Making a Claim Against the Police

> **We are a voluntary group set up to support people who take part in protest. The process outlined below is the same regardless of the nature of your complaint. However, if your claim / complaint is not protest-related then further advice should be sought through a solicitor. Please do not phone us if your claim does not arise from taking part in protest. We will not be able to assist you.**

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

This guide will take you through the civil claims process, giving you an understanding of how to sue the police in the courts.

Please note: This is not intended to be exhaustive and you should always speak to a solicitor when considering legal action against the police.

1. What can I make a claim for?
2. What kind of court case will it be?
3. What could I get if I win?
4. What are the costs?
5. How long have I got to start a case?
6. What should I do next?

1. What Can I Make a Claim for?

Most people want to make a claim or sue the police because they have been wrongly arrested, assaulted by the police or prosecuted for something they didn't do, however, there are also other reasons why you might want to sue the police. 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 unlawful 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 have to win your criminal case, which means either (a) any charges were dropped before the case went to court, or , or (b) you were acquitted (found innocent) in court at your trial or on appeal.

Other complaints

You can also sue the police for breach of your right to protest or breach of other human right; negligence; trespass to land and goods; breach of your rights under the Data Protection Act; race, sex, disability or other discrimination; and a few other civil wrongs.

You will be unable to make a claim for some police misconduct, such as rudeness, so instead we suggest you make a complaint.

2. What Kind Of Court Case Will It Be?

Suing the police takes place in the normal civil courts such as the County Court or High Court. 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.

The civil court process is very slow and it may take two or three years for the matter to get to trial. It is very unlikely that any police officer will be punished as a result, and in reality the complaint process is the only way to get disciplinary action against an officer.

3. What Could I Get If I win?

Possible outcomes from a successful civil claim are:

- an apology
- an admission of wrongdoing
- an award for compensation
- a change in policy or training of the relevant authority
- action being taken against the individual(s) involved (although this is extremely rare)

The usual outcome from a successful civil claim is compensation. It is very difficult to say how much you might get because even if the case does goes as far as court, it is up to the jury to decide on the reward. However, in a large number of cases the police settle and pay up before a case gets to court, as they realise that they probably won't win. Some awards can be for thousands of pounds.

4. What Are the Costs of Suing the Police?

Legal aid is normally available for these cases if you are not working, are 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.

If you are not eligible for legal aid and if you have a strong case you may be able to get a solicitor to agree to take it on a 'no win no fee' basis. This is also known as a conditional fee agreement (CFA). With recent changes in legal aid making it more difficult to get funding for civil claims, a conditional fee agreement (CFA) is becoming more widespread and is something you should speak to a solicitor about.

5. How Long Have I Got to Start a Case?

The deadlines for starting a case are pretty strict and the court may not allow you to bring a claim if you are late. The time limits usually run from the time of the incident that led to action being taken by police.

- Six months if you are making a claim under discrimination law
- One year if you are making a claim for a breach of your human rights
- Three years for assault resulting in personal injury
- Three years for all other claims – although the law is uncertain in this area and it could be longer

Even if you are very late in making a claim you may have up to six years (except for those explicitly listed above), so it is worth contacting a solicitor to see if you are still within time.

Contact a solicitor as soon as possible for advice. Apart from anything else memories fade and documents disappear.

NB: In malicious prosecution the time limit runs from the date of the decision to charge you and not from when you were acquitted.

6. 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. If you know of any witnesses get them to do the same. You should see a doctor if you have any injuries. Check for video footage on the internet.

Ring us and we can:

- **put an appeal for witnesses up on our website**
- **put you in touch with a good solicitor**
- **link you up with any other people who might have an interest in your case**

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It's also worth taking a moment to read an excellent leaflet that LDMG have produced on suing the police.