Neutral Citation Number: [2020] EWHC 1866 (QB)

Case No: CO/ 1184/2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT SITTING IN BIRMINGHAM

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15/07/2020

Before :

LADY JUSTICE CARR
and
MR JUSTICE ROBIN KNOWLES

- -

Between :

TONI GARRETT	**Appellant**
- and -	
CHIEF CONSTABLE OF WEST MIDLANDS POLICE	**Respondent**

- -
- -

Ms Cathryn McGahey QC (instructed by **Cohen Cramer Solicitors**) for the **Appellant**
Mr Jamie C Scott (instructed by the **Staffordshire and West Midlands Police**) for the **Respondent**

Hearing date: 7 July 2020

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Approved Judgment

Lady Justice Carr:

Introduction

1. This is an appeal by way of case stated from a decision of District Judge (MC) Qureshi ("the Judge") sitting at Birmingham Magistrates' Court on 16 April 2018 to order the destruction of a Rottweiler dog called Roxy ("the dog") pursuant to s. 4B of the Dangerous Dogs Act 1991 (as amended) ("s. 4B") ("the 1991 Act") ("the Destruction Order"). The appellant ("Ms Garrett") is the dog's owner.

2. The question posed for the Court is as follows:

> "Does the six months' time limit for bringing a complaint under s.4B(1)(a) of the Dangerous Dogs Act 1991 run from the date of the incident which provides the grounds for the complaint, from the date on which the police become aware of the incident or from the date on which the police seize the dog in question as a result of that incident?"

3. The essential issue is one of jurisdiction and focusses on s. 4B and s. 127 of the Magistrates' Courts Act 1980 ("s. 127"). As will be seen in more detail below, unless time starts to run on (or after) the latest of the three dates identified in the question above, the complaint in this case was brought out of time and the court lacked jurisdiction to hear the case.

The background facts

4. In September 2014 the dog jumped up onto a five month old baby who was being carried by an adult at the time. Fortunately, the child sustained only minor injury in the form of reddening to his leg. The child's mother, who was not present at the time, was informed of the incident and called the police but did not wish to pursue the matter as she was a friend of Ms Garrett. The matter was dealt with by way of a local resolution under which Ms Garrett undertook to ensure that the dog would always be in a secure muzzle and lead when outside and be supervised if there were any children under 16 years of age present, and to obtain third party insurance for the dog. Whilst Ms Garrett duly insured the dog for a year, she then let the insurance lapse.

5. On 23 April 2017 the dog, despite being behind a baby-gate at the time, bit the forearm of a visiting adult cousin of Ms Garrett, Ms Haddon, causing two puncture wounds which became infected. In the end they required 18 stitches to heal. On 3 May 2017 the police were informed (either by Ms Haddon, who did not provide a witness statement, or by a "third party").

6. On 12 May 2017 a warrant was issued (under s. 5(2) of the 1991 Act ("s. 5(2)") and on 19 May 2017 police attended Ms Garrett's home and executed the warrant. The dog was seized, along with another Pit Bull type dog ("Storm"), also present at the home.

7. On 29 September 2017 Ms Garrett attended the police station but made no comment to every question asked of her in relation to both dogs. It was decided that there was no

point in prosecuting her. Instead, on 14 November 2017, the Respondent ("the Chief Constable") issued a complaint applying for an order of the destruction of both dogs pursuant to s. 4B ("the complaint"): in relation to Storm, he was a banned breed; in relation to the dog, she had now made two attacks and should be destroyed.

The hearing before the Judge

8. The hearing took place on 16 April 2018 before the Judge who rejected the preliminary submission that the complaint was out of time. PC Russell Martin gave evidence to the effect that Ms Garrett was not a fit and proper person to care for Storm; she also failed to see the aggressive side and danger posed by the dog. Ms Garrett did not give evidence or call any evidence about herself. Dr Kendel Shepherd, a veterinary surgeon, gave evidence on behalf of Ms Garrett about the dog, but the Judge did not find her evidence convincing.

9. The Judge went on to make a destruction order in respect of Storm, who was a banned breed and clearly constituted a danger to public safety even though she had not hitherto attacked anyone. As for the dog, his reasoning is recorded by him as follows:

> "…because of her breed and not being a banned breed, the court had a discretion whether or not to order her destruction. I was not persuaded by the evidence of Dr Shepherd and Miss Garrett did not give evidence. The only compelling evidence before me was that Roxy had bitten a baby in 2014 and an adult in 2017. Thus, the risks posed by Roxy were real and not controverted by Miss Garrett, who I considered was not a fit and proper person to own and care for her. I therefore ordered the destruction of Roxy."

