

# **Pocket Legislation Guide**

## **for UK Venues & Events**

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The following pages have been colour coded in order to allow the reader to quickly select the relevant points.

**Green**

Green text provides a basic explanation of the legislation.

**Red**

Red text signifies the offences that may have been committed in relation to that legislation.

**Purple**

Purple text gives the suggested warning or suggested words to be used upon arrest.

**Blue**

Blue text explains the meaning of some of the terms used within the legislation.

**Black**

Black text provides further details regarding the offence.

## Human Rights

Organisations should be committed to implementing procedures that protects individuals' rights under the European Convention on Human Rights, as provided for by the Human Rights Act 1988.

Convention Rights, Article or Protocol affected by this Operational Order	Applicable
Article 2: The <b>Right to Life</b> .	<b>Yes/No</b>
Article 3: Prohibition of <b>Torture</b> .	<b>Yes/No</b>
Article 4: Prohibition of <b>Slavery</b> and <b>Forced Labour</b> .	<b>Yes/No</b>
Article 5: Right to <b>Liberty</b> and <b>Security</b> .	<b>Yes/No</b>
Article 6: Right to a <b>Fair Trial</b> .	<b>Yes/No</b>
Article 7: <b>No Punishment without Law</b> .	<b>Yes</b>
Article 8: Right to <b>Respect</b> for <b>Private</b> and <b>Family Life</b> .	<b>Yes/No</b>
Article 9: <b>Freedom of Thought, Conscience and Religion</b> .	<b>Yes/No</b>
Article 10: <b>Freedom of Expression</b> .	<b>Yes/No</b>
Article 11: <b>Freedom of Assembly and Association</b> .	<b>Yes/No</b>
Article 14: Prohibition of <b>Discrimination</b> .	<b>Yes/No</b>
Article 16: Restrictions of <b>Political Activity of Aliens</b> .	<b>Yes/No</b>
Article 17: Prohibition of <b>Abuse of Rights</b> .	<b>Yes/No</b>
Article 18: Limitation on Use of Restrictions on Rights.	<b>Yes/No</b>
First Protocol, Article 1: <b>Protection of Property</b> . (The "peaceful enjoyment of possessions").	<b>Yes/No</b>
First Protocol, Article 2: <b>Right to Education</b> . (Subject to UK Reservation).	<b>Yes/No</b>
First Protocol, Article 3: <b>Right to Free Elections</b> .	<b>Yes/No</b>

R = Race

E = Equality

G = Gender

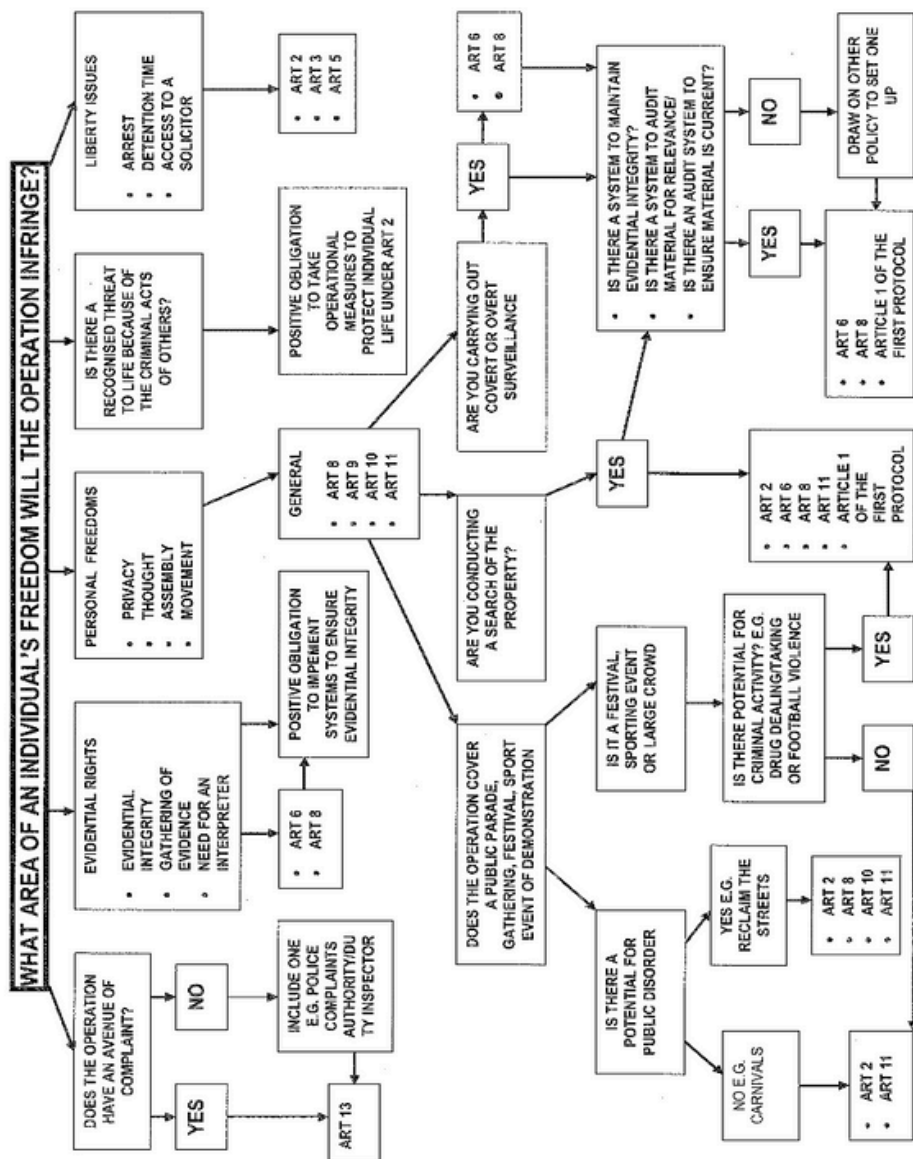
A = Age

R = Religion / Belief

D = Disability

S = Sexual Orientation





## Public Order

### Breach of the Peace

'Breach of the peace' is an ancient common law concept, which is of importance to police officers, providing a number of powers:

- (1) to arrest;
- (2) to intervene and / or detain by force;

to prevent any action likely to result in a breach of the peace in both public and private places

'A breach of the peace is committed whenever harm is done, or is likely to be done to a person, or, in his presence to his property, or, whenever a person is in fear of being harmed through an assault, affray, riot or other disturbance'.

The right of entry is not absolute, but must be weighed against the degree of disturbance which is threatened. For example, smashing down a door to stop a drunken argument is likely to be excessive unless it is threatening to escalate towards violence.

- i) Depending on the circumstances, where it is necessary in order to prevent an imminent breach of the peace action may legally be taken which affects people who are not themselves going to be actively involved in the breach.
- ii) Where events are inexorably building up to a breach of the peace it may be possible to describe it as imminent at an earlier stage.

## Cause Public Nuisance

Types of behaviour, which used to be prosecuted as a 'public nuisance', are now covered by statute (e.g. food, noise, waste disposal, health and safety at work, highways, animals, agriculture, medicines etc). However, 'public nuisance' is still an offence at common law.

A person is guilty of the offence if he/she

- (a) does an act not warranted by law, or
- (b) omits to discharge a legal duty,

if the effect of the act or omission is to endanger the life, health, property, morals, or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to everyone.

A leading judge of the 20th century said about the offence:

*"I prefer to look to the reason of the thing and to say that a public nuisance is a nuisance which is so widespread in its range or so indiscriminate in its effect that it would not be reasonable to expect one person to take proceedings on his own responsibility to put a stop to it, but that it should be taken on the responsibility of the community at large."*

The purpose that the offender has in mind when he/she does the act (or omits to do something) is immaterial if the probable result is to affect the public as described in the offence wording above.

Where some work is done by an employee in a way, which causes a nuisance, it is no defence for the employer to claim he did not personally supervise the work and that he had given express orders that the work should be carried in a different way.

The offence is still important because of its flexibility in adapting to those areas not covered by specific legislation. Glue sniffing, multiple nuisance phone calls and allowing 'raves' on one's property have all been held to be public nuisances.

