



## Abigail Hudson

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Year of Call: 2003

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Abigail read English at Aberdeen University with scholarships to study at Vienna University and the University of New Mexico. She was called to the Bar by Gray's Inn in 2003. She practises in all areas of regulatory and licensing law.

### Memberships

- Member of CBA (Criminal Bar Association)
- Member of NALA (the Northern Administrative Law Association)

### Appointments

- Tribunal Judge (Mental Health Restricted Patients Panel) 2018
- Judge of the Mental Health Review Tribunal for Wales (Restricted Patients Panel) 2018
- Tribunal Judge (Tax Tribunal) 2018
- Tribunal Judge (Immigration and Asylum) Chamber 2014
- Recorder (Civil) 2014
- Recorder (Crime) 2012
- Tribunal Judge (Social Entitlement Chamber) 2011

### Publications

Gambling Licensing Update – November 2015

# EXPERTISE

## Regulatory

Abigail has a significant regulatory practice. She has undertaken a broad spectrum of work including:

- Inquests
- Prosecuting and defending DWP and Customs and Excise prosecutions
- Prosecuting and defending Health and Safety Executive offences
- Prosecuting and defending RSPCA prosecutions
- Prosecuting on behalf of the GMFRA
- Trading standards and FACT prosecutions
- Truancy proceedings
- Disciplinary and misconduct hearings
- Extensive experience in Proceeds of Crime Act Confiscation and restraint proceedings.

Abigail has extensive experience in relation to tobacco duty evasion cases, having prosecuted and defended cases with significant sums of duty evaded, and acted in the subsequent POCA proceedings.

She has dealt with many animal cruelty cases related to both neglect and active abuse of animals (under the Animal Welfare Act 2006), but also dealt with a number of badger baiting offences including trials concerning interfering with badger setts. These trials involved an extensive understanding of the definition of a sett and the case law pertaining to it (*Green, Reynolds, Rowbotham and Trench v Stipendiary Magistrate for the county of Lincolnshire [2001] 1 WLR 505*).

Abigail has been heavily involved in proceedings relating to the free movement of trade and discrimination on the grounds of nationality, pertaining to UK statutory provisions under the Copyright Designs and Patents Act 1988. She deals with s297 prosecutions in the magistrates' court and crown court, and has argued the impact of European Law on prosecutions by BSkyB, of publicans using foreign satellite to show Premiership football. Following success at the European Court of Justice (*Karen Murphy v MPS ECJ ref C-429/08*), and the resultant decision in the Administrative Court (*Karen Murphy v MPS [2012] EWHC 529 (Admin)*) it is to be hoped that similar success will follow in relation to so-called "non-European" decoder cards.

She has significant experience representing the proprietors of Houses of Multiple Occupation in relation to both fire safety matters, licensing and management and the identification of "person managing". Abigail is fully conversant with the Housing Act 2004 and the various Licensing and Management of Houses in Multiple Occupation Regulations.

Abigail has represented appellants before the Criminal Injuries Compensation Appeal panel.

## Notable Cases

## Fire Safety

**GMFRA v Khan:** Prosecution of landlord for offences under the Regulatory Reform (Fire Safety) Order 2005 – failure to make sufficient fire safety arrangements in a House of Multiple Occupation (HMO).

## Inquests

**Mark Smith:** Representing the driver of a works vehicle in the inquest into the death of a potential trespasser killed in collision.

## Housing Act

**Lancaster BC v Zohar:** Defence of a landlord for offences under s234 of the Housing Act 2004, unreasonably allowing the gas and electric supply to be interrupted. This case was complicated by a dispute over the definition of HMO and legal argument on the same.

## Animal Welfare

**RSPCA v Ashcroft and Ashcroft:** Defence of an older couple who had breached their disqualification from keeping animals following an earlier conviction for neglect, and were subsequently in possession of a huge number of horses, dogs and cats.

**RSPCA v Norlander, Watson and Watson:** Prosecution of farmers charged with disturbing badger sets.

## RIPA

**St. James Safety Deposit Box Company v Greater Manchester Police:** Opposition to a police search warrant.

## Patents and Copyright

**Jakeman v M.P.S:** Appeal against a BSkyB prosecution for the use of non-European decoder cards, and the potential impact of European Court of Justice judgments upon continued prosecutions.

## Trading Standards

**Conway Council v Derereaux, Owen and Nielson:** Use of transmission decoder boxes to broadcast sports fixtures without licences.

