



All is well with the world. The football season has now commenced. We will have wall to wall coverage of all things football over the next 10 months.

Mr Murdoch's revolution of our football watching habits is in stark contrast to the position in the 80s when we scabbled around for a few football programmes such as Match of the Day, Football Focus and, of course, Saint and Greavsie. Rather topically, Donald Trump once drew the quarter final teams of the league cup (or the Rumbelows cup as it was then known) on the Saint and Greavsie show. 1992 was the year for you pub quiz aficionados.

Apart from being a magnificent football player, Jimmy Greaves left us with one of the great football clichés: "It's a funny old game". Enough of the nostalgia. What's the relevance?

Well it is a phrase that can often be applied when considering decisions, as one Judgment recently demonstrated. The Judgment related to an Appellant's appeal against the decision of the Chief Minister to refuse to vary the conditions of a business licence issued under the Control of Housing and Work (Jersey) Law 2012 to increase the number of persons with Registered status who may be employed.

The Appellant came to Jersey in or around 2013. She has Registered status (rather than Entitled, Licensed or Entitled for Work Only).

In 2014, she and a colleague (who also held Registered status) sought a business licence in order to run a patisserie in town. The business was small. It had three tables and seating for not more than 11 people.

Initially the application was refused because the Chief Minister then had a policy of not granting business licences to persons who are not "Entitled" or "Entitled to Work" unless it was in the best interests of the community to do so.

Thereafter there was a convoluted history of ownership and various applications and approaches to the Chief Minister. The final piece of the factual jigsaw was an appeal from the Appellant which the Population Office treated as an application for the Appellant to become the 100% beneficial owner of the patisserie and to seek permission for her to work within the patisserie as a "registered member of staff (working principle)".

By this time (a year later), the policy in relation to persons with Registered status owning businesses had changed. There is now "no presumption against people who are not resident or Registered from being the beneficial owners of an undertaking. However, ownership does not confer any right to work in an undertaking or to obtain a permission to work in that undertaking (and permission may be refused if there are reasonable grounds to believe this to be the case)".

The Appellant was granted her licence to carry on business as a patisserie but she was refused the application to permit her to work within the patisserie as a Registered person.

The reason given for this was that the patisserie business was not deemed as high value and that it did not add great economic or social value given Jersey's "limited resources".



The Appellant was therefore left in a position where she owned a successful patisserie but could not work in it. The appellant appealed this decision and the matter was considered by the Royal Court in great detail.

The Court was concerned as to the inconsistency of the Chief Minister on the one hand granting the Appellant a business licence to operate the patisserie but on the other hand imposing a condition that she could not work in it.

Commissioner Clyde Smith said this: *“the conclusion the Court has arrived at is that the respondent (the Chief Minister) has acted unreasonably in this case. The application made it clear that it was for the undertaking to be conducted by the appellant as a one person business. The respondent would have been perfectly justified in our view in refusing to grant her a licence because, in essence, the Appellant was applying for a licence to work which her Registered status would not ordinarily have afforded her. Instead, the respondent granted her a licence to carry on the undertaking which therefore entitled her, at least, to manage, direct and control the business, whilst at the same time, imposing a condition aimed at preventing her (we think ineffectively) from working within it; a distinction in the context a one person business that is unworkable and, under the shadow of criminal penalty, unfair”.*

The Court exercising complete common sense reversed the refusal so that the Appellant was permitted to work in her patisserie. One does wonder sometimes if all this bureaucratic red tape and nonsense really does assist the community in any way.

In the immortal words of the said Jimmy Greaves: “It’s a funny old game”.