

Currently about 30 people are taking legal action to sue the cops over the arrests at the anti EDL meeting on 7th September last year. They are mainly using one of the following two solicitors

Mike Oswald, Bhatt Murphy (m.oswald@bhattmurphy.co.uk)
Cormac McDonough, Hodge Jones & Allan (cmcdonough@hja.net)

at the meeting last week with Mike Oswald, he suggested there is a good chance arrestees could win between £3,500 and £5,000 in damages. Notes from the meeting follow.

If you would like to discuss the issues then please get in touch with Mike or Cormac, or your own solicitor.

All of the solicitors involved in the action will be liaising with each other.

Some people will be able to get legal aid to cover the cost of the legal action, but those people not eligible will also be able to take action, see the notes from the meeting for more details.

There are three basic grounds for sueing, action must be taken within time limits, which start with the day of arrest. The only very urgent one is if you have grounds for complaint about treatment that was clearly breaching equality issues - this must be done within 6 months of the demo. Next is action under the human rights act, which must be taken within 12 months. Other grounds for complaint, such as unlawful arrest or imprisonment, has 3 years or more.

Do get in touch with a solicitor and have a chat, if you would like to explore the issues, or if you would like to join in the action.

Of course LDMG and GBC are here to support you, as ever, and answer questions you may have. Legal line is 07946 541 511, email addresses are ldmgmail@yahoo.co.uk and gbclegal@riseup.net

5/2/14 Meeting: action against police, after mass arrests at 7/9/13 anti EDL demo

michael oswald from bhatt murphy came along m.oswald@bhattmurphy.co.uk <mailto:m.oswald@bhattmurphy.co.uk> - he was at the original defendants meeting too.

9 arrestees turned up, good turnout given tube strike and weather. one person is already taking action through solicitors hja.

mike said that he'd also been instructed by a group from brighton and one or two others.

he went through issues, thinks there's a very good case to be made. has several people on legal aid, so if it goes to court they can be heard first.

time limits are 12 months for using human rights act, 3 years false imprisonment, 6 years assault. 6 months if taking action under equality act. time limits start from the arrest itself. if

cops take it all the way through the courts, then it could take two or three years.

I had the impression everyone at the meeting was interested in taking action, they'll get in touch with mike (or their own solicitors)

Points raised and questions answered include:

The action we'd be taking will challenge the police policy at a senior level, i.e. about how to treat groups as a whole. This is better than making complaints which would be just against specific cops, and not very effective.

Grounds would include false imprisonment - period in kettle, and in police custody from the time of the arrests. The latter is stronger, but there's a case to be made that the kettle was unlawful as it lasted so long.

As everyone was arrested under S12 or S14 there is an argument that the arrests were unlawful, the police would have to show they reasonably believed the arrestees knowingly didn't comply with conditions, which is difficult to prove.

Can claim assault as well, e.g. if hand cuffed or treated with force, and possibly claims under the human rights legislation.

There might be individual issues as well, e.g. a woman was made to pee in a bucket at a police station. **Best is to meet with mike [or you own solicitor] if you are thinking about going forward with an action.**

First step - gather evidence from police and solicitors who have been representing you so far. Then a letter of claim would be drafted, to which the police have 3 months to respond. If they don't give in at this stage it would go to court. At this stage the police must provide all their documents, such as notes of arresting officers, commanders' public order logs etc.

Then would be case management hearings and finally a trial. The whole process could take 2 or 3 years. In many cases the police do settle and they offer compensation. Courts set the rate for compensation. About £3.5K for wrongful imprisonment, more for assault etc. In total probably not more than £5K.

There would be times of intense activity and meetings, then times of waiting for responses, so one needs commitment.

Funding: the best is legal aid of course. Otherwise a conditional fee agreement (aka 'no win no fee'), where you would not be charged if the case was lost, but would be exposed to paying the police's costs.

Could start the first steps for everyone, the risk is only when you go to court. So take the legally aided cases to court first, putting the cfa cases on hold, only taking those forward when the l.a. cases are successful.

Q&A session

Q. are there any claims going ahead against the bail conditions ?

A. don't know of any but talking about this in NETPOL. It's difficult to challenge, but Raj (HJA) has a challenge from the June arrests. Possibly could include as 'aggravated conditions', M will think about any HR aspects

Q what is worst case scenario - if I open up could i be done for anything else retrospectively ?

A. extremely unlikely - mike had never known it - if that does happen would have a good case for abuse of process. If he came across something he couldn't proceed if it came to light

q. so if cops tried to prove i DID know about s12/14 ??

A don't think they'd take a case - they can't do anything after 6 months on a summary only offence any way (which S12 and S14 are)

Q. would a claim take the NFA off our records?

A. difficult - more likely to be able to have a note about the result of the civil claim added to the record

Q can we have our prints/pictures taken off the file ?

A. there is new guidance recently - m. will send details [he has, will circulate in another email]

Q. is this the only way to challenge their behaviour?

A. could make a complaint, but probably only be investigated by the met, and is generally poorly done - complaint is not designed for challenges to policy decisions. alternative is a Judicial Review (JR), but this often fails. Best is to be able to cross examine the cops in court, and they take notice if they have to pay out lots - it's disincentivises them.

Q. If they make an offer can one refuse it and push them to a trial

A. if they make a good enough offer and you refuse and go to trial would probably loose the winnings and have to pay the cops' costs - it would be a Pyrrhic victory only.

Q. what are the time limits ?

A. from the time of the arrest: 1 year for Human Rights, 6 months under equalities act, 3 years for false imprisonment, 6 years for assault.

Q. if you go to court can they attack your character ?

A. there are no rules, and they will try everything!

Q. can we change solicitors now to take this action ?

A. yes.

Q. if we have different solicitors ?

A. they will all work together.

Q. legal aid guidelines?

A. "disposable" income < £311 a month - income includes benefits but is less rent and something for dependants. Sudents usually get it. Between £311 and £700 must pay a contribution, which can be very high. Mike will do an assessment when you talk to him. New rules since april 2013, and solicitors still finding their way through.