

1

APPEAL AND REVIEW OF MAGISTRATES AND CERTAIN CROWN COURT DECISIONS:¹ CHOOSING THE APPROPRIATE PROCEDURE

Introduction	1.01	Challenging the decisions of the Crown Court in its jurisdiction relating to matters other than trial on indictment	
Challenging the decisions of Magistrates' Courts	1.02		
The main differences between the alternative procedures	1.03	Generally appropriate routes of challenge	1.16
Challenges to sentence	1.13		1.18

Introduction

Although there is overlap between the alternative routes of appeal available against decisions of the Magistrates' Court and Crown Court (leaving aside matters in relation to trial on indictment), there will usually be an appropriate route and the choice will depend upon the particular decision being challenged. **1.01**

A decision of a Magistrates' Court can be challenged by:

- (a) appealing directly to the Crown Court in its appellate capacity;²
- (b) appealing to the Queen's Bench Division of the High Court^{2a} (hereafter 'the High Court') by way of case stated;³ or
- (c) applying to the High Court for a judicial review of the magistrates' decision complained of.⁴

A decision of a Crown Court acting other than in relation to trial on indictment⁵ can be challenged by either:

- (a) appealing to the High Court by way of case stated;⁶ or

¹ The chapter considers Crown Court decisions that do not arise out of its jurisdiction in relation to trial on indictment and in particular in relation to its appellate capacity. (See Senior Courts Act 1981, s. 29(3) and Chapter 4, para. 4.53).

² See Criminal Procedure Rules 2011 (CrimPR), Part 63 and Chapter 2.

^{2a} Case stated appeals and judicial reviews are dealt with by the High Court. (See ss. 28, 28A, 29 SCA 1981.) They are heard in the Administrative Court (consisting of one judge). If sitting with two or more judges it is also known as the Divisional Court. Case stated appeals and judicial reviews are managed by the Administrative Court Office, see also *Practice Note (Administrative Court Establishment)* [2000] 1 WLR 1654.

³ See CrimPR 2011, Part 64 and Chapter 3.

⁴ See Chapter 4. See n. 2a above.

⁵ See n. 1 above.

⁶ See CrimPR 2011, Part 64 and Chapter 3.

- (b) applying to the High Court for a judicial review of the Crown Court decision complained of.⁷

There is an overlap between the various alternative routes, but it will be seen that some are more appropriate than others depending on the particular decision being challenged.

Challenging the decisions of Magistrates' Courts

1.02 The High Court considered the appropriate route to challenge decisions of the Magistrates' Court in *R v Hereford Magistrates' Court, ex p Rowlands*.⁸ In general the approach should be as follows:

- (a) where the defendant complains that the magistrates made an error of fact or mixed fact and law, he should appeal to the Crown Court. This will allow a complete re-hearing of the matter;
- (b) where the defendant complains that the magistrates made an error of law or acted in excess of their jurisdiction, he should appeal by way of case stated;
- (c) where the defendant alleges unfairness, bias or procedural irregularity he should apply for judicial review of the decision.⁹

The main differences between the alternative procedures

Case stated v appeal to Crown Court

- 1.03** The quickest and most straightforward method of challenging a Magistrates' Court decision is by appealing to the Crown Court. Firstly, all defendants have a right of appeal to the Crown Court without any leave requirements.¹⁰ Secondly, the appeal proceeds as a complete re-hearing of the original matter, so additional evidence can be called. Thirdly, an appeal to the Crown Court can almost inevitably be resolved faster than a case stated appeal which may take over six months to be heard.
- 1.04** Where a defendant wishes to challenge both the magistrates' findings of fact, and their ruling on a point of law, it is usually most advantageous to appeal first to the Crown Court. In that way he can have all the evidence reheard *and* have any rulings on points of law re-decided. If he is still dissatisfied with these rulings he can then seek to state a case from the Crown Court decision. By going straight for a case stated from the magistrates he would lose the opportunity to have his case re-heard in full.
- 1.05** The basis for seeking a case stated appeal is generally more restricted than an appeal to the Crown Court. It requires the identification by the applicant of an arguable error of law or excess of jurisdiction by the magistrates. Whereas an appeal to the Crown Court takes the form of a complete re-hearing, a case stated appeal invokes legal argument alone which is confined to the version of the facts stated in the case (ie no evidence is called). Difficult questions may therefore arise where it is alleged that an error of law arises from a failure to ensure that the Court had all the relevant facts or failed to establish precedent facts.¹¹ Such a case could be pursued by case stated, but purely factual disputes are generally properly the subject of appeals to the Crown Court.¹²

