

# GLS Disclosure Webinar

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## CASE REFERENCE

### **R. v Barnsley MBC Ex p. Hook**

Court of Appeal (Civil Division)

20 February 1976

Westlaw Case Analysis ..... 9 pages

Status:  Positive or Neutral Judicial Treatment

## R. v Barnsley MBC Ex p. Hook

Court of Appeal (Civil Division)

20 February 1976

### Case Analysis

#### Where Reported

[\[1976\] 1 W.L.R. 1052](#); [1976] 3 All E.R. 452; 74 L.G.R. 493; (1976) 120 S.J. 182

#### Case Digest

**Subject:** Administrative law **Other related subjects:** Local government

**Keywords:** Licences; Local authorities' powers and duties; Markets; Natural justice; Revocation

**Summary:** Natural justice; market trader; revocation of licence; duty of local authority to act judicially

**Abstract:** A local authority reviewing a decision to revoke the licence of a market trader to operate from a stall on a market controlled by the authority has a duty to act judicially and in accordance with the rules of natural justice. The applicant was a stallholder licensed by the respondent authority to trade on an old-established market in Barnsley, the authority having the power to regulate the conduct of the market by virtue of the 1969 Act. The applicant was seen by authority employees to urinate in a side-street near the market one evening after the public lavatories were closed; the council security officer rebuked the applicant and abusive words were exchanged. After the security officer reported the incident, the market manager wrote to the applicant terminating his licence as a stallholder; effectively the applicant was banned for life from holding a licence. The applicant appealed unsuccessfully to two council committees; the applicant was not permitted to be present throughout but the market manager was so present and apparently played some part in each committee's determination of the appeal.

Held, allowing the applicant's appeal against the Divisional Court's refusal to issue certiorari to quash the decision, (1) that although the authority had a contractual relationship with the applicant the latter had also an ancient common law right to work in the market; that in determining whether to deprive a man of his living, the authority were required to act judicially; and that the authority had failed so to do in particular because the market manager's presence and participation in the appeals offended against the rule: *memo debet esse iudex in causa propria*; (2) that in any event the order could go, since the punishment was manifestly excessively severe.

**Judge:** Lord Denning; Scarman, L.J.; Sir John Pennycuik

#### All Cases Cited

##### R. v Gaming Board for Great Britain Ex p. Benaim

[\[1970\] 2 Q.B. 417](#); [\[1970\] 2 W.L.R. 1009](#); [\[1970\] 2 All E.R. 528](#); [\(1970\) 114 S.J. 266](#); CA (Civ Div); 1970-03-23

##### HK (An Infant), Re

[\[1967\] 2 Q.B. 617](#); [\[1967\] 2 W.L.R. 962](#); [\[1967\] 1 All E.R. 226](#); [\(1967\) 111 S.J. 296](#); [Times, December 8, 1966](#); QBD; 1966-12-07

### **Ridge v Baldwin**

[\[1964\] A.C. 40](#); [\[1963\] 2 W.L.R. 935](#); [\[1963\] 2 All E.R. 66](#); (1963) 127 J.P. 295; (1963) 127 J.P. 251; 61 L.G.R. 369; 37 A.L.J. 140; 234 L.T. 423; 113 L.J. 716; (1963) 107 S.J. 313; HL; 1963-03-14

### **Attorney General v Colchester Corp**

[\[1952\] Ch. 586](#); [\[1952\] 2 All E.R. 297](#); [\[1952\] 2 T.L.R. 49](#); 50 L.G.R. 595; (1952) 96 S.J. 412; Ch D; 1952-06-16

### **R. v Northumberland Compensation Appeal Tribunal Ex p. Shaw**

[\[1952\] 1 K.B. 338](#); [\[1952\] 1 All E.R. 122](#); [\[1952\] 1 T.L.R. 161](#); (1952) 116 J.P. 54; 50 L.G.R. 193; (1951-52) 2 P. & C.R. 361; (1952) 96 S.J. 29; CA; 1951-12-19

### **Winter Garden Theatre (London) Ltd v Millennium Productions Ltd**

[\[1948\] A.C. 173](#); [\[1947\] 2 All E.R. 331](#); 63 T.L.R. 529; [\[1947\] L.J.R. 1422](#); 177 L.T. 349; (1947) 91 S.J. 504; HL; 1947-07-29

