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).

1. Obstruction of a Police Officer
2. Assaulting a Police Constable or emergency worker
3. Conditions on a protest – inc. Section 12/14 of the Public Order Act
4. Obstruction of the Highway
5. Breach of the Peace
6. Trespass/Aggravated Trespass
7. Criminal Damage & Theft
8. Violent Disorder and Affray
9. Prohibiting face covering
10. "Anti-Social Behaviour" – Section 50 of Police Reform Act
11. Public Nuisance
12. Dispersal Order – Section 35
13. Obstructing Workplaces: Trade Union Law
14. Injunctions

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 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.

The maximum sentence for obstruction of a PC is 1 month imprisonment and a Level 3 fine, currently £1000. First time offenders would likely receive a much lower fine than this. In all cases, fines are partly based on your weekly disposable income.

2. Assaulting a Police Constable or Emergency Worker

Assaulting a Police Constable

The same section (Police Act 1996, s.89) that prohibits obstructing a police officer also makes a specific offence of Assaulting a Police Constable in the execution of their duty. Assault doesn't need you to actually touch the person, you just need to do something that makes someone fear or apprehend immediate violence.

Because the duty of the police in theory is to uphold the law, if you can show that the police officer was breaking the law, and therefore not acting in the execution of their duty when the alleged assault happened, this is a defence to the charge.

Assault PC can only be tried in the magistrate's court and carries a maximum sentence of 6 months in custody and a fine, which could be any amount. Maximum sentences are used only in the most serious cases and the sentence you could receive will depend on the facts of your case. The Sentencing Council has issued guidance on how judges should decide on a sentence for this offence.

Assault on an Emergency Worker

In 2018, it was made a specific offence (in the helpfully named the Assaults on Emergency Workers (Offences) Act 2018) to assault an emergency worker acting in the course of their **functions.** As well as police officers, this applies to nurses, paramedics, firefighters, coastguards, prison guards, search and rescue workers, and various other professions. The emergency worker doesn't need to be on duty or at work, they just need to be doing something which **would** be seen as part of their functions if they were on duty or at work.

Guidance from the Crown Prosecution Service states that this offence should be charged instead of Assault PC, so you may be charged with this even if you were arrested for the former.

The defence that an officer was not acting in the course of their duty does not apply to Assault on an Emergency Worker in the same way, because the High Court found that police officers could act in the exercise of their functions even if they commit an unlawful act, such as using force against someone without reason to do so. If this did happen, you can still argue that you were acting in self defence, for example, along with other general defences that tend to be weaker than the 'duties defence' to Assault PC.

Assault on an Emergency Worker carries a higher maximum sentence of 2 years in custody and a fine. The offence can be tried in the Magistrate's or the Crown Court. We know of only a few protest cases that have resulted in immediate prison time for this offence. We are yet to see how the changes to maximum sentence made by the PCSC Act 2022 affects likely sentences.

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3. 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'.

Name of the law: Sections 12 and 14 of the Public Order Act (1986)

Relevant to: Anyone planning or participating in a protest.

Summary: Allows the police to impose conditions on 'public processions' and 'public assemblies', and makes it an offence for protesters to not comply with conditions they know about or ought to know about.

Explanation:

Legally, a '**public procession**' is **any number of people** (the law does not specify a minimum) **moving along a route**. This is what most people usually refer to as a protest march.

A '**public assembly**' is when **any number of people** (can be just one) are gathered in a **public place**. Public places include:

- Highways
- Parks
- Shopping precincts
- Shops
- Offices
- Restaurants and pubs

And any other place which the public have access or partial access to.

Section 12 deals with **processions** and **Section 14** deals with **assemblies**.

Conditions can be set in **advance** of a protest or by the senior police officer **at the protest** whilst it is taking place.

The law states that the police impose conditions 'as they appear necessary' to prevent:

- 'Serious public disorder'
- 'Serious damage to property'

- ‘Serious disruption to the life of the community’
- ‘Intimidation that is intended to compel someone to not do an act they have a right to do, or to do an act they have the right not to do’

Conditions can also be imposed based on the prospect of **noise** generated by the procession or 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.

