

## Special duty problems: public bodies annotated problem question

This is your starting point. Who are the people who will be suing? Who will the defendants be? What is the negligence alleged? Note there may be quite a number of different claims here.

You should note that it is often important to look out for 'red herrings' or facts that simply aren't relevant to the claims you are dealing with. Here, e.g., there is no question about whether this car was 'speeding' or whether the driver of the car was negligent, as the driver is not a defendant.

Consider the points on assumption of responsibility made in *Michael v Chief Constable of South Wales Police* [2015].

Again, this relates to any potential claim that may be taken against the ambulance service. Is it 'negligent' to have an unqualified trainee on board an ambulance? If so, this might be a claim against the ambulance service directly, for failing to provide an adequate service. However, you should be aware of the policy/operational distinctions that operate in these types of claims.

PC Plod and PC Bill both work for the Countyshire Constabulary. They are both involved in investigating a high-profile criminal case involving a bank robbery.

One night, PCs Plod and Bill are on motorway patrol when a car passes them at a fairly high speed. PC Plod, who is driving the patrol car, recognises the car as belonging to one of his neighbours, Mr Smith, with whom he has had a longstanding feud since Mr Smith had an affair with his wife. Determined to get his own back on Mr Smith, PC Plod, despite PC Bill's objection, decides to give chase. As the cars approach 110 mph, PC Plod loses control and the two cars collide. Mr Smith's car turns over several times before eventually coming to a stop. PC Bill is injured.

PC Plod calls an ambulance from the Countyshire Ambulance Service. This takes 30 minutes to arrive and, even then, because of staff shortages, the paramedic on board is an unqualified trainee. He examines Mr Smith and concludes that he is dead, so devotes his attention to a fairly minor leg wound suffered by PC Bill. Half an hour later a doctor arrives at the scene. When he examines Mr Smith he realises he is actually alive, but deeply unconscious. Despite the doctor's best efforts, Mr Smith dies on the way to hospital.

Meanwhile, the criminal gang under investigation take part in another bank robbery in a nearby town, during which a hostage is killed. Witnesses seeing the hostages being dragged into the bank at gunpoint had called the police and been assured that they were on their way. In fact, the call had gone to PC Plod, who had ignored it because he was more interested in chasing Mr Smith. Bruce, the husband of the hostage who died, believes the police could have done more to prevent her death. The owner of the bank believes the police were negligent in failing to prevent the robbery.

Advise the families of Mr Smith and the hostage as to any potential claims in negligence.

A claim is likely to be made by the family of Mr Smith (e.g. either acting on behalf of his estate or even directly, if there are dependants—see Chapter 21). The allegation is that the car chase caused him to suffer his injuries, then an unqualified paramedic was negligent in his assessment of Mr Smith, leading to the delay that subsequently may have caused his death (note there may be a factual causation issue here, see Chapter 9). This means that there are two defendants to this claim, and the duty, breach, causation formula must be followed in respect of each (note, however, that this claim against PC Plod is not one related to the investigation or suppression of a crime and so will not invoke the *Hill* line of authorities: see *Robinson v Chief Constable of West Yorkshire* [2018]). Either, both or neither may end up being liable. Either way, this is still going to be a claim against a public body, however, because if found to be negligent, the ambulance service will be responsible for the tort of the paramedic through the principle of vicarious responsibility (see Chapter 20). The ambulance service may also be sued directly here, for sending an unqualified trainee (although breach would not be self-evident in them doing this). NOTE: this is therefore a different claim from the one made directly against the ambulance service (for arriving late), earlier.

The claim here is that the police were negligent in their efforts to prevent a crime. Can the police be sued in this respect (and who sues, when the person who is injured dies? See Chapter 21). See e.g. *Hill, Smith v Chief Constable of Sussex Police* and *Michael v Chief Constable of South Wales Police*. Also see *Van Colle* (and *Michael*) in relation to a claim under the Human Rights Act—can this case be distinguished?

This raises similar issues to those in the claim above, although that was about personal injury (death) and this is about a financial loss. Does that make a difference here? Note, however, you are not asked to advise the owner of the bank.

Note that the Chief Constable of Countyshire Constabulary may be sued directly (though is there any indication of the force's negligence in the facts here?) and may also be a defendant through the principle of vicarious liability (Chapter 20) should either of the officers be found to have committed a tort.

This might be relevant to any defences raised by PC Plod.

This suggests potential negligence on PC Plod's part, indicating that he will be a defendant.

So there is (at least) a claim for personal injury stemming from the collision, though you are not asked at the end to advise PC Bill—watch out for things like this and don't get distracted!

This relates to any claim made against the ambulance service and the question here will be whether they had a duty to arrive promptly and, if they did, whether they have breached it by taking 30 minutes to arrive. See *Kent v Griffiths*. The breach issue might depend on exactly why they took so long and if this could be considered reasonable in the circumstances—see Chapter 8.