

Russell Jones & Walker Presentation to West Midlands Police Federation Representatives

30th October 2008

Legal Services

1. Criminal/Misconduct

What does the Police Federation Pay For?

- legal advice at all stages of criminal or discipline inquiry at no cost to member provided it arises from or relates to police duty. We have and continue to use a contract with the Legal Services Commission to fund the cost of attendance at an interview under caution.
- legal representation in any criminal proceedings arising from or relating to police duty at no cost to member – If Legal Services Commission funding (legal aid) available it will be applied for – if not available Fed will fund (save for unlikely event of conviction for serious offence, and order from judge that member should contribute to own costs, if member has misled Federation in application for assistance as to extent of involvement in offence Federation may refuse to meet Recovery of Defence Costs Order leaving member to pay!)
- legal representation in any misconduct hearing (and Chief Officers review and in appropriate cases appeals to the Police Appeals Tribunal) in which member denies the offence and tribunal has power to sack, require to resign, or reduce in rank
- legal advice in all other misconduct hearings (to member facing charges or friend representing member)
- through the West Midlands Joint Branch Board insurance has been arranged to provide representation for non duty related criminal proceedings where legal aid is not available and for guilty plea misconduct cases

What is RJW's Expertise?

- Fed & RJW provide assistance and service to members nation-wide
- RJW only firm providing service in police criminal and discipline proceedings since PACE 1984 first granted members right to be legally represented
- have advised Fed on responses to Govt proposed changes to discipline process (new ones in force late 2008) and lecture at National and Local Friends Discipline courses
- assisted National Fed in producing CD Rom (issue 5 Sept 2006) – copy available to all reps – which contain all major Rules and Regulations any rep doing misconduct work needs to have at finger tips including the “essentials”:-
 - Police (Conduct) Regs 2004
 - Police (Complaints and Misconduct) Regs 2004
 - Police Appeals Tribunal Regs 1999
 - Home Office Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures

(Criminal cont'd)

Successes

- Calveley and Merrill – members cases fought by RJW funded by Fed which established obligation to serve Reg 9 notices on members “as soon as practicable” meant days rather than weeks
- Guildford 4/Birmingham 6 – successful rep of members prosecuted in miscarriage of justice cases
- Deaths in police custody – acted in all high profile death in custody cases. Cases dealt with by the Birmingham office include
 - 9 officers prosecuted for dangerous driving and misconduct in public office following the death in custody of Michael Powell at Thornhill Road Police station. All officers were acquitted following a three month trial in 2006. We are now arranging for their representation at an Inquest in March 2009.
 - Death of Robert Hall. Inquest verdict concluded that while an officer’s actions during arrest had caused Mr Hall’s death many hours later, the officer used reasonable force and acted reasonably in taking Mr Hall to Custody. IPCC directed that the officer should face misconduct charges based on the same facts. Case dismissed at conclusion of the presenting sides case. Tribunal stated they could not see why the case had ever been thought strong enough to bring charges.
- Shooting incidents – eg Insp Lovelock (Cherry Groce and Brixton riots), Hodgson 1st prosecution in UK of police officer for murder, Sherwood (Sussex case), Brixton shooting – Derek Bennett (“lawful killing” verdict and successful anonymity application) , Hackney siege 2002/3, Stockwell shooting, Forest Gate shooting
 - The Birmingham office has advised officers involved in all recent fatal shooting incidents in this region – eg Stoke on Trent and Shrewsbury
- But also RTA cases, including recent successful special reasons arguments for West Midlands officers

Who/how to contact

- for on duty criminal matters and all discipline matters, through Branch board
- **if urgent, eg arrested - should get telephone authority from Branch Board but can get RJW lawyer through 24 hour contact number and at NO COST to Federation – CONTACT No. is 0800 908977**
- Tim Coolican has overall responsibility for crime and discipline dealt with in Birmingham office

2. Employment

Cover

in all aspects of individual and collective police employment law including:

- police regulations
- police pension regulations
- judicial review
- human rights
- sex and race discrimination
- working time
- health and safety

Expertise

- team of expert lawyers, years of experience – proven track record of success

Successes

- employment team of the year – lawyer awards in the two years we entered (2000 and 2002)

Who/how to contact

- If any individual or collective issue arises - make the request via JBB, and we provide written advice via JCC. If a meeting is necessary, authority needed from JCC

Act Quickly !

- Act Quickly as time limits in employment matters are very short, for example:
- Challenging decisions of the CMO as SMP in pensions cases (2 stage process for lodging appeal) - time limit for both stages is 14 days
- Challenging refusal to refer questions to SMP in pensions cases - 21 day time limit
- Challenging decisions to dismiss probationers - act immediately - any realistic challenge unlikely after dismissal has occurred
- Challenging decisions about business interests - 10 day time limit

for info: SMP = Selected Medical Practitioner - who makes medical decisions in medical retirement / injury award cases

3. Defamation

Cover

- **the Police Federation is virtually unique among membership organisations in the support which it provides to its members in defamation cases.**
- allegations could be published eg. in a letter or a newspaper, or broadcast on TV or radio (libel) or they could be spoken (slander).
- **defamation is concerned with reputation**, and you bring a claim in defamation to recover compensation for the damage to your reputation caused by the words you complain about.
- by supporting its members, the Police Federation ensures a high level of protection for individual police officers from, for example, damaging and untrue allegations in the media.
- it is recognised that each individual police officer's reputation is one of his or her most precious assets. If it is tarnished or attacked, it makes it virtually impossible for the officer to do his or her job.
- **the support for defamation benefits all Federation officers not just the individuals who bring claims.**

Successes

- **advising the officers who were named in the Injustice film about deaths in police custody**
- advising the officer acquitted of the murder of James Ashley in Sussex on the media coverage which followed
- obtaining substantial damages and an unprecedented full page apology in Time Out for Stoke Newington officers wrongly accused of corrupt activities.

