**R (on the application of Fivepounds.co.uk) v Transport for London [2005] EWHC 3002 (Admin)**

**Issue: Permission for Judicial Review refused - Fleet schemes and the public law principle of ‘legitimate expectation’.**

On 15 December 2005, Mr Justice Bean sitting in the Administrative Court heard an application for Judicial Review brought by ‘Fivepounds.co.uk Ltd’ against TfL.

In summary, the claimant company purported to operate a fleet scheme where individual members of the public could sign up. The claimant stated that it registered 1,700 vehicles with TfL before TfL changed its rules to exclude the claimant from the scheme and gave notice that it intended to close the claimant’s accounts. The claimant obtained an injunction against TfL to prevent it from actually closing its accounts. It then applied for Judicial Review of TfL’s decision to close the accounts and seeking a declaration as to whether it qualified as a fleet operator under the regulations.

The claimant submitted that it qualified as a fleet operator in that it had a power of ‘control and management’ over its customers vehicles. Its contracts with its customers required the customer to display a promotional sticker on a vehicle and to give up the vehicle for inspection. The claimant stated that this was limited but sufficient control for the purposes of the scheme.

Further, the claimant submitted that in initially permitting the claimant to take part in the scheme and in the course of dealing which followed, TfL created a legitimate expectation upon which the claimant could rely.

Additionally, it was argued that in seeking to close the claimant’s accounts, TfL had infringed the claimant's human rights.

**Held:** Mr Justice Bean, in giving Judgment on 21 December 2005 held:

*“It is wholly artificial and unreal to describe the vehicles registered with* *Fivepounds under their congestion charge fleet scheme as being ‘controlled and managed’ by Fivepounds.”*

The Judge held that TfL had not given Fivepounds.co.uk a legitimate expectation that it could take part in the fleet scheme. In making his findings, Mr Justice Bean held:

1. By a representation, which may include a regular practice and a course of dealing, a public body may create an expectation from which it would be an abuse of power to resile;
2. The general rule is that the representation must be clear, unambiguous and unqualified, but this is not invariable; the test is whether the public authority has acted so unfairly that its conduct amounts to an abuse of power;
3. The citizen must place all his cards on the table, making full disclosure, and his expectation must be objectively reasonable; though whether there has been such a failure of disclosure by a party as to disentitle him from having a legitimate expectation must depend on the particular circumstances of the case;
4. Where the court is satisfied that the public body made the representation by mistake, the court should be slow to fix the public body permanently with the consequences of that mistake.

Mr Justice Bean concluded that Fivepounds.co.uk had not made out any of their grounds of challenge and that the application for Judicial Review must be dismissed.