### **Cooper v Wilson**

[\[1937\] 2 K.B. 309](#); CA; 1937-03-23

### **London Corp v Lyons Son & Co (Fruit Brokers) Ltd**

[\[1936\] Ch. 78](#); CA; 1935-07-17

### **R. v Electricity Commissioners Ex p. London Electricity Joint Committee Co (1920) Ltd**

[\[1924\] 1 K.B. 171](#); CA; 1923-07-27

### **R. v London CC Ex p. Akkersdyk**

[\[1892\] 1 Q.B. 190](#); QBD; 1891-12-16

### **Cooper v Wandsworth Board of Works**

[143 E.R. 414](#); (1863) 14 C.B. N.S. 180; CCP; 1863-04-21

### **The Mayor, Aldermen and Burgesses of Great Yarmouth v Martha Groom**

[158 E.R. 818](#); (1862) 1 Hurl. & C. 102; Ex Ct; 1862-04-28

### **Northampton Corp v Ward**

[93 E.R. 1154](#); (1745) 2 Str. 1238; KB; 1745-01-01

## **Key Cases Citing**

### **Distinguished**

R. v Basildon DC Ex p. Brown

[79 L.G.R. 655](#); [Times, February 24, 1981](#); CA (Civ Div); 1981-01-01

### **Applied**

R. v Birmingham City Council Ex p. Dredger

[91 L.G.R. 532](#); (1994) 6 Admin. L.R. 553; [\[1993\] C.O.D. 340](#); (1994) 158 L.G. Rev. 1007; [\[1993\] E.G. 9 \(C.S.\)](#); [\[1993\] N.P.C. 13](#); [Times, January 28, 1993](#); [Official Transcript](#); QBD; 1993-01-22

### **Followed**

R. (on the application of Birmingham and Solihull Taxi Association) v

Birmingham International Airport Ltd

[\[2009\] EWHC 1913 \(Admin\); Official Transcript](#); QBD (Birmingham); 2009-07-27

#### **Considered**

Horsnell v Boston BC

[\[2005\] EWHC 1311 \(QB\); Official Transcript](#); QBD; 2005-04-27

R. v Durham City Council Ex p. Robinson

[\[1992\] N.P.C. 5; Times, January 31, 1992](#); QBD; 1992-01-23

Tudor v Ellesmere Port and Neston BC

[Times, May 8, 1987](#); DC; 1987-01-01

Kane v Board of Governors of UBC

[\(1980\) 110 D.L.R. \(3d\) 311](#); Sup Ct (Can); 1980-01-01

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#### **Mentioned by**

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[\[2011\] UKPC 46; Official Transcript](#); PC (Trin); 2011-12-20

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R. (on the application of Birmingham and Solihull Taxi Association) v Birmingham International Airport Ltd

[\[2009\] EWHC 1913 \(Admin\); Official Transcript](#); QBD (Birmingham); 2009-07-27

#### **Mentioned by**

R. (on the application of Harpers Leisure International Ltd) v Chief Constable of Surrey

[\[2009\] EWHC 2160 \(Admin\); \[2010\] P.T.S.R. 231; \[2010\] A.C.D. 11; Times, August 14, 2009; Official Transcript](#); QBD (Admin); 2009-07-13

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L v Birmingham City Council

[\[2007\] UKHL 27; \[2008\] 1 A.C. 95; \[2007\] 3 W.L.R. 112; \[2007\] 3 All E.R. 957; \[2007\] H.R.L.R. 32; \[2008\] U.K.H.R.R. 346; \[2007\] H.L.R. 44; \[2008\] B.L.G.R. 273; \(2007\) 10 C.C.L. Rep. 505; \[2007\] LS Law Medical 472; \(2007\) 96 B.M.L.R. 1; \(2007\) 104\(27\) L.S.G. 29; \(2007\) 157 N.L.J. 938; \(2007\) 151 S.J.L.B. 860; \[2007\] N.P.C. 75; Times, June 21, 2007; Official Transcript](#); HL; 2007-06-20

#### **Mentioned by**

Vick v Vogle-Gapes Ltd

[\[2006\] EWHC 1665 \(QB\); \(2006\) 150 S.J.L.B. 917; Official Transcript](#); QBD; 2006-06-30

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[\[2006\] UKPC 10](#); [\[2006\] 1 W.L.R. 1623](#); [21 B.H.R.C. 43](#); [Official Transcript](#); PC (Bah); 2006-03-08

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Horsnell v Boston BC

[\[2005\] EWHC 1311 \(QB\)](#); [Official Transcript](#); QBD; 2005-04-27

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R. (on the application of Isle of Anglesey CC) v Secretary of State for Work and Pensions

[\[2003\] EWHC 2518 \(Admin\)](#); [\[2004\] B.L.G.R. 614](#); [\[2003\] N.P.C. 130](#); [Official Transcript](#); QBD (Admin); 2003-10-30

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[\[2003\] EWCA Civ 1056](#); [\[2004\] 1 W.L.R. 233](#); [\[2004\] U.K.H.R.R. 727](#); [\[2003\] 31 E.G. 67 \(C.S.\)](#); [\(2003\) 100\(36\) L.S.G. 40](#); [\(2003\) 147 S.J.L.B. 1085](#); [\[2003\] N.P.C. 93](#); [Times, August 25, 2003](#); [Independent, July 30, 2003](#); [Official Transcript](#); CA (Civ Div); 2003-07-21

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[\[2002\] EWHC 2559 \(Admin\)](#); [Official Transcript](#); QBD (Admin); 2002-11-25

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[\[2002\] UKPC 41](#); [\[2004\] Lloyd's Rep. Med. 251](#); [Official Transcript](#); PC (UK); 2002-07-15

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R. v London Metal Exchange Ltd Ex p. Albatros Warehousing BV

