

# 'I predict a riot...'



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Lucy McCormick reviews the legal regime which applies to property damage caused by riots

On 31 July 2020, the Scientific Advisory Group for Emergencies (SAGE) released a paper on public disorder and public health. This included the following prediction:

'In the next few weeks and months the UK will face grave challenges to public order. The situation is volatile and highly complex. While widespread urban disorder is not inevitable, currently, the situation in the UK is precariously balanced and the smallest error in policing (whether perceived or real, inside or outside the UK) or policy could unleash a dynamic which will make the management of COVID-19 all but impossible... This potential disorder could be comparable or bigger in scale to the rioting of August 2011.'

Against this background, it is timely to consider the legislative regime which applies to property damage in the event of rioting. Claims for compensation arising out of the August 2011 riots were subject to the Riot (Damages) Act 1886. This Act was widely criticised as outdated, not least because it lacked a clear definition of 'riot', and because it made no provision for motor vehicles (which were in their infancy when it was drafted). It has since been replaced by the Riot Compensation Act 2016 (RCA 2016) and associated regulations. While the new legislation has been welcomed, it has yet to be truly tested given the absence of any major riots since 2011.

## Reading the Riot Act

Where property is damaged or stolen in a riot, the first steps are to report the crime to the police and to any insurer. If the

property in question is not insured, or the insurer confirms that the property is not fully covered, then the next step is to access the RCA claim form on the gov.uk website and submit it to the claims authority in the area that the riot happened. This is usually the Police and Crime Commissioner for the relevant area, save in London where the claims authorities are the Mayor's Office for Police and Crime for the Metropolitan police area, and the Common Council for the City of London Police.

In order to qualify for compensation under RCA 2016, victims must demonstrate that the damage or loss they have suffered was as a result of a riot, as defined in s 1 of the Public Order Act 1986 (please see boxed out text). A claim can be made by either: (i) a person claiming for their property that was not insured, or not adequately insured; (ii) an insurance company claiming for reimbursement.

## What can be claimed?

The owner of a building can claim for damage to the building's structure. A tenant or occupier can claim for damaged or stolen contents. It is also possible to claim for damaged or stolen business items stored in a vehicle, stock-in-trade vehicles, or underinsured vehicles. The RCA 2016 does not cover personal items held outside of a building. It also does not cover personal injury, which is dealt with by the Criminal Injuries Compensation Authority. The only consequential loss covered is alternative accommodation where a home has been rendered uninhabitable, up to a maximum of 132 days.

Importantly, each RCA claim is subject to a maximum compensation limit of £1m.

No person may make more than one claim in relation to property at the same postal address. If multiple claimants have an interest in property at the same address (such as landlords and tenants) each claimant should submit a separate RCA claim for their property at that address. The ambit of 'same postal address' has not been tested in the courts and may provide scope for litigation.

## Tight time limits

A claim must generally be made within 43 days of the end of the riot. If a claimant makes an insurance claim first, they have 43 days to make their claim from the date the insurer informs them that they are not fully covered. Any further details and any evidence in support must be provided within 91 days. There is provision for those limits to be extended in certain exceptional circumstances.

## Acts of claimants

An authority may refuse a claim or decrease compensation on the basis that the claimant, whether by act or omission, has participated in or facilitated the riot or spread of the riot. It may do likewise where the claimant has contributed, directly or indirectly, to any damage, destruction or theft of property during the riot. Government guidance suggests that this second category is intended to allow authorities to reject claims where individuals have, for example, taken inadequate security or fire measures, though this point has not yet been tested in litigation. There is a right to ask for a review of an authority's decision, and a right to appeal a decision on review to the Upper Tribunal. **NLJ**

## What is a riot?

Section 1 of the Public Order Act 1986 defines a riot as:

- (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.

Lucy McCormick is a barrister at Henderson Chambers ([www.hendersonchambers.co.uk](http://www.hendersonchambers.co.uk)).