## Education

**Jackson v Knowsley LEA:** Failing to ensure regular attendance at school.

## Licensing

Abigail undertakes a broad spectrum of licensing work on behalf of the local authority and the applicant. She has particular expertise in taxi licensing cases, both at first instance and appeal, and is often instructed in HMO, entertainment and liquor licensing cases. She has presented seminars on both topics for local authorities and is regularly instructed in judicial review proceedings in licensing matters.

**Taxi Licensing:** Abigail has a full understanding of the fit and proper person test within section 59 of the Local Government (Misc Provisions) Act 1976. She regularly directs Courts on the policy application principles of *R v Middlesex Crown Court ex parte Westminster City Council* (2002) and the relevance of the personal circumstances of the applicant as set out in *Leeds City Council v Mehfooz Hussain* [2002] EWHC 1145 (Admin). She has represented drivers accused of plying for hire, and dealt with applications under s61 LGMPA 76 both at Licensing Committee and at the Magistrates Court, and indeed Crown Court on appeal.

**Premises Licensing:** Abigail regularly deals with appeals against the revocation of premises license under s109 of the Police Reform and Social Responsibility Act 2011. She has a full appreciation of all case law relating to the promotion of the Licensing Objectives, the role of a Designated Premises Supervisor, and the principles expounded in *R (on the application of Hope and Glory Public House Limited) v City of Westminster magistrates Court (1)* and *the Lord Mayor and the Citizens of the City of Westminster* [2011] EWCA Civ 31 as to the burden of proof in licensing appeals. Abigail has advised a number of local authorities in relation to their licensing policy and the consultation process.

**HMO Licensing:** Abigail has significant experience representing the proprietors of Houses of Multiple Occupation in relation to both fire safety matters, licensing and management and the identification of “person managing”. Abigail is fully conversant with the Housing Act 2004 and the various Licensing and Management of Houses in Multiple Occupation Regulations.

## Notable Cases

### Taxis

**Kitson v Lancaster BC:** Successful licence revocation appeal following successful acquittal of allegations of sexual assault on three passengers.

**Johnson v St Helens BC:** Respondent to appeal against the revocation of a private hire licence following failure to disclose motoring convictions.

**Manchester City Council v Abdulrahman:** Appeal against the revocation of a private hire taxi licence following conviction for plying for hire.

**Manchester City Council v Akhtar:** Appeal against the revocation of a private hire taxi licence following conviction for drug offences.

**Manchester City Council v Rehman:** Appeal against the revocation of a private hire taxi licence following conviction for perverting the course of justice.

### Housing

**Lancaster BC v Zohar:** Defence of a landlord for offences under s234 of the Housing Act 2004, unreasonably allowing the gas and electric supply to be interrupted. This case was complicated by a dispute over the definition of HMO and legal argument on the same.

## Premises – Liquor

**St Helens Borough Council v Jeyaram:** Represented the local authority. Alcohol licensing following immigration offences. Proceeded to judicial review application by the applicant. Permission refused following written submissions.

**St Helens Borough Council v Gallimore:** Appeal proceedings against a decision to revoke a pub premises licence due to trading standards offences and a significant increase in violent disturbances at the premises.

## Premises – Sex Entertainment

**Re the Platinum Lounge:** Advice upon the overlap between provisions in a premises licence and a SEV licence.

## Environmental

Abigail has substantial experience in human rights and planning law, having been involved in numerous public enquiries with a particular focus on travellers. She defends breach of enforcement notice proceedings (s179 of the Town and Country Planning Act 1990) in both the Magistrates court and Crown court.

Abigail also has significant experience dealing with environmental offences in relation to waste management. She has defended large scale fly tipping (s33 Environmental Protection Act 1990) and pollution offences under the Environmental Permitting (England and Wales) Regulations 2010 and Water Resources Act 1991. Within these proceedings she has relied upon detailed suspended solids analysis and meteorological evidence. She has also dealt with breach of duty of care, and waste transfer note (WTN) matters. Abigail has a full understanding of waste management licensing and has dealt with offences of breaching license conditions.

## Notable Cases

### Pollution

**Environment Agency v P. Casey Enviro Ltd:** Mud pollutant of the waterway.

**Environment Agency v P. Casey Enviro Ltd:** Breach of waste management licence conditions.

### Planning

**Cheshire East LA v Isaq:** Breach of enforcement notice in failing to remove structures.

**Lancaster Planning Authority v Saunders:** Breach of Enforcement Notice regarding change of use.

**EA v Cowan:** Crown Court prosecution for breach of Enforcement Notice related to the use of farm land for storage over some 20 years.

