

W201 The Individual and the State

Questions on illegality in judicial review

1. Devon County Council have a power under the Chimneys Act 1888 (fictitious) to demolish “chimneys in Plymouth which detract from the architectural integrity of the city”.

Hawkins who lives in Saltash and had his chimney bricked up when central heating was installed has received notification of a decision by the Council to demolish his chimney.

How may the law on illegality help him?

2. The ruling group on the newly elected Exeter City Council (in order to fulfill its election manifesto) exercises a statutory power to “regulate entertainment in the city” by closing all the theatres in order to suppress vice.

Raleigh a theatre goer wishes to challenge the decision in the courts. Will the law on illegality help him?

3. Torbay Enterprise Board (a statutory body) has published a guidance leaflet for firms wishing to apply for grants to move to the area. Frobisher reads the leaflet and applies for a grant but the Board (unknown to Frobisher) has changed the rules and now operates a general policy restricting grants to firms with assets of over £1 million (which excludes Frobisher). They send back his application unread saying they can not consider it at all.

Can Frobisher use the law on illegality to challenge the decision?

4. Plymouth City Council under a statutory power to “build public toilets and provide gardens” create a bowling green and public toilet on the Hoe. Drake a council tax payer objects.

Advise whether the law on illegality will assist him.