

Case Stated

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Case stated is an appeal mechanism, a legal function, available in [England and Wales](#) to review a [magistrates' court](#) decision on a point of law. It is a statement of facts prepared by one court for the opinion of another on a point of law.

Any person who is a party to proceedings before a magistrates' court may question the proceedings on the basis that the [magistrates](#) erred in law. The application to state a case must be made within 21 days to the appropriate magistrates' court. The decision as to whether to state a case is made by the Justices or [District Judge](#) who can allow or refuse the application.

If the application is granted, the matter is referred to the [High Court](#) in the form of questions for the [judge](#) to determine. This usually takes the form "were we/was I correct to..." and then the specified aspect of law to which the appeal relates. If the application to state a case is refused the applicant could seek redress by [judicial review](#). The High Court will determine whether or not the law was correctly applied. If the appeal is upheld, the High Court will refer the case back to the appropriate magistrates' court with directions to correct its decision. Otherwise, the appeal would be dismissed.

If an appeal has gone initially from the magistrates' court to the [Crown Court](#), the power to case state any legal decisions taken by the Crown Court arises. There is, however, no power to case state any cases dealt with by the Crown Court after committal or sending for trial, transfer or committal for sentence.

An application for the court to state a case cannot be made until the court is *functus officio*.^[*dubious – discuss*]

A similar function is available for the courts of the [Republic of Ireland](#), where a District Court judge may consult the [High Court](#), or a Circuit Court judge may consult the [Supreme Court](#) on a point of law. The case stated is expressed in terms of one or more questions.

From the Crown Court

After written application has been made to the Crown Court and the judge has agreed to state a case, the first draft is prepared by the appellant and must be sent to the appropriate officer of the Crown Court and the other party/parties to the proceedings within 21 days of receiving that agreement.

The other party/parties have 21 days to agree the draft case stated or draft an alternative.

The judge will consider the draft together with any alternative and is required to sign the case within 14 days of receipt (the Crown Court can extend the time limits).

The appellant then lodges the case stated in the same way as that for the magistrates' court.

A Crown Court judge can refuse to state a case if she/he considers the application is frivolous or on jurisdictional grounds such as a failure to observe time limits. Judicial Review will lie against unreasonable refusal but before such a course is contemplated, the Appeals Unit should be consulted.

Areas: Case Stated

In all case stated appeals instigated by the CPS, the Area is responsible for identifying those cases that are suitable for appeal and for the initial request made to the magistrates or Crown Court to state a case.

The Area is also responsible for making representations on any draft before the stated case is finalised.

Areas should consult Strategy and Policy Directorate as appropriate on the law or policy relating to the issue in question and can seek assistance and advice on procedural matters from the Appeals Unit.

Where the Area seeks the assistance of Strategy and Policy Directorate or the Appeals Unit in drafting or making representations on a draft stated case, this consultation must be carried out in a timely manner so that all preparatory work can be completed within the time limits specified in the Civil Procedure Rules

Introduction

Applications for **judicial review** and appeals by way of **case stated** are the proceedings in the Administrative Court that most affect the CPS. The law, practice and procedure are contained in:

- subsection 111 - 114 Magistrates' Courts Act 1980;
- Criminal Procedure Rules 2010, Part 64;
- subsection 28 - 31 Senior Courts Act 1981 (formerly Supreme Court Act 1981); and
- Civil Procedure Rules, Part 54.

Section 111 Magistrates' Courts Act 1980 and section 28(1) Senior Courts Act 1981 provide that relevant proceedings in the magistrates' court and a Crown Court "order, judgment or other decision" respectively may be challenged by way of case stated on the basis that they are wrong in law or in excess of jurisdiction. A court can state a case only after it has reached a final determination of the matter.

A defendant or prosecutor may challenge decisions by the magistrates' court or Crown Court by way of judicial review. This is a challenge to the way in which a decision has been made rather than the correctness of the decision.

There is an overlap between the quashing order available through judicial review and the case stated procedure. They can both be used in situations where the court is wrong in law or has acted in excess of jurisdiction. The effect of both remedies is to set aside the decision of the court below.

When both remedies are available the case stated procedure should be used because it enables the facts as found by the court to be placed before the Administrative Court: *R v Ipswich Crown Court ex parte Baldwin* [1981] 1 All ER 596.