

Additional Material for Chapter 8 – Magistrates' courts: the most serious criminal cases

Section numbering from the book is used. Its content provides fuller explanations and context.

8.2.7.3 The restrictions lapse after the last trial ends or if the case does not proceed

Example of a newspaper reporting evidence months later

In 1992 Colin Stagg was arrested and charged with murdering Rachel Nickell. She had been killed, in front of her toddler son, in a sexual attack on Wimbledon Common. Stagg, who lived locally, did not know Rachel and consistently maintained his innocence. Magistrates committed him for trial at Crown court. At that time there were committal hearings – a type of preliminary proceedings in which a magistrates' court considered, by hearing or reading evidence, if there was sufficient evidence for the case to be sent ('committed') to Crown court.

After his committal, Stagg spent months on remand in prison waiting for his trial. But in 1994 at the Crown court the judge, concerned about police tactics in the case, ruled that police evidence against Stagg was inadmissible. The prosecution then offered no other evidence, and so the judge acquitted Stagg, restoring his liberty. This decision was – at the time – regarded as controversial.

The judge was concerned that after deciding that Stagg was a suspect, police assigned an attractive woman officer to go undercover and befriend him, presenting herself as someone fascinated by violence. She repeatedly asked Stagg about Rachel's killing. Police said that the officer elicited replies from Stagg which, with a psychological 'profile' of him, showed he murdered Rachel. But the judge, was not impressed by this evidence, and condemned the police's tactics as 'deceptive conduct of the grossest kind'. Stagg had, anyway, insisted to the undercover officer that he had nothing to do with Rachel's killing.

After Stagg's acquittal, reporting restrictions automatically lapsed in respect of what had been said earlier during the preliminary proceedings at the magistrates' court (the restrictions at that time were under section 8 of the Magistrates' Courts Act 1980). Consequently, in 1996 the *Mail on Sunday* published extracts of the police evidence against Stagg which had been put forward more than two years earlier at the committal hearing at the magistrates' court. The headline was: 'The case against Colin Stagg a jury never heard.' The impression given was that he could well have been guilty of murdering Rachel. But Stagg could not sue for libel. The report was a fair and accurate reflection of the police evidence as presented to the magistrates, and therefore had qualified privilege in defamation law – see 22.7 in *McNae's* about this privilege.

Protesting about the *Mail on Sunday's* report, Stagg's barrister wrote in a letter published in the Times in 1996: 'Having spent 14 months in prison before being acquitted by the due process of law is he now to be the subject of a campaign by a newspaper designed to suggest his guilt?'

Because of media coverage, Stagg had to suffer for years a widespread perception that he was possibly guilty of Rachel's killing. But in 2004 it emerged that advances in forensic science had exonerated him of any involvement. The forensic evidence led to another man, unconnected to Stagg, who confessed he was the killer. That man - serial rapist Robert Napper - was by then being

held in Broadmoor for two other killings, committed after he killed Rachel. In 2008 Stagg was paid £706,000 in compensation for his wrongful arrest and prosecution. The same year Napper admitted Rachel's manslaughter on the grounds of diminished responsibility, and was given an indefinite sentence.

It is rarely controversial for the media to report, after a case has concluded or when it is clear there will be no trial, evidence aired in a preliminary hearing. For example, after a defendant pleads guilty at Crown court, the media may choose to publish, before or when he/she is sentenced, a report drawing in part on what was said about the case weeks or months previously in a preliminary hearing at the magistrates' court, if this fairly and accurately adds detail.