Note also, that if an individual is a public nuisance (e.g. drug dealing in a particular district or something of a similar, anti-social nature) it may be open to the Local Authority to take out an injunction against him/her.

## Section 14 Public Order Act 1986 (Assemblies)

Section 14 of the Public Order Act 1986 allows a senior officer of police to impose certain conditions on a public assembly where he believes serious public disorder, serious damage to property or serious disruption to life of the community may result or if he believes the organisers will intimidate or compel others to do unlawful acts.

14(1) If the senior officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that -

- (a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or
- (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do,

he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.

14(2) In subsection (1) the **senior police officer** means -

- (a) in relation to an assembly being held, the most senior in rank of the police officers present at the scene, and
- (b) in relation to an assembly intended to be held, the chief officer of police.

14(3) A direction given by a chief officer of police by virtue of subsection (2)(b) shall be given in writing.

## Section 60 Criminal Justice & Public Order Act 1994

Section 60 of the Criminal Justice and Public Order Act 1994 allows senior police officers to authorise constables to stop and search persons in a specific area, either where a serious public order problem is likely to arise or has taken place, or for offensive weapons or dangerous instruments. Failing to submit to a search is an offence.

60(1) If a police officer of or above the rank of Inspector reasonably believes -

(a) that incidents involving serious violence may take place in any locality in his police area, and that it is expedient to give an authorisation under this section to prevent their occurrence,

(aa) that -

- (i) an incident involving serious violence has taken place in England and Wales in his police area;
- (ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and
- (iii) it is expedient to give an authorisation under this section to find the instrument or weapon; or

(b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.



## Section 60AA Criminal Justice & Public Order Act 1994

Section 60AA of the Criminal Justice and Public Order Act 1994 provides powers to require the removal of disguises at public order events where a section 60 authorisation is in force or an authorisation is given under this section.

### 60AA(1) Where-

- (a) an authorisation under section 60 is for the time being in force in relation to any locality for any period, or
  - (b) an authorisation under subsection (3) that the powers conferred by subsection (2) shall be exercisable at any place in a locality is in force for any period,
- those powers shall be exercisable at any place in that locality at any time in that period.
- 60AA(2) This subsection confers power on any constable in uniform-

- (a) to require any person to remove any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity;
- (b) to seize any item which the constable reasonably believes any person intends to wear wholly or mainly for that purpose.

60AA(3) If a police officer of or above the rank of Inspector reasonably believes-

- (a) that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and
  - (b) that it is expedient, in order to prevent or control the activities, to give an authorisation under this subsection,
- he may give an authorisation that the powers conferred by this section shall be exercisable at any place within that locality for a specified period not exceeding twenty-four hours.

60AA(5) If an inspector gives an authorisation under subsection (3), he must, as soon as it is practicable to do so, cause an officer of or above the rank of Superintendent to be informed.

60AA(7) A person who fails to remove an item worn by him when required to do so by a constable in the exercise of his power under this section shall commit an offence

*(iii) Does this power apply to face paint when it is on someone's face? The answer is that it is difficult to foresee a situation where it would apply to face paint or make-up. The wording of the power allows an officer to 'require any person to remove any item'. There is no definition of item in the Act, so it must be given its ordinary meaning as 'a separate article'. That could not really be used as a description of face paint once it has been applied. Nor does it seem possible to seize the paint before it is applied. The power allows the seizure of an item which a person is going to wear.*

## **Sections 61 to 62 Criminal Justice & Public Order Act 1994**

This power may be used provided:

- a landowner has asked unauthorised campers to leave & they fail to do so, &
- either:
  - a) They have caused damage to land or property on the land.
  - b) They have used threatening, abusive or insulting words or behaviour to the occupier.
  - c) There are six or more vehicles on the land.

A formal request must be made to the Police after which a Senior Police Officer must consider whether it is appropriate to use the power, in relation to whether:

- There are other activities on the encampment, such as serious breaches of the peace, disorder, criminal activity or anti-social behaviour which would necessitate Police involvement under their wider powers;
- Due to the impact of the unauthorised encampment on the environment and the local settled community, such action would be reasonable and proportionate;
- The action by the Police is legally sustainable;
- There are sufficient resources available.

Whilst the Police are not under any obligation to undertake welfare enquiries with unauthorised campers, they must be aware of humanitarian considerations when considering action to remove an encampment and should consult with the local authority to do so.

Once a decision to use Police powers is made, a uniformed Police Officer should inform the occupiers of the time and date by which they are required to leave and provide them with notice under the Act. The period of notice may be hours or days. Anyone who fails to leave or returns to that location within three months of the direction, commits an offence. A Police Officer may also seize and remove the vehicles under Section 62.

## Offence of aggravated trespass

Section 68 Criminal Justice and Public Order Act 1994

(amended by Section 59 Anti-Social Behaviour Act 2003)

**Notes:** Section 68 is an offence of specific intent. Therefore what must be shown is the defendant's intention to bring about the effects set out at section 68 (1) (a) to (c). There is no need to specify which of the intended activities (i.e. deterring, obstructing or disrupting) in a charge. However, proof is required of both the trespassing on land and of some overt act, other than the trespassing which was intended to have the effects set out at section 68 (1) (a) to (c). (*DPP v Barnard* [2000] Crim LR 371). The activity of the defendant can include 'anything' provided it was accompanied by the relevant intention.

In order to establish the offence of aggravated trespass, you must prove the defendant committed the act(s) complained of in the physical presence of a person engaged or about to engage in the lawful activity with which the defendant wished to interfere (*DPP v Tilly* [2002] EWHC Admin 821).

The lawful activity people are engaging in (or about to engage in) must also take place on the same land or on adjoining land.

Lawful activity is defined at section 68 (2) and is a very wide concept. Arguments as to the lawfulness of activities such as protesting or canvassing support for a given cause are strengthened with the advent of the HRA. This point has been determined in the context of anti-war protestors where it was argued the war against Iraq was illegal and therefore the activities carried out by staff at airbases were also unlawful. The House of Lords determined that, for the purposes of section 68 (2), an act of aggression against another State or a general crime against peace did not constitute an offence contrary to the law of England and Wales (*R v Jones* [2006] UKHL16 and *Ayliffe v DPP* [2006] QB 227).

Land has the meaning as detailed in section 61 Criminal Justice and Public Order Act 1994, but section 68 was amended by section 59 Anti-Social Behaviour Act 2003 to include a building. Therefore trespassers within a building intent on intimidating, disrupting or obstructing lawful activity of a person actually present would commit an offence. This includes shops and other business premises subject to incursions by protestors.