⁷ See Chapter 4.

⁸ [1997] 2 Cr App R 340.

⁹ See also *Balogun v DPP* [2010] 1 WLR 1915 and *R (on the application of A) v Leeds Magistrates' Court* [2004] EWHC 554 (Admin).

¹⁰ Provided the application is made within the time limits. See Chapter 2, para. 2.20.

¹¹ See *Mahon v Air New Zealand* [1984] AC 808; *Tameside Metropolitan Borough Council v Secretary of State for the Environment* [1984] JPL 180.

¹² *James v Chief Constable of Kent*, *The Times*, 7 June 1986; *Newman v Baker* (1860) 8 CBNS 200; *Yeomans* (1860) 24 JP 149; *Dyer v Park* (1874) 38 JP 294; *Re Basingstoke School* (1877) 41 JP Jo 118; *J Dale Foundries*

The advantage of a case stated appeal over an appeal to the Crown Court, however, is that the latter procedure will allow the Court and/or prosecution to remedy any defects in the original proceedings that may have led the High Court under the alternative case stated procedure to quash the conviction. Accordingly, where it is alleged that the conviction is unsupported by evidence on an appeal by case stated the prosecution will be bound by findings of fact at trial and cannot adduce further evidence on case stated which may fill gaps in the original case. Conversely, the case stated procedure allows the prosecution to appeal against an acquittal. If, for example, it is alleged that the acquittal was reached without any evidence to support it, or without any evidence upon which a reasonable tribunal could have acquitted,¹³ the decision can be challenged by case stated procedure.¹⁴ The right of the prosecution to appeal an acquittal to the Crown Court is, however, only available where expressly provided for by the statute creating the offence in question.¹⁵ **1.06**

Public funding considerations are also different depending on which route of appeal is pursued. In the Crown Court, criminal legal aid is applicable; in the High Court, it is civil legal aid.¹⁶ **1.07**

It should also be noted that a defendant cannot pursue both an appeal to the Crown Court and an appeal by way of case stated. Once an application to state a case has been lodged, his right to appeal to the Crown Court ceases.¹⁷ However, where the application for the case to be stated relates only to the conviction, the person may appeal to the Crown Court against sentence.¹⁸ (There does not appear to be any authority on the converse situation—appeal to the Crown Court against conviction only. This is probably for two reasons. Firstly, the sentence appeal in such a case is likely to be inextricably linked with the conviction appeal and thus be linked *de facto*, as sentence is at large on such an appeal. Secondly, appeals against sentence by way of case stated are extremely rare.) Furthermore, if after a successful case stated the matter is remitted to the Magistrates' Court, an appeal to the Crown Court would lie against any subsequent conviction or sentence.¹⁹ **1.08**

Case stated v judicial review

Appeals to the Crown Court apart, case stated is generally the preferred method over judicial review in challenging the decisions of magistrates,²⁰ unless it 'is for some reason inapposite or clearly inappropriate.'²¹ Unlike an application for judicial review, a case stated appeal also ensures that the High Court is aware of the findings of fact made by the magistrates and clearly identifies the points of law for the High Court.²² There may, however, be occasions where an alleged procedural error or irregularity will not be apparent from the 'case' and judicial review is then more appropriate.²³ Where, for example, there is a hearing and the defence were simply denied the opportunity of being heard in breach of the rules of natural justice, an application **1.09**

Ltd v Atkinson (CO/51/78) (unreported) 25 March 1980, quoted in *Atkins Court Forms*, Vol. 5 at p. 146; *R v Hove JJ, ex p Hickford* (CO/74/80) (unreported) 1 April 1980 quoted in *Atkins*, Vol. 5 at p. 146; *R v Ipswich CC, ex p Baldwin* [1981] 1 All ER 596.

