# Court of Appeal quashes protest law amendments for misuse of Henry VIII powers



A recent Court of Appeal ruling has emerged as a significant legal triumph concerning the protest legislation implemented by the UK government. The judgment found that the government had improperly utilised 'Henry VIII powers' while amending the Public Order Act 1986, raising substantial implications for civil liberties and the legal community's future actions regarding existing cases.

The appeal in the case of National Council for Civil Liberties (NCCL, now known as Liberty) v Secretary of State for Home Department was presided over by Lord Justice Underhill, alongside Lord Justice Dingemans and Lord Justice Edis. The central issue revolved around the legality of regulations that empowered police to impose conditions on public demonstrations and assemblies. Liberty initiated a judicial review against former Home Secretary Suella Braverman, arguing that the amendments exceeded governmental authority and resulted from a skewed consultation process. Consequently, the regulations were annulled.

Following this ruling, Braverman sought to appeal the decision. After a general election, new Home Secretary Yvette Cooper decided to continue with the appeal, which was heard in December of the previous year.

In delivering the lead judgment, Lord Justice Underhill affirmed the divisional court's finding that the amendments to the 1986 act fell outside the powers granted by the Police, Crime, Sentencing and Courts Act 2022. Regarding the consultation process, Underhill remarked, "I do not believe that the government’s engagement with the policing bodies…had the character of a formal consultation," noting that it was essentially an internal governmental discussion lacking the principles of procedural fairness. He underscored the necessity of inter-governmental engagement, contrasting it with the formal consultation required by law.

While the appeal was dismissed, Underhill opted not to uphold the divisional court's conclusion declaring the regulations unlawful.

Katy Watts, a lawyer with Liberty, expressed satisfaction at the outcome, stating, "We launched this legal action two years ago to ensure that governments are not able to sneak in legislation via the back door that weakens the rights of all of us. This judgment is a victory for parliament and the rule of law." She voiced hopes that the ruling would prompt the government to reassess its approach to protest rights rather than further undermine them.

Shameem Ahmad, chief executive of the Public Law Project, which intervened in the case, asserted that the restrictive nature of the protest laws should now be permanently abandoned. He remarked, "These restrictive protest laws should now be permanently abandoned and Henry VIII powers relegated to the annals of history where they belong."

Raj Chada, head of criminal defence at Hodge Jones & Allen, noted that the firm would conduct a thorough review of cases involving clients convicted under the now-invalidated legislation. He emphasised the urgency of reevaluating these cases for potential appeals, stating, "We will be urgently reviewing the cases of our clients who were convicted under this unlawful legislation."

This ruling not only signals a judicial corrective concerning the balance of power between state legislation and civil rights but may also catalyse further legal scrutiny and action surrounding the controversial protest provisions.

Source: [Noah Wire Services](https://www.noahwire.com)

## References

* <https://www.reuters.com/world/uk/uk-loses-appeal-over-tougher-police-powers-street-protests-2025-05-02/> - This article reports on the UK's Court of Appeal rejecting the government's attempt to expand police powers over street protests, a decision that Liberty described as a significant victory for democracy.
* <https://en.wikipedia.org/wiki/Public_Order_Act_1986> - This Wikipedia page provides detailed information about the Public Order Act 1986, including its background, amendments, and the legal framework for public order offences in the UK.
* [https://en.wikipedia.org/wiki/Police,\_Crime,\_Sentencing\_and\_Courts\_Act\_2022](https://en.wikipedia.org/wiki/Police%2C_Crime%2C_Sentencing_and_Courts_Act_2022) - This article discusses the Police, Crime, Sentencing and Courts Act 2022, which amended the Public Order Act 1986 and introduced new provisions affecting public protests and police powers.
* <https://en.wikipedia.org/wiki/Powers_of_the_home_secretary> - This page outlines the powers of the UK Home Secretary, including those related to public order and the regulation of protests under the Public Order Act 1986 and its amendments.
* <https://www.theguardian.com/uk-news/2025/may/02/uk-loses-appeal-over-tougher-police-powers-for-street-protests> - This article provides further details on the Court of Appeal's decision, including reactions from Liberty and the Home Office, and the implications for the right to peaceful protest in the UK.
* <https://www.libertyhumanrights.org.uk/issue/liberty-defeats-government-appeal-as-court-rules-anti-protest-laws-are-unlawful/> - This statement from Liberty discusses the Court of Appeal's ruling that the government's amendments to protest laws were unlawful, emphasizing the importance of the right to protest in a democratic society.
* <https://www.lawgazette.co.uk/news/urgent-review-of-protest-cases-following-coa-ruling/5123189.article> - Please view link - unable to able to access data