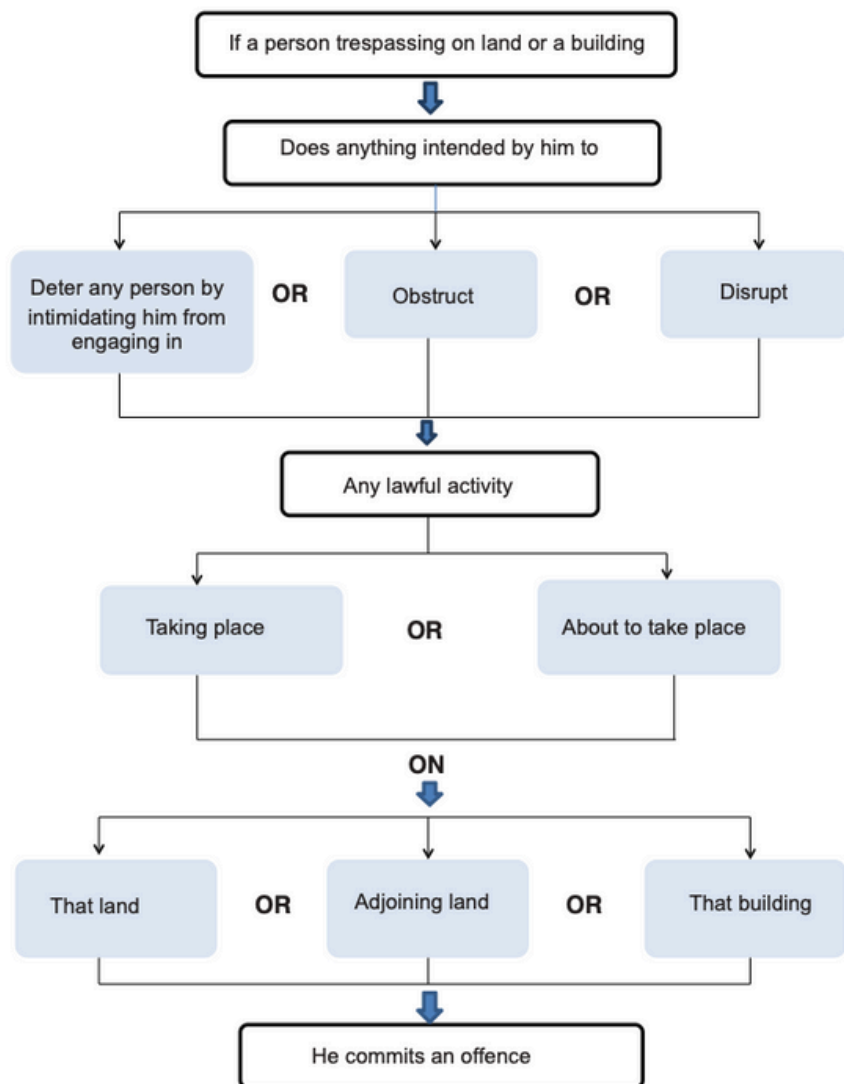


Trespass means to unlawfully enter or remain on land against the interests of the occupier of that land. It would also include the occupation of a public right of way where a person was using the right of way, not as a means to travel from point A to point B, but as a means of causing obstruction, disruption, or intimidation of the activities of another person. *Harrison v Duke of Rutland* [1893] 1 QB 142) gives an idea of the concept of trespass upon a right of way.

**Note:** Before utilising this legislation both the officer and the suspect need to be aware of what amounts to trespass, i.e. for the police - what constitutes private and public land/property and for the suspect - they are aware they are trespassing. Giving a warning provides evidence that they are aware and demonstrated proportionality of approach. It is advisable in some cases to record the warning on video.

Individuals who are suspected of committing aggravated trespass sometimes argue they are operating in a 'quasi-public area' therefore are not trespassing, i.e. private land the public have an implied right of access to areas such as a supermarket.

It is submitted that individual(s) are trespassing unless they are there to exercise the implied right as it is intended. In the case of a supermarket, the implied right is for them to avail themselves of the goods and services on offer and there is no implied right of entry for the purpose of protest. Although it may be good practice for a representative of the store to request them to leave to reinforce the evidence of trespass, the offence is actually complete if they enter with the intention to obstruct/disrupt etc lawful activity taking place, or about to take place, in that building. The intention can be established by questions and answers, and establishment of the articles in their possession.



## Powers to remove persons committing or participating in aggravated trespass

### Section 69 Criminal Justice and Public Order Act 1994

If the senior police officer present at the scene reasonably believes:

a person is committing, has committed or intends to commit the offence of aggravated trespass on land, **or**

two or more persons are trespassing on land, and are present there with the common purpose of intimidating persons so as to deter them from **engaging** in a lawful activity or of **obstructing or disrupting** a lawful activity, he may direct that person (or as the case may be) those persons to leave the land.

2. A direction under subsection (1), if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

3. If a person knowing a direction under subsection (1) above had been given which applies to him:

fails to leave the land as soon as practicable, **or**

having left, again enters the land as a trespasser within the period of three months beginning with the day on which the direction was given, he commits an offence

4. It is a defence for the accused to show a) he was not trespassing on the land, or b) he had a reasonable excuse for failing to leave the land as soon as practicable, or as the case may be, for again entering the land as a trespasser.

A person commits an offence if he fails to leave the land as soon as practicable, **or**

Having left the land enters again as a trespasser within three months of the day on which the direction was given

A police officer may arrest a person who is committing an offence subject to the necessity test required by *section 24 (5)(c)(i)-(v) and (d) to (f) Police and Criminal Evidence Act 1984*.

**Note:** In order to prove the offence it must be shown that the person knew of the direction and that it applied to them. Clearly the easiest way of ensuring both elements would be to serve a written notice on the person at the same time as communicating the direction to leave, and to record any response. A defence once succeeded when defendants denied having heard a police message shouted over a megaphone, claiming it had been drowned out by the noise from other protesters.

"I have reasonable grounds to believe you are committing the offence of aggravated trespass contrary to section 68 of the Criminal Justice and Public Order Act **OR** you are trespassing on land against the wishes of the occupier and you are present there with the common purpose of intimidating the occupier and their employees so as to deter them from carrying out their lawful activity [describe what they've been doing]. I therefore direct you to leave this land immediately. If you do not leave this land as soon as is practicable, knowing that a direction has been given to you, you may be arrested for failing to leave land contrary to section 69 (3) of the Criminal Justice and Public Order Act 1994."

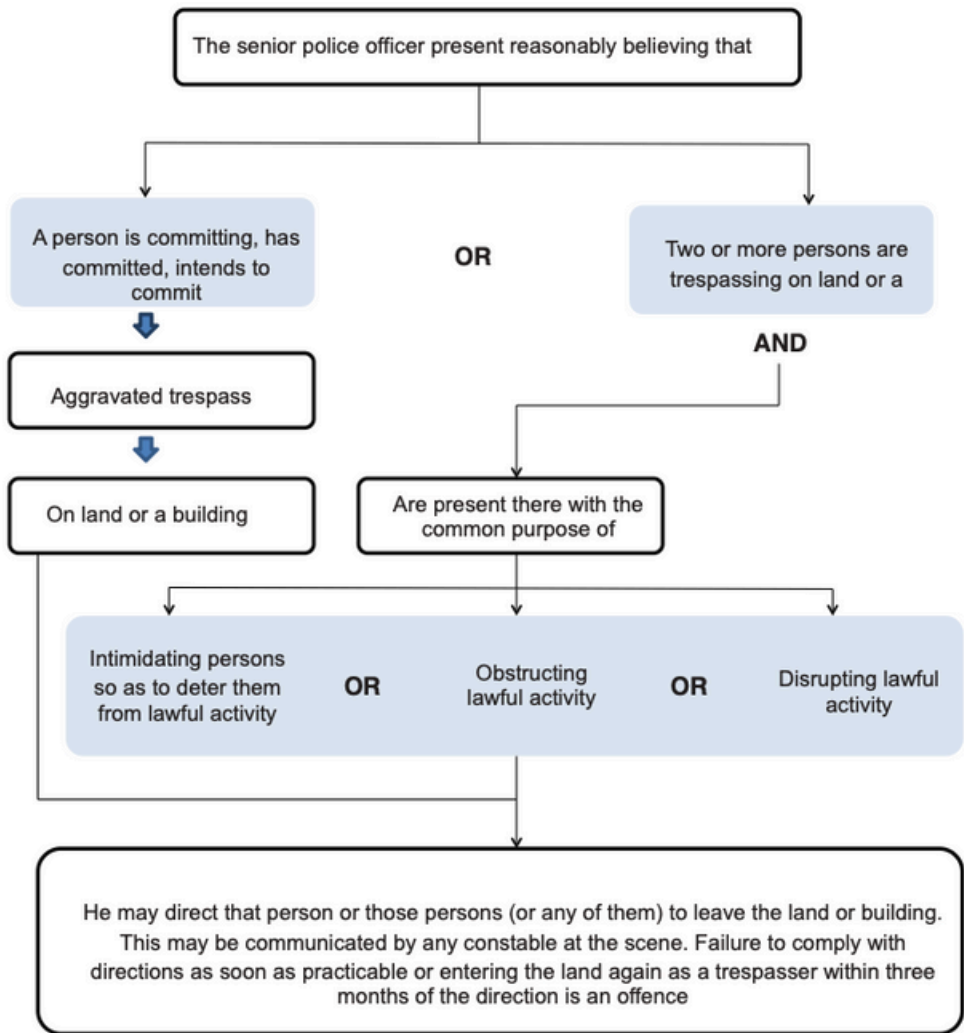
**Notes:** Do not add a polite 'please' into this wording. It has been held that it changes the 'direction' into a 'request' and is consequently unenforceable.