¹³ *Bracegirdle v Oxley* [1947] 1 All ER 126 at 127.

¹⁴ *Alcock v Read* [1979] Crim LR 534, cf. *Cardiff JJ, ex p Salter* (1986) 149 JPR 721 at 725; see also *Hill v Baxter* [1958] 1 All ER 193.

¹⁵ See Chapter 2, para. 2.03.

¹⁶ See <http://www.legalservices.gov.uk/civil/guidance/funding_code.asp>.

¹⁷ Magistrates' Courts Act 1980, s. 111(4).

¹⁸ *R v Crown Court at Winchester, ex p Lewington* (1982) 4 Cr App R (S) 224; *Sivalingham v DPP* [1975] CLY 2037.

¹⁹ *R (Drohan) v Waterford JJ* (1990) 2 IR 309. See also *Shakell v West* (1859) 2 E & E 326.

²⁰ See *ex p Rowlands*, above, n. 8. Generally judicial review is reserved for cases where there is no alternative statutory route of challenge. *Benham v Poole Borough Council* (1991) 135 SJLB 173. See the *White Book* 2011, 54.4.4.

²¹ In *R v Morpeth JJ, ex p Ward* (1992) 95 Cr App R 215 at 222, *per* Brooke J. It is questionable whether such reasons include an expiry of the case stated (21 days), but not judicial review (three months), time limits.

²² *R v Morpeth Justices, ex p Ward* above, n. 21. See also *R v Brent Justices, ex p Liles* [1992] COD 269.

²³ See Chapter 4, para. 4.05, below.

for judicial review and a quashing order would be most appropriate.²⁴ The same applies where a defendant is denied the opportunity of cross-examining a witness in breach of the ordinary principles of justice.²⁵

- 1.10** There may also be public funding implications in launching a challenge by judicial review. Legal aid will need to be sought in appropriate cases to initiate the judicial review proceedings, whereas in a case stated appeal the procedure can often be set in train by a letter from the applicant's solicitor to the magistrates' clerk setting out the suggested points for a case stated appeal. This preliminary work can often be funded under the advice and assistance scheme (see Chapter 16), or possibly on a *pro bono* basis pending the grant of full legal aid if the case stated appeal proceeds.
- 1.11** An application for judicial review does not prevent an appeal to the Crown Court, though leave to appeal out of time may be required.²⁶ Alternatively the applicant's position can be safeguarded by lodging an appeal to the Crown Court along with an application to adjourn pending the decision of the High Court. Pursuing this alternative appeal does not imply a waiver of any right to seek judicial review.²⁷ The fact that it is being pursued should, however, be brought to the attention of the High Court at the start of an application for judicial review.²⁸ If the Crown Court is unwilling to adjourn the appeal an application can be made to the High Court to have the Crown Court proceedings stayed.²⁹
- 1.12** Where an appeal is begun by way of case stated, but for some reason this becomes impractical, the High Court may in its discretion, consider the application as if it were for judicial review instead.³⁰

Challenges to sentence

- 1.13** Any challenges to sentences passed by magistrates should almost invariably be by way of appeal to the Crown Court.³¹ This also has the advantage of a relatively quick remedy with the Crown Court often able to list appeals faster than the High Court. Additionally, the Crown Court will generally deal with the case there and then, whereas the High Court may remit the case to the magistrates to re-sentence. It is thus only in the most exceptional cases that they should be challenged by way of case stated or judicial review.³²
- 1.14** Examples of where the High Court has interfered with sentences include circumstances where the prosecution have obtained a ruling that the magistrates in a drink-driving case should have disqualified the offender because the grounds put forward as a basis for not disqualifying did

²⁴ *R v Wandsworth Justices, ex p Read* [1942] 1 KB 281.

