



Legal Solutions for Emergency Services

An expert legal support service

Introduction

Fire, ambulance and police services are in a unique position in terms of the services they are required to deliver. You will often be working in highly pressurised circumstances, performing a public service in the context of diminishing funds. Public scrutiny of decisions means that you need to ensure that you follow the correct processes wherever possible and take a robust stance to claims where it is appropriate to do so. You also need to take an early view where things have gone wrong, to ensure that you avoid unnecessary costs.

In order to do this, you will need a legal team that understands your needs, is able to hit the ground running and work seamlessly with your internal teams. You will also want professionals who are committed to working with the public sector and understand the constraints you are under. A core part of our client approach is to pre-empt and minimise legal issues so clients can focus on the delivery of high quality service delivery.

Capsticks is a national law firm with offices in London, Birmingham, Leeds and Winchester. Over 90% of our work is in the public sector and each of our offices has dedicated public sector experts. Further, our team of over 150 lawyers is led by top ranked legal experts in employment, professional standards, public law and governance who will use their recognised expertise to get the best result for you.

Value for money and expectation management are key to every piece of work we do. We will always provide you with clear estimates, regular updates and gain budget approval at key stages so there are no nasty surprises.

We design induction processes for all new clients to ensure that our teams fully understand your strategy and ways of working, and so that you can meet the team and get the most from your relationship with us.

What services can we offer you?

Employment: including employment law, professional standards and discipline.

Governance: including constitutional matters, powers, public law duties and managing reputation.

Commercial: including managing contractual obligations, projects and integrated working.

Procurement: including compliance with EU procurement requirements, co-commissioning and framework agreements.

Inquests: including reviewing witness statements, managing disclosure, providing witness preparation and representation at court.

Property: including new developments, refurbishments, landlord and tenant advice and management of specialist properties.

We also provide regular training and briefing notes in these key areas.

Employment law

Our expertise in handling sensitive claims means that we can provide you with the support you need to deal effectively with the most difficult and public cases.

Our approach to Employment Tribunal work is to:

- provide you with an early assessment of costs and likelihood of success
- design a litigation strategy so that you have confidence in how the claim will progress
- keep you updated on important developments
- provide you with lessons to be taken from the issues in the claim

Our robust approach often leads to the withdrawal of claims, saving significant amounts of money for our clients.

Discrimination claims will be a particularly sensitive area for you and our team has real expertise in handling all types of discrimination claims across the public sector. These claims are often lengthy and complex, involving a number of witnesses, and you need to ensure that your internal and external reputation is protected as far as possible.

Our transactional employment law specialists have provided advice and support in relation to the integration of cross-force services, providing guidance regarding the application of TUPE and collective consultation requirements.

In our experience, providing training, clear policies and a consistent approach are the keys to reducing claims in this area.

Professional standards and discipline

We are national leaders in handling some of the most complex and sensitive discipline and misconduct cases across the public sector. Our work ranges from the initial investigatory, stage to presenting cases, through to defending appeals and handling judicial reviews.

Our lawyers have advised on disciplinaries against senior officers and executives at every level, as well as providing training to disciplinary panels. This includes using case scenarios to tease out the real issues affecting specialist services. We have regularly advised chief officers and executives on concerns involving senior officers as well as on appeals.

Our experience in this area means that we understand the sensitivities of the job in an emergency service and the unique, collegiate working environment. We also understand the need for clear standards and a consistent approach. We know that it is important to develop a clear plan for every case, to deliver consistency, value and a robust outcome.

Our advice and assistance will allow you to:

- focus resources effectively to investigate and conclude cases
- avoid costly and unnecessary delays or difficulties
- ensure that standards, integrity and your reputation are upheld



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Governance

We are well used to working within the changing policy and statutory framework of the public sector.

For you, this will require a full understanding of the statutes governing fire, police and ambulance bodies and the legal obligations placed upon them. The Police Reform and Social Responsibility Act 2011, for example, has resulted in a serious shift in the priorities of police forces whilst the key public law duties will remain the same. The Five Year Forward Review in health highlights the need for the emergency services to work much more closely and effectively together. The changes in service delivery models are therefore likely to be significant but necessary for financial viability.

In the meantime, we know that you face challenges every day in relation to:

- the requirement to ensure that money is spent in the public interest, particularly at a time of unprecedented budget constraints
- the need to manage the threat of potential reputational damage
- ensuring stringent compliance with your public law duties, for example under the Equalities Act



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Commercial and procurement

A core part of our client approach is to pre-empt and minimise legal issues so clients can focus on the delivery of high quality care.

