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The UK Supreme Court's Recent Police Liability Decisions: Impact on Omissions and Insurance (2025, UK English)

Background: Police Liability for Omissions

The Supreme Court's recent decisions in *Chief Constable of Northamptonshire Police v Woodcock*, *OB v Chief Constable of Wiltshire Police*, and *CJ and others v Chief Constable of Wiltshire Police* are pivotal in clarifying police liability for failure to act—both in negligence and under Article 3 ECHR.

These decisions continue the broader trend of judicial caution about liability for omissions and illustrate how operational decisions by the police will rarely attract civil liability unless they fall within the recognised exceptions. *Robinson v Chief Constable of West Yorkshire Police* confirms that the police are, in principle, subject to the same law of negligence as any other defendant, including liability for positive acts causing foreseeable physical injury. At the same time, the common law imposes no general duty to prevent harm caused by third parties, so that omissions are only actionable within established, narrow categories such as assumption of responsibility, creation or worsening of danger, or situations of control.

The recent decisions in *Woodcock*, *OB*, and *CJ* do not establish a special regime for police omissions; they illustrate how these general omissions principles operate in the policing context. Judicial restraint remains central, with liability for failures to act only arising in strictly delineated circumstances.

Case Summaries

Chief Constable of Northamptonshire Police v Woodcock

Ms Woodcock suffered a violent assault by her ex-partner after prior threats and police engagement. She was not warned of imminent risk following a neighbour's alert to police. The High Court initially

found an assumption of responsibility, but the Court of Appeal overturned this, ruling there was no legal basis for liability. The failings of the police in the investigations were omissions and failures to act and could not properly be characterised as positive acts which made matters worse. There was no evidence of an explicit assumption of responsibility or police action which displaced the neighbour's ability to warn Ms Woodcock. The Supreme Court's refusal of permission to appeal further solidifies the requirement for clear affirmative acts or relationships that indicate police responsibility for individual safety.

OB v Chief Constable of Wiltshire Police and CJ v Chief Constable of Wiltshire Police

Both cases concerned police failure to investigate child sexual offences despite knowledge of incriminating evidence. The claimants relied on both negligence and Article 3 ECHR duties. In each instance, neither investigatory failures nor passive omissions constituted actionable breaches—there was no viable claim without actual knowledge of direct risk or exceptional facts, nor evidence that police actions made matters worse. The Supreme Court's refusal to hear further appeals underscores the entrenched limits on importing civil liability into policing failures to act.

Judicial Reasoning and Principle

Assumption of responsibility: There must be unequivocal police conduct or communication to create reliance.

Interference principle: Liability arises only where police actively prevent a third party from protecting the claimant, knowing their intervention would have that effect.

Article 3 ECHR: Duties are strictly confined; only manifest and actual knowledge of ongoing abuse can trigger liability.

No general duty of care: Only specific, affirmative actions, not mere presence or operational inaction, create a duty.

The boundaries are now well settled: operational omissions, absent clear exceptions, do not give rise to actionable negligence.

Insurance Sector Impact:

Claims Defensibility and Policy Wording

Police and public authority insurers can defend omission-based claims confidently, as the law sets a high bar for liability. Policies should define coverage for '**negligent acts or omissions**' in a way that mirrors the limited situations in which civil liability for omissions can arise—for example, clear assumptions of responsibility, active worsening of risk, or circumstances of special control—and should make clear that purely operational failures to investigate or to warn, without more, are not treated as covered negligent omissions.

Given the developing case law on Article 3 investigative duties, it remains prudent to ensure that policy wording does not unintentionally extend indemnity beyond the scope of the underlying tort and human rights obligations, particularly where negligence and Article 3 claims are pleaded together.

Risk Management Strategies

Review operational guidelines and documentation to confirm clarity in role assumption and risk allocation.

Emphasise proactive recordkeeping of communications where the police might be viewed as assuming responsibility.

Defences should highlight absence of affirmative conduct, lack of interference with third-party help, and the factual limits of Article 3 triggers.

Practical Considerations for Defence Lawyers

Challenge assumptions of responsibility by scrutinising whether police conduct contained genuine assurances or undertakings.

Emphasise operational discretion; operational policing, as opposed to direct causation of harm or interference, rarely gives rise to liability.

Use procedural tools such as strike-out and summary judgement in claims based solely on omissions, following the clear guidance of the Court of Appeal and Supreme Court.

Conclusion

The Supreme Court's approach in 2025 continues rigorous judicial restraint regarding public authority liability for omissions. Defendant lawyers, police, and public sector insurers benefit from a clear and stable legal environment: liability is only imposed in extraordinary cases where assumed responsibility, interference, or special control can be established. The delicate boundary between tragedy and actionable legal wrong remains tightly confined.

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