"I am arresting you on suspicion of failing to leave land contrary to section 69 (3) of the Criminal Justice and Public Order Act 1994, because you knowingly failed to comply with a direction to leave the land when the offence was pointed out to you and I believe your arrest is necessary to *[explain why you believe that one or more of the reasons in section 24 (5) (c) (i) – (v) and (d) to (f) PACE apply]*."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address; or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

## **PACE Caution**

There is no definition within the Act, however the courts' current interpretation is that seniority is by reference to rank. Where officers of the same rank are present, the senior is the longest in service in the rank.





## Halsbury Law

Every Landowner has a right to remove Trespassers from their land or property, under their ancient rights of Common Law found in Halsbury's Laws of England, Paragraph 1400, Volume 45, of the 4th Edition. This right can be delegated to an Agent / Representative.

### Considerations:

- **If the Trespasser does not leave the land the Landowner / Agent may use no more force than is reasonably necessary to evict him or her.** Private Bailiffs may be used to carry out the eviction. The issue of what is 'reasonable force' is a question of fact to be decided in each individual case. However it must be an honestly held belief that in the particular circumstances the force that is used is reasonable, rather than excessive. Use of excessive force could give rise to a claim against the Landowner by the Trespassers.
- **Landowner / Agent must request the Trespassers to leave before using reasonable force.** Case law has established that a Trespasser who enters land peaceably is entitled to a request to leave the land before being forcibly removed; while a Trespasser who has entered land with force and violence may be removed without a previous request to depart.
- **Notify Police.** Whenever a Landowner is considering the use of Common Law rights he / she should notify the police of his / her intentions so that police officers can be present to prevent any Breach of the Peace.
- **Police Advice.** If the police advise that, in the particular circumstances, it is inappropriate to attempt an eviction, action should always be delayed until such time as the police believe that it is safe to continue.
- **Protest Liaison Officers.** Consider the use of separate Protest Liaison Officers for both Landowner and Trespassers.
- **Landowner given options.** Using Protest Liaison Officers, the Landowner is given options on how to deal with situation.
- **Police remain impartial.** Peaceful protest / Lawful activity.
- **Police Considerations.** Section 61 Criminal Justice & Public Order Act / Section 50 Police Reform Act.

### **Landowner Wording**

I \_\_\_\_\_ am the Landowner / Agent of the Landowner of this land.

You as a person or group of people are camped on this land without the Landowner's permission and are deemed to be Trespassers.

Because you have entered this land as peaceful Trespassers, I as the Landowner / Agent of the Landowner request you to leave. If you refuse to leave, within \_\_\_\_\_ minutes, I will have no choice but to remove you from this land using no more force than is reasonably necessary.

This being my Common Law right under Halsbury's Laws of England, Paragraph 1400, Volume 45, of the 4th Edition.

## **Anti-Social Behaviour, Crime and Police Act 2014**

Premises closure notices should be considered if any of the two below conditions are met: - s76 of the Anti-social Behaviour, Crime & Policing Act, 2014 -

- Use of particular premises has resulted, or if the notice is not issued, is likely soon to result in nuisance to members of the public
- That there has been, or if the notice is not issued, is likely soon to be, disorder near those premises associated with the use of those premises.

Consideration should be given to requesting voluntary closure as Police closure will result in compulsory attendance at the Magistrates Court within 48 hours of the issue of the notice (unless cancelled) for a hearing requesting a closure Order.

Likewise dispersal authorities should also be considered under s34 of the Anti-social Behaviour, Crime & Policing Act 2014. These are given by an Inspector and last not more than 48 hours for the following –

- Members of the public in the locality being harassed, alarmed or distressed or;
- The occurrence in the locality of crime and disorder

Once s34 dispersal orders have been granted, the power to disperse under s35 is activated. This power means a constable in uniform may –

- Direct a person to leave the locality (or part of it) and
- Not return for a period of time no longer than specified in the s34 order and
- Can also specify the time they leave and the manner / route they must leave by

Incidentally, s37 also then bolts on a power for a constable to direct the same person who has been instructed to leave, *“to surrender any item in the person’s possession or control that the constable reasonably believes has been used or is likely to be used in behaviour that harasses, alarms or distresses members of the public”*.



## Crowd Dynamics

Capacity for a venue should be calculated as follows. The first calculation should show the total area in square metres of available floor space for patrons. This is worked out by calculating the total size of the venue minus the footprint of any structures / concessions placed inside. The amount of available floor space should then be populated at a "safe" suggested density of two people per square metre, i.e;

### Capacity / Circulation

*Total site (T) = 10,000m*

*Total floor space lost to concessions / infrastructure (S) = 2,000m*

*(T - S) = 8,000m footprint (F)*

*(F x 2ppl per sq m) = 16,000 people (P) which can safely fit on the site.*

However, the site must have enough emergency exit space to safely get the people out in less than 8 minutes. So to evacuate the 16,000 people from the above example (P) at a pace of 66 people per metre, per minute means the site would need to have 31m of unimpeded immediately available for use emergency exit width. Any less than that and either the exit width would need to increase or the capacity would need to decrease.

### Ingress

People will enter a venue relatively sober and usually in daylight conditions and into an environment under the control of the event organiser. Accepting that there are many variables based upon individual fitness levels, average age, wearing sensible footwear, are of normal mobility, standard physique, moving from one flat surface to another, on a solid surface and in a straight line the calculation can be:

*82 people, per metre, per minute because of an average walking pace of 1.3metres per second = (I)*

### Egress

Accepting the above variables are all still in play and remain un-changed from ingress to egress then the calculation should be reduced to:

*66 people, per metre, per minute because of an average walking pace of 0.9metres per second = (E)*

The lower figure is based upon modern analysis that when people leave events they are now looking down to check their mobile phones and walking slower due to this distraction as well as a certain level of intoxication via alcohol or drugs.

Both ingress or egress figures should be adjusted proportionately downwards if any of the established variables alter for the worse i.e. poor lighting, reasonably foreseeable intoxication levels, reduced fitness, old age or the very young, less practical footwear, disability, moving down steps (moving up steps makes little difference) moving up or down hill and the quality of the ground they are walking on. This is not an exhaustive list of variables and reference to more specific ones should be made in the risk assessment.

## CROWD DENSITY

**V**  
VERY LOW DENSITY  
CROWD



Very low density crowd is where there are approximately two persons per *two metre by two metre* ( $4\text{m}^2$ ) area or less. People move extremely freely.

**L**  
LOW DENSITY CROWD



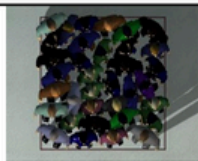
Low density crowd represents crowd numbers with approximately five persons per *two metre by two metre* ( $4\text{m}^2$ ) area. People move freely although the crowd numbers can inhibit some movement.

**M**  
MEDIUM DENSITY CROWD



Medium density crowd represents a crowd with numbers approximately fifteen persons per *two metre by two metre* ( $4\text{m}^2$ ) area. Persons still free to move although movement through the crowd is difficult. Can be very dense in areas.

**H**  
HIGH DENSITY CROWD



High density crowd represents a crowd packed very tightly together. Almost impossible to move through the crowd. Numbers of persons are approximately thirty five or more in a *two metre by two metre* ( $4\text{m}^2$ ) area.

<b><u>CROWD BEHAVIOUR</u></b>	
<b>1</b>	<b>CASUAL</b> People coming and going; not organised but may be in a loose group situation. Will accept direction by authority. Well behaved.
<b>2</b>	<b>COHESIVE</b> Crowd assembled for a specific purpose or reason. No leadership
<b>3</b>	<b>EXPRESSIVE</b> Crowd gathered for a common purpose. Under loose leadership or following a particular motive. Not aggressive but sections of the crowd behaviour becoming mildly anti social. May require active involvement by authority.
<b>4</b>	<b>ANTI –SOCIAL</b> Crowd engaged in acts of civil disobedience or direct action. Some sections may be aggressive and violent while other sections continue with different activities.
<b>5</b>	<b>INCIDENT</b> Crowd retreating from or reacting to a dangerous situation. Panic situation caused by serious anti-social behaviour OR emergency situation.

