



# Graham Gilbert

**Year of Call:** 2015

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## Overview

Graham Gilbert handles criminal and public regulatory cases, particularly sports law matters. He undertook pupillage at a leading criminal set of chambers in London prior to taking tenancy at 3PB.

Graham is able to easily and quickly establish a rapport with clients and delivers simple, effective oral and written advocacy that has earned him praise from the tribunals he appears in front of.

## Recommendations

"Just wanted to thank you for all of the hard work you put into what turned out to be a far from straightforward case! I could not have asked for a more thoroughly prepared case and very impressive legal argument which eventually lead to an excellent case outcome. Your client care was first class and I appreciated the ease and speed with which I could reach you for advice."

- **Instructing solicitor feedback**

"I am so grateful to you and Graham for all your help. You are absolutely right, its a great outcome and the legal advice and support made all the difference. Graham Gilbert was excellent." - **Client feedback** to instructing solicitor.

"Graham Gilbert was very professional and charming. Would recommend him highly." - **Client feedback** to instructing solicitor.

"Once again thank you for all your thorough help in this successful prosecution and the hours of hard work sifting through the late disclosure of the evidence bundle the night before trial." - **Feedback from Environmental Health Officer.**

## Academic qualifications

- BPTC - City Law School - Very Competent
- GDL - City Law School - Commendation.
- BA Hons Ancient History - University of Exeter - 1st Class

## Scholarships

- City Law School: 7 Bedford Row Criminal Law Prize Essay
- University of Exeter awarded a Dean's Commendation for "outstanding academic achievement"

## **Professional qualifications & appointments**

- CPS Prosecutor – Grade 2

## **Professional bodies**

- Western Circuit
- Sport Resolutions Pro Bono Panel
- Criminal Bar Association
- Bar Pro Bono Unit
- Health & Safety Lawyers Association (HSLA)

# Expertise

## Crime

Graham defends and prosecutes across Southern England & Wales, including London. His cases have covered a wide range of criminal offences, including child cruelty, possession of indecent images, cannabis cultivation, burglary and arson. He has also appeared in numerous proceedings concerning the breach of court orders, as well as prosecuting for several regulatory bodies, including the RSPCA, DVLA and TfL. Graham also handles driving offences and POCA cases.

### Recent Defence Work Includes:

#### **R v W**

Burglary matter at Bournemouth Crown Court.

#### **R v Wi**

Burglary matter dropped by the Crown after the service of DCS.

#### **R v T**

Assault occasioning actual bodily harm.

#### **D v R**

Appeal against conviction for one offence of harassment. Crown's case dismissed at half-time.

#### **R v M**

Possession of a bladed article matter.

#### **R v R**

PWITS matter heard at Portsmouth Crown Court.

#### **R v D**

Successful application to dismiss an offensive weapon allegation.

#### **R v Wt**

Theft and s.47 offence in Newport (IOW).

#### **R v C**

Threats to kill.

#### **R v M**

Successfully resisted Crown's application to adduce the complainant's evidence as hearsay, resulting in the discontinuance of the s.47 charge.

#### **R v S**

Indecent images heard at Aylesbury Crown Court.

#### **R v M**

Money laundering offences.

#### **R v J**

Perverting the course of justice

#### **R v T**

Stalking.

#### **R v L**

Breach of Sexual Harm Prevention Order. Successful application to vacate a plea entered in the magistrates' court.

**R v T**

Illegally subletting a council property. Client sentenced to a conditional discharge.

**R v V**

Breach of restraining order and disclosing private sexual images.

**R v N**

Sexual assault of a child.

**Recent Prosecution Work Includes:****R v P**

Possession of a disguised firearm.

**R v E**

Robbery.

**R v A**

Blade and burglary matter.

**R v A**

Controlling and coercive behaviour.

**R v F**

PWITS trial at Bournemouth Crown Court.

**R v H**

Sexual assault.

**R v S**

Sexually aggravated assault.

**R v M**

Assault occasioning actual bodily harm.

**R v W**

Harassment.

**R v D**

Stalking.