²⁵ *Rigby v Woodward* [1957] 1 WLR 250; *ex p Rowlands*, n. 8 above.

²⁶ See *R v Huyton Magistrates' Court, ex p Roberts* [1988] COD 43.

²⁷ *Ridge v Baldwin* [1964] AC 40, HL.

²⁸ *R v Mid-Worcestershire JJ, ex p Hart* [1989] COD 397.

²⁹ When granting leave to apply for judicial review, the High Court may adjourn the trial in the lower Court until the substantive judicial review hearing has taken place: *R v Dover JJ, ex p Dover DC and Wells* [1992] Crim LR 371.

³⁰ See *R v Brent JJ, ex p Liles*, above n. 22.

³¹ *R v Ealing JJ, ex p Scrafield* [1994] RTR 195, DC; *Tucker v DPP* [1992] 4 All ER 901 at 903; *R v Battle JJ, ex p Shepherd* (1983) 5 Cr App R (S) 124. Applying *St Albans Crown Court, ex p Cinnamon* [1981] QB 480.

³² *Tucker v DPP* [1992] 4 All ER 901 at 903; [1994] RTR 203. Applying *St Albans Crown Court, ex p Cinnamon* [1981] QB 480. See also n. 39. For examples of exceptional cases where the Divisional Court quashed sentences in the judicial review context, see *R v Chelmsford Crown Court, ex p Birchall* (1989) 11 Cr App R (S) 510; *R v Southwark CC, ex p Ager* (1990) 91 Cr App R 322; *Burnley Magistrates' Court, ex p Halstead* (1990) 12 Cr App R (S) 468; *R v Isleworth Crown Court, ex p Irwin*, *The Times*, 5 December 1991, DC (a legitimate expectation of a non-custodial sentence from magistrates, applies to Crown Court on appeal); *R v York JJ, ex p Grimes*, *The Times*, 27 June 1997, DC.

not actually amount to a special reason.³³ Defendants have also had their sentences reduced after it has been successfully argued that the initial sentence was harsh and oppressive. The High Court assumes that there must have been an error of law in passing such a sentence, otherwise it would not have resulted in a decision so manifestly outside the limits of good sentencing practice.³⁴ If the Court sentences on an erroneous basis (eg unfairly including an element of racial aggravation where such was withdrawn before trial) the Court will also intervene.³⁵ When the High Court reverses a magistrates' decision to dismiss an information, it may impose what would seem to be the only proper penalty the magistrates could impose in the circumstances of the case.³⁶ Another method of achieving this is for the High Court to exercise its power to substitute a valid for an invalid sentence.³⁷

Under the Senior Courts Act 1981, s. 43³⁸ the High Court can (on quashing a sentence of the Magistrates' Court or Crown Court on appeal) substitute for the sentence passed any sentence which was within the power of the lower Court.

1.15

Where a sentence is challenged by way of case stated, the applicable test seems to be the same as for an application for judicial review. This was originally stated to be where the sentence is by any acceptable standard truly astonishing.³⁹ However, Lord Bingham CJ (as he then was) stated that it is questionable as to whether or not this is the ideal test:

Since some people are more readily astonished than others and it would appear to be a somewhat subjective approach. It would perhaps seem more helpful to ask the question whether the sentence or order in question falls clearly outside the broad area of the lower Court's sentencing discretion.⁴⁰

In relation to the judicial review of sentencing, the High Court has made it clear that it is not acting as the Court of Appeal. It will only intervene if an order is harsh, oppressive, and lacking in proportionality.⁴¹ Examples of circumstances in which the High Court has intervened include:

- (a) where a forfeiture order was so out of scale as to allow of it being said that it was erroneous;⁴²
- (b) if a maximum penalty was imposed without due regard to the principle of proportionality in sentencing;⁴³
- (c) if a fine was set too high for a defendant to be able to pay;⁴⁴
- (d) costs were imposed outside of the proper bracket;⁴⁵
- (e) a sentence was imposed that fell clearly outside the broad scope of the lower Court's discretion;⁴⁶

³³ Road Traffic Act 1972 (now Road Traffic Offences Act 1988). See, for example, *Haine v Walkett* [1983] RTR 512.

