

SUING THE POLICE

(Workshop 2)

A growing number of people are now suing the police for damages in court instead of making a complaint against the police. Reasons for this include (1) if you are successful you get financial compensation (cash), (2) it can sometimes deter the police from doing the same kind of thing again and (3) people are realising that taking out a complaint against the police rarely succeeds.

Have you been a victim of police misconduct and want to know if you can take them to court?

This leaflet gives you an idea about whether you can take the matter further and what you should do next. Obviously your chances of succeeding in suing the police are better if you have witnesses supporting your claims and any other evidence to back up your case. It may be difficult to win if it is just your word against theirs.

WHAT CAN I SUE FOR?

Most people want to sue the police because they have been wrongly arrested, assaulted by the police or prosecuted for something they didn't do. Here are some things you should know about these types of action:-

WRONGFUL ARREST

Unlawful arrest and detention is called false imprisonment. The police must justify any arrest and detention, so if you think the police have acted outside their powers it is worthwhile getting further advice. False imprisonment can happen on the street, in your home, in a police vehicle and of course at the police station - in fact any place where the police control your freedom.

ASSAULT

This is much wider than many people think. You are assaulted as soon as someone touches you without a lawful reason to do so, and when they put you in fear of violence. Of course, it includes being punched and kicked and being subjected to illegal body searches. If you are assaulted by the police it is important to see a doctor (at casualty or your GP) straight away and for the injuries to be noted. You should also take photos of any injuries, if possible.

PROSECUTION FOR SOMETHING I DIDN'T DO

This is called malicious prosecution. You have to prove that the police had no reasonable cause to prosecute you and that they had a "wrongful motive" in doing so. You also have to win your case, which means either (a) any charges were dropped before the case went to court, (b) you were acquitted (found innocent) in court.

OTHER COMPLAINTS

You can also sue the police for negligence, trespass to land and goods (eg following an unlawful search of property), misfeasance in public office (abuse of powers eg. giving out information about you on the police computer to a company) breach of your human rights, and a few other civil wrongs. It may also be possible to make a police complaint about some misconduct about which you cannot sue. If you feel any of these apply to you, you should talk to a solicitor, or advice or law centre.

WHAT KIND OF COURT CASE WILL IT BE ?

Suing the police takes place in the normal civil courts such as the County Courts or High Courts. It's similar to other kinds of civil cases except that there can be a jury (as well as a judge) in cases for false imprisonment and malicious prosecution. You are suing the police for compensation for the wrongs done to you. It may though take 2 or 3 years for the matter to get to court. It is unlikely that any police officer will be punished as a result. For this to happen you would also have to take a complaint out against the police officer(s), which you can do through the Independent Police Complaints Commission. Again speak to a solicitor, advice or law centre, before you do this.

HOW MUCH COULD I WIN ?

It is difficult to say because IF the case goes as far as the court, it is up to the jury to decide. However in a large number of cases the police pay up before the case goes to court, as they realise they probably won't win.

In 1997 the Court of Appeal laid down guidelines on damages in the case of *Thompson and Hsu v Commissioner of Police of the Metropolis* [1997] 3 WLR 403, although these are not binding.

These guidelines say that for a **false imprisonment** cases people should be awarded **£500 for the first hour**, with a reduced rate after that - with a guideline of **£3,000 for the first 24 hours**. For a case of **malicious prosecution**, general damages **start at £2,000** with up to £10,000 for a Crown Court case lasting 2 years.

People can also be awarded **Aggravated damages**, which are designed to compensate the claimant for aggravating features of the case such as a publicly embarrassing wrongful arrest, insults, racial abuse, aggressive questioning or unpleasant conditions of detention. If justified, the **starting point is about £1,000** and they should not normally exceed twice the basic damages.

Exemplary damages are intended as a financial punishment for the actions of the Police officer concerned, where Police conduct has been oppressive or arbitrary. The **starting point is £5,000**, and the absolute maximum is £50,000 where the behaviour involves an officer of the rank of at least Superintendent.

Damages may be reduced if it is considered that the claimant's own conduct contributed to the incident.

Case 1

In April 2003 police paid £40,000 in damages in an out of court settlement to a black man who was sprayed with CS spray and arrested by police after pleading for protection from a gang of racist skinheads who had attacked him and his friend. He sued the police for wrongful arrest, malicious prosecution, false imprisonment and assault. The police admitted liability for false imprisonment and "the consequential technical issue of assault". They did not admit negligence or malicious prosecution, even though one officer admitted one of his statements contained incorrect information.

Case 2

In January 2001 a man who was temporarily blinded by CS spray was awarded £25,000 in damages after a jury upheld his claim for assault, wrongful arrest, false imprisonment and malicious prosecution. He was arrested after police responded to a report of loud noise at a house party, charged with assaulting a police officer but was later acquitted at crown court .

Case 3

In Feb 2004 the police paid out a total of £80,500 to anti-monarchy protesters arrested during the Queen's Golden Jubilee celebrations in 2002. 23 people received £3,500 each and a written apology for unlawful arrest and false imprisonment. They were among more than 40 people arrested as they relaxed in a pub after a protest in central London. Police commandeered a passing bus to take them to police stations where they were held for 5-7 hours. They were later released without charge.

WHAT ARE THE COSTS OF SUING THE POLICE ?

Public funding by the Legal Services Commission may be available for these cases if you are not working, or on a very low income, or have high financial commitments. Public funding usually gives you an insurance against paying the legal costs of the police if you lose. Law Centres who do this kind of work may do so for free if you cannot get public funding.

HOW LONG HAVE I GOT TO START A CASE ?

One year for a claim under the Human Rights Act. Three years for assault resulting in personal injury, six years for most other cases. But of course you should start as soon as possible.

WHAT SHOULD I DO NEXT?

You should write down the facts of the incident as soon as possible, including as much detail as you can about the police officers involved. You should see a doctor if you have any injuries. Speak to a firm of solicitors, but TRY to use ones who specialise in this type of work. Local community groups, Law Centres or Citizens Advice Bureaux should be able to help you with names of good solicitors, or at least tell you someone who can.

MORE INFO

[Legal Defence & Monitoring Group](http://www.ldmg.org.uk), c/o BM Haven, London, WC1N 3XX www.ldmg.org.uk
[Liberty](http://www.liberty-human-rights.org.uk) www.liberty-human-rights.org.uk
[Law Centres Federation](http://www.lawcentres.org.uk), www.lawcentres.org.uk
[Independent Police Complaints Commission](http://www.ipcc.gov.uk)
www.ipcc.gov.uk

Updated for the Freedom to Protest Conference October 2005, from a leaflet written in the 1990's by Steve Cragg of Hackney Law Centre and Haringey Solidarity Group www.haringey.org.uk