## Licensing Legislation

### Section 161 Licensing Act 2003

Part 8 of the Licensing Act 2003 concerns provisions, which empower courts and the police to make temporary closure orders in respect of certain premises. Section 161 provides a senior officer with the power to close specific premises for up to 24 hours. A closure order may be made upon two grounds, the first of which is where there is actual or likely disorder to the extent that the closure of the related premises is necessary in the interests of public safety. The second ground is where closure is necessary to prevent a public nuisance, owing to the noise emanating from the premises. The purpose of this provision is to allow discretion in cases, where, for example, it is clear that those managing the premises are treating the disorder or disturbance with sufficient gravity and are taking steps to reduce it or bring it under control.

**161(1) A senior police officer may make a closure order in relation to any relevant premises if he reasonably believes that:-**

- (a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety, or
- (b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance.

**161(4) A closure order must:-**

- (a) specify the premises to which it relates,
- (b) specify the period for which the premises are to be closed,
- (c) specify the grounds on which it is made, and
- (d) state the effect of [section 162](#), [section 163](#), [section 164](#), [section 165](#), [section 166](#), [section 167](#) and [section 168](#).

#### **relevant premises**

- (a) a [premises licence](#),
- (b) a [temporary event notice](#);

#### **senior police officer**

means a police officer of, or above, the rank of inspector.

## T.E.N's & Guidance

**Event Guides:** The Purple Guide and the Event Safety Guide are documents which cover both legislation and good practice in relation to health and safety and welfare at music and other events and are an essential guide for all event organisers. <http://www.thepurpleguide.co.uk/> and <http://www.hse.gov.uk/pubns/books/hsg195.htm>

### Temporary Event Notices:

Two types: Standard TEN – must be served no later than 10 working days prior to event

Late TEN – must be served between 5 & 9 working days prior to event

*(working days = not weekends or BH's & date of receipt and event do not count)*

A premise can have: 15 TEN's per year BUT must in total last less than 21 days.

A person can have: 5 standard TEN's per year (non-personal licence holders)

50 standard TEN's per year (personal licence holder)

2 late TEN's per calendar year (non-personal licence holders)

10 late TEN's per year (personal licence holder)

A TEN can last a maximum of 168 hours (7 days) and there must be 24 hours between TEN's. All limited to 499 people including staff. Person submitting TEN is responsible for the event.

An event may require one if it involves;

- The sale of alcohol
- Provision of 'regulated entertainment'
- Or provision of late night refreshment such as hot food or drink supplied between 23:00 and 05:00.

Examples of 'regulated entertainment' could include but are not limited to;

- Performance of a play
- Exhibition of a film
- An indoor sporting event
- Boxing / wrestling
- Performance of live music
- Performance of a dance
- Any playing of recorded music or
- Entertainment of a similar description.
- 

Please see <https://www.gov.uk/temporary-events-notice> for more details. You should ensure compliance with the strict time constraints.

## Five Step Appeal

in Firstly, establish if the FSA is being used to avoid 'arrest', in which case the subject can surrender and walk away at any of the stages without being arrested. Or is it being used to avoid 'use of force' in which case the arrest should be made right at the start of the technique.

**Ask** = Simply ask the subject to do what you require of them.

**Explain** = Explain to the subject why you require that action of them. Use relevant legislation to build on.

**Individual Appeal** = Explain the short / medium / long term and personal consequences of their actions.

**Final Options** = "Is there anything I can reasonably say or do for you to comply with my instructions?"

**Undertake Action** = Take action to carry out the task using the minimum amount of force necessary.

## Adult Learning Cycle

The Simplest  
Experiential  
Learning  
Cycle

**DO IT.**

**Now What?**

What will I do differently next time?

**What?**

What happened?  
What were the results?

**So What?**

What do these  
results imply?  
How did I influence  
the outcome?

compiled by Andrea Corney

[www.edbatista.com/2007/10/experiential.html](http://www.edbatista.com/2007/10/experiential.html)

## Use of Force

### **Section 3, Criminal Law Act 1967**

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in the effecting or assisting in the lawful arrest of offenders or suspected offenders, or of persons unlawfully at large"

### **Common Law(R v Griffiths 1988)**

Common Law recognises that there may be circumstances in which one person may inflict violence on another, without committing a crime. It recognises as one of these circumstances, the right of a person to protect himself / herself from attack and to act in defence of others and if necessary to inflict violence on another in doing so. If no more force is used than is reasonable to repel the attack, such force is not unlawful.

If you have an honestly held belief that you or another, are in imminent danger, then you may use such force as is reasonable and necessary to avert that danger.



## Imposing conditions on public assemblies

### Section 14 Public Order Act 1986

If the senior police officer present reasonably believes that the time or the place at which, and the circumstances in which, any public assembly is being held, or is intended to be held may result in:

Serious public disorder, **or**

Serious damage to property, **or**

Serious disruption to the life of the community, **or**

Organisers of the assembly intend to intimidate others with a view to compelling them not to do an act that they have a right to do or compelling them to do an act they have a right not to do

Then the senior police officer present may give directions imposing conditions on the persons organising or taking part in the assembly, which relate to:

The place where such an assembly is being held, **or**

The maximum number of persons who may constitute it, **or**

The maximum duration of the assembly,

as may be necessary to prevent disorder, damage, disruption or intimidation.

#### **Pre-planned assemblies**

The Chief Constable by way of a written authority may impose the above conditions in order to prevent the above offences taking place.

A person who organises a public assembly and knowingly fails to comply with conditions is guilty of an offence, but it is defence for them to prove that the failure arose from circumstances beyond their control (section 14 (5) Public Order Act 1986) and (section 14 (5) Public Order Act 1986).



**A person who incites another to commit an offence under section 14 (5) is guilty of an offence.**  
(section 14(6) Public Order Act 1986)

"This assembly is controlled by conditions imposed under section 14 of the Public Order Act 1986. You are in breach of the condition(s) that *[state condition(s) breached]* because *[describe the person's behaviour and actions which cause the breach]*. This is an offence contrary to section 14(5) of the Public Order Act 1986 and I am warning you to stop now and that if you continue to breach these conditions, it may be necessary for me or another officer to *[arrest you] [report you]*."

"I am arresting you on suspicion of taking part in a public assembly and knowingly failing to comply with conditions imposed on that assembly under section 14 of the Public Order Act 1986, namely *[state condition(s) breached]* because you ignored a warning to stop when the offence was pointed out and I believe your arrest is now necessary to *[explain why you believe that one or more of the reasons in section 24(5)(c)(i)-(v) and (d) to (f) PACE apply]*."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

### **PACE Caution**

A public assembly means an assembly of two or more people in a public place which is, wholly or partly, open to the air (section 16 Public Order Act 1986).

A public place means any highway (in Scotland any road within the meaning of the Roads (Scotland) Act 1984), and any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission (section 16 Public Order Act 1986).

The senior police officer means (a) in relation to an assembly being held, the most senior in rank of the police officers present at the scene, and (b) in relation to an assembly intended to be held, the chief officer of police. (section 14(2) Public Order Act 1986)