The Crime and Policing Act 2026 adds two more issues that the police can take into consideration:

- **the proximity of a place of worship to the protest (Section 164)**
- **the cummulative disruption caused by previous actions at that location (Section 165)**

There are lots of things the police are supposed to take into account before they set conditions, including Article 10 and Article 11 rights to freedom of expression and assembly. These powers do not give a free pass to the police in all situations. However, as you can see, these regulations are pretty vague! Which means that often it comes down to how the police interpret a protest and how they are feeling on that day.

When You’ve Broken the Law

The **offences** under these laws are:

- **Taking par**t in a protest and failing to comply with a condition you **know** or **ought to know** has been imposed.
- **Organising** a protest which breaks a condition you **know** or **ought to know** has been imposed.
- **Inciting** others to take part in a protest which breaks a condition you **know** or **ought to know** has been imposed.

As you can see, there are **two parts** to breaking these laws: what you **physically do** (eg. leaving the prescribed route or area), and what you were **thinking** (eg. you **knew** you were breaking the conditions and did it on **purpose**).

People are often arrested just for stepping out of the prescribed area, but to actually be convicted (found guilty in court), both parts have to be proved.

Maximum Penalty

The maximum penalties for being convicted (found guilty in court) are:

- **Taking part** in a procession or assembly: A fine of maximum £2500. First time offenders would be likely to receive a conditional discharge or fine, both with costs. Total ranging from £100 to £1000.
- **Organising** a procession or assembly: Imprisonment for up to 6 months or a fine of up to £2500 or both. First time offenders would be likely to receive a fine or a Community Order.

For both of the above, it is a defence for the person to prove that the failure to comply arose from circumstances beyond their control.

- **Inciting others** to take part in a procession or assembly and not comply with s12 or 14 conditions: Imprisonment for up to 6 months or a fine of up to £2500 or both. First time offenders would be likely to receive a fine or a Community Order.

Examples of conditions:

Examples of conditions set by police under these laws include:

- Restricting the location of the protest, which can include setting up a ‘protest pen’ and asking you to move into it.
- Restricting the duration of the protest.
- Restricting the numbers of people allowed at the protest.
- Restricting the route of a procession.

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. They may do this by:

- Making announcements, sometimes over a loudspeaker.
- Putting up posters with details of the conditions.
- Handing out leaflets with details of the conditions.

- Sharing information about the conditions on social media.
- Emailing or calling individuals or groups with details of the conditions.

The police have the power to **move you**, using force if necessary, in order to make you comply with conditions.

How to approach dealing with this law:

How can I reduce the likelihood that conditions will be imposed?

In our experience we have found that conditions are **more likely** to be imposed if you **talk to the police** ahead of your action. For this reason we generally recommend not informing the police in advance of protests. If you or your group are considering talking to the police about your protest, please read our guide on notifying the police of actions.

A lot of people read the law and are very concerned about **noise**. What you need to know is:

- Legally, conditions can't just be imposed because you are or are planning to make a bit of noise – the noise must be causing or thought to be going to cause '**serious disruption**' to an organisation located nearby or '**intimidation, harassment, alarm or distress**' to people nearby the protest (see above).
- We have *(as of early June 2023)* not seen anyone have conditions imposed on the basis of noise, so there isn't precedent to show us how these vague terms will be defined.
- For now, our understanding is that a protest would have to be extremely and persistently noisy to meet these noise thresholds, and people planning a small or average protest shouldn't need to take measures to limit their noise. If you are given or threatened with conditions limiting the noise of your protest please call our Protest Support Line (07946 541 511) to talk through your options.

What should I do if conditions are imposed?

If your protest has been affected by Section 12 or 14 conditions, please ring our **Protest Support Line** (07946 541 511) to talk through your options. Section 12 and 14 orders have previously been successfully challenged in court, leading all charges connected to them to be dropped.

Remember: In order to be **found guilty of an offence** under sections 12 or 14, it must be proved that you **knew**, or **ought to have known**, that the conditions had been imposed and then **broke them anyway**.

To reduce the likelihood of people being found guilty, **it is crucial that you do not share, spread or pass on any information you hear or see about conditions that have been imposed**. Passing on information 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.

Our guidance is the opposite of the British Transport Police: Don't see it, Don't Say it, Don't hear it.

