

Nottingham City Council v Amin [2000] CLR 174D

Fairness & Incitement to commit offences

In **Nottingham City Council v Amin** [2000] CLR 174 D was a taxi driver who stopped and picked up two plain clothed police officers and conveyed them to their stated destination in return for a fare. His cab was licensed for an adjoining area of the city but not for the area in which he picked up the officers. He had complied with the officers' request without pressure or persuasion. He was prosecuted for plying for hire without a licence. The stipendiary magistrate dismissed the charge on the basis that the evidence against the defendant had to be excluded under section 78 of PACE in the reasonable exercise of his discretion, having regard to the decisions of the ECHR and the planned implementation of the Human Rights Act 1998. The prosecution appealed by way of case stated.

Allowing the appeal, the Divisional Court ruled that the magistrate had erred in law in excluding the evidence. The fairness of the conduct of the defendant's trial did not require the court to exclude the officers' evidence. Confirming that it was the fairness of the proceedings as a whole which had to be looked at, the court identified two conflicting principles. On the one hand, it was "*deeply offensive to ordinary notions of fairness*" if a defendant were to be convicted of a crime only because he had been incited, persuaded or pressurised into committing the crime by law enforcement officers. On the other hand, law enforcement agencies had a duty to the public to enforce the law and it was unobjectionable if a law enforcement officer gave the defendant an opportunity to break the law, of which he freely took advantage, in circumstances where it appeared that he would have behaved in the same way if the opportunity had been presented by someone else.

*The interpretation and comments made within this document are not to be considered as legal advice.
Reference should always be made to the original case.*