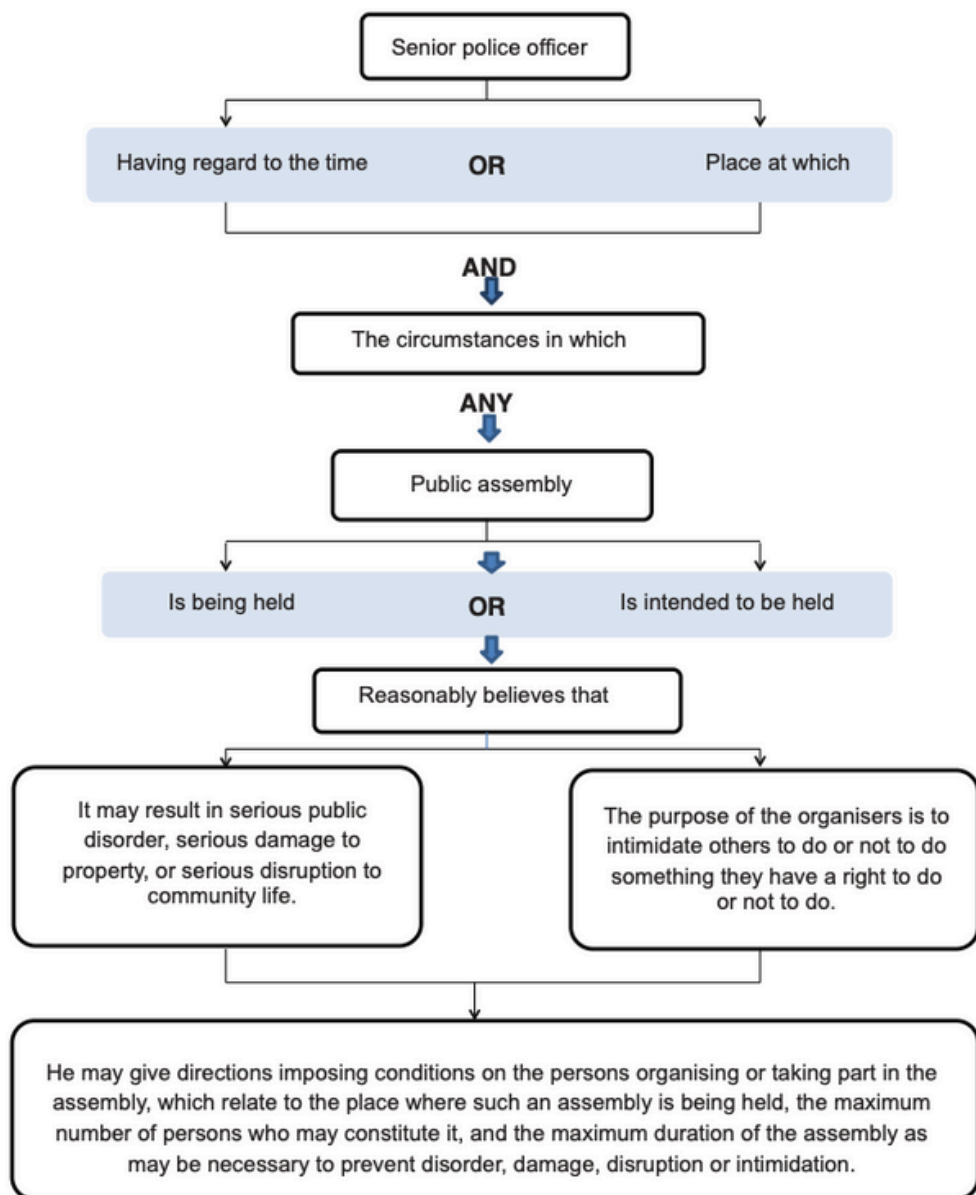
**Notes:** There is a clear difference between pre-planned and spontaneous processions and assemblies. For pre-planned events, the Chief Constable/ Commissioner (or designated ACPO officer), by way of a written authority, may impose conditions to prevent serious disorder, serious damage, serious disruption to the life of the community or intimidation. Seven days minimum notice to the police must be provided by the organiser(s) of processions. (There is no such notification requirement for assemblies, although it is good practice for those organising assemblies to communicate their plans to the police).

For spontaneous incidents, **it is the senior police officer present at the incident** - this can be a constable, which can sometimes cause confusion as it is contrary to the established bronze, silver and gold chain of command and associated decision making. It is the senior officer at the scene who is empowered to impose conditions provided the correct evidence is present, not a silver commander who may be absent from the scene elsewhere.

The officer has to specify to the individual(s) and evidence in their notes which occurrence they are seeking to prevent, i.e. disorder and/or damage and/or disruption and/or intimidation.

If the officer is imposing conditions to prevent serious disruption to the life of the community it is good practice to describe both to the individual(s) and in their notes what that community is. A small invited audience may not amount to a community. The word community has a broader meaning of the 'community at large'.

Each time the power is used has to be justified on its own merits, i.e. there is no roll-on authority that exists from one day to the next.



## Offence of harassment

### Protection from Harassment Act 1997

#### Harassment

The Protection from Harassment Act 1997 was introduced primarily to tackle stalking, but the offence of harassment extends to any form of persistent conduct which causes another alarm or distress. The behaviour in question must be such that a reasonable person would think it amounted to or involved harassment.

A person must not pursue a course of conduct which amounts to harassment of another, **and** which that person knows or ought to know amounts to harassment of the other.  
(section 1(1) Prohibition of Harassment).

A person must not pursue a course of conduct involving the harassment of two or more persons, and which that person knows or ought to know involves harassment of those persons, and by which that person intends, through the course of conduct, to persuade any person (whether or not one of those mentioned above) not to do something they are entitled or required to do or to do something that they are not under any obligation to do  
(section 1(1A) – Harassment intended to deter lawful activities).

#### Offence

A person who pursues a course of conduct in breach of section 1 (1) or 1(1A) Protection from Harassment Act 1997 commits an offence.

A police officer may arrest a person who is committing an offence subject to the necessity test required by section 24 (5)(c)(i)-(v) and (d) to (f) Police and Criminal Evidence Act 1984.

#### Warning

The circumstances of each case of harassment must be considered fully before a warning is given. Individual force practice differs with regard to the issuing of warnings, therefore, where circumstances allow, consultation with a supervisor should be sought in the first instance. However, it should be kept in mind that robust police intervention positively impacts upon a crime of this nature and reduces the likelihood of repeat offending. A warning should inform the recipient of the nature of the behaviour or the course of conduct that has given rise to the complaint of harassment. It should be pointed out that any repeated action may result in their arrest.

"I am arresting you on suspicion of pursuing a course of conduct which amounts to harassment of another contrary to section 1(1) of the Protection from Harassment Act 1997."

**OR**

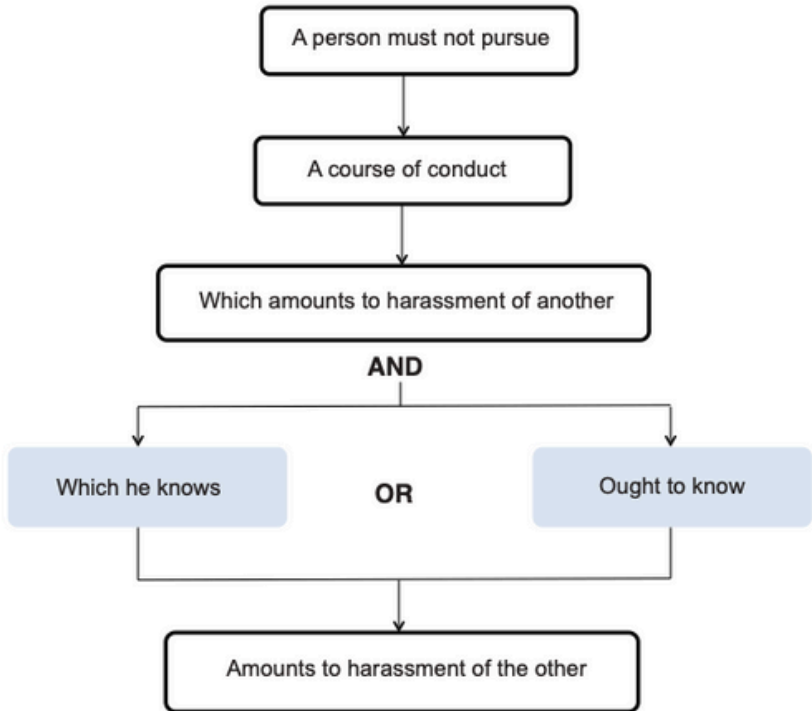
"I am arresting you on suspicion of pursuing a course of conduct which amounts to harassment of two or more persons whereby you intend to persuade another not to do something they are entitled or required to do or to do something that they are not under any obligation to do, contrary to section 1(1A) of the Protection from Harassment Act 1997. You ignored a warning to stop when the offence was pointed out to you and your arrest is now necessary to *[explain why you believe one or more of the reasons in section 24 (5) (c) (i) – (v) and (d) to (f) PACE apply]*."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

### **PACE Caution**

Harassment includes alarming the person or causing them distress.

