

## 'Car cruising' beyond borders (North Warwickshire Borough Council v Persons Unknown)

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**Local Government analysis: Kuljit Bhogal, barrister at Cornerstone Barristers, looks at two local authorities' fight to tackle 'car cruising'—people racing cars and motorbikes on the highway.**

*North Warwickshire Borough Council v Persons Unknown* [\[2018\] EWHC 1603 \(QB\)](#).

### What is the background to this case?

The background to this case is the incidence of people racing cars and motorbikes on the highway. The activities are often referred to as 'car cruising' or 'street cruising' and attract not only those who come to take part but spectators, and undesirable activity ranging from drug dealing to litter dropping. There are clear dangers associated with fast cars and bikes racing each other both to the participants, the spectators and members of the public. In addition, problems are caused by the noise and nuisance associated with the racing, as well as the interference caused to those wishing to use the highway for lawful purposes.

North Warwickshire Borough Council (NWBC) had applied to vary the previous injunction obtained by Birmingham City Council on 3 October 2016 for similar activities in its area. The reason for seeking to amend the Particulars of Claim, and a variation of that order to cover NWBC's area was because the problem of car cruising was particularly acute around the NWBC Birmingham border. Two major roads run along or near the boundary and a 'cross-border' order would have simplified enforcement of the order.

The judge declined to amend the Particulars of Claim and make a varied order as requested by NWBC, supported by Birmingham. In doing so, he indicated that if NWBC were to issue fresh proceedings for an injunction he would be minded to grant it.

The judge's reasons for declining the variation application were that it amounted to the grant of new relief for the benefit of a new party. He referred to the fact that the procedure for making these orders was an exceptional one and that the application was made without notice and without the benefit of adversarial argument. As the consequences for breaching the order could involve the loss of liberty, he decided it was appropriate to take a cautious approach.

NWBC issued fresh proceedings for its own order.

### Why did the local authority respond to the issue by seeking injunctive relief?

The local authority sought an injunction under [section 222](#) of the Local Government Act 1972 ([LGA 1972](#)) which provides:

'222.—Power of local authorities to prosecute or defend legal proceedings.

(1) *Where a local authority considers it expedient for the promotion or protection of the interests of the inhabitants of their area*

(a) *they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name*

*(b) they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment’.*

The reason for seeking an order against ‘Persons Unknown’ was because of the difficulty in identifying the people taking part in these activities. This is not because there are no defendants, but because they could not be identified. Often those involved wear masks or otherwise disguise their identities or are able to leave the scene before they can be questioned.

## **What other options were available and why were they discounted as a solution?**

A number of the other powers available, such as road traffic or other criminal offences, or injunctions under the [Anti-Social Behaviour, Crime and Policing Act 2014 \(ABCPA 2014\)](#), require specific evidence or a defendant who can be named. As a result, these powers are of little use where there are unnamed defendants or generalised evidence about the activities of a broader group.

## **Is this likely to become an established practice for local authorities in dealing with similar issues or is this an area specific issue?**

The [LGA 1972, s222](#) procedure is already an established practice for dealing with car cruising and a number of these injunctions have been sought in the Midlands and in the South East.

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*Interviewed by Evelyn Reid.*

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