Legal briefing for uni encampments

The following is adapted from a brief composed by CASP (Climate Action Support Pathway) with amendments and additions by Green and Black Cross (GBC). This brief covers laws about land occupations and the potential consequences of taking such action. Please note, it is not exhaustive and does not constitute legal advice. Always seek advice from a protest experienced solicitor if you are arrested or charged with an offence.

If you have any feedback on this briefing, please contact gbcresources@protonmail.com.

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Overview

All protests come with some risk and it is much better to be prepared, however this is not intending to scare you. Most people who attend protests do not get arrested, and of those who do few are charged and even fewer are convicted. In general, the risk of police intervention is very low. If they attend the camp, they are likely to primarily observe what is going on, and then leave. They may stay to do longer surveillance. In the US, trespass is criminal, but in the UK, it is only a civil offence, so in general, police are not supposed to intervene. However, there are some laws that would give them the power to do so in certain circumstances. In the vast majority of cases, it is not legal for the police to attempt to move the camp without first providing a legal order (obtained from their superiors) declaring the camp to be illegal or not permitted in certain areas. At that stage, there would be an opportunity for any person not willing to face the police or arrest to vacate the area. We can never guarantee that the police follow the law, but we can be aware of the powers they have to challenge when they are in breach.

At universities in recent years, where action against protesters has been taken, this has generally been through internal uni disciplinary procedures rather than through the police. Some universities have called police to protests but no arrests have occurred. There have been a few instances where police have made targeted arrests of a small number of individuals, such as at UCL or Oxford in May 2024 (their cases are still outstanding as of June 2024).

It can be helpful to have specific people with the role of liaising with police & security (sometimes called protest liaison) in order to keep the line of information controlled and clear. In general, it is advised **everyone is briefed on the key messages** and sticks to them – most importantly 'no comment'.

Police, security and Universities, if targeting individuals, will likely attempt to identify and target organisers. It is advisable to not visibly appear as or present yourself as an organiser, if it can be avoided.

If you're attempting to hide your identity, only under s60AA (info on GBC website) can police require you to remove your mask. NB – universities have been known to use connection to eduroam wifi to identify protesters.

Any questions or need any support? Ring the **24/7 protest support line: 07946 541 511**

Key messages

? Read our Key Advice when Going on a Protest webpage & always carry a printed **Bustcard**.

Remember the 5 key messages: No comment! No personal details! Under what power? No duty solicitor! No caution!

If you don't know anything else, these are the key things to remember **and a bustcard can remind you of these key messages.**

There's a **call and response mic check** you can read out at protests.

Other useful resources/ guides

- Upcoming Know Your Rights trainings (if none are listed, check back later)
- Guide on what happens if you're arrested
- What to do if you witness an arrest

- Guide to organising police station support
- **Check out our guides & resources for more**

Relevant legislation

- **Risks from Police**
- **Directions to Leave (s61 CJPOA 1994)**
- **Aggravated Trespass (s68/ s69 Criminal Justice & Public Law Act 1994)**
- **Violating Conditions on Public Assemblies (s14 & s14A Public Order Act 1986)**
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Risks from Police

Directions to Leave (s61 CJPOA 1994)

While this power has not been used on any of the student encampments so far, in theory police have the **power to remove trespassers** who look as though they plan to set up a camp, or the police suspect that is the intention. This was used to evict one of the anti-fracking camps at Balcombe in 2013. **The camp does not even have to be set up yet.**

Requirements for the police to be able to issue directions to leave:

These are the steps for eviction to happen on these grounds:

1. The “occupier” of the land (owner, or person who is legally entitled to occupy) must first have required you to leave
2. Then, they may ask the police for support.
3. The police must **reasonably believe** that individuals are **trespassing with the intent to reside**, *and* have caused **damage, disruption, or distress**, or have more than **six vehicles.**
4. They can then direct you to leave the land **as soon as reasonably practical** and to remove any vehicles or other property.

In making a decision to evict, a police officer of the rank of inspector or above must assess whether doing so is **legal** (are all conditions present?); **necessary** (could other methods be used, such as regular patrols or arrests if anyone commits a criminal offence?); and **proportionate** (are your rights to protest balanced against the rights of the landowner or local community and is it right to evict everyone?)

What if protestors refuse to leave?

