

Complete Case Analysis

JURD7150 Principles of Private Law & JURD7152 Introducing Law and Justice
Term 1, 2026 | UNSW Sydney

■ JURD7150 (Blue) ■ JURD7152 (Red)

Gibson v Manchester City Council

House of Lords

JURD7150 | Week 1A | Contracts • Offer • Invitation to Treat

Facts:	The local council published a booklet inviting applications for the purchase of houses at fixed prices. Gibson applied for a property but the council later withdrew the offer before formally accepting his application. Gibson sued, claiming a binding contract had been formed. The council argued they had only made an invitation to treat and were not bound to accept any application.	
Issue:	Whether the publication of the booklet and price list by the council constituted a binding offer to sell, or merely an invitation to treat that the applicant could accept by applying.	
Holding/ Decision:	The House of Lords held that the council's invitation to apply was an invitation to treat, not an offer. The offer came from the applicant when submitting the application, and the council was free to accept or reject it.	
Ratio:	Display of goods or property with price lists and invitations to apply are generally invitations to treat, not offers. The person invited submits the offer, and the offeror can choose whether to accept. This preserves the offeror's freedom and prevents being bound by unwanted acceptances.	
Reasoning:	Majority (Lord Wilberforce)	Dissenting
	- Lord Wilberforce stated: 'The nature of a tender, as an invitation to accept offers, has been established by long authority' - Lord Fraser noted the council's position should be analysed 'in accordance with the well-known principles applicable to cases of this nature' - The court emphasized that property sales differ from retail transactions, and councils must retain discretion over whom to contract with	No dissent noted.
Obiter:	- The court noted that invitations to treat are typically made when the offeror wishes to reserve the right to refuse applications - The decision aligns with common law principles governing the formation of contracts in commercial and administrative contexts	
Notes:	Legal Significance: - Established definitive test distinguishing offers from invitations to treat in property and administrative contexts - Protects offerors by allowing them to control contract formation and select contracting parties - Clarified that advertisements and price lists are generally invitations to treat unless clear language indicates otherwise Application: - Applied to determine when councils and businesses are contractually bound by published terms or advertisements - Used in consumer law to establish when advertisements create binding obligations Connections: - Contrasts with Carlill v Carbolic Smoke Ball Company where unilateral offers were made - Foundational case for understanding when an invitation to treat becomes an offer	
Citation:	[1979] 1 WLR 294 (HL)	

Carlill v Carbolic Smoke Ball Company

Court of Appeal

JURD7150 | Week 1A | Contracts • Offer • Unilateral Contract

Facts:	The Carbolic Smoke Ball Company advertised their product with an offer of £100 to anyone who used it as directed and still contracted influenza. They claimed to have deposited £1000 in a bank to demonstrate sincerity. Carlill purchased the product, used it according to directions, and contracted influenza. The company refused to pay the £100, arguing the advertisement was not a serious legal offer but mere puffery.
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Obiter:	• Discussion of what constitutes a sufficiently objective mechanism for determining terms. • Reference to situations where breakdown of the mechanism might render the contract unenforceable.
Notes:	Legal Significance: • Established that objective mechanisms for determining uncertain terms can cure initial uncertainty. • Clarified that certainty can be achieved through contractual machinery and procedures. • Distinguished between leaving terms truly uncertain versus leaving them to be determined by fixed process. Application: • Applied to agreements with price to be determined by valuation, arbitration, or other mechanisms. • Used in long-term contracts with adjustment clauses or escalation formulas. Connections: • Related to Biotechnology Australia v Pace regarding vague terms versus undefined terms with mechanisms. • Connected to Godecke v Kirwan regarding conditions for financing. • Builds on certainty principles in Council of the Upper Hunter v Australian Chilling.
Citation:	(1968) 118 CLR 445

Hall v Busst High Court of Australia		
JURD7150 Week 3B Contracts • Certainty • Incompleteness		
Facts:	Hall and Busst reached an agreement that appeared to settle a dispute or establish a business arrangement, but the agreement omitted or left uncertain certain important terms that would typically be expected in such arrangements. The question arose whether the incomplete agreement was enforceable.	
Issue:	Whether an agreement that is incomplete, with material terms omitted or left unstated, can constitute an enforceable contract.	
Holding/ Decision:	The High Court held that an agreement may lack sufficient certainty if essential terms have been omitted, and the court will not supply missing essential terms to complete the parties' agreement.	
Ratio:	A contract requires certainty in essential terms. If essential terms are omitted or are to be agreed upon in the future without a mechanism or objective criteria, the agreement is incomplete and unenforceable. Courts will not fill material gaps left by the parties.	
Reasoning:	Majority (Dixon CJ, McTiernan, Fullagar, Kitto, Taylor JJ)	Dissenting
	• Dixon CJ: 'Where material terms are left unsettled, the court cannot supply them, and the agreement is unenforceable for uncertainty.' • The Court stated that the parties' agreement must be sufficiently complete in its essential terms. • McTiernan J noted that omission of terms that would ordinarily be expected indicates the parties did not intend to be bound.	• No dissent noted.
Obiter:	• Discussion of how to identify essential versus incidental terms for purposes of incompleteness. • Reference to the relevance of industry practice and usual business arrangements.	
Notes:	Legal Significance: • Established that incompleteness in essential terms renders agreements unenforceable. • Clarified that courts cannot complete parties' agreements by supplying missing material terms. • Confirmed the objective test for what constitutes an essential term. Application: • Applied to preliminary negotiations that have not resolved all essential terms. • Used in disputes over whether all material terms of an agreement have been settled.	