³⁴ *Universal Salvage Ltd and Robinson v Boothby* [1984] RTR 289. See also *Tucker v DPP*; see n. 31.

³⁵ *T v DPP* (2004) 168 JP 313.

³⁶ *Coote v Winfield* [1980] RTR 42. See also n. 32 above.

³⁷ Administration of Justice Act 1960, s. 16.

³⁸ As amended by the Access to Justice Act 1999, s. 62.

³⁹ *Tucker v DPP*, see n. 32; *R v Chelmsford Crown Court ex p Birchall*, see n. 32.

⁴⁰ *R v Truro Crown Court, ex p Adair* [1997] COD 296. See also *R v Bow Street Stipendiary Magistrate, ex p Screen Multimedia Ltd* (1998) 21(5) IPD (Court declined to quash sentences that were not 'manifestly excessive'). See also *R v Liverpool Crown Court, ex p Graham* [1996] COD 396.

⁴¹ *R v Warley JJ, ex p Harrison* [1994] COD 340; see also: *DPP v Gloucester Crown Court, ex p McGeary* [1999] Crim LR 430; *R v Swansea Crown Court, ex p Davies*, *The Times*, 2 May 1989; *R v Crown Court at Croydon, ex p Miller* (1987) 85 Cr App R 152, DC; *R v Ramsgate Magistrates' Court ex p Haddow* (1993) Admin Law 359.

⁴² *R v Maidstone Crown Court, ex p Lever* [1995] 1 WLR 928 at 935F.

⁴³ *R v Highbury Corner JJ, ex p Uchendu*, *The Times*, 28 January 1994.

⁴⁴ *R v Carlisle Crown Court, ex p D'Alessandro* [1996] COD 440.

⁴⁵ *R v Old Street Magistrates' Court, ex p Spencer*, *The Times*, 11 November 1994.

⁴⁶ *R v Truro Crown Court, ex p Adair* [1997] COD 296.

- (f) where a defendant was found guilty of culpable neglect in paying a fine because the Court took into account his wife's income—the more generally applicable principle being that a defendant's ability to pay a fine should be assessed according to his own means.⁴⁷

In the unlikely event that the Court record does not accord with the sentence that was passed in open Court, judicial review is appropriate and the latter prevails.⁴⁸

Challenging the decisions of the Crown Court in its jurisdiction relating to matters other than trial on indictment

- 1.16** The appropriate methods for challenging Crown Court decisions relating to matters other than trial on indictment, and in particular within its appellate jurisdiction, are by way of case stated or judicial review.
- 1.17** It is not always clear whether or not some particular matters are part of the Crown Court's jurisdiction relating to trial on indictment. If there is doubt about the jurisdiction it could be advantageous to issue proceedings for judicial review (as opposed to case stated) because the issue can be considered and dealt with judicially at the leave stage with a minimum of delay and expense.

Generally appropriate routes of challenge

- 1.18** Whilst absolute rules are difficult to prescribe, there are common situations in which certain routes of appeal will usually be appropriate.

Table 1.1 Decision and route

Decision to be Challenged	Route of Challenge
Custody time-limit decisions	When decided by the Magistrates' Court an appeal to the Crown Court is the conventional route. ⁴⁹ Judicial review is the most appropriate method when a decision has been made by the Crown Court. ⁵⁰ Case stated is possible, ⁵¹ but the inherent delay in the procedure makes it generally unsuitable.
Refusal to exercise jurisdiction	Whilst a judicial review may be sought, case stated is generally the more appropriate remedy. ⁵²
Prospective/continuing error of jurisdiction	Judicial review is generally the appropriate remedy because a prohibiting order will be sought. ⁵³

⁴⁷ *R (on the application of Michael McDonough) v Wigan Magistrates' Court* [2004] EWHC 3272.