10. Ms Garrett applied for a case to be stated on 3 May 2018. The application was granted on 6 August 2018. An appellant's notice was not filed until 25 March 2019 but the necessary extension of time was granted by Andrews J on 9 March 2020.

The Judge's ruling on jurisdiction

11. The Judge dealt with limitation as a preliminary issue. He stated that the time limit imposed in relation to summary proceedings within s. 127(1) of the Magistrates' Courts Act 1980 ("s. 127") applied to applications pursuant to s. 4B. As between the parties, this was non-contentious.

12. He went on to rule that the time limit only commenced when the police seized the dog and not from any earlier date, either the incident itself on 23 April 2017 or when the police were informed of the incident. He recorded his reasoning as follows:

> "I ruled that the time limit only commenced when the police seized the dogs since there could be no matter of complaint against anyone until the police found the relevant animal and ascertained who the owner was. If the police were to issue proceedings before the court within 6 months of the date of a report by a member of the public, it may well be that the police do not actually find the animal concerned and the proceedings would be ineffective. Equally, if an owner is not identified, the court cannot issue a summons to anyone to appear at court to deal with the

> complaint. It appeared to me a matter of common sense to interpret the legislation so that the time limit began only when the police had seized an animal in relation to which court proceedings might ensue."

13. Thus he held that the complaint was brought within the relevant time limit.

14. On the eve of the hearing of this appeal, Ms Garrett served a supplemental bundle containing the warrant and a draft of the application in support, neither of which were before the Judge. Although this appeal proceeds by way of case stated, the Chief Constable did not object to the court considering the material. The draft application indicates that at the time of applying for the warrant the police were aware that Ms Garrett was the owner of the dog and where she lived, as well as the date, time and circumstances of the incident on 23 April 2017 (and also of the earlier incident in September 2014).

15. For what it is worth, I do not read the Judge's ruling on jurisdiction as set out above as being based on the specific facts of this case; rather he concluded, as a matter of legislative interpretation, that the date of seizure should be the date when the time limit in s. 127 should start to run.

The parties' respective positions

16. Ms McGahey QC for Ms Garrett submits that the Judge's interpretation was clearly wrong. The time limit in s. 127 runs from the date of the precipitating incident. The seizure of the dog was an action by a police officer in response to the "matter of complaint", namely the incident on 23 April 2017, not the "matter of complaint" itself. The event or situation for which a person has to answer in court is the "matter of complaint", not the date when evidence is gathered.

17. It is said that if the police seizure were "the matter of complaint", it would mean that a complaint under s.4B could be brought years after the incident in question – simply because the police, for whatever reason, did not seize the dog until many years after a reported incident. Such a result would be wrong in principle and contrary to the clear intention of the statute, which was for complaints to be brought timeously. It is submitted that there is support for the approach set out above in the Magistrates' Court Rules 1981. Rule 66 provides for the register of convictions to include, not only the nature of the matter of complaint but also (at (2)(d)) "the date of…matter of complaint". It would be meaningless if the register recorded the police seizure as the matter of complaint. Equally, Rule 98 requires that a summons to appear before a magistrates' court in respect of a complaint to specify "each…complaint in respect of which it is issued". The complaint referred to cannot be the police seizure of the dog.

18. Further, Ms McGahey submits that even if the Chief Constable's approach, namely that time runs from the date of the "appearance of dangerousness", is correct, the appearance of dangerousness on the facts here pre-dated the police seizure, as evidenced in the draft application for the warrant.

19. Ms McGahey also submits that it cannot have been Parliament's intention to have a longer period in which to bring proceedings under s. 4B than in which to prosecute a person for an offence under the 1991 Act. The regime in s. 4B is intended to be "more

merciful" rather than "more draconian" than the regime for prosecution under s. 3 of the 1991 Act. There should not be different time limits.

20. Reference is made to a number of authorities: *RSPCA v Webb* [2015] EWHC 3802 (Admin) ("*Webb*"); *James v Birmingham City Council* [2010] EWHC 282 (Admin) ("*James*"); *R (Cleveland Police) v H* [2009] EWHC 3231 (Admin) ("*H*").