A course of conduct must involve conduct on at least two occasions in relation to a single person (section 1(1) Protection from Harassment Act 1997), and in relation to the harassment of two or more persons (section 1(1A) Protection from Harassment Act 1997) it means conduct on at least one occasion in relation to each person.





## Putting people in fear of violence

### Section 4 Protection of Harassment Act 1997

Where a person pursues a course of conduct, **and**

Such a course of conduct causes another to fear, on at least two occasions, that violence will be used against them, **and**

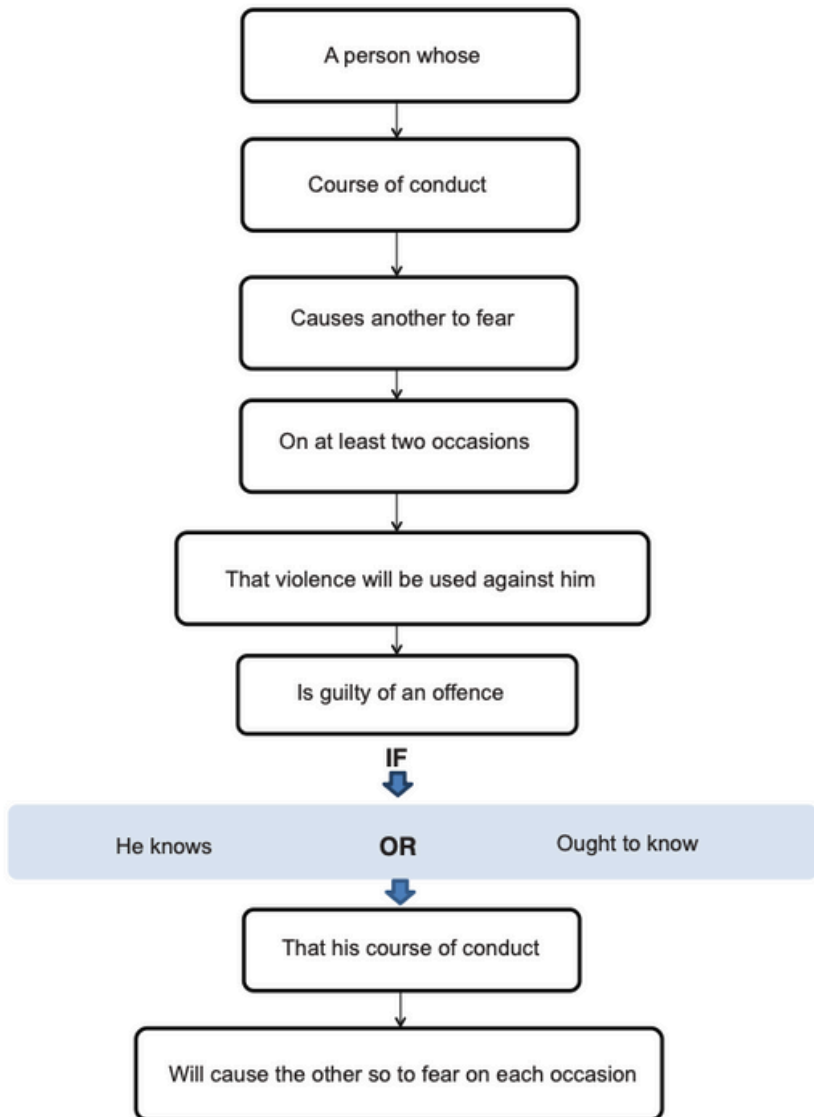
The person knows or ought to know that this course of conduct will cause the other to fear violence on each of the separate occasions

A police officer may arrest a person who is committing an offence subject to the necessity test required by *section 24 (5)(c)(i)-(v) and (d) to (f) Police and Criminal Evidence Act 1984*.

"Your conduct [*describe what they are doing*] is causing another to fear that violence will be used against him. This is an offence contrary to section 4 of the Protection from Harassment Act 1997 and I am warning you to stop now and if you do not stop, it may be necessary for me or another officer to [*arrest you*] [*report you*] for the offence."

"I am arresting you on suspicion of knowingly putting.....[*describe person*] in fear of violence. Your arrest is necessary [explain why you believe that one or more of the reasons in *section 24 (5)(c)(i) – (v) and (d) to (f) PACE* apply]."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.





## **Intimidation or annoyance by violence to prevent lawful activity**

### **Section 241 Trade Union and Labour Relations (Consolidation) Act 1992**

#### **An offence is committed where a person:**

Persistently follows another person from place to place, **or**

Watches or besets the house or other place where that person resides, works, carries on business or happens to be, or the approach to any house or place, **or**

Follows that person with two or more other people in a disorderly manner in or through a street or road, **or**

Uses violence or intimidates that person or their spouse or civil partner or children or injures their property, **or**

Hides any tools, clothes or other property owned or used by that person or deprives them of them or hinders them in the use thereof, **and**

Does so wrongfully and without legal authority and with a view to compelling another to abstain from doing an act they have a legal right to do, or compelling another to do any act they have a right to abstain from doing, he/ she commits an offence

**A person who engages in the above activity commits an offence.**

**A police officer may arrest a person who is committing an offence subject to the necessity test required by *section 24 (5)(c)(i)-(v) and (d) to (f)* Police and Criminal Evidence Act 1984.**

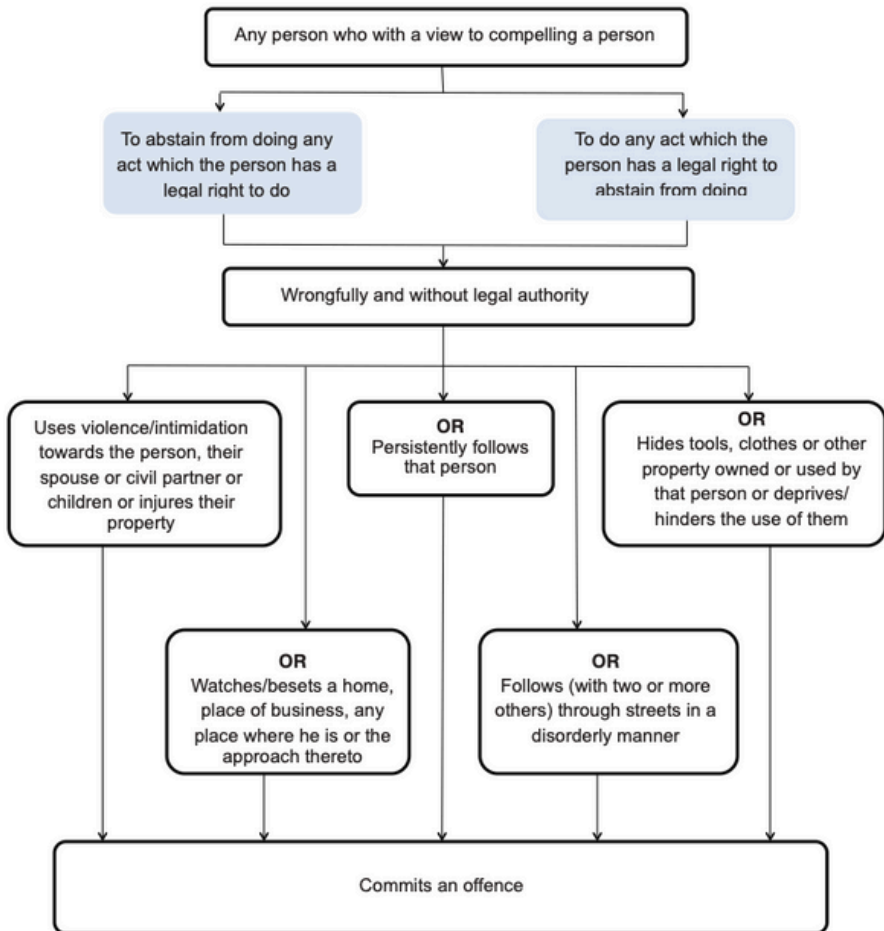
**Note:** There must be clear evidence of an intention to compel, coupled with evidence of the unlawfulness of the action and absence of legal authority.