## **Motoring offences**

Graham frequently handles motoring law offences, from first appearances through to trial and, if necessary, sentencing. His practice covers the full range of motoring matters, from dangerous driving through to documentary and lower level offences. He is adept at handling cases involving the intricacies of this area of law, and is a trusted advocate by lay and professional clients.

**Examples of Graham's recent cases involving such points of law include:****P v A**

Failure to stop. Graham secured the acquittal of the client on the basis of case-law which held that, if the court was satisfied the defendant had not been aware of the alleged accident, they could not be guilty of failing to stop.

**R v C**

Dangerous driving offence sent to the Crown Court. However, the matter had to be withdrawn by the prosecution as notice

had not been sent to the defendant within the time-limit required by statute, a point noted by Graham.

**R v CB**

inconsiderate driving. Successfully argued that the Crown had not established a case to answer resulting in that charge being dismissed at the close of the Crown's case.

**Other examples of Graham's work include:**

**P v Z**

Careless driving. Despite the defendant driving an HGV at the time of the incident, Graham secured a favourable result that meant the driver kept his licence.

**P v McL**

Speeding and failure to nominate. After discussions with the Prosecution, the failure to nominate charge was dropped and the client admitted the speeding offence.

**P v O**

Using a mobile phone whilst driving and no insurance. Successful dismissal of both charges.

**R v B-T**

Successful exceptional hardship argument following a careless driving offence.

**P v S**

Speeding matter. Despite the client's recorded speed being over 100mph, Graham was able to persuade the court to impose penalty points only, rather than a substantial period of disqualification.

**P v P**

Successfully ran a defence of no intention to drive to counter a charge of drunk in charge.

**P v S**

Two failure to nominate offences. Graham persuaded the court that it was within its powers to limit the number of points imposed due to the offences being committed within an extremely close time-frame, meaning that the client kept their licence.

**P v W**

Failure to nominate. Successful statutory defence of client who did not have control of the vehicle at the time of the underlying speeding offence and, as such, could not reasonably establish who the driver was.

**P v F**

Drink Driving. Successful special reasons argument resulting in no disqualification and a conditional discharge.

**P v L**

Failure to nominate.

**P v B**

Speeding offence.

## **Military/Courts martial**

Graham accepts instructions in military disciplinary proceedings. He has an ability to quickly and easily establish a rapport with serving personnel and assist them through the process. He is particularly adept at handling matters involving unusual or tricky issues. For example, he recently represented a Royal Marine charged with assault occasioning actual bodily harm. Although the offence was admitted, the process was complicated by the serviceman's recent diagnosis and ongoing treatment for PTSD and other anxiety issues.

Similarly, Graham represented a RAF corporal charged with a domestic assault. Again, the offence was admitted, but any sanction higher than a fine would have resulted in serious career ramifications for the corporal. Graham was able to chart a course through the proceedings that resulted in the client receiving just a small fine.

#### **Recent cases include:**

##### **MoJ v R**

Appeared for a sailor charged with an offence under section 42 of the Armed Forces Act 2006, the underlying offence having occurred in Bahrain.

##### **R v Stephen Aliwell**

Guilty plea to assault, Aylesbury Mags.

##### **R v Samuel Brown**

Careless driving and failure to provide, s.36 appointment, Salisbury Mags.

##### **R v Jonathan Lewis**

S.47 assault.

## **Articles**

In the context of the lockdown set down in The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, 3PB criminal barrister Graham Gilbert reviews the concept of "reasonable excuses" and when it is acceptable to leave your house.

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Graham Gilbert examines the relevance of a proposed amendment to the Offensive Weapons Bill currently making its way through Parliament, which will seek to introduce "Knife Crime Prevention Orders".

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3PB's criminal law barrister Graham Gilbert explains the details of the cases involving Lavinia Woodward and Natalia Sikorska.

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3PB's Graham Gilbert examines the trend for lesser sentences in offences of reckless arson.

Two recent appeals against sentences passed for offences of reckless arson have been successful and the sentences passed in each case have been reduced. It appears that this represents a growing trend for lesser sentences for this offence.