21. Both parties referred to *Webb* in particular in some detail. This was a case concerning ss. 18 and 20 of the Animal Welfare Act 2006. Not unlike s. 4B, s. 20 of the Animal Welfare Act 2006 empowers the magistrates' court to make orders for the disposal of animals taken into possession by an inspector or constable. The power to take an animal into possession arises if a veterinary surgeon has certified that the animal was suffering or likely to suffer if its circumstances did not change (see s. 18(5)). The RSPCA had seized a number of cats under s. 18(5) but applied to dispose of them under s. 20 more than six months later. The Divisional Court was asked to determine whether the six months' limitation period in s. 127 ran from the date of seizure or, as the RSPCA argued, only once a vet had (later) confirmed that the cats were diseased. It concluded that, because a number of the cats had already been certified as suffering by the time of the seizure, time had started to run at the point of seizure.

22. In considering the question, the Divisional Court accepted that, since seizure was permitted in the absence of actual suffering and was a brief emergency procedure from which there was no right of appeal, the date of seizure was not automatically, in every case, the date on which the "matter of complaint" arose. Beatson LJ said this:

> "23….In broad terms, I accept the submission that a seizure of animals under section 18(5) does not in itself and automatically constitute the commencement of time when the complaint arose…
>
> 24. Mr Thatcher's submission that the need for an application under section 20(1) may only arise long after the 6 months have elapsed since the act of seizure may well be true. The example in his written submissions is of a stallion which is suffering and is seized but it later becomes necessary to geld the stallion because it has become a danger to either other horses, to those looking after it, or to itself. That submission has force. In the circumstances of the present case he submits that at the time that these cats were taken into possession...the conditions for section 18…were met, but their underlying condition in fact was unknown. Analysis and tests were needed to determine what that condition was.
>
> 25 As an abstract proposition, these two submissions, as I have said, have force. But the fact that in some circumstances there is no matter of complaint for some time after a seizure does not mean that on particular facts a complaint may not have arisen at the time of seizure. Although an order under section 20 cannot be made until after an animal has been taken into possession under section 18(5), I do not consider that the complaint may not arise at that time on the particular facts of a case….those provisions…show that what is relevant is the condition of the animal at the relevant time…"

23. Thus Beatson LJ accepted the "abstract proposition" that, where the need to dispose of an animal arose months after seizure, time under s. 127 might not begin to run until then. However, on the facts of the case, at least one of the cats was suffering from the virus on the date when they were taken into possession, which could therefore properly be taken as the date of "the matter of complaint".

24. Ms McGahey submits that, by analogy with *Webb*, the date that "the matter of complaint" arose must be the date of the incident leading to the dog's seizure, namely 23 April 2017.

25. Mr Scott for the Chief Constable submits in summary that the Judge was right to hold that he had jurisdiction by reference in particular to the legislative focus on dangerousness. He submits that Ms Garrett's position wrongly conflates "complaint" with "wrongdoing". The "matter of complaint" must be that a dog appears to be dangerous, not a specific act or incident. The appearance of dangerousness may be established by a single incident, but may arise from several circumstances, depending on the particular facts. There may be instances when the appearance of dangerousness emerges before or after the date of seizure. But the date of seizure will in many cases be a "convenient moment" from which time should run. On the facts of this case, Mr Scott submits the assessment that the dog was dangerous did not "solidify" until she was seized by the police. As for *Webb*, it is said that this is not authority for the proposition that the clock runs for s. 127 purposes from a moment of "wrongdoing".

Analysis

Dangerous Dogs Act 1991

26. S. 4B was introduced into the 1991 Act by the Dangerous Dogs (Amendment) Act 1997 and provides (after further amendment by the Anti-social Behaviour, Crime and Policing Act 2014) as follows:

> "**4B. Destruction otherwise than on a conviction**
> (1) Where a dog is seized under section 5(1) or (2) below or in exercise of a power of seizure conferred by any other enactment and it appears to a justice of the peace…..-
> (a) that no person has been or is to be prosecuted for an offence under this Act or an order under section 2 above in respect of that dog (whether because the owner cannot be found or for any other reason); or
> (b) that the dog cannot be released into the custody or possession of its owner without the owner contravening the prohibition in section 1(3) above,
> he may order the destruction of the dog and, subject to subsection (2) below, shall do so if it is one to which section 1 above applies.
> (2) Nothing in section 1(b) above shall require the justice…to order the destruction of a dog if he is satisfied-
> (a) that the dog would not constitute a danger to public safety;….
> (2A) For the purposes of subsection (2)(a), when deciding whether a dog would constitute a danger to public safety, the justice…-
> (a) must consider-
> (i) the temperament of the dog and its past behaviour, and

(ii) whether the owner of the dog, or the person for the time being in charge of it, is a fit and proper person to be in charge of the dog, and

(b) may consider any other relevant circumstances."

