

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.

Prosecuted 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 usually have to win your case, which means either (a) any charges were dropped before the case went to court, or (b) you accepted a bind-over at court before the case starts, or (c) you were acquitted (found innocent) in court.

Trespass

You can sue the police for trespass if they come into your property without your permission when the law doesn't allow them to or you have let them into your house or flat and they don't leave when you clearly ask them to. This includes a rented property if you are the tenant.

Trespass to goods and conversion

If the police damage or interfere with your property, you can sue them for 'trespass to goods' or 'conversion'. You can also sue them if they refuse to give your property back to you when they are not legally allowed to keep it.

Negligence

The law allows you to sue the police if they are negligent in the way they carry out their normal work. So, for example, you can sue the police if a police car knocks you down. However, the rules are very complicated and you should get advice from a lawyer who is an expert in taking legal action against the police

The Human Rights Act

Under the Human Rights Act 1998, you can sue the police if they act in a way that breaches your rights under the European Convention on Human Rights.

Racial discrimination

The police must not discriminate against people because of their race. If the police discriminate against you in this way, you can take action against them under the Race Relations Act 1976.

Other complaints

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 two or three years for the matter to get to court. It is unlikely that any police officer will be punished as a result. For any chance of this happening you would also have to take a complaint out against the police officer(s) through the Police Complaints Authority. Again speak to a solicitor, advice or law centre, before you do this.



HOW MUCH COULD I WIN ?

It is very 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. Either way, some awards can be for thousands of pounds (see boxes on next page).

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.



SUING THE POLICE

Case 1

Mr "A" was arrested on 1 July 2001 having called the police to his home to complain about the conduct of a third party. Instead the police took the third party's side and Mr "A" alleges that he was manhandled to the floor by the officers in the presence of his young sons. He was taken barefoot from his home and conveyed to Deptford Police Station. The keys to his home were left inside the property and the front door pulled shut. Mr "A" agreed to accept £6,500.00 together with his costs in full and final settlement.

Case 2

Mr "B" shared a minicab with a stranger. Police searched the cab and it appears Crack Cocaine was found on the other man. Police arrested Mr "B". At the police station alleges he was further assaulted. Mr "B" remained in detention for 44 hours. He was charged with possession and conspiracy to supply Crack Cocaine. In court he was acquitted of all offences. Mr "B" then sued for Assault, False Imprisonment and Malicious Prosecution. The trial was listed for 1 November 2004, however, 10 days before, the Metropolitan Police Service settled Mr "B's" claim for £40,000

WHAT ARE THE COSTS OF SUING THE POLICE ?

Legal Aid is normally available for these cases if you are not working, or on a very low income, or have high financial commitments. Legal Aid usually gives you an insurance against paying the legal costs of the police if you lose. Law

Centre's who do this kind of work may do so for free if you cannot get legal aid.

If you lose your case and are not legally aided you will probably have to pay your legal costs. These may be quite high so check this out before you start your case.

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 somebody who can.

USEFUL SOLICITORS ADDRESSES:

Bhatt Murphy, 27 Hoxton Square, London N1 6NN
Tel: 020 7729 1115 . Web: www.bhattmurphy.co.uk

Bindman & Partners, 275 Gray's Inn Road, London, WC1X 8QB.

Tel: 020 7833 4433. Web: www.bindmans.com

Irwin Mitchell, St Peter's House, Hartshead, Sheffield, S1 2EL. Tel: 0114 276 7777.

Web: www.irwinmitchell.com/Pages/default.aspx

Also offices in: Birmingham, Bristol, Leeds, London, Manchester & Newcastle



A growing number of people are now suing the police for damages in court instead of making a complaint against the police. Two reasons for this are (1) if you are successful you get financial compensation (cash) and (2) 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.

Please copy & distribute as widely as possible. For hard copies contact HSG at or contact us at PO Box 2474, London, N8 or 0845 2235270 or info@haringey.org.uk If you want to find out more about what we do visit www.haringey.org.uk befriend us on Face Book or Twitter