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3PB's Graham Gilbert on speeding convictions, avoiding them and their consequences. Graham Gilbert examines the recent sentencing decision of a man who used a device to avoid detection by police speed traps and asks if the penalty handed down was justified.

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3PB's Graham Gilbert examines the Attorney General's "imminent threat" criteria in the use of pre-emptive strikes. The Attorney General has said that the UK may use a preemptive attack against would-be terrorists in self-defence if an attack is "imminent". Graham Gilbert questions whether this is the best choice, given the difficulty the criminal courts have had with the concept.

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## Public and Regulatory

Graham's advocacy skills, developed through his strong criminal law practice, transfer highly effectively to public regulatory work. He regularly appears in front of all manner of public and semi-public bodies, police forces and other such bodies, including the Nursing & Midwifery Council and the Chartered Institute of Management Accountants. He has also appeared in the First Tier Property Tribunal

## Trading Standards

### **R v M**

Junior counsel for the first defendant in a trial involving multiple allegations of fraudulent trading by the client's companies, as well as associated regulatory offences. Heard at Bournemouth Crown Court. For reporting of the original case: [Daily Echo](#).

## Consumer Protection

### **PCC v H**

Appeared for defendant accused of various offences under the Consumer Protection from Unfair Trading Regulations 2008.

## Housing Matters

### **G & Ors v AB & Another**

Appeared for the first respondent in an application for a rent repayment order. The applicants sought an order in the sum of nearly £40,000. This was reduced to approximately £6,000 after representations. Additionally, part of the applicant's claim was struck out.

### **HCC v L**

successfully resisted an application for a CBO brought by a local council against a tenant.

### **London Borough of Redbridge v C**

HMO offences brought against the landlord of multiple properties.

### **Dudley Metropolitan Borough Council v M**

Graham appeared for the defendant company in proceedings concerning offences under the Housing Act 2004. After representations, the Council dropped the case against the client.

## Food Safety

### **Central Bedfordshire Council v Wang & Another**

Graham appeared for the prosecuting council in a matter concerning a prosecution under the Food Safety Act 1990. [Media coverage](#).

### **Worcester Regulatory Services v A**

Represented the defendant in proceedings brought under the Food Safety & Hygiene Regulations 2013.

## Health & Safety

### **DSFRS v S**

Instructed for the defendant in a matter concerning a Fire Safety offence.

### **Central Bedfordshire Council v SoS**

Assisted leading counsel for the prosecution in a prosecution arising from a fatal workplace accident. The prosecution involved unusual matters regarding jurisdiction as the parent charity was not based in the United Kingdom.

## Police Matters

Graham regularly appears for police forces across the South East of England in applications for various injunctions and breaches of such. In particular, he frequently assists with shotgun appeals, Domestic Violence Protection Order, Football Banning Orders, Criminal Behaviour Orders, and Anti-Social Behaviour Order applications.

## Education Offences

Graham regularly appears for Councils in prosecutions for offences committed under the Education Act 1996, including assisting Dorset County Council with its first ever prosecution for an offence under section 444(1A) of the 1996 Act.

## Environmental Offences

### **V v LBW**

Instructed in an appeal against a noise abatement notice served on a private landlord. The matter was resolved out of court, with the notice withdrawn.

### **BCBC v C**

Appeared for the defendant in a prosecution brought under the Town & Country Planning Act 1990

### **BMGCC v Caerphilly County Borough Council**

Appeal against a Noise Abatement Notice.

### **Dorset CC v K**

Fly-tipping offences.

### **G v Hyde Housing Association**

Statutory nuisance proceedings.

### **Test Valley Borough Council v W**

Successful prosecution on behalf of the Council for breaches of a noise abatement order.

### **R v B**

Appeared for the defendant in an allegation of an offence of nuisance.

## Animal Offences

### **R v D**

Prosecution under the Dangerous Dog legislation.

### **CPS v L**

Dangerous Dog Destruction Order overturned on appeal after legal argument.

### **Dorset CC v G**

Dog act offences successfully resolved out of court.

### **Devon CC v B**

Animal transportation offences.

### **RSPCA v H**

Appeared for the defendant in a case of animal cruelty.

