

RESOURCES SCRUTINY COMMITTEE – 15 JUNE 2010

RIOT DAMAGES ACT 1886 – YARLS WOOD (COURT OF APPEAL)

REPORT BY CHIEF CONSTABLE AND SOLICITOR TO THE AUTHORITY

Introduction

- 1.1 To inform the Committee of aspects of the Riot Damages Act 1886.
- 1.2 This paper outlines potential financial implications of the Riot Damages Act 1886 and provides a legal update on the Yarls Wood case in the Court of Appeal.

Extract from the Riot Damages Act

- 2.1 The Riot Damages Act 1886 Section 2 provides that:

"Where a house, shop or building in a (police area) has been injured or destroyed or the property therein has been injured, stolen or destroyed, by any persons riotously and tumultuously assembled together, such compensation as hereinafter mentioned shall be paid out of the police fund..."
- 2.2 The 1886 Act also applies to injury or destruction of certain machinery.
- 2.3 "Riot" or "riotously" are not defined by the 1886 Act but are defined in Section 1 of the 1986 Public Order Act

Extract from the 1986 Public Order Act

- 3.1 Section 1 – Riot of the 1986 Public Order Act states:-
 - (1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot.
 - (2) It is immaterial whether or not the 12 or more use or threaten unlawful violence simultaneously.
 - (3) The common purpose may be inferred from conduct.
 - (4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
 - (5) Riot may be committed in private as well as in public places.

(6) A person guilty of riot is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine, or both.

Yarls Wood Immigration Limited and others v Bedfordshire Police Authority (2009) EWCA Civ 1110 (Court of Appeal) – See Weightmans Legal Update attached.

- 4.1 Group 4 managed the Yarls Wood Immigration Detention Centre in Bedfordshire, where a riot broke out in 2002 and almost half of the buildings were burnt down.
- 4.2 The Police Authority argued that no duty was owed to public authorities such as the operators of a detention centre. Group 4 argued, that the Act clearly provided compensation on a strict liability basis to “any person” who had sustained loss, including public institutions.
- 4.3 Overturning the decision at first instance, in this unanimous ruling, Lord Justice Rix allowed the appeal and declared that Group 4 was entitled to bring a claim under the 1886 Act for the riot damage within the detention centre. The Court did hold that the Contractor should bear some responsibility for this.

Points of Interest

- 5.1 Bedfordshire Police Authority had insurance to cover this loss at the time in 2002, however, insurance very swiftly became unavailable for police authorities at economic cost. This situation currently prevails and is highly likely to continue. As a result of the foregoing, any liabilities under the Act are likely to fall on police budgets.
- 5.2 It has been hoped that the Bellwin Scheme, introduced in 1983 and given a statutory basis by the Local Government and Housing Act 1989, might provide some financial assistance. However, this is believed not tested and previously the scheme tended to respond to extreme weather impacts. Police authorities are identified within the guidance of eligible claimants. Grant rates and thresholds for claims are identified within the related documentation.
- 5.3 Whilst in the Yarls Wood case the claimant is identified along with others, it is important to note that insurers have an independent cause of action where they are providing cover to an involved party and it is these who are the more likely to seek recovery under the provisions of the Riot Damages Act.
- 5.4 Yarls Wood has drawn attention to liabilities that could fall on police authority budgets. In this scenario, it is a detention centre, however, potential liabilities can come from any circumstances that are covered by the Act.
- 5.5 I am advised that the risk at detention centres is now probably minimised because all contracts with the Home Office include a clause preventing a claim under the Act. It may be that there are opportunities for individual police forces to act similarly in their contractual arrangements with third parties, where a significant potential risk is identified.

Conclusion

6.1 A briefing on the Riot Damages Act has been provided to the Organisational Development Meeting, the Gold Commanders Meeting and the Best Use of Resources Board.

Recommended - that the Committee notes the potential liabilities identified here.

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