"I believe that your presence here is preventing a person from doing something that they have a legal right to do *[state the act that they are preventing]*. This is an offence contrary to section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992. I am warning you to stop *[state the act that you wish the person to stop doing]* immediately. If you do not stop now, it may be necessary for me or another officer to *[arrest you] [report you]*."

"I am arresting you on suspicion of *[describe the act]*. Your presence here is preventing a person from doing something that they have a legal right to do. You ignored a warning to stop when the offence was pointed out to you and I believe your arrest is necessary *[explain why you believe that one or more of the reasons in section 24 (5)(c)(i) – (v) and (d) to (f) PACE apply]*."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

## **PACE Caution**



## Unlawful street collections

### Section 5 Police Factories, etc (Miscellaneous Provisions) Act 1916

The majority of street collections are lawful and attended by properly constituted charities, however, some unlawful collections are carried out (i.e. where an authority or permit has not been obtained) to collect monies or sell articles in a street or public place. There is evidence to suggest some unlawful street collections have funded, directly or indirectly, activities that have resulted in financing domestic extremist criminality. It is of fundamental importance the public should have confidence that money they willingly donate is not being misused.

The Act allows regulations to be made with regard to persons collecting donations or selling articles in a street or public place.

Section 5(1) states that each of the authorities (as specified below) may make regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place, within their area, to collect money or sell articles for the benefit of charitable or other purposes, and it is an offence for any person to act in contravention of

Authorities included are:

The council of each district;

The Common Council of the City of London;

The Police Authority for the Metropolitan Police District

Regulations made under this Act will vary, not merely between different police force areas, but also from district to district. In general, regulations will provide for:

Issue of licenses

Dates and times of collections

Location of collections

Number of people who may collect in a group

Minimum ages and supervision of younger collectors

It is important that police officers make themselves aware of the street collection regulations appertaining to their policing area. They should be encouraged to contact their local district councils for details of specific provisions or access them on the internet to fully understand their content.

Within the regulations, collectors are normally required to produce a written authority 'forthwith' on request from a Constable. This will apply to every collector or person assisting at the stall, not just a nominee. The authority to collect authorises someone to stand in a street or public place and collect money in a tin. It does not authorise a stall or any other obstruction of the highway.

A police officer may arrest a person who is committing an offence subject to the necessity test required by section 24 (5)(c)(i) to (v) and (d) to (f) Police and Criminal Evidence Act 1984.

### **Warning**

"I have seen you collecting money on the street in contravention of the regulations granted under section 5 Police Factories (Miscellaneous Provisions) Act 1916, which require you to have a permit. I am warning you to stop now and that if you do not stop, it may be necessary for me or another officer to *[arrest you] [report you]*."

### **Wording upon arrest** (Section 24 and section 28 PACE/Code G)

"I am arresting you on suspicion of collecting money unlawfully contrary to the regulations made in this area under section 5 of the Police Factories (Miscellaneous Provisions) Act 1916 because you ignored a warning to stop when the offence was pointed out and I believe your arrest is now necessary to *[explain why you believe that one or more of the reasons in section 24 (5)(c) (i) to (v) and (d) to (f) PACE apply]*."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is real, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

### **PACE Caution**



### **Meaning of 'street'**

This includes any highway and any public bridge, lane, road, footway, square, court, alley, or passage, whether a thoroughfare or not.

### **Meaning of 'public place'**

Although not defined within the Act, it has been held to mean any place to which the public have or are permitted access, whether on a pavement or otherwise. This will obviously include shopping centres and other areas where the public have access.

**Notes:** If officers take action on an unlawful street collection they should secure evidence accordingly. It will be necessary to evidence the collection of money. It is good practice to evidence a number of observed occasions when money was taken. The law only applies to cash. This money should be seized, along with other relevant material to prove the offence. There is no difference, in practice, between collecting and donating. Evidence of any occasion where the donation has been hidden is also useful in prosecuting this offence. CCTV, if available, can facilitate this requirement. Under this legislation there is no Section 1 PACE power of search, unless police are investigating a criminal offence, such as theft or fraud.

Police officers should be aware of a defence sometimes put forward by unauthorised street collectors is that they are involved in a 'meeting' and therefore exempt from the regulations. Paragraph 17 on most permits does contain the words: "these regulations shall not apply in respect of a collection at a meeting in the open air." Stones Justices Manual states: "a public meeting is a meeting held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters in a public place." Whether the meeting is in open air, prior observation/use of CCTV and questioning, will determine if this excuse is valid or a distraction to evade prosecution. Ultimately it may be down to a court to decide if they are partaking in a public meeting and are exempt.

### **Summary**

To collect money in a street or public place you need a permit from the local authority

To collect money without a permit is a breach of regulations and therefore an offence

To breach the regulations in other ways is also an offence

## **Wilful obstruction of the Highway**

### **Section 137 Highways Act 1980**

#### **An offence is committed if a person:**

Without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway.

Previous case history suggests that proof of this offence could be considered in three stages:

Is there an obstruction? Any stopping or slowing of traffic on the highway (more than a trivial hold up) is an obstruction (note that traffic could be vehicular, animal or pedestrian in this context)

Is the obstruction 'wilful' or deliberate, as opposed to accidental? The activity in which the person is engaged must cause an obstruction, but there is no requirement to show there was an intent to cause an obstruction

Is the wilful obstruction without lawful excuse? Lawful excuse may be by way of express permission, such as the licensing of charity collections or the observance of directions from a police officer. Any lawful activity carried out in a reasonable manner may amount to lawful excuse. The concept of implied lawful excuse may be relevant to political demonstrators provided their protests are reasonably limited in space and time and mere transitory inconvenience to traffic, including pedestrians, may not amount to an offence.

In essence, the courts have held that the test for whether you have lawful excuse to cause an obstruction will depend on all the circumstances present at the time, including its duration, the purpose of the obstruction and the extent to which people are actually obstructed from using the highway, i.e. considering all the circumstances was the obstruction reasonable?

**A person who engages in the above activity commits an offence.**

**A police officer may arrest a person who is committing an offence subject to the necessity test required by section 24 (5)(c)(i) to (v) and (d) to (f) Police and Criminal Evidence Act 1984.**



**Note:** one of the necessary criteria for arrest is to prevent the person in question from causing an unlawful obstruction of the highway (section 24 (5)(c)(v) of PACE).

"I believe you are wilfully obstructing the highway without lawful authority or excuse contrary to section 137 of the Highways Act. I am warning you to stop/remove the obstruction [describe the obstruction]. If you do not stop/remove the obstruction, it may be necessary for me or another officer to [arrest you] [report you]."

"I am arresting you on suspicion of wilfully obstructing the highway without lawful excuse contrary to section 137 of the Highways Act 1980, because you ignored a warning to stop/remove the obstruction and it is necessary to arrest you to prevent you causing an unlawful obstruction of the highway."

In cases where you requested the person's name and address with a view to reporting for summons or other disposal, explain why you cannot ascertain their real name and/or address, or you have reasonable grounds to doubt whether the name and address they gave you is their real name and address, and you therefore believe their arrest is necessary to ascertain their real name and/or address.

## **PACE Caution**

A common law interpretation of 'highway' is provided in (Lang v Hindhaugh [1986] RTR 271) as: 'highways are anywhere that the public has a right to pass and re-pass, either on foot or with animals or in vehicles'. This definition should be applied to section 328 Highways Act 1980, for further understanding.

Lawful authority includes permits and licences granted to market and street traders, and those collecting for charitable purposes.

Lawful excuse includes activities otherwise lawful in themselves, which may or may not be reasonable in all the circumstances.

**Notes:** This legislation should be considered as viable for both policing protest and unlawful street collections where people collect donations and exhibit literature on table(s). When officers are dealing with street collections they must first establish whether or not the collection is lawful i.e. whether a valid permit has been issued by the authorised body. If the collection is lawful, and in the absence of evidence to suggest other offences, the collection should be allowed to continue.

The prosecution must prove the defendant(s) were in fact on a highway or obstructing a highway. For example, an access road on private land would not constitute a highway. It is also prudent to evidence whether the defendant(s) actions significantly affected the traffic flow on any adjacent road that did constitute a highway.

