

Justice prevails in Belfast nightclub means of escape case

A nightclub in Belfast had its original fine of £100 raised to £2,500 by the Divisional Court after Belfast City Council challenged the 'leniency' of the original sentence by way of judicial review. This case sends out a strong signal to all entertainment licensees who don't comply with the terms of their licence, and should encourage other authorities to consider similar action

The case involved a prosecution under the Local Government Miscellaneous Provisions (Northern Ireland) Order 1985 for an offence of allowing a final fire exit to be barred shut impeding a means of escape in the event of a fire or other emergency.

On September 2 2006, Ms Monica Gallagher, a Building Control Surveyor with Belfast City Council Building Control Service carried out a During Performance Inspection of the Europa Hotel's Elephant Room Nightclub and found a fire exit barred shut thus impeding means of escape whilst a disco was taking place.

Summonses were then issued in February 2007 by Belfast City Council against Moyola Cellars Ltd (the

Licensee) and Mr Stephen Carson (Operations Manager Europa Hotel).

Both parties pleaded guilty to the offence on March 13 2007, Sarah Creaner, a deputy resident magistrate, sitting at Belfast Magistrates' Court fined each party £100 for what she referred to as a 'technical' breach of their entertainments licence.

Subsequently, Belfast City Council applied for a judicial review to appeal these sentencing decisions on the grounds that they were unduly lenient given the serious nature of the offence and also in light of the fact that the maximum fine in such cases is £5,000.

Leave to appeal was granted, and a judicial review hearing took place on January 28 2008 in the Divisional Court before the Northern Ireland

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On February 5 2008 judgement in this case was delivered and the original sentencing fines of £100 were quashed and replaced by a fine of £2,500 for each party.

Following this successful result, Trevor Martin, Head of Building Control, and John Walsh, Principal Solicitor for Belfast City Council expressed their satisfaction at this decision. Mr Martin said: "Enforcement officers for all local authorities carry out an essential role in ensuring the safety of the public. Where they discover serious breaches of safety it is important for the courts to recognise the need to impose sentences that reflect the nature of the risk involved and that are a meaningful deterrent."

Welcoming the decision, Mr Walsh added: "An important legal precedent has been created in this jurisdiction allowing judicial oversight of sentencing practices to the extent that even those decisions taken within the permitted range of discretion can be challenged as being unreasonable.

"The sentence should fit the crime and ensure that the broader public interest is served. This was a serious offence with potentially grave consequences and the original sentence fell a long way short of reflecting that."

The decision of the Lord Chief Justice and Lord Justice Campbell will ensure that licensees understand the implications of not complying with safety conditions.

The High Court in Belfast... where the review hearing took place