- It is an **offence to refuse to leave**, or to return within three months.
    - But, there are often opportunities to prolong your occupation, because the law does not define “as soon as reasonably practical” or set a deadline by which you have to leave.
- The **maximum penalty** for this offence is three months imprisonment or a fine of £2500, or both**.**

Aggravated Trespass (s68/ s69 Criminal Justice & Public Order Act 1994)

You can be arrested for Aggravated Trespass if you are:

1. Trespassing (see civil trespass), AND
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 then refuse to leave or return to the land within three months, this is an additional offence under s69.

What are the risks of an Aggravated Trespass charge:

- triable in the magistrates court only, and max sentence level 4 fine (£2,500) and/or three months imprisonment.
- **Imprisonment is very unlikely for a first offence**, and usually the sanction would be a relatively small fine, or even conditional discharge if of previous good character.

There are additional trespass offences if you have a vehicle with you. Please call the protest support line for more information: 07946 541 511.

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Violating Conditions on Public Assemblies (s14 Public Order Act 1986)

Section 14 allows the police to impose **conditions on 'public assemblies'** (which can be any number of people, including just one) and makes it an offence for protesters not to comply with conditions they **know about or ought to know about**.

What kind of conditions can be set:

- Conditions can (but don't have to) restrict the place, duration and the numbers of people allowed.
- Often, conditions will include setting up a "protest pen" and asking you to move into it.

When can conditions can be set:

- Conditions can be imposed in advance, or by the senior police officer who is at the scene.
- The law states that conditions can be imposed 'as they appear necessary' to prevent 'serious public disorder', 'serious damage to property', 'serious disruption to the life of the community, or intimidation'.
    - For 'serious disruption to the life of the community' – the PCSC Act (s74(5)) has added specific examples of prolonged disruption of access to certain essential goods and services, including the supply of food, an educational institution, or a place of worship
- Conditions can also be imposed based on the prospect of **noise** generated by the assembly causing:
    - 'Serious disruption' to an organisation located nearby, which means the people in the organisation are 'not reasonably able' to do their usual activities 'for a prolonged period of time'.
    - 'Intimidation, harassment, alarm or distress' to people nearby the protest.

When you've broken the law and the penalties attached to this

- To be convicted of an offence under Section 14, it must be proved that you **were aware, or should have been aware** of the conditions and then **broke the conditions**.
- Maximum penalty is a fine of £2,500. **First time offenders** would be likely to receive a conditional discharge or fine, both with costs. Total ranging from £100-£1000.
- It is also an offence for **organising** a protest or **inciting** others to take part in a protest which breaks conditions you knew or ought to have known about, which carry heavier fines and potential custodial sentence. More info on GBC website.

What happens when conditions are imposed?

- When conditions are imposed on a protest, the police then have the job of publicising them, in order for them to be able to prove that the protesters know or ought to know about the conditions. Examples of ways they do this include making announcements, putting up posters, handing out leaflets, posting on social media, or emailing or phoning individuals/ groups.
- The police have the power to **move you**, using force if necessary, in order to make you comply with conditions.

What should I do if conditions are imposed?

- Ring the **Protest Support Line** (07946 541 511) to talk through your options
- **Do not share**, spread or pass on any information you hear or see about conditions that have been imposed. 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 more likely to be found guilty as it is easier for the police to prove you knew or ought to have known. #Don'tSeeItDon'tSayItSorted
- If you are concerned that your action is likely to have s14 conditions imposed, you may want to have a plan in place within your organising group about how you will deal with this situation should it happen. Call the protest support line if this applies to you to discuss in more detail.

Section 14A Public Order Act 1986

Section 14A gives the chief police officer the power to apply for an order to prohibit all trespassory assemblies in a district, if they have reasonable belief that assemblies are planned on land the public has no right or limited right of access to and the assembly may result (i) in serious disruption to the life of the community, or (ii) where the land, or a building or monument on it, is of historical, architectural, archaeological or scientific importance, in significant damage to the land, building or monument.

This order can only be imposed if approved by the local government e.g. the City Council or Mayor. This is unlikely to be used. Call the Protest Support Line for more information.

Criminal Damage

The “deliberate or reckless damage” of property without lawful excuse. The damage does not have to be permanent. Property does not only mean buildings, but could for example include grass or pavements. Damage to **memorials** or **caused by fire** are specific offences.

Avoiding arrest, charging, and conviction:

- The steps you take to **mitigate the extent of the damage** (i.e. steps taken to try to avoid damage to grass) reduces the likelihood of both arrest, charge and conviction as well as being a mitigating factor at sentencing.
- This would also have an impact on any claim for **compensation** for cleaning up which can also be ordered by the court if you are convicted.
- Defences can often hinge on the ‘lawful excuse’ aspect of this offence

Consequences

The magnitude of the possible penalty, and whether or not you would be tried in the Magistrate (lower level) or Crown Court (in front of jury), **depends on whether the damage is more, or less, than £5000** (unless the damage is to a memorial or caused by fire, in which case it is treated as if over £5000).