Who/how to contact

- **if a member has a potential defamation claim, act quickly! (there is a one year limitation period to bring a defamation claim court action from the date of publication)**
- **get the request for advice through to the Deputy General Secretary at JCC ASAP.**

4. Wills, Probate and Legal Helpline

Wills & Financial Healthcheck

Wills service

- **Short questionnaire and draft will be sent to you for approval within days.**
- More complex Wills at a discount of £70 against our usual charges. You will always be advised in advance of any charges which may apply.
- Final version stored by us free of charge.
- No requirement for RJW to be appointed as executors.

What is the Financial Healthcheck?

- Provided free of charge if your financial arrangements need reviewing.
- There is no obligation to take up our recommendations.

Expertise - All Wills prepared by highly experienced RJW staff

Who/how to contact

Available from Federation reps (you) or telephone our dedicated **wills freephone number 0845 601 1908** – a form will be posted out to you on the day that you call.

Probate Service

- Designed to assist members of the Police Federation and their families with all aspects of the administration of an estate.
- Applies to a deceased officer's next of kin or to an officer who has been appointed as an executor to a Will or intestacy.
- Officers who telephone Russell Jones & Walker will be given initial '**common sense**' advice over the telephone regarding the early stages of dealing with someone's recent death and their estate.

Our promise to you!

- We will closely monitor the process to ensure that administration of an estate is completed asap.

What do we charge?

- We only charge for the time taken to do the work.
- We monitor our costs closely to ensure work is carried out as efficiently as possible.

Who/how to contact

Call **01604 649 006** – a form will be posted out to you on the day that you call.

Legal Helpline

- **free telephone advice line** designed to give fast, practical and high quality legal advice to Police Fed members throughout the UK in relation to day to day matters.

Cover

- **Available 24 hours a day 365 days per annum – provided by legally qualified staff**
- **Available to PF members and their immediate family**
- Can include legal issues such as:
(faulty goods or inadequate services, family disputes, neighbour/ boundary disputes, disputes with holiday companies)
- No limit on the length or number of calls made
- Where court proceedings unavoidable can refer to 250 experienced solicitors within RJW.

Limitations?

- Written advice and representation not provided through the Helpline
- For advice in relation to your own employment matters you will be referred back to the Federation rep

Is the line really free? **YES.**

Who/how to contact **0845 601 1907 (24 hours a day, 365 days per annum)**

5. Personal Injury

Cover

- **Any personal injury accident on or off duty**
- **Legal representation for spouse/dependants injured in any accident**
- Accidents in the UK and abroad
- CICB/CICA appeals
- Claims to Motor Insurers' Bureau under Untraced Drivers Agreement and Uninsured Drivers Agreement
- **Clinical Negligence claims**

Expertise

- **RJW Personal Injury department recognised in the most recent edition of the Legal 500 as being one of the top personal injury firms with several of our Partners receiving special recommendation**
- We have developed a special knowledge of specific areas of Police work including Police stress, Police deafness, CICB claims, riot training litigation, calculating Police loss of pensions and loss of earnings as a result of medical retirement

Successes

- Claire Hunt – widow of West Mids officer killed during undercover operation. “He stepped under the wheels of a lorry”.
- Finlay and Zoe Martin – fatal accident to son and serious injury to wife of West Mids officer. Inquest, damages, rehabilitation.
- Training – “deranged man”, officer dragged from car, petrol bombs – protective equipment.
- Operational - “enforcer”, training, equipment, accessibility in emergency

Stress cases

- VERY DIFFICULT TO WIN. Court anxious for these cases not to succeed. “Floodgates”
- Many police cases excluded by the ruling in Calveley v Chief Constable of Merseyside which states that where a police officer has been the subject of a disciplinary investigation, there can be no claim for breach of statutory duty arising out of his employment. This would be contrary to public policy and allow criminals the right to sue the police for negligent investigations.
- Often difficult to prove foreseeability: prior complaint.
- Need to prove has recognised psychiatric condition.
- Harassment must equate to criminal activity.
- Counselling service negates breach of duty under principles of Sutherland v Hatton. Duty on employee to seek help.
- Consider DDA overlap: duty to make reasonable adjustments.

Who/how to contact

RING CLAIMLINE ON 0800 9171 999

The application form for legal assistance for civil (if not done via Claimline – sensitive cases perhaps) or CICA Review/Appeal should be completed as swiftly as possible and sent through to the Federation Offices at Guardians House

- **If you have any queries about a potential claim, speak initially to your Branch Board Secretary**
- **Richard Langton, Angela Fitzpatrick, Adam Wilson, partners at RJW Birmingham are happy to answer any requests for advice from all Federation Reps - 0121 233 8300**
- **Remember there is a 3 year limitation period for personal injury and clinical negligence claims – date of knowledge not (necessarily) date of event – eg deafness.**
- 2 year limitation period for submitting claims to the CICA. 90 days to request Review, 90 days to request Hearing.
- **Irrespective of the above, all claims should be submitted as early as possible.**
- There is no need to wait for an alleged Defendant to be convicted or for the outcome of a traffic prosecution
- No cost to Federation or Member, “insurance” income for Federation.
- Health and Safety overlap –prevention better than cure.