



Laws Commonly Used at Protests

Having a basic knowledge of the laws the police most commonly use to disrupt protests can increase your confidence on actions and help you stand up to repressive police tactics.

This guide may be useful for people who are aware of their [key rights](#), and would like to learn a bit more detail, or for [legal observers](#) to print off and refer to. It would also be useful to read our guide on [Stop & Search](#) powers.

We think that knowledge of the law can help your confidence in planning actions and standing up to police, but unfortunately it will not necessarily protect you from arrest. The police frequently arrest first, and then work out if there is anything they can charge you for later. At most types of actions though, the **risk of actually being arrested is low**. The risk of being convicted is even lower, and first time offenders would be **very unlikely** to receive the maximum penalties.

If asked to do something by a police officer, we recommend that – if safe to do so – you ask “[What Power](#)” to challenge whether they are acting lawfully. If you get an answer, please note it down, and let us know what powers are being used (or tell a [legal observer](#) if they are present).

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1. Obstruction of a Police Officer

The threat to arrest for obstruction is widely used by the police at demonstrations.

Under the Police Act 1996 s89 it is an offence to assault, resist or wilfully obstruct a constable in the execution of his/her duty.

Willful obstruction of a police officer means doing any act which makes it more difficult for the officer to carry out their lawful duty e.g. stopping them doing something, de-arresting someone, deliberately misleading them, or giving a false name and/or address.

Being limp makes it more difficult for a police officer to move you, and is **not** obstruction.

2. Conditions on a Protest - including Section 12/14 of the Public Order Act

Sections 12 and 14 of the Public Order Act (1986) allow conditions to be imposed on ‘public processions’ and ‘public assemblies’.

A ‘public procession’ constitutes any number of people (the law does not specify a minimum) moving along a route.

A ‘public assembly’ is two or more people gathered together in a public place. This includes highways, parks, shopping precincts, shops and offices, restaurants, pubs or any other place to which the public have access or partial access.

Conditions can be set which restrict **the place, the duration and the numbers of people allowed**, or “any reasonable” conditions on a procession, including route changes. Often, conditions will include setting up a “protest pen” and asking you to move into it. Conditions can be imposed in advance, or by the senior police officer who is at the scene. The law states that conditions can be



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imposed 'as they appear necessary to prevent serious disorder, disruption of the life of the community, or intimidation'.

Conditions may be **more likely** to be imposed if you talk to the police ahead of your action. If you or your group are considering this, please read our guide on [notifying the police of actions](#).

In order to be convicted of an offence under section 12 or 14, it must be proved that you were **aware of the conditions** and then chose to break them. A senior officer may make an announcement, or sometimes visual displays or leaflets are used.

Do not pass on leaflets, make announcements, or tweet about conditions under Section 12 or 14. This is doing the police's work for them. It is often very difficult to hear, or comply with, conditions, but by passing on the message you **make people liable for conviction** under the act. It is also an offence to organise or incite people to break the conditions and your actions may be misinterpreted as obstructing the police.

These laws give the police power to move you, using force if necessary, in order to comply with conditions. You can go limp. Knowingly not complying with the conditions is an offence under the act, and can be grounds for arrest, although it is a defence to prove that the failure to comply arose from circumstances out of your control.

If convicted, the maximum penalty is a fine of £1000. First time offenders would be likely to receive a fine of about £200.

Section 35 of the Anti-Social Behaviour, Crime, and Policing Act allows officers to force individuals to leave an area for up to 48 hours.

Section 35 has also been used to try and gather peoples details. We know of several instances where refusal of details under Section 35 resulted in arrest. However in the only instance we know of where people continued withholding information, (after over 24 hours on remand) this resulted in a court ruling that those involved were entitled to withhold their information.

3. Obstruction of the Highway

This power is often used to remove demonstrators who are standing outside buildings, sitting down blockading entrances or roads and in many public order situations.

You could be committing this offence if, without lawful authority or excuse, you willfully obstruct the free passage of the highway. The 'highway' includes the road, the pavement, grass verges and private property used as a public thoroughfare.

'Obstruction' includes anything that prevents passing and re-passing along the highway. You do not have to be blocking the whole width of the highway. The offence is obstructing the highway itself, not other highway users, so it is not necessary for the to prove that anyone was actually obstructed.

The obstruction has to be 'willful', so you will often be asked to move by the police, and if you do not, then this could be used as evidence of your 'willful' obstruction in court.

If convicted, the maximum penalty is a fine of £1000. First time offenders would be likely to receive about £200.

4. Breach of the Peace

Breach of the Peace is not a criminal offence: you can be arrested, but you cannot be charged.



The police have the power to detain or arrest you if a “breach of the peace” has occurred, or to prevent it from occurring. A breach of the peace is defined as “an act done or threatened to be done which either actually harms a person, or in his presence, his property, or is likely to cause such harm being done.” They **must** release you once the threat of the breach of peace has passed.