The maximum penalty where the value of damage is less than £5000 is 3 months imprisonment and/or £2500 fine. Where the damage is more than £5000 the maximum penalty is ten years imprisonment. However, the likely penalty for **first time offenders** is a lot lower than the maximum penalty and highly dependent on the cost of the damage you supposedly committed. If it was low the penalty could be anything from a conditional discharge, to community service or a fine of around several hundred pounds.

For damage under £5000, Insulate Britain/Just Stop Oil average: £300 (range £127 – £450) + compensation orders (which often covers the invoice for the actual damage caused). This is based on guilty pleas (there’s no data for trials).

Risks from Bailiffs or Civil Action

The preferred action for landowners to regain possession of land may be to proceed through the civil courts, seeking a **possession order**. The other possible civil action is seeking an **injunction**.

If you are served with court papers, **do not panic** – this is not a criminal matter and there is **not an immediate threat of eviction**. They still have to go to court before anything can happen. Call the **Protest Support Line** (07946 541 511) to talk through your options and what may happen, and/ or seek legal advice.

Some Universities may already have a possession order imposed on parts or all of the University as a result of previous protests, however if the order for enforcing possession has expired, they may need to return to court to get a new one.

Possession orders

A ‘possession order’ is a court order that allows landowners to hire bailiffs to remove trespassers. If you were to return to the land, the landowner (University) would have to hire bailiffs again to remove you.

For a quicker turnaround, the landowner might also seek interim possession order (IPO). This is temporary in nature, meant to grant them possession before the hearing for the full possession. If an IPO is granted it is a criminal offence to remain on the land it regards, for anyone who’s named (which likely includes ‘persons unknown’).

For more information on possession orders see page 53 of the Squatters Handbook.

Injunctions

Injunctions are court orders that specifically instruct someone to do or not do something, for example not to set up an encampment on university property. It is a contempt of court to knowingly break an injunction, which has a max penalty of a prison sentence.

For more information on Injunctions see Not 1 More’s comprehensive guide.

Risks from University

In many cases, university action is more likely than criminal or civil actions. Attempts at repression may focus around trying to identify and target organisers.

Every University has different codes of conducts/ contracts and disciplinary procedures. It is worth familiarising yourself with these so that you can make informed decisions. Things to look out for include:

- Disruption of activities / functions of the university
- Breaking university regulations / byelaws (e.g. if there is a rule against camping overnight)
- Breaking the law / convictions
- Damaging university property
- Bringing university into disrepute
- Attendance requirements, if an action will mean prolonged absence
- Fire safety/ health and safety regulations

Students doing medical or healthcare degrees may face additional penalties for participating in the camp, due to fitness to practice processes. These can be harsher than disciplinary action, and harder to defend against.

Students facing disciplinary action should seek support from their SU advice service and/or NUS branch in the first instance.

Fire safety

Some Universities have been arguing occupations or encampments are breaking fire regulations. Something that has helped some groups has been to find a friendly FBU member who can come and do an independent assessment for fire safety and report back to university management if it's safe. This can deter university action but is not a guarantee.

Risks for International Students

If you are arrested and you are not a British citizen, this could have implications for your current visa, or for future visa/status applications. It is unlikely that an arrest would impact your current status unless it is for a serious offence. It is more likely that it could impact future applications to the Home Office. It is difficult to give conclusive guidance on likely consequences, however this webpage has much more detailed information regarding arrest and immigration status.

If you are an international student and you are fully suspended then it is possible that you could lose your visa. If you were to be excluded from university and are on a Tier 4 visa then you would lose your visa to stay in the UK – this would be a very extreme and unlikely step for the university to take (but not impossible). If you are suspended or excluded, we recommend that you contact your SU Advice Service and/ or an immigration lawyer as soon as possible.

The Home Office is known to also target high profile pro-Palestine activists without British citizenship, even if they have not been arrested. This includes harassment (eg. sending intimidatory letters) and potentially threatening to/actually withdrawing your visa status. Overall, we would recommend avoiding being personally identified in the media and being careful about your public profile if you are in the UK on a visa or otherwise have insecure immigration status. If you do receive any letter like this, we recommend that you contact your SU Advice Service and/ or an immigration lawyer for advice.

Risks for Staff

Work in Progress. Please email gbcresources@protonmail.com if you have any comments.