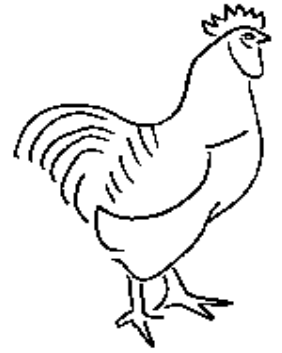


Free Range Practice Guide No. 4:

Protesting in Public

FRPG-04/1, by Paul Mobbs and the Free Range Network, July 2002 (revision 1, October 2003)

A guide to the procedures and legal pitfalls of demonstrating or taking action in support of campaigns



This guide looks at the legal procedural aspects of protest and direct action. Be aware that this is not a detailed legal primer – it only considers the general legal issues involved with protest. The legal liabilities of any protest can be assessed only on a case-specific basis, and therefore the full legal liabilities cannot be properly covered in a guide such as this. But this guide does outline the range of issues that you should have regard to when undertaking protest actions in public, both planned and spontaneous.

Some people may find the content of this guide a little irrelevant or meaningless, because they only want to collect signatures for a petition or do street theatre. But this is not the case. There is a fine legal distinction between different types of protest in public space. Different forms of protest are often controlled under the same legislation. Often, it is entirely the decision of the authorities concerned as to how such protests will be dealt with. Even for the most minor public action, you need to have an appreciation of the law.

Protest as campaign tool

Change requires action. That's most easily achieved by a process of dialogue. But sometimes dialogue is just not possible. It is refused, or just obstructed. In these situations you have two options: (1) give up; (2) take direct action, circumventing the block to dialogue.

We recommend that, before undertaking any serious protest action, you undertake a lot of study about the legal issues involved. Not just learning the basic legal issues, but also the philosophy behind protest and 'active non-violence'. There are links to some basic materials on these issues via the Free Range Activism Website (see the end of the guide).

Some of the best protests are just spontaneous. But such spontaneous protests do not 'just happen'. They are empowered by the protester's knowledge of the law, and the ability to confidently use that knowledge in a particular situation.

Such knowledge also means that, with more time to plan a protest, they can exploit the potential of the law to highlight and spark discussion on an issue... so restarting the process of dialogue within society as a whole.

The regulation of public protest

Protest, in its many forms, is regulated and restricted by the terms of the law. There is nothing specifically wrong with this. We should accept that, providing that the rights to free expression and assembly within society are recognised, society should have a few basic rules to stop protest being used as a cover for less democratic aims. But the traditional rights of protest have significantly changed over the last twenty years. Protest law has been tailored to deal with protests over development and globalisation, rather than just political protest.

The UK has a good history of strong protest movements. In recent times, the anti-nuclear movement was the testing ground for many techniques that were subsequently taken-up by the anti-roads protests. With the ever strengthening role economic liberalisation plays in deciding government policy, new groups have arisen. Consequently, over the last twenty years, the law has been changed and changed again to meet the challenge of the public to the government's authority. Significantly, many of these changes have been implemented to reinforce a government policy on economic development, or defence, or environmental damage.

The way effective protest has been legislated against is not unprecedented. Many protest-related laws can be traced back to the first mass protests by the Chartists in the mid-Nineteenth Century. What makes the current process different is the backing up of the restriction of protest with all-encompassing state surveillance, and the co-ordinated political control over the public agenda by government's spin managers.

The key part of the new legislation is the 'principle of common purpose' – defined in the Security Services Act 1996 and the Police Act 1997...

conduct which constitutes one or more offences shall be regarded as serious crime where it involves conduct by a large number of persons in pursuit of a common purpose.

This covers everyday criminal activity, but it would also cover the civil disobedience activities associated with social or environmental protests.

What the principle means is that if a group of people work together, and that involves minor offences (e.g. trespass, or holding marches without getting the permission of the police) their activities may be investigated as serious crime – equivalent to drug trafficking or terrorism. It is under the common purpose principle that, from the late-1980s, the police and state surveillance of protest movements in the UK increased massively. Major demonstrations are now routinely monitored with video and stills photography, some more openly than others.

Surveillance has two purposes. It discourages people. It is also a means of gathering evidence. How important either of these factors are is a great debate. A year or so ago, when fuel protesters restricted petrol supplies, they complained about the police videoing and photographing them all the time. This was, to experienced protesters, quite amusing – they had endured this for years. It was indicative of a group of normally 'law abiding' people who had never taken part in an effective protest, and discovering the nature of state power. But their experience is pretty standard for any organisation who are very effective public protesters, and whose actions directly challenge authority.

Rarely does surveillance lead to any police action. What it can do is enable the police to target individuals more closely. In order to get information on future events, or try try and arrest them on a spurious charge (to limit their activities during the subsequent investigation). In particular, it can give government departments, under certain circumstances, the ability to pre-empt protest action.

You can't avoid surveillance. So the easiest way to deal with it is to make fun of it in a good natured way (smile, dance, you're on camera!).

