



Sir Bob Neill MP

Chair, Justice Select Committee
House of Commons
London
SW1A 0AA

4 May 2021

Dear Sir Bob,

JUSTICE SELECT COMMITTEE ON COVID AND THE CRIMINAL LAW: LIMITATION PERIOD FOR PROSECUTIONS UNDER CORONAVIRUS REGULATIONS

I am writing to you following my appearance before the Committee on 27 April, during which you asked for clarity as to the limitation period for Coronavirus regulations.

I asked my officials to check the position and can confirm, per my answer before the Committee, that the six month time limit was not disapplied for prosecuting breaches of the regulations.

The limitation period is not specific to the Coronavirus regulations of 2020 and 2021, but is that prescribed in the originating Act: s.64A of the Public Health (Control of Disease) Act 1984. This section was added by the Health and Social Care Act 2008 and has been in effect since 2010.

Section 64A says:

Time limits for prosecutions

(1) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980, a magistrates' court may try an information (or written charge) relating to an offence created by or under this Act if the information is laid (or the charge is issued)—

(a) before the end of the period of 3 years beginning with the date of the commission of the offence, and

(b) before the end of the period of 6 months beginning with the date on which evidence which the prosecutor thinks is sufficient to justify the proceedings comes to the prosecutor's knowledge.

(2) For the purposes of subsection (1)(b)—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact, and

(b) a certificate stating that matter and purporting to be so signed is to be treated as so signed unless the contrary is proved.

The guidance issued to justices' legal advisers by the Justices' Legal Advisers and Court Officers' Service (formerly the Justices' Clerks' Society), which now forms part of HM Courts and Tribunals Service, interprets this as follows:

The standard time limit for commencing prosecutions under the regulations is normally 6 months. Alternatively prosecution may commence within 6 months of sufficient evidence to justify proceedings coming to the prosecutor's knowledge, provided the charge is issued no more than 3 years from the offence. A certificate from the prosecutor of when they obtained that knowledge is determinative.

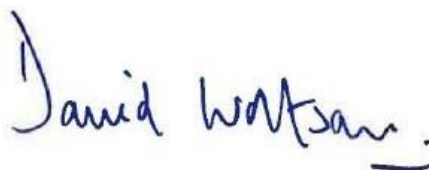
This interpretation has been shared, and agreed, with lawyers from the Crown Prosecution Service.

This formulation, or something like it, occurs in many statutes. The aim is plainly to ensure that offenders do not escape justice through concealing their offences until six months is over, as the six month time limit in s.127 of the Magistrates' Courts Act is an absolute bar to prosecution.

The practical effect with Coronavirus restriction regulations is limited and almost invariably the time limit is six months from the offence. This is because the offence is known to the police (and thus the prosecutor) on the day when the officer issues the fixed penalty.

However, if an offence were to come to the notice of the police for the first time after six months had elapsed – for example through material uploaded to YouTube or reported by an informant – the police could still prosecute provided no more than three years had elapsed. After three years there is an absolute bar to prosecution.

Kind regards,

A handwritten signature in blue ink that reads "David Wolfson". The signature is written in a cursive style with a small horizontal line under the end of the name.

**LORD (DAVID) WOLFSON
OF TREDEGAR, QC**