

Legal Services for Police Forces

Police forces are in a unique position with the need not just to maintain operational effectiveness but also to maintain public confidence in the decisions you take. Public scrutiny of those 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 and protect public money.

In order to do this, you need a legal team that understands your needs, is able to hit the ground running and works seamlessly with your internal teams. A core part of our client approach is to pre-empt and minimise legal issues so that clients can focus on the delivery of a high quality service.

Capsticks is a national law firm with offices in London, Birmingham, Leeds and Winchester. Over 90% of our work is in the public sector. Our team of over 200 lawyers is led by top-ranked legal experts who will use their recognised expertise and experience to get the best result for you.

Value for money and expectation management is 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.



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What services can we offer you?

- **Employment:** including employment law, professional standards and discipline.
- **Litigation:** including commercial litigation, contractual dispute resolution, resolving procurement challenges and high profile litigation.
- **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 police claims means that we can provide you with the support you need to deal effectively with the most difficult and public of 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 which can save significant amounts of money for our clients.

Discrimination claims will be a particularly sensitive area for you, especially in relation to police officers, and our team has real expertise in handling 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 lawyers have advised on disciplinaries against police officers at every level, as well as providing training to disciplinary

panels of more than 15 forces. This includes using case scenarios to tease out the real issues affecting police officers. We have regularly advised chief constables on concerns involving senior officers as well as on appeals.

Our experience in this area means that we understand the sensitivities of the job 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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Litigation

We understand not just the demands of complex litigation but also the special considerations that arise when acting for public sector clients. In addition to our technical expertise, we appreciate the pressures that forces are under. We know how important it is that money is spent on front line services rather than on fighting litigation but at the same time we know it's important to recognise when issues of principle are at stake. This means that in representing your interests we will never lose sight of the ultimate aim, namely the effective delivery of your services. We also understand the particular responsibilities that come with safeguarding public funds.

That is why we will:

- provide a clear strategy for handling the case at the outset
- be clear about our likely costs
- be realistic in our advice on the strengths and weaknesses of your position
- make sure that you are kept accurately and promptly informed about developments in the case
- help you learn lessons from the litigation for the future.



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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 Police Reform and Social Responsibility Act 2011 and the implications for police forces, police authorities and chief constables. This is likely to result in a serious shift in the priorities of police forces whilst the key public law duties will remain the same.

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 Equality Act
- managing information security and data protection issues –we have a specialist team dealing with those issues for a wide range of public sector bodies



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Mental health

With the Policing and Crime Act 2017 coming into force, the need for support from mental health lawyers who understand your market and look for solutions has never been more important. Our aim is to enable you to deliver efficient and effective services; we will not create obstacles but explore ways to overcome them. We will do so in the knowledge that the greatest hurdles you face will be political, cultural and financial.

Our national team for mental health and mental capacity law is ranked as leading experts by both Chambers and Partners and the Legal 500 independent legal directories. As such, we are ideally placed to advise your organisation on your duty to collaborate with other emergency services and the provisions of sections 135 and 136 of the Mental Health Act 1983 which cover police powers and Places of Safety.



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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 front line services. Our lawyers have dealt with a number of complex and innovative commercial projects for the police. On most of our project work, as well as providing expert commercial advice and assistance our role includes taking a pragmatic view of risks and risk management:

Our commercial advice includes:

- compliance with procurement rules
- integrated working and commercial/partnering agreements
- formation of bodies corporate including advice 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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Procurement challenges

Where a bidder challenges a procurement, we can provide you with urgent advice on the strength of the challenge and a strategy to seek to resolve it quickly, cost-effectively and before legal proceedings begin. In the case that a bidder does initiate legal action, we have a strong record of successfully applying to the court to lift the suspension of the procurement process that is automatically required when those legal proceedings begin. This enables you to award contracts to your preferred bidders with no or minimal disruption to your services. Following a successful application we are able to advise you on, and manage, the litigation of the underlying claim in an efficient and robust way. We first seek to resolve the claim through mediation in order to avoid a costly and potentially risky trial that would tie up your resources.

Recent experience

Our litigation experts have acted for many public sector clients and have achieved a large number of successful applications to lift contract suspensions. One recent example of our public sector work is where we applied to the court to lift the suspension of the award of a highvalue contract brought about when an aggrieved bidder initiated legal proceedings. This involved the urgent preparation of detailed witness evidence and other documents to support the application. The lifting of the contract suspension enabled our client to mobilise a very large, high-value and operationally critical service, which promised to deliver big savings. Following the application, we were able to negotiate a settlement of the underlying claim which avoided the time and cost of a full trial.



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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 and we only use counsel if 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.



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Public law

Our Public Law team consists of 17 lawyers, all experts in their field, who work daily providing legally robust but practically focused advice on public law functions, as well as representing public authorities in a range of inquiries and judicial review proceedings. We act for a large number of regulatory authorities, including statutory regulatory bodies, NHS England and the Care Quality Commission, and for a wide range of other bodies exercising public functions, including local authorities, emergency services and charities. In conducting this work, we recognise the importance of safeguarding the reputation, confidentiality and morale of our public authority clients, as well as ensuring that public expenditure is minimised. We offer straightforward, pragmatic advice that balances the need to control costs with the importance of protecting reputations and upholding decisions on matters of principle. We have a strong track record of successfully defending unmeritorious applications for judicial review, often at the permission stage, and where possible recovering significant costs. We have also helped public bodies to prepare for major public inquiries, and represented some of the key parties in recent high-profile inquiries including those relating to the death of baby P, and the historical abuse by Jimmy Savile.



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Estates

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, experienced in advising on the transfer of property following the reorganisations involving 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 Carbon Reduction Commitment 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 return.

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 to become involved in the establishment of a joint venture company. We also advised on managing and mitigating risk, the overarching collaborative arrangements and call-off arrangements for the partners and other public sector bodies to benefit from works and services to be provided by a joint venture vehicle.
- **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 s.22 and s.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 civilian detention officer services including a review of the functions which can be lawfully exercised by civilian detention officers.
- **Inquest:** witness preparation, instruction of a pharmacology expert and representation at a two-week inquest into the death of a male teenager in police custody in the North West, following a decision not to provide medication. The case was reported in the national media. Witness preparation and representation at a three-week jury inquest into the death of a man in police custody in Preston who died as a result of a chronic cardiac condition. Advice and representation in relation to the investigation into the death of a woman following a homicide: the day before the killing, the police had contact with the man who was later convicted of the killing.

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