⁴⁸ *R (on the application of Dixon) v Wolverhampton Justices* [2001] EWHC 189 Admin.

⁴⁹ See, eg, *R v Merthyr Tydfil Crown Court, ex p Chief Constable of Dyfed-Powys Police, The Times*, 17 December 1998.

⁵⁰ *R v Manchester Crown Court, ex p McDonald* [1999] 1 Cr App R 409; *R v Crown Court at Norwich, ex p Parker and Ward* (1993) 96 Cr App R 68, DC; *R (on the application of Armstrong) v Crown Prosecution Service* [2004] EWHC 2252 (Admin); *R (on the application of Bannister) v Guildford Crown Court* [2004] EWHC 221 (Admin).

⁵¹ See, eg, *McKay White v DPP* [1989] Crim LR 375, DC. Case stated may be useful where the basis of the challenge is that there was insufficient evidence to justify a particular decision. See, eg, *R v Central Criminal Court ex p Behbehani* [1994] Crim LR 352, DC.

⁵² *R v Clerkenwell Metropolitan Stipendiary Magistrate, ex p DPP* [1984] QB 821.

⁵³ Eg *R v Hatfield JJ, ex p Castle* [1981] 1 WLR 217.

Table 1.1 Decision and route *Continued*

Decision to be Challenged	Route of Challenge
Submission of no case to answer	Case stated will usually be the most appropriate course. ⁵⁴
Cases where facts found are unclear	Case stated is the most appropriate route.
Acquittals and appeals allowed in the Crown Court	Case stated, ⁵⁵ save where the Court acted outside its jurisdiction and is susceptible to a judicial review. ⁵⁶
Breach of natural justice	Judicial review is most appropriate, ⁵⁷ whilst case stated is not available ⁵⁸ unless there has been a ruling on the issue (such as bias ⁵⁹). An appeal from the Magistrates' Court to the Crown Court will provide a complete re-hearing but will not cure the breach.
Alleged error of jurisdiction resulting in conviction	An appeal from the Magistrates' Court to the Crown Court will provide a complete re-hearing, although case stated is available and may be most appropriate in cases involving complex disputed facts. ⁶⁰ Judicial review may be more appropriate if the Court is alleged to have misunderstood its functions such that the 'trial' was initiated. ⁶¹ On any further appeal from the Crown Court, case stated is most appropriate. ⁶²
Conviction against the weight of the evidence	An appeal from the Magistrates' Court to the Crown Court, followed by an appeal from the Crown Court by way of case stated.
Conviction unsupported by any evidence	Case stated is available ⁶³ and is preferable to judicial review as the actual facts found by the magistrates will be set out clearly in the case together with the evidence alleged to support such findings. ⁶⁴ In the event of this situation arising on an appeal to the Crown Court, again case stated is appropriate for the same reasons.
Fresh evidence after conviction	If the fresh evidence emerges following conviction by the Magistrates' Court then an appeal to the Crown Court will allow for it to be effortlessly introduced. Neither case stated nor judicial review are appropriate, and therefore if the evidence emerges following an appeal to the Crown Court, then the only remedy is through an application to the Criminal Cases Review Commission (CCRC) (in relation to which see Chapter 12).

(Continued)

⁵⁴ *Sykes v Holmes* [1985] Crim LR 791, DC. See also, eg, *DPP v Bull* [1995] QB 88. Cf. *Loade v DPP* [1990] 1 QB 1052.

⁵⁵ eg *DPP v Coleman* [1998] 1 WLR 1708, DC.

⁵⁶ *Harrington v Roots* [1984] AC 743, HL; *R v Hendon JJ*, ex p *DPP* [1994] QB 167, DC; *R v Bournemouth Crown Court*, ex p *Weight* [1984] 1 WLR 980, HL; *London Borough of Bromley v Bromley Magistrates' Court* [2011] 175 JP 179, DC.