Rights of protest and expression

The UK public have, under the European Convention on Human Rights, rights to free expression, free association, and hence to peaceful protest. These are not fundamental rights in law, such as the right to life. This means the state can place conditions on when and where you may exercise these rights. But the rights themselves cannot, by the action or even inaction of the state, be obstructed. This makes the policing of protest a difficult issue for the state.

Those involved in protest, and the members of the police who often specialise in 'public order policing', therefore work to a fine balance that exploits the uncertainties of the law.

One of the first rules is that the law is there to be used by the public to assist their rights to protest – it is not just there for the police to restrict those protest. Therefore the creative use of legal rights is a key part of successful protesting. In response, the police will also use their powers creatively to

stop or restrict protest action. This issue is dealt with in detail in the 'tactics and offences' section.

Public liability

So far we've talked mainly about the impacts of the criminal law on protest. But the civil law also has a significant impact. Firstly, there is the issue of court orders – which is covered in 'injunctions' later. More significant is public liability.

If you do something, you could be sued for the consequences of that action where they cause damage. That damage could be to property, or to someone's trade. The public liability insurance of insurance companies doesn't cover protest action – which is why the mainstream civil society groups don't do protest action any more. Therefore corporations will often use the threat of civil action, to recover costs for damage, or defamation, as a means of restricting protest.

The only sure way to avoid the impacts of civil action is to give away everything you have. Not literally, but organising your affairs legally to limit your liability (e.g., by setting up a limited company to run the campaign), or making over your major possessions to others. You then fight each case as it arises. This is doubly damaging to those wishing to bring an action to stop protest because it makes it expensive to fight the case, and even if they do win they have little prospect of getting anything back from you. The downside to this is that in response, injunctions are more likely to be used than actions for damages.

Tactics and offences

This section looks at some of the laws that impact protest action. It is not an exhaustive list. It also ignores the 'bylaws' created by local authorities or government departments that apply to actions at specific sites (council offices, military bases, etc.).

Note also, the situation regarding some laws is very fluid. Therefore you must always check, and take legal advice, before launching any specific action.

1. Criminal attempts and conspiracy

So you want to do an action that might involve breaking the law. Well, you don't actually have to do the action to get arrested. You don't even have to break any laws – you only need believe that you would have.

Even if the offence would have been impossible to commit, or that you were mistaken that the action was even a criminal offence, that fact that you were prepared to go out and attempt it is an offence – section 1, Criminal Attempts Act 1981. The powers of arrest and prosecution under this law are the same as if you had committed the offence itself.

Under certain circumstances, being stopped in public with articles that could be used to assist an offence can also be a crime – 'going equipped', section 25, Theft Act 1968. The burden of proof is on the individual to show they were not carrying that equipment for that purpose.

If you work – or 'conspire' – with others to undertake any action that involves the committal of a criminal offence, even if you were not entirely sure they were going to commit the offence, then you can be prosecuted for 'conspiracy'. The conspiracy prosecution depends on the laws concerned (but exists in most criminal laws) but it carries the same penalty as the offence under that law.

2. 'Breach of the peace'

Breach of the peace is not a criminal offence. It is a civil offence. A police officer has the power of arrest (civilians also have a technical power of citizens arrest too) where a person or persons undertake:

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
(R v Howell, Court of Appeal)

Breach of the peace is prosecuted in the local courts, and you usually have promise not to do it again – be 'bound over to keep the peace'. Not agreeing to be bound over will usually lead to a larger fine.

3. Marches, assemblies, and trespassory assembly

The Public Order Act 1986 requires demonstrations and assemblies in public to be notified to the police (at the nearest police station) seven days before they take place (unless this is 'impractical'). The penalty for not notifying a march or assembly under the Act is a fine of £1,000.

A march is defined as people 'walking with common purpose' – so even things like funeral marches technically need to be notified. There is no lower limit on what constitutes a march – so people walking to a local council offices could be construed as a 'march' and action taken.

An assembly is defined as a static gathering of twenty or more people (less than twenty do not require notification). However, if more than twenty people assemble spontaneously, the most senior police officer in attendance can instantly impose conditions on that assembly.

After receiving notification, the police may attach conditions to the march or assembly, or in extreme circumstances seek approval to ban it altogether. These conditions can involve the route, the numbers, or the timing/duration of the event.

An exception are assemblies near to the Houses of Parliament in London. Under the Parliamentary sessions

order, the holding of any march or assembly in a triangular area (roughly bounded by lines from Waterloo Bridge to Bow Street, Leicester Square, Piccadilly, Grosvenor Place, Vauxhall Bridge Road and the north bank of the Thames) around Parliament is prohibited – unless the organisers can show it would not impede access to Parliament.

Where two or more people access land in the open air (i.e., the insides of a building/solid structure not cover by the law) causing damage or using threatening behaviour, with the purpose of residing there for any period (i.e., not just walking across), and refuse to leave when directed to do so by the police, they commit the offence of 'trespassory assembly' – sections 61/62, Criminal Justice and Public Order Act 1994.

If any person accesses land in the open air without permission, in order disrupt, obstruct or intimidate any person involved in any lawful activity, then that person may be prosecuted for aggravated trespass – section 68, Criminal Justice and Public Order Act 1994.