## Public / Administrative

Abigail is a member of Chambers' public law group, regularly providing advice on judicial review. She has pleaded matters of prison law – including parole and adjudication irregularities – licensing, criminal procedure issues and review of decisions made by the police. She regularly undertakes parole board lifer panel hearings and adjudications, and provides training in all aspects of prison law.

Abigail is experienced in taking cases relating to a variety of decisions made by public bodies, particularly:

- Failure to provide necessary training or facilities to prisoners
- Failures to hold oral hearings – promptly or at all
- Disclosure of information by the CRB
- Breach of article 5, 6 and 8 ECHR
- Improper interpretation of licensing legislation.

She initiated the case of *C v Chief Constable of Greater Manchester* [2010] EWHC 1601 (Admin) concerning the unlawful disclosure of non-conviction information on an Enhanced Criminal Record Certificate, resulting in the destruction of the claimant's employment prospects. That case went on appeal to be heard in January 2011 *R (on the application of (C) v Chief Constable of Greater Manchester* [2011]. As a result of that decision the Home Office announced that the Vetting and Barring Scheme introduced in 2009 was to be drastically scaled back. Criminal record checks will now only be carried out on those who have intensive contact with the young. In addition, Criminal record checks will now be sent to the applicant before going to the employer to allow the challenge of any mistakes therein.

As a member of the mental health team she has a specific interest in human rights issues, and a background in public law. Abigail regularly presents seminars and workshops to Consultant Psychiatrists regarding the duties of an expert witness, court skills, and the recent and ongoing changes in mental health law.

## Notable Cases

### Licensing

*St Helens Borough Council v Jeyaram* 2013: Represented the local authority. Alcohol licensing following immigration offences. Proceeded to judicial review application by the applicant. Permission refused following written submissions.

### DBS

**R (on the application of C) v Chief Constable of Greater Manchester [2011] EWCA Civ 175:** Court of Appeal – disclosure of non-convictions in an Enhanced Criminal Record Certificate.

**C v Chief Constable of Greater Manchester [2010] EWHC 1601 (Admin):** Disclosure test on an application to the CRB for an Enhanced Criminal Record Certificate.

## Fraud - Criminal

Abigail has undertaken a broad spectrum of work including both prosecution and defence. She has:

- Regularly been instructed in a wide variety of cases – both prosecuting and defending – including those for offences of conspiracy to defraud, money laundering, fraud, and theft etc
- Prosecuted and defended DWP and Customs and Excise prosecutions
- Extensive experience in Proceeds of Crime Act Confiscation and restraint proceedings.

Abigail recently represented a businessman accused of multiple mortgage frauds spanning almost a decade and culminating in a substantial property portfolio.

## Crime

Abigail has a wealth of experience in defending and prosecuting criminal cases, including murder, sexual offences, public order offences, drugs cases (trafficking and supply), fraud and the full range of offences against the person.

Abigail is a category four prosecutor and a member of the CPS rape panel.

## Notable Cases

**R v Brierley:** Rape defendant with severe learning difficulties using an intermediary.

**R v Smith:** Conflicting expert evidence in relation to the defendants' mental health.

**R v Khatun:** Honour motivated parental abuse allegations.

**R v Dimitru:** Rape prosecution – significant trichology expert evidence.

**R v Fearon:** Murder of a pensioner for financial purpose.

**R v Hey:** Operation Cleopatra prosecution of multiple complainant historical sexual offending by a volunteer member of staff at a Remand Home for boys.

**Baker v R:** Court of Appeal – the use of fresh evidence obtained during retrial, in overturning previous convictions.

**St. James Safety Deposit Box Company v Greater Manchester Police:** Opposition to a police search warrant.

R v Haslam: Multiple complainant familial rape, requiring the use of an intermediary on behalf of the severely learning disabled defendant.

**R v Cresswell & Gordon:** Repeated rape of a severely autistic complainant, requiring the use of an intermediary.

**R v Spencer-Smith:** Arson with intent to endanger life prosecution involving very substantial mental health issues, including a diagnosis of Munchausen spectrum syndrome.

**Cooper v R – Court of Appeal:** imposition of a restriction order upon an adult with severe and permanent learning disability.

## Inquests

Abigail has experience dealing with inquests, acting for both properly interested persons and for the family.