

# Misconduct in Public Office

It carries a maximum sentence of life imprisonment. It is an offence confined to those who are **public office** holders and is committed when the **office** holder acts (or fails to act) in a way that constitutes a breach of the duties of that **office**.

Misconduct In Public Office: Legal Guidance: The Crown Prosecution ...  
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## Regina v Bowden (T); CACD 24 Feb 1995

September 3, 2016 [dls 0 Crime](#), [Local Government](#),

**References:** Independent 05-Apr-1995, Times 06-Mar-1995, [1996] 1 WLR 98, [1995] 4 All ER 505, 93/6974/X2

**Ratio:** The defendant, a maintenance manager, was accused of misconduct in public office. He had caused works to be carried out by other employees of the local authority on premises occupied by a friend when such works were not required under the authority's repair policy. He said that as a local authority employee, and not being an employee of the Crown he could not commit the offence.

**Held:** He could. A local authority employee can commit the common law criminal offence of misconduct in public office. The defendant received a salary from public funds and was accountable for public funds. The offender was considered to be a public officer because he was 'appointed to discharge a public duty and received compensation in whatever shape whether from the Crown or otherwise.' The offence did not apply only to elected officials. The crime resembles the tort of misfeasance.

**Statutes:** [Local Government and Planning Act 1980 16](#), [Public Bodies Corrupt Practices Act 1889](#)

**This case cites:**

- **Cited:** – [Henly v Lyme Corporation](#) ([Commonlii](#), [1828] EngR 701, (1828) 5 Bing 91, (1828) 130 ER 995)

The plaintiff owned property by the sea. It was swamped by the tide because the corporation, who had been granted land by the Crown subject to a condition that it maintain the sea-defences of the cob, had 'wrongfully and unjustly intending to . .

- **Cited:** – [Regina v Llewellyn-Jones](#) CACD ([1968] 1 QB 429)

The Registrar of a County Court was convicted of offences of misconduct in public office. The indictment charged 'misbehaviour in a public office, contrary to common law' and alleged that court orders had been made 'with the intention of gaining . . .

- **Cited:** – [Regina v Hall](#) ([1891] 1 QB 747)

On taking an office of trust concerning the public, a person makes himself answerable to the Crown irrespective of who they had been appointed by, and in what way the appointment arose. It is an 'old principle that where an Act of Parliament creates . .

- **Cited:** – [Rex v Whittaker](#) ([1914] 3 KB 1283, 10 Cr App R 245)

The Court was asked whether the defendant, a regimentary colonel accused of receiving bribes in connection with the construction of a canteen, was a 'public officer' within the meaning of the relevant legislation.

**Held:** Lawrence J said: 'A . .

- **Cited:** – [Regina v Dytham](#) CACD ([1979] 1 QBD 722, (1979) 69 Crim App R 722)

A constable was 30 yards away from the entrance to a club, from which he saw a man ejected. There was a fight involving cries and screams and the man was beaten and kicked to death in the gutter outside the club. The constable made no move to . .

(This list may be incomplete)

#### **This case is cited by:**

- **Cited:** – [Three Rivers District Council and Others v Governor and Company of The Bank of England](#) HL (Gazette 08-Jun-00, [Bailii](#), [2000] UKHL 331, [2000] 2 WLR 1220, [2000] 3 All ER 1)

The applicants alleged misfeasance against the Bank of England in respect of the regulation of a bank.

**Held:** The Bank could not be sued in negligence, but the tort of misfeasance required clear evidence of misdeeds. The action was now properly . .

- **Cited:** – [Attorney General's Reference \(No 3 of 2003\)](#) CACD (Times 22-Apr-04, [Baillii](#), [2004] EWCA Crim 868, [2005] QB 73)

Police Officers had been acquitted of misconduct in public office. They had stood by in a police station custody suite as a prisoner lay on the floor and died.

**Held:** the trial took place before R -v- G which had overruled Caldwell. The . .

(This list may be incomplete)

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<http://www.independent.co.uk/news/uk/law-report-council-employee-guilty-of-misconduct-1614285.html>



# INDEPENDENT

News

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## Law Report: Council employee guilty of misconduct

Regina v Bowden Court of Appeal (Criminal Division) (Lord Justice Hirst, Mr Justice Hidden and Mr Justice Mitchell) 24 February 1995

- [Ying Hui Tan](#)
- Tuesday 4 April 1995
- [0 comments](#)

The common law offence of misconduct in public office is not limited to officers or agents of the Crown but applies also to local authority employees.

The Court of Appeal dismissed the appellant's appeal against conviction of misconduct in a public office.

The appellant was employed by the Stoke-on-Trent City Council as the miscellaneous maintenance manager of the city works department, the council's direct labour organisation. He was convicted of

dishonestly causing, when a holder of public office, work to be carried out at premises when those works were not required under the council's policy. The premises were let to the appellant's lady friend.

Anthony Barker QC (Registrar of Criminal Appeals) for the appellant; James Burbridge (CPS) for the Crown.

LORD JUSTICE HIRST said that the theme which ran through the cases over the past 200 years was that a "man accepting an office of trust concerning the public is answerable criminally to the King for misbehaviour in his office".

Henly v The Mayor and Burgesses of Lyme (1828) 5 Bing 91, although a civil case, correctly defined a public office as embracing "everyone who is appointed to discharge a public duty, and receives compensation in whatever shape, whether from the Crown or otherwise". No case limited the offence to officers or agents of the Crown.

The appellant was accountable for the receipt and disbursement of public money derived by the council either from rates or from central government grants. His salary was paid from the same public funds. He fell within the definition of public officer laid down in the authorities. The submission that his position was too lowly to qualify was not [accepted].

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