Our lawyers have dealt with a number of complex and innovative commercial projects, for example most recently for the police with the creation of integrated services across boundaries; and for ambulance trusts with the move to 1.1.1 services. On most of our project work, as well as providing expert commercial advice and assistance, our role also includes taking a pragmatic view of risks and risk management:

Our commercial advice includes:

- compliance with Procurement Rules
- integrated working, and commercial and partnering agreements
- formation of bodies corporate including advise on setting up shared services operations and new business ventures
- advice on and negotiation of contracts including: alternate contracting models; service level agreements and advice on IT, IP and social media matters
- performance management and enforcing contractual obligations
- assignment of or novation of existing contracts



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Inquests

Our Inquest team provides both an advisory and advocacy service. Cases are typically handled by the same lawyer from the outset, through to representation in court. We rarely use counsel unless we think this is appropriate in the circumstances and with your agreement. We support clients and their staff through all aspects of the Inquest process, giving initial advice on whether legal representation will be needed, preparing statements, guiding witnesses and providing advocacy at the Inquest itself. This approach provides reassuring continuity, and it saves time and money.

Our inquest experience is second to none. We have acted for NHS clients in the two biggest and most complex inquests in England – the 7/7 bombings and the Hillsborough inquest (which is still ongoing) and our team comprises 7 partners, 2 associates and 5 lawyers across our offices in London, Birmingham and Leeds.



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Estates

With 54 qualified lawyers (11 partners and 43 qualified lawyers) we are one of the largest team of property lawyers dedicated to the public sector in the country. The depth of our experience combined with our team's extensive knowledge of the public and private sectors, means that we can provide unrivalled legal advice on the variety of operational and strategic property issues that police forces and commissioners may face. Our advice is guided by the need not only to get things done, but to get them done properly, on time and within budget.

We are, for example, used to advising on the transfer of property following the recent reorganisations with the introduction of Police and Crime Commissioners. Forces are now required, as never before, to think strategically about the use of their estate, which in some cases can be extensive.

Our experience in estates and construction work ranges from support on planning, building contracts and development matters, through to joint ventures and sale and leaseback arrangements. We appreciate the importance of reputational and accountability issues that forces face on any transaction and we will work with you to manage these aspects successfully. Our close and longstanding links with government and regulators ensure we keep you up to date with the latest policy and legal developments that are relevant to you. We are aware of your unique requirements regarding security, keeping of firearms and other facilities like stables and dog training centres.

Our expertise in estates and construction work includes:

Estates rationalisation: We can help you rationalise your estate, develop a practical strategy to create efficiencies, maximise income, and spot opportunities. We can produce a full estate audit for you, as an invaluable estates management tool.

Development and construction: We can advise on town and country planning, construction and building contracts and development agreements, excluding fit-out and refurbishment.

Buying and selling: We can work with you to identify property for disposal, negotiate the sale of surplus land to maximise sale proceeds, or act on the purchase of a new site or premises.

Property leases: Whether you are tenant or landlord, owner or occupier, we can negotiate your lease or licence, help you minimise risks, manage on-going obligations and advise on CRC requirements.

Regularising your estate: We can assist in putting the arrangements you have with the people who use your property on a formal footing, to give certainty, reduce risk exposure and maximise returns.

Strategic estates solutions: We can explore with you options for achieving your estate objectives whether geared towards capital redevelopment or establishing joint venture or partnership arrangements with the wider public sector.

Resolving disputes: Our property litigation team can guide you through and assist with resolving disputes or disagreements which arise under your property or construction arrangements.



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Recent experience

Some of our recent work has included advice and assistance in relation to:

- **Joint Venture:** Collaborative procurement by a PCC working with a local authority to procure a private sector partner. The project included advice as to the powers of the PCC: to participate in a joint venture; to generate income; and concerning the establishment and involvement in a joint venture

company. We also advised on: managing and mitigating risk; the overarching collaborative arrangements; call of arrangements for the partners and other public sector bodies to benefit from works and services to be provided by a joint venture vehicle.

- **Inquest:** We advised the London Ambulance Service on the 7/7 London Bombings inquests, one of the biggest Inquests ever to take place in the UK which lasted more than six months. As well as calling over 50 LAS employees to give evidence, the coroner heard extensive evidence from families, passengers and other organisations involved with the emergency response.
- **111 Contract:** We have worked with a number of ambulance trusts, developing contracts to enable them to deliver 111 emergency phone services.
- **Pension benefits for fire officers:** We acted for the fire service in relation to a dispute over the entitlement to enhanced pension benefits for a fire officer forced to retire early following an injury at work. The dispute concerned the apportionment of the injury attributable to the accident at work and the fire service were successful in their argument that the officer was able to obtain work outside the fire service.
- **Healthcare in Custody:** The transfer of healthcare in custody powers from the police to NHS bodies and the impact on existing contract activity. We are also working with a number of police authorities and NHS England in relation to collaboratively commissioning these healthcare services.
- **Collaborative working:** Transfer of services to an integrated service unit and the application of ss22 and 23 of the Police Act 1996. As part of this we were asked to consider any procurement risks.
- **Decontamination service:** Advice and assistance in relation to procuring decontamination services, including reviewing the standard form contract used for such services and advice in relation to obtaining TUPE information from the incumbent provider. We also subsequently provided advice in relation to abandoning the procurement process.
- **Detention officer tender:** Advice in relation to the procurement of a civilian detention officer services including a review of the functions which can be lawfully exercised by civilian detention officers.

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