City Councils express statutory and common law duties and is a failure to consider relevant material (such as the Appellant's important evidence showing she was in communication), the *Corporate Enforcement Policy* and basic prosecution duties and standards. The document disclosed that the offence the Appellant had been prosecuted for did not even exist on the statute books and was out of time and did not comply with the **Regulations 2013** in and of themselves.

[49] In relation to the fairness of the matters referred to in paragraph 4 and 5 of HHJ Kerr's order; it is arguable that the hearing at Chester Crown Court was in fact unfair and improper. The matter was not an ordinary appeal hearing. Whilst the Appellant was represented by leading counsel, Mr Hayton QC at Chester, that does not mean that it was a fair hearing as the Ruling of Chester Crown Court records and makes findings that leading counsel did not put the Appellant's case (see paragraphs **62, 65, 80, 89, 100, 112** of the Ruling of Recorder Hannam QC), this is referred to throughout the Ruling and noted that no real challenges were put of the prosecution witnesses and therefore the matter cannot be said to be fairly dealt with. The evidence of the investigator were previously excluded under **s.78 PACE 1984** at the Warrington Magistrates as he apologised to the Defendant under cross-examination and also admitted wrongdoing in relation correspondence

allegedly sent to the Defendant and his meddling in relation to evidence so that he could then authorise a prosecution, these were important matters that were conceded by the Manchester City Councils main witness at the Warrington Magistrates where the Defendant was unrepresented. This shows the poor and negligent job that Mr Hayton QC did in comparison at Chester. There was a conflict of interest as Manchester City Council were represented and contract with Deans Court Chambers. The leading counsel that represented the Appellant is the head of that chambers and there was a conflict of interest hence why he did not argue the Appellant's case or make any challenges to the evidence of the Manchester City Council. There is a vested financial relationship between Deans Court Chambers and it was in their interest to sabotage the Appellant's appeal. The Appellant's letter to Manchester City Council of 31.12.19 records further anomalies that should be the subject of a public inquiry.

[50] It is arguable that the hearing was unfair as there was no right to a fair trial in breach of the Appellant's human rights, this point has not been considered by Mr Justice Kerr. Thus it is submitted that no consideration has been given to the fact that the basic tenet of criminal law and **PACE 1984** is an interview under caution (as recorded in the Ruling) did not happen and no right to a legal representative was given, it is thus a strong case that there was no right to a fair hearing as the breaches were not considered particularly as the Chester Crown Court did not even read or look at the Appellant's defence and documents cache because of the professional negligence of Mr Hayton QC. Nor was it aware of the existence of the *Prosecution Case File* and made its findings on incomplete evidence. It is submitted that these are a matter of great public importance. It is not right that a local authority can make up the rules of law as it goes along and breach its legal statutory and common law duties and bring prosecutions by unqualified and incompetent individuals that cannot be held accountable and that the Crown Court failed to state the case.

[51] For all the reasons given above and overall, the decision of the Court of Appeal Civil Division is respectfully wrong to not accept jurisdiction on 30th July 2020 and 4th August 2020 and should be overturned and set aside, if denied and if the jurisdiction is not accepted, it is respectfully requested that permission be granted to proceed to the Supreme Court of the United Kingdom in the interests of justice and fairness. It is therefore, of great public interest that people should know procedurally what are their rights and their rights of appeals in these types of prosecutions.

VI. Conclusion

[52] In all the circumstances, the appellant seeks permission to appeal to the Supreme Court and respectfully requests that permission be granted.

VII. Chronology

16th September 2019	Ruling of Chester Crown Court sitting as Magistrates on appeal from Warrington Magistrates on 12th and 13th September 2019
4th October 2019	Chester Crown Court refuse to state the case
6th November 2019	Disclosure of Prosecution Case File and undated Information by Manchester City Council showing no offence that exists in law

26th August 2020