Do not:

- Pass on leaflets with information about conditions on them.
- Make announcements about conditions.
- Post on social media about conditions under Section 12 or 14, either explaining the conditions or encouraging people to break them. Remember: It is also an offence to **organise or incite people to break the conditions**.

Still got questions? Ring our Protest Support Line at 07946 541 511 or email courtsupport@protonmail.com.

4. 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. It does not matter whether free passage along the highway has already been temporarily restricted or prohibited

The obstruction has to be 'wilful' (meaning intentional or deliberate), so you will often be asked to move by the police, sometimes they will do this five times, and if you do not then this could be used as evidence that the obstruction was wilful in court.

The offence is recordable, which means you must give your fingerprints and DNA at the police station if you're arrested for the offence. If you refuse, the police can use reasonable force to make you comply. A record of the arrest will also go on the Police National Computer.

If convicted, the maximum penalty is six months in prison and a fine. First time offenders would be likely to receive about £200, depending on the type of road obstructed and the length of disruption. The increased maximum sentence (including a custodial sentence) was introduced by the Police, Crime, Sentencing and Courts Act 2022. The offence is only triable before a magistrate's court.

Upon conviction, the CPS who prosecute most offences will likely apply for court costs. This is where you have to pay some money to cover the costs they've incurred preparing the case and conducting any hearings. The full schedule of costs that the CPS will try to get is publicly available. In practice, the court doesn't often award the full amount. To see reports of how court costs are used in practice, see a series of recent court reports here.

5. 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.**

6. 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.

Residing on land without consent in or with a vehicle

The PCSC Act 2022 introduced this as a new offence.

This means that it will now be a criminal offence (rather than a civil matter) for a person aged 18 or over to reside on land without the consent of the owner if they have, or intend to have, a vehicle with them, and refuse to leave and remove their property when asked. They also need to be causing, or deemed likely to cause, significant damage (including excessive noise, smells, litter or other damage to the environment), disruption (including interference with a 'supply of water, energy or fuel') or distress (including using words or displaying any writing that is 'threatening, abusive or insulting'). If police believe this is happening, they may seize any 'relevant' property belonging to, or in the possession or control of the alleged defendant, including vehicles or any property on the land, which they may keep for up to 3 months or until the end of any criminal proceedings that result from the matter.

You cannot return to the same land for 12 months after being asked to leave.

If convicted of this offence, you can be sentenced to up to 3 months custody and/or a fine of up to £2,500, and your seized property does not have to be returned.

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7. 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 (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 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. For first time offenders, it is 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.

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.

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

If a constable in uniform has reason to believe you have been or are involved in 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.

One exception to the 'no personal details' rule is Section 50 of the Police Reform Act 2002. Under this, the police DO have the power to demand your name and address (but NOT date of birth, nationality or any other details), and arrest you if you do not provide these. This power can only be used if they reasonably believe you have engaged in anti-social behaviour (behaviour likely to cause 'harassment, alarm or distress').

If an officer demands your details under Section 50 you should:

- Ask '*Under what power?'* to clarify they are using s50 Police Reform Act. If possible, record them saying this (and answers to subsequent questions). In some circumstances the police have subsequently denied using s50 powers, claiming that people gave their details voluntarily.
- Ask them to tell you exactly what they believe you have done that constitutes anti-social behaviour. They must have a reasonable belief (not just a suspicion) that you did something likely to cause 'harassment, alarm or distress'. Be clear that this is the definition of antisocial behaviour, sometimes the police don't understand this.
- 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 that a protester's individual conduct – rather than the conduct of others – is anti-social behaviour.
- It is not enough for the police to say they believe you are 'going to' engage in anti-social behaviour. S50 powers do not apply to possible future actions – only if a person 'has been acting, or is acting in an anti-social manner'.
- If you choose to give details, only give **name** and **address** (not date of birth, nationality or anything else). It should be noted that giving a false or inaccurate name and address is also an offence under s50.

Challenging misuse of Section 50

A report about the policing of protests by the Police Inspectorate said that widespread use of this power on protests would probably be unlawful. While this is likely to be true, we can't know if there are exceptions until we see a case about it in the higher courts.