27. S. 5 of the 1991 Act as originally enacted provided:

"**5. Seizure, entry of premises and evidence**

(1) A constable or an officer of a local authority authorised by it to exercise the powers conferred by this subsection may seize-

(a) any dog which appears to him to be a dog to which section 1 above applies and which is in a public place-

(i) after the time when possession or custody of it has become unlawful by virtue of that section; or

(ii) before that time, without being muzzled and kept on a lead;

(b) any dog in a public place which appears to him to be a dog to which an order under section 2 above applies and in respect of which an offence against the order has been or is being committed; and

(c) any dog in a public place (whether or not [a dog] to which that section nor such an order applies) which appears to him to be dangerously out of control.

(2) If a justice of the peace is satisfied by information on oath….that there are reasonable grounds for believing-

(a) that an offence under any provision of this Act or of an order under section 2 above is being or has been committed; or

(b) that evidence of the commission of any such offence is to be found, on any premises he may issue a warrant authorising a constable to enter those premises (using such force as is reasonably necessary) and to search them and seize any dog or other thing found there which is evidence of the commission of such an offence….

(4) Where a dog is seized under subsection (1) or (2) above and it appears to a justice of the peace…that no person has been or is to be prosecuted for an offence under this Act for an order under section 2 above in respect of that dog (whether because the owner cannot be found or for any other reason) he may order the destruction of the dog and shall do so if it is one to which section 1 above applies…."

28. S. 5(4) ceased to have effect by virtue of s.3(2) of the Dangerous Dogs (Amendment) Act 1997 (when, as indicated above, s. 4B was introduced). The Anti-social Behaviour Act 2014 introduced s. 5(1A) which is not relevant for present purposes.

29. Ss. 1 and 2 of the 1991 Act contain provisions relating to dogs bred for fighting and other specially dangerous dogs. S. 3 of the 1991 Act provides:

"**3. Keeping dogs under proper control**

(1) If a dog is dangerously out of control in any place in England and Wales (whether or not a public place)-

(a) the owner; and

> (b) if different, the person for the time being in charge of the dog,
>
> is guilty of an offence, or, if the dog while so out of control injures any person or assistance dog, an aggravated offence, under this subsection..."

As reflected in s. 3(4), a charge of an aggravated offence is triable either way.

Magistrates' Courts Act 1980

30. S. 127 provides materially as follows:

> "**127. Limitation of time**
> (1) …a magistrates' court shall not try an information nor hear a complaint unless the information was laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose."

31. Complaints are a longstanding and historic dimension to magisterial jurisdiction. It is common ground that a "complaint" in s. 127 means a demand for a civil order that something be done.

32. The parties have also proceeded at all times on the assumption that proceedings under s. 4B come within the definition of "complaint". There is potentially some support for that approach to be found in Anthony and Berryman's Magistrates Court Guide 2020 at A[72.23]. But, as was the case in *Webb*, whether this is right or wrong is not before the court. However, I emphasise, as the court did in *Webb* (at [7], [21] and [31]), that, although I proceed on the same assumption as the parties, the question should not be regarded as concluded.

33. It is also common ground, as indicated above, that if the date when "the matter of complaint arose" is to be interpreted as the date of the incident on 23 April 2017, then the court had no jurisdiction to hear the case (see by analogy in the criminal context: *Atkinson v Director of Public Prosecutions* [2004] EWHC 1457; [2005] 1 WLR 96 at [1], [2] and [6]).

When did "the matter of complaint" in this case arise?

34. For the reasons set out below, and despite the attractive simplicity of Ms McGahey's central submission on behalf of Ms Garrett, I have come to the clear conclusion that the Judge was correct to hold that he had jurisdiction to entertain the complaint.

35. As the Chief Constable recognises, s. 127 is an important provision. Time limits for making a complaint are there to protect the citizen and encourage timeous investigations. In offence-based cases, where the reference point under the section is "when the offence was committed", it will normally be a simple exercise to identify the date for the purpose of s. 127.

