

SUING THE POLICE

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.

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.

Other complaints

You can also sue the police for negligence, trespass to land and goods, 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 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 this to

happen 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 that they probably won't win. Either way, some awards can be for thousands of pounds.

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 Centres 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?

Three years for assault resulting in personal injury, six years for everything else. 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.

USEFUL ADDRESSES TO CONTACT

Legal Defence & Monitoring Group, C/O BM Haven, London, WC1N 3XX

Liberty <http://www.liberty-human-rights.org.uk/>

Law Centres Federation, <http://www.lawcentres.org.uk/>

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