Protests involving civil disobedience and direct action are protected by the right to freedom of assembly and should not be treated as anti-social behaviour. You can **resist the misuse of Section 50 powers** by **refusing to give your name** if asked to under s50. This is usually most effective when many protesters refuse together, for example when police attempt to use s50 on a whole kettle. **If this happens in a kettle, you should not give details.**

However, how a police officer should act and what happens in practice is never predictable and s50, like most police powers, is open to abuse. If you refuse to give your details you may be arrested, however this may not happen even if they threaten to do so. Police have also been known to 'de-arrest' after someone has given their details.

A number of people arrested under s50 have taken civil actions against the police for damages (money). **If you are unlawfully arrested for not giving your details, you may be able to claim compensation.** Contact Green & Black Cross on the protest support line 07946 541 511 for independent advice if you want to explore doing this.

*If you are convicted you may be fined, but cannot be imprisoned for breaching section 50. Maximum penalty is a fine of £1,000, however it's extremely unlikely a protester would receive anything near this, especially for first time offenders***. In order to be convicted in court the police will have to provide evidence that they reasonably believed you personally had been engaged in anti-social behaviour.**

Note: Behaviour 'likely to cause harassment, alarm and distress' is a very broad definition, and the courts have allowed the police to extend it to all sorts of behaviour, including (in some circumstances) swearing.

Remember: under any stop and search powers you do NOT have to give any personal details!

9. 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.

10. Public Nuisance

Public nuisance generally means doing something which creates a risk of serious harm to the public or stops the public from being able to exercise their rights.

The public part is important, it can't just affect an individual or a private group, and has to affect the public or a section of it. Examples of public nuisance could be disrupting a major boat race with a huge number of spectators, or stopping an airport from functioning by climbing on a plane.

It bears saying that 'serious annoyance' in the legal text is not intended to just mean some people feeling annoyed; there has to be substantial harm to the public.

This offence is very old, but was brought into statute (the law made by Parliament) **by the Police Crime Sentencing and Courts Act 2022. The PCSC Act *reduced* the maximum penalty from life imprisonment to 10 years or an unlimited fine or both. There has been a lot of hype/panic about this offence but mostly because people didn't know there was a common law offence (law based on precedent set by previous court cases) of Public Nuisance in the first place.**

It is often the case that there is an increased use of an offence when it has been put into statute. This is partly because there is a preference to use statutory over common law offences. The other reason is the CPS likes trying out new things. This is in fact a long overdue "tidying up" reform and while we may see a spurt of cases it does not make the legal position worse for protesters.

What people actually get for the new offence will depend on the, as yet unwritten, sentencing guidance and the ongoing struggle in the courts on the appropriateness of jailing peaceful protestors. It is an either-way offence, meaning it can be tried in the Magistrates' or Crown Court.

11. Dispersal Order - Section 35

Section 35 of the Anti-Social Behaviour, Crime, and Policing Act

This gives the police powers to issue a Dispersal Order; it 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.

12. Obstructing Workplaces: Trade Union Law

Section 241 of the Trade Union and Labour Relations Act

This power is for preventing pickets related to workplace strikes from disrupting work. However it has recently been used to prosecute demonstrators who are preventing entry to a fracking site; it has also been used against new road protesters in the past.

Section 241 of TULCRA appears to be used where demonstrators are not on the site and therefore are not committing ' Aggravated Trespass', but the police want to charge people for an offence that is more serious than 'Obstruction of the Highway'.

For the purposes of fracking protests (or similar protests where people may be trying to prevent access to a work site) you are committing an offence if you are:

> **'Watching or besetting' somone's workplace with a view to compel that person to abstain from doing any act which that person has a legal right to do**

Watching and besetting means preventing access or preventing people from leaving a site. The methods used to prevent access or leaving must be 'wrongful' and therefore has to be either a criminal or civil offence. An example of this in relation to fracking is obstructing a highway at the entrance to a fracking site.

'With a view to compel' for the purposes of the law means that the action is done with the intent of more than just persuading people to stop working.

Example of a conviction under S241 of TULCRA:

- **At Balcombe 2 people who glued themselves around the gate to the fracking site, and prevented access for 2 hours, were convicted.**

If convicted, the maximum penalty is a fine of £5000 and/or 6 months in prison. However of the two people convicted of this offence after protests against fracking in Balcombe: one was given a £200 fine and the other conditionally discharged for 12 months. A conditional discharge means no punishment is given as long as no other offence is committed within 12 months.