### **RSPCA v G**

Represented the RSPCA in an appeal against sentence at Swindon Crown Court.



## Sports Law

### **R v WADA**

Appeared for appellant in an appeal against the publication of a anti-doping rule violation.

### **BHA v Hayley Turner**

Enquiry held on 14 December 2017 by the Independent Disciplinary Panel of the BHA as to whether Jockey Hayley Turner had broken the Rules of Racing on the grounds of bets placing. Graham Gilbert was Junior to Tim Naylor, the BHA's Head of Regulation. To read more about the enquiry, [click here](#). The case attracted press coverage in [The Guardian](#), [SBC News](#) and [the BBC](#) among others.

### **BHA v Graham Gibbons**

Enquiry concerning Jockey Graham Gibbons testing positive for a Banned Substance and attempting to present a sample which was not his own. To read more about this enquiry, please [click here](#). The case attracted press coverage in [The Racing Post](#), [Sky Sports](#) and [the BBC](#) among others.

### **BHA v Dale Swift**

Enquiry relating to the Jockey Dale Swift and his testing positive for a Banned Substance. To read more about this enquiry, please [click here](#). The case attracted press coverage in [The Times](#) and from [the BBC](#) among others.

## Articles

Graham Gilbert examines the relevance of a proposed amendment to the Offensive Weapons Bill currently making its way through Parliament, which will seek to introduce "Knife Crime Prevention Orders".

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## Sports

Having gained a wealth of knowledge in other areas, Graham has most recently begun accepting instructions in sports law matters and has a keen interest in regulatory and disciplinary aspects of the area, both domestically and internationally.

He regularly prosecutes in prohibited substance matters for the British Horseracing Authority, as well as assisting with other disciplinary matters on the Authority's behalf.

Graham is fantastic with professional and lay clients and his hard working ethic and down to earth approach makes him one to watch.

### **Recent cases:**

- Enquiry held on 14 December 2017 by the Independent Disciplinary Panel of the British Horseracing Authority (BHA) as to whether Jockey Hayley Turner had broken the Rules of Racing on the grounds of bets placing. Graham Gilbert was Junior to Tim Naylor, the BHA's Head of Regulation. To read more about the enquiry, [click here](#). The case attracted press coverage in [The Guardian](#), [SBC News](#) and [the BBC](#) among others.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 5 October 2017 concerning Jockey Graham Gibbons testing positive for a Banned Substance and attempting to present a sample which was not his own. To read more about this enquiry, please [click here](#). The case attracted press coverage in [The Racing Post](#), [Sky Sports](#) and [the BBC](#) among others.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 28 September 2017 relating to the Jockey Dale Swift and his testing positive for a Banned Substance. To read more about this enquiry, please [click here](#). The case attracted press coverage in [The Times](#) and from [the BBC](#) among others.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 10 August 2017 relating to Big Red, owned by Rebecca Bastiman, following her horse being administered a Prohibited Substance.

- Enquiries heard by the British Horseracing Association's Disciplinary Panel on 3 August 2017 relating to Wotadoll and Links Drive Lady, both trained by Dean Ivory. The panel in Wotadoll considered the cross-contamination of the horse with Odesmethyltramadol, a metabolite of tramadol which had been prescribed to a stable lad following surgery. The stable lad had been urinating in Wotadoll's stable, causing the cross-contamination. The hearing attracted significant press coverage in [The Guardian](#), [The Telegraph](#) and [The Racing Post](#) as well as numerous calls to end the practice. The panel in Links Drive Lady concerned the cross-contamination of the horse with hayfever medicine, as a result of contacts between Links Drive Lady and his keepers, who were using hayfever medicine to alleviate their symptoms at the time.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 29 June 2017 relating to Woodacre, owned by Richard Whitaker, and the alleged use of phenylbutazone and oxyphenbutazone.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 22 June 2017 relating to Urban Storm, owned by Norman Thomas and the alleged use of omeprazole.
- Enquiry heard by the British Horseracing Association's Disciplinary Panel on 25 May 2017, relating to Geordie des Champs, trained by Rebecca Curtis and the use of caffeine.