36. However, as will become apparent below, the regime under s. 4B does not sit so easily with the concept of a single date for such purpose: s. 4B is not offence-based. As its

heading reflects, it applies "otherwise than on a conviction". Nor is it incident-based: an order under s. 4B(1)(a) can be made in the absence of any specific incident or attack. The flaw in the argument advanced for Ms Garrett is that it assumes that the incident on 23 April 2017 was the act which was the "matter of complaint". But the fact that the incident precipitated the "complaint" (i.e. the procedure by that name) does not mean that the incident necessarily formed the "matter of complaint" under s. 4B for the purpose of s. 127.

37. It is helpful to take the matter in stages. First, the warrant for seizure was issued under s. 5(2) of the 1991 Act. This required reasonable grounds for believing that an offence under the 1991 Act was being or had been committed or that evidence of the commission of any such offence was to be found. The relevant offence was the aggravated offence of owning a dog which while dangerously out of control injured a person under s.3 of the 1991 Act. The warrant therefore concerned the question of the commission of a criminal offence by a person.

38. By contrast, the (civil) proceedings brought under s. 4B were concerned with what was to happen to the dog in circumstances where no offence was to be prosecuted. Although the owner of the dog in question, if known and located, will normally be party to the proceedings, the fact that s. 4B expressly contemplates the making of an order in the absence of an owner demonstrates that the principal focus of the proceedings is what happens to the dog, and not the owner.

39. Thus, the references on behalf of Ms Garrett to the "incident giving rise to the complaint [or proceedings]" or "wrongdoing" are an unhelpful gloss. S. 4B(1)(a) is not concerned with "wrongdoing" but rather with what is to happen to the dog once seized and in the absence of prosecution.

40. It is also important to remember that the proceedings were brought under s. 4B(1)(a) and not under s. 4B(1)(b). (There appears to have been some mistaken confusion in this regard: the Destruction Order incorrectly refers to the dog as being "prohibited" and the chronology in Ms Garrett's skeleton argument incorrectly records the proceedings as having been commenced under s. 4B(1)(b).)

41. Consequently, s. 4B(2) and s. 4B(2A) were not engaged: they only apply to proceedings under s. 4B(1)(b). The earlier presence and terms of s. 5(4) of the 1991 Act (now replaced by s. 4B(1)(a)) reinforce this point: the discretion to order the destruction of a dog in the absence of prosecution of any individual for an offence under the 1991 Act or an order under s.2 of the Act has always been expressly catered for within the legislation.

42. Under s. 4B(1)(a) the court has a general discretion whether or not to order destruction. The matters raised in s. 4B(2) and (2A) may of course (indeed are likely to) be relevant to an assessment under s. 4B(1)(a), but the discretion in s. 4B(1)(a) is not fettered . The discretion itself is engaged upon the satisfaction of two conditions alone:

    i) Seizure of the dog under s. 5(1) or (2);

    ii) That no person has been or is to be prosecuted for an offence under the 1991 Act or an order under s. 2 of the 1991 Act in respect of the dog.

43. I reject the submission for Ms Garrett that, because the key to jurisdiction is seizure under s. 5(1) or (2), the incident behind the application for the warrant for seizure is "the matter of complaint". It is central in this context not to conflate an application for/issue of a warrant under s. 5(2) and an application under s. 4B. The two regimes are quite separate, even if seizure under s. 5(2) is a pre-condition for an order under s. 4B. The matters relied on in an application under s. 4B need not be limited to the matters alleged in an application for a warrant under s. 5(2). Indeed, the matters relied on may be based exclusively on facts arising after the date of seizure under the warrant.

44. As already indicated, the parties here have assumed that an application under s. 4B(1)(a) can properly be made by way of a "complaint" (without an "information" being laid to prosecute a person for an offence). However, it is important to keep in mind that, even if termed a "complaint", what is involved under s. 4B is an application to the court for the exercise of its discretion to order the destruction of the dog in question. What is not involved is the "complaint" of a complainant by reference to a single (or multiple) incident(s).

45. The seizure of the dog on 19 May 2017 may have been in response to the incident on 23 April 2017 but that incident was not "the matter of complaint" that engaged s. 4(B)(1)(a). S. 4(B)(1)(a) became engaged only upon the Chief Constable seizing the dog and determining that there was to be no prosecution of any person under the 1991 Act.