[Official Transcript](#); QBD; 2000-03-30

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[\[2000\] 1 A.C. 19; \[1999\] 3 W.L.R. 630; \(1999\) 143 S.J.L.B. 197; Times, March 18, 1999](#); PC (UK); 1999-03-17

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[\[1996\] 1 W.L.R. 906; \[1996\] 2 All E.R. 641; \(1996\) 8 Admin. L.R. 460; \[1997\] C.O.D. 72; Times, March 11, 1996](#); CA (Civ Div); 1996-03-04

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[\(1994\) 158 J.P. 1069; \[1994\] R.T.R. 402; \[1994\] C.O.D. 513; \(1994\) 158 J.P.N. 637; Times, May 13, 1994](#); QBD; 1994-04-29

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[91 L.G.R. 532; \(1994\) 6 Admin. L.R. 553; \[1993\] C.O.D. 340; \(1994\) 158 L.G. Rev. 1007; \[1993\] E.G. 9 \(C.S.\); \[1993\] N.P.C. 13; Times, January 28, 1993; Official Transcript](#); QBD; 1993-01-22

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R. v Durham City Council Ex p. Robinson

[\[1992\] N.P.C. 5; Times, January 31, 1992](#); QBD; 1992-01-23

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R. v Secretary of State for the Home Department Ex p. Brind

[\[1991\] 1 A.C. 696; \[1991\] 2 W.L.R. 588; \[1991\] 1 All E.R. 720; \(1991\) 3 Admin. L.R. 486; \(1991\) 141 N.L.J. 199; \(1991\) 135 S.J. 250; Times, February 8, 1991; Independent, February 8, 1991; Guardian, February 8, 1991](#); HL; 1991-02-07

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R. v Secretary of State for Health Ex p. United States Tobacco International Inc

[\[1992\] Q.B. 353; \[1991\] 3 W.L.R. 529; \[1992\] 1 All E.R. 212; \(1991\) 3 Admin. L.R. 735; \(1992\) 11 Tr. L.R. 1; \[1991\] C.O.D. 268; Times, January 4, 1991; Independent, January 4, 1991; Guardian, January 22, 1991; Daily Telegraph, January 21, 1991](#); DC; 1990-12-21

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### **Mentioned by**

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[\[1989\] A.C. 1014](#); [\[1988\] 3 W.L.R. 948](#); [\[1988\] 3 All E.R. 993](#); [\(1989\) 88 Cr. App. R. 242](#); [\(1988\) 138 N.L.J. Rep. 323](#); [\(1988\) 132 S.J. 1591](#); [Times, November 5, 1988](#); [Independent, November 4, 1988](#); [Guardian, November 4, 1988](#); HL; 1988-11-03

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[\[1988\] 1 W.L.R. 990](#); [\[1989\] 2 All E.R. 481](#); [\(1988\) 132 S.J. 1182](#); QBD; 1987-08-07

### **Considered**

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[Times, May 8, 1987](#); DC; 1987-01-01

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[\[1987\] Q.B. 815](#); [\[1987\] 2 W.L.R. 699](#); [\[1987\] 1 All E.R. 564](#); [\(1987\) 3 B.C.C. 10](#); [\[1987\] B.C.L.C. 104](#); [\[1987\] 1 F.T.L.R. 181](#); [\(1987\) 131 S.J. 23](#); CA (Civ Div); 1986-12-05

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[\[1987\] 1 W.L.R. 237](#); [\(1987\) 84 Cr. App. R. 51](#); [\[1987\] Crim. L.R. 112](#); [\(1987\) 84 L.S.G. 654](#); [\(1987\) 131 S.J. 257](#); QBD; 1986-06-10

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### **Mentioned by**

R. v Huntingdon DC Ex p. Cowan

[\[1984\] 1 W.L.R. 501](#); [\[1984\] 1 All E.R. 58](#); [82 L.G.R. 342](#); [\(1984\) 148 J.P.N. 332](#); DC; 1983-08-19

### **Mentioned by**

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[\[1982\] Q.B. 593](#); [\[1982\] 2 W.L.R. 693](#); [\[1983\] 3 All E.R. 321](#); [80 L.G.R. 357](#); [\(1982\) 126 S.J. 118](#); [Times, October 29, 1981](#); DC; 1981-10-21

### **Distinguished**

R. v Basildon DC Ex p. Brown

[79 L.G.R. 655; Times, February 24, 1981](#); CA (Civ Div); 1981-01-01

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Kane v Board of Governors of UBC

[\(1980\) 110 D.L.R. \(3d\) 311](#); Sup Ct (Can); 1980-01-01

### **Mentioned by**

McInnes v Onslow Fane

[\[1978\] 1 W.L.R. 1520; \[1978\] 3 All E.R. 211; \(1978\) 122 S.J. 844](#); Ch D; 1978-04-04

### **Significant Legislation Cited**

Barnsley Corporation Act 1969

### **Legislation Cited**

Barnsley Corporation Act 1969

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Chapter: Chapter 10 - Judicial Control of Local Authorities, Legal Proceedings by and Against Local Authorities and the Human Rights Act 1998

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