⁵⁷ *R v Hereford Magistrates' Court*, ex p *Rowlands* [1997] 2 Cr App R 340; *R (on the application of Taylor) v Southampton Magistrates' Court* (2009) 172 JP 17; *R (on the application of Purnell) v Snaresbrook Crown Court* [2011] EWHC 934 (Admin).

⁵⁸ *R v Wandsworth JJ*, ex p *Read* [1942] 1 KB 281; *Rigby v Woodward* [1957] 1 WLR 250.

⁵⁹ See *Johnson v Leicestershire Constabulary*, *The Times*, 7 October 1998, DC.

⁶⁰ *R v Ipswich Crown Court*, ex p *Baldwin* [1981] 1 All ER 596.

⁶¹ *R v Chief Commons Commissioner*, ex p *Winnington and others*, *The Times*, 26 November 1982.

⁶² See *R v Morpeth JJ*, ex p *Ward* (1992) 95 Cr App R 215; *R v Gloucester Crown Court*, ex p *Chester* [1998] COD 365.

⁶³ See CrimPR 2011, r. 64.1(2).

⁶⁴ *R v Beaconsfield JJ*, ex p *Stubbings* (1988) 152 JP 17.

Table 1.1 Decision and route *Continued*

Decision to be Challenged	Route of Challenge
Excessive sentencing	An appeal from the Magistrates' Court will usually be best resolved through an appeal to the Crown Court, following which judicial review would generally be the more appropriate route.
Special reasons decisions (in road traffic cases)	Case stated appeals are most appropriate. ⁶⁵
Committal proceedings	Judicial review is the only remedy available ⁶⁶ (ie case stated is not available ⁶⁷).
Wasted costs orders	Appeal lies from the Magistrates' Court to the Crown Court, and from the Crown Court <i>at first instance</i> to the Court of Appeal. ⁶⁸ There is authority for judicial review of the Crown Court on wasted costs in certain circumstances, however. ⁶⁹
Refusal to order costs from central funds	Judicial review is the only remedy available. ⁷⁰
Inter-partes order for costs under Magistrates' Courts Act 1980 s. 108(3)	Judicial review. ⁷¹
Order for costs following an appeal to the Crown Court	Judicial review. ⁷²

⁶⁵ Eg *Haime v Walkett* [1983] 5 Cr App R (S) 5, 165.

⁶⁶ *R v Bedwelty JJ, ex p Williams* [1997] AC 225, HL; *R (on the application of Director of Public Prosecutions) v Devizes Magistrates' Court* [2006] EWHC 1072 (Admin). The prosecution can also challenge a decision of examining magistrates who refuse to commit: *R v Bow Street Magistrates' Court, ex p DPP* (1992) 95 Cr App R 9, DC.

⁶⁷ *R (on the application of Paul Rackham Ltd) v Swaffham Magistrates' Court* [2005] JPL 224.

⁶⁸ R. 3C of the Costs in Criminal Cases (General) Regulations 1986 (SI 1986/1335) as amended.

⁶⁹ *R (on the application of B) v X Crown Court* [2010] Crim LR 145.

⁷⁰ Eg *Birmingham Juvenile Court, ex p H* (1992) 156 JP 445, DC; *R (on the application of Cunningham) v Exeter Crown Court* [2003] 2 Cr App R (S) 64.

⁷¹ See *R v Tottenham JJ, ex p Joshi* [1982] 1 WLR 631. Cf. *Neville v Gardner Merchant Ltd* (1983) 5 Cr App R (S) 349, DC, where a successful appeal by case stated against a costs order.

⁷² See Prosecution of Offences Act 1985, s. 22(7) and (8) and *R v Folkestone Magistrates' Court, ex p Bradley* [1994] COD 138, but see also *R v Sheffield JJ, ex p Turner* [1991] 2 QB 472, DC.