

The Police in the Civil Courts

Richard Perks



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Preface

'It is a bedrock of our liberties that a citizen's freedom of person and of movement is inviolable except where the law unequivocally gives the state power to restrict it.'¹

Few areas of civil law attract so much public attention as actions against the police. Few areas of civil law give rise to so many claims. It is, therefore, extraordinary that there is no current textbook on the subject.

This work aims to describe the present state of the law. It does not seek to set forth the history of any topic, save to the extent necessary to understand its current state of development. It does not consider certain areas, such as complaints against the police, or terrorism, and avoids subjects better covered in other works, such as the employment relationship between constables and their chief officer. At the time of preparation, I anticipated that the Human Rights Act would play a much larger part than has occurred. It is a tribute to our common law that its ancient remedies still serve so well today.

The work attempts to follow a chronological order, following the course of a stop and search, an arrest, search and seizure, detention, and prosecution. The increasingly contentious subjects of negligence and misfeasance are then considered, before the litigation process is examined. The book is intended to provide a practical guide, to law and procedure, for all those involved in the progress and resolution of actions. I have referred to judges as 'he', and to advocates as 'counsel'. This is a form of shorthand, and is not intended to slight any member of the legal profession. There is, I hope, no political comment or apparent preference for claimant or defendant.

I have written this book without collaboration, but it is right to thank those who have assisted in its creation. I thank Carl Wythes, Jenny Goodwin, and all those at Legal Services of the West Midlands Police, with whom I learnt this complex topic. I thank my clerks, in particular Justin, without whose patience and organisation I could never have had the time for this project. I trust that the members of my chambers, 3 Fountain Court, Birmingham, will forgive my extended absences. I am grateful to all at 5 Essex Court, Temple, for their welcome, support, and access to their splendid publication, 'Police Civil Actions Update'. I thank Alastair Young for his offers of assistance, and Paul Sayers, for persuading me to continue when all seemed lost.

I could not have written this book without the steadfast support and encouragement of Annie. She made it possible.

Richard Perks

24 February 2003

1 *Hepburn v Chief Constable of Thames Valley Police* [2002] All ER (D) 214 (Dec) [2002] EWCA Civ 1841 (Sedley LJ).

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