46. Putting it another way, no "matter of complaint" arose (or could arise) for the purpose of s. 127 before the seizure. Only upon seizure could a complaint invoking s. 4B(1)(a) arise. Even if reference to "the incident giving rise to the complaint" were apt (which, as set out above, I do not consider it to be), the seizure would be the (earliest) point in time for such incident.

47. It follows that the date of police knowledge of the incident on 23 April 2017 was also not the date of "the matter of the complaint [arising]".

48. On this basis, and albeit by a different route to that identified by the Judge, there was a sound and principled basis for holding that the date of seizure of the dog was the (earliest) date that "the matter of the complaint" arose for the purpose of s. 127.

49. This approach is not inconsistent with the decision of this court in *Webb*. *Webb* does not, as Ms McGahey submits, make it clear that the relevant date must be the date on which the wrongdoing occurred, and not the date of seizure. It offers no support for the proposition that the relevant date is before the date of seizure. Rather, the matter of complaint for the purpose of s. 127 can arise at or possibly after the point of seizure.

50. As already set out, in this case the seizure of the dog was the <u>earliest</u> point for the matter of complaint under s. 4B(1)(a) arising. I would leave open the question of whether or not the relevant date could in fact have been later than the date of seizure, something which on the facts of this case it is not necessary for me to decide. When the right circumstances arise, the question of whether or not assessment in the case of a particular dog might require a date later than the date of seizure to be the date when "the matter of complaint arose" can be considered. Such a possibility was considered and found to have "force" in [25] to [28] in *Webb*.

51. The flexibility of s. 127 can be seen from the judgment in *James*. There Elias LJ held (at [34]) that there was no basis for saying that a variation of an Anti-Social Behaviour Order required the establishment of a fresh anti-social act. On this question, he said (at [37]) that s. 127 did not assist. It said nothing as to what should constitute such a matter of complaint:

> "In my judgment [a matter of complaint] is simply an event or circumstance which it is alleged renders the original order inappropriate for one reason or another…."

52. The approach that I adopt is also consistent with the strong public interest purpose of the 1991 Act, namely to protect the public from dogs deemed to be dangerous. On the interpretation advanced for Ms Garrett, the protection of that interest depends upon prompt reporting to the police. On her case, had the incident on 23 April 2017 not come to the attention of the police by 23 October 2017, no complaint could ever have been laid (see the concerns expressed by Collins J about affording s. 127 too narrow a construction, albeit obiter and in the context of sexual offending, in *H* at [11] to [13]).

53. I am not persuaded that speculation as to possible delay in seizure action by the police in the case of minor incidents not justifying trial in the Crown Court militates against my conclusion. The procedure used commences with the issue of a warrant under s. 5(2) of the 1991 Act. A warrant (which is offence-based) would not be issued for a minor offence if out of time (by virtue of s. 127(1)). There are other protections to guard against seizure pursuant to a warrant being unduly delayed. And certainly on the facts here, there was no delay in seizure.

54. Equally, I see no difficulty in entering the date of seizure as being the date when "the matter of complaint" arose for registration purposes under the Magistrates' Court Rules 1981. The seizure was the opposite of "meaningless": it was of the essence for the purpose of a complaint under s. 4B(1)(a).

55. Finally, there is no irrationality in the existence of different starting points for the running of the (same) six month time limit for criminal prosecution of (summary) offences under the 1991 Act and the making of a civil application under s. 4B. As already indicated, the regimes are different and separate in nature: one is offence-based and one is focussed on what is to happen to a dog upon seizure. An application under s. 4B is freestanding of any offence. In any event, the legislation itself contemplates different time limits for criminal prosecution; prosecution for an alleged aggravated offence to be heard in the Crown Court (where there is no equivalent time limit) could commence at any time.

Conclusion

56. As already indicated, the time limit in s. 127 is an important safeguard. At the same time there is a public interest in protecting the public from dangerous dogs; it is important not to construe the section too narrowly. In the event, the question in this case falls to be decided without recourse either to a narrow or broad construction of the legislation but rather by an analysis of the nature of an application under s. 4B.

57. For the reasons set out above, I would answer the question as follows on the facts of this case: the six months' time limit for bringing a complaint under s. 4B(1)(a) ran from the date of seizure of the dog by the police (at the earliest).

58. I would accordingly dismiss the appeal; the Destruction Order would stand.

Mr Justice Robin Knowles:

59. I agree.