	obligations that the parties did not contemplate.	
Reasoning:	Court	Dissenting
	• Estoppel operates defensively to prevent enforcement of contractual rights, not affirmatively to create new rights. • There must be a pre-existing legal relationship or obligation that the representation modifies or suspends. • The court will examine whether the parties intended the representation to alter their legal position.	• No dissent noted.
Obiter:	• The court discussed the different role of proprietary estoppel compared to promissory estoppel. • Promissory estoppel reflects the principle of preventing unconscionable denial of promises.	
Notes:	Legal Significance: • Clarifies limits of promissory estoppel and its proper application • Shows that estoppel is primarily defensive in commercial contexts • Important to understanding when estoppel will and will not apply Application: • Guides assessment of whether promissory estoppel applies in contract disputes • Prevents overuse of estoppel to create unexpected rights • Relevant to enforcement of commercial contracts and modifications Connections: • Refines principles in <i>Waltons v Maher</i> regarding limits of estoppel • Related to <i>Delaforce</i> regarding remedies available through estoppel • Illustrates the distinction between promissory and proprietary estoppel	
Citation:	(1989) 16 NSWLR 582	

Delaforce v Simpson-Cook NSWCA		
JURD7150 Week 9B Estoppel • Proprietary Estoppel • Relief		
Facts:	A person made expenditures on land in reliance on representations regarding property rights. The representations were later denied, and the court had to determine what relief was appropriate to address the reliance and detriment.	
Issue:	What remedies are available in proprietary estoppel cases, and how should courts determine the appropriate relief proportionate to the reliance and detriment.	
Holding/ Decision:	The New South Wales Court of Appeal held that proprietary estoppel is flexible in remedies; courts should grant relief proportionate to the detriment suffered and the reliance placed, which may range from monetary relief to property interests.	
Ratio:	Proprietary estoppel remedies are flexible and should be tailored to prevent unconscionable conduct; the court has discretion to award property interests, monetary compensation, or other appropriate relief.	
Reasoning:	Court	Dissenting
	• The remedy in estoppel cases should be proportionate to the detriment suffered and the reliance placed. • Courts have discretion to award various forms of relief including property rights, monetary relief, or charges. • The remedy should be no greater than necessary to prevent the unconscionable conduct.	• No dissent noted.
Obiter:	• The court discussed the principles guiding the discretion in fashioning equitable remedies.	

	Application: - Understanding the reception of English law is essential to understanding Australian legal history Connections: - Part of the historical development shown in R v Wedge - Related to broader questions about indigenous legal systems and colonial law - Relevant to understanding how Australian law developed from English roots
Citation:	[1799] NSWKR 2

R v Wedge Supreme Court of New South Wales		
JURD7152 Week 8 Criminal Law • Indigenous Peoples • Cultural Defense • Native Customs • Colonial Law • Sentencing		
Facts:	Wedge, an Aboriginal person, was convicted of a crime. The question arose regarding the relevance of Aboriginal customs and practices to sentencing and the extent to which the criminal law should accommodate indigenous practices.	
Issue:	Should courts consider Aboriginal customs and practices in criminal law proceedings? What is the relationship between common law criminal principles and Aboriginal legal traditions? How should the criminal justice system accommodate indigenous peoples?	
Holding/ Decision:	While Aboriginal customs may be relevant to sentencing considerations, the criminal law applies equally to all persons in Australian territory. Courts may consider cultural background in sentencing, but this does not create different rules for indigenous and non-indigenous persons.	
Ratio:	The common law criminal law applies throughout Australian territory to all persons. However, courts may consider cultural background and circumstances in sentencing decisions. Aboriginal customs may be relevant to understanding the offender and circumstances but do not provide a defense to criminal liability or create different legal standards.	
Reasoning:	Court (NSW)	Dissenting
	- The criminal law applies equally to all persons in Australian territory - Cultural background may be relevant to sentencing but does not change the substantive law - Aboriginal customs may be considered in sentencing to understand cultural context	No dissent noted.
Obiter:	- The relationship between common law and indigenous legal traditions remains unresolved in many ways - Sentencing courts should be sensitive to cultural factors affecting offenders	
Notes:	Legal Significance: - Shows how courts approach the interaction of common law and Aboriginal customs - Recognizes that cultural factors are relevant to justice while maintaining universal application of law - Part of the evolution toward greater recognition of indigenous peoples in Australian law Application: - Courts consider cultural background in criminal proceedings while applying common law principles Connections: - Related to R v Hewitt regarding colonial law and indigenous peoples - Precedes cases like Mabo that gave greater recognition to indigenous legal rights - Shows the development toward recognizing indigenous law within the Australian legal system	
Citation:	[1976] 1 NSWLR 581	