If arrested for breach of the peace, **you should not give any personal details**. The police will try and persuade you to do so, but you are not legally obliged to give details (or DNA or fingerprints). Because you must be released once the threat of a breach of the peace is over, even if you have not given your name and address, that cannot be a reason for the police to hold on to you.

The police sometimes use this power to arrest groups of people at actions, drive them far away from the site of the action, and then release them in the middle of nowhere (without ever going near a police station).

If the police deem either that you have actually committed a breach of the peace or that your release is likely to cause a further breach of the peace, then you can be held overnight and put in front of a judge to be “bound over” for a period of time and some cash, approx £100. Basically this means you agree to ‘keep the peace’ for a certain period of time and agree to pay the specified sum if you do not keep to the agreement. This is not a conviction and will not be put on your permanent record. If you refuse the bind-over you can be jailed for contempt of court for a few weeks or until you agree to it.

Please note: The above advice applies to England & Wales. Breach of the Peace is very different and much more serious in Scotland.

5. Trespass & Aggravated Trespass

Trespass

Trespass alone is a matter of civil law, which means that the police have no power to arrest you for it; police may nonetheless help landowners remove trespassers from land.

Trespass is entering – or putting property on – land that belongs to someone else, without their permission.

If you have ‘implied permission’ to enter somewhere – for instance a shop open to members of the public – then you are not committing trespass until you have been asked to leave by the owner of the building or their representative. In a shop this is often a manager, but should not be a police officer. If you fail to do so, then you could be taken to a civil court (‘sued’) by the owner.

Aggravated Trespass

Aggravated trespass is a criminal offence, so you can be arrested for it.

You must be doing two things to commit aggravated trespass:

1. Trespassing
2. Intentionally obstructing, disrupting, or intimidating others from carrying out ‘lawful activities’.

Further to this, a senior police officer has the power to order any person believed to be involved in aggravated trespass to leave the land; if they refuse to leave after being ordered to by police officer, or if they return to the land in question within a period of three months, this is an additional offence.

Maximum penalty is 3 months imprisonment, or a fine of £2500, or both. First time offenders would likely get a fine of between £200 – £300.



6. Criminal Damage & Theft

Criminal Damage

Criminal Damage is the “deliberate or reckless damage” of property without lawful excuse. The damage does not have to be permanent – people have been accused of this offense after using chalk on paving stones. It includes interfering with property in a manner that causes loss, which could include loss of profit (e.g. by setting off a fire alarm). Defence can often hinge on the ‘lawful excuse’ aspect of this offence.

The magnitude of the possible penalty, and whether or not you would be tried in the Magistrate or Crown Court, depends on whether the damage is more, or less, than £5000.

Having items with intent to cause Criminal Damage

Activists found on their way to an action with bolt-croppers have been charged with having items with intent to cause Criminal Damage. The most ridiculous arrests we’ve seen for this were for having permanent markers!

Theft

This is “dishonestly appropriating another’s property with intent to permanently deprive them of it”. Maximum penalty is 7 years prison but this would involve property worth millions of pounds. There is a separate offence of possessing items of police uniform s90 Police Act 1996 with a maximum penalty of a fine.

7. Violent Disorder and Affray

Violent Disorder and Affray are serious ‘behavioural offences’ of the Public Order Act (POA).

Violent Disorder (section 2 POA) is committed where 3 or more persons together, use or threaten unlawful violence that taken together could “cause a person of reasonable firmness to fear for their safety”. The person does not have to be present,

The 3 people involved do not need to co-operate with each other they just need to be present in the same area at the time the offence is committed.

The maximum penalty is 5 years in prison and/or an unlimited fine.

Affray (section 3 POA) is the equivalent (of Violent Disorder) when one person is acting alone. The conduct must be in excess of mere words. An assault on a single person would be unlikely to fall under this statute.

The maximum penalty is 3 years in prison and/or a fine.

8. "Anti-Social Behaviour" - Section 50 of Police Reform Act

If you are suspected of anti-social behaviour, the police can demand your details under Section 50. Refusing to give your details is a criminal offence, and you can be arrested.

The police’s own guidance states that Section 50 powers should not be used on protests.

A police officer demanding someone’s details under Section 50 powers needs to have a reasonable belief that a protest is not covered by the protection of the right to freedom of assembly under the Human Rights Act – and should not immediately and wrongly jump to the conclusion that any unlawful acts are “violence”. The right to freedom of assembly exists even when a protest is clearly in breach of the law: for example, obstructing traffic as part of a demonstration is conduct that is, by itself, considered peaceful.

Your individual right to freedom of assembly is not altered by actions committed by others. A police officer demanding someone’s details needs to have a reasonable belief a protester’s individual conduct – rather than the conduct of others – is anti-social



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behaviour.

Overwhelmingly, most protests involving civil disobedience and direct action are protected by the right to freedom of assembly and are not anti-social behaviour.

This is why we continue to argue that **protesters should resist the misuse of Section 50 powers**. You can do this by **refusing to give your name** if asked to under section 50.

However, how a police officer **should** act and what happens in practice is never predictable and Section 50, like most police powers, is open to abuse.