Where the police believe that 20 or more people intend to access land in the open air without permission, or with limited permission (such as public parks), and this would cause disruption to the local community or damage to a site of historical, archaeological or scientific importance, they may apply for an order from the local authority banning such an assembly – section 14A, Public Order Act 1986, inserted into the Act by section 70, Criminal Justice and Public Order Act 1994. This order may be for a period of up to four days, and may extend up to five miles from the site.

Where a person organises, incites others to take part in, or takes part in trespass on the land covered by an order under section 14A of the Public Order Act 1986, or is stopped by the police on the way to the site and refuses to leave, they commit an offence – section 14B/14C, Public Order Act 1986, inserted into the Act by section 70/71, Criminal Justice and Public Order Act 1994.

4. Picketing, leafleting, petitions and posters

Picketing, of shops or sites, is a traditional protest tactic. 'Picketing' is also generically similar in law to getting people to sign a petition in the street, street stalls, street theatre, leafleting, etc.

Whilst there is no specific general power against pickets (see the exception for trade disputes below), pickets can be controlled under various laws:

- ◆ If there are more than twenty participants, the picket becomes an 'assembly' under the Public Order Act 1986.
- ◆ Any picket on a highway – including the pavement – can be controlled by the police under the law of obstruction. 'Obstruction' is not obstruction of road or path users, but just of being on the highway itself – getting in someone's

way is irrelevant. The test of whether 'obstruction' has been committed is the intent of the individual – if they sought to obstruct the highway, or access to it, that would be obstruction.

- ◆ 'Obstruction of the police in the course of their duty' is another easily applicable offence. All you have to do is make it difficult for the police to undertake their work keeping the peace by arguing with them, questioning their authority, standing in their way, or trying to help people that the police are trying to move on or arrest.
- ◆ Using threatening, abusive, or insulting words or behaviour' – section 4, Public Order Act 1986.
- ◆ Aggravated trespass (see previous section). Aggravated trespass is a problem in shopping malls because technically they are not public places, and pickets can stop or intimidate people from shopping.

A grey area is 'trade disputes'. For example, campaigning against sweatshop labour outside High Street stores could be classed as a 'trade dispute'. Under this law it is an offence to prevent or compel people from going about their lawful business, to follow them around/down the street, or to 'watch and beset' their house or place of work – section 241, Trade Union and Labour Relations (Consolidation) Act, 1992. Trade picketing is only legal where a person works/used to work at that site, and is an official or member of the trade union recognised at that site (section 240).

Distributing leaflets or collecting signatures for petitions may also be covered by local bylaws. You have to check with the local authority before doing anything in a public place that the local bylaws do not prohibit it, or place conditions upon it. If a petition is to be given to Parliament, via your local MP, special rules apply – these are available from the Information Office at the Houses of Parliament.

Putting up posters is legal, so long as you have permission from the owner of the wall/structure that they are fixed to, they are no more than six feet square, do not advertise commercial products, and local bylaws do not prohibit posters.

Selling newspapers, in the street or door to door, is legal if you are over 18, and the content is non-commercial. Commercial publications sold in the street/door-to-door require a license from the local council, as does the sale of any other commercial products. Stalls selling goods – such as T-shirts/other merchandise – will also require a license from the local authority. Both newspaper selling and stalls many be prohibited by local bylaws.

Collecting money in the street requires a license from the local authority. Some local authorities may discriminate, only allowing registered charities to collect money in the street. The law is not clear on this, and is inconsistently applied.

5. Meetings – public or private

If a person or persons seek to break up a lawful public meeting by acting in a disorderly manner, or inciting others to do so, that is an offence – section 1, Public Meetings Act 1908. If a person disrupts a public meeting, the chair of the meeting may direct any police officer present to take that person's name and address – refusal to give these details, or giving false details, is an offence

The police have the power to enter and maintain order at public meetings if they believe disorder may take place. They can do this under the common law powers relating to 'breach of the peace'. Refusing to co-operate with efforts to maintain order constitutes 'obstruction of a police officer in his duty'.

The Representation of the People Act 1983 requires that any person standing in a national/local election be given free use of local halls/schools to discuss their election manifesto. It is an offence to attempt to disrupt an election meeting.

A meeting is private, even if it is held in a public place such as a local hall, if it is not open to any person to attend. The rules governing the meeting are those of the organisation holding it. Anyone may be asked to leave a private meeting. The police have no right to enter a private meeting, and so cannot use their powers to keep the peace, unless invited in by the organisers to do so.

Finally, a meeting in the open air (i.e., not in a structure with walls and a roof) is subject to the Public Order Act 1986 or the Criminal Justice and Public Order Act 1994. Hold it in the open air, even on your own land, can create legal problems as it would be an 'assembly', or if you play music it can even be called 'a rave'.

6. Noise

It is an offence to operate a loudspeaker in the street at any time between 9pm and 8am, or at any other time for advertising, trade or any other business – section 62, Control of Pollution Act 1974. There is an exception for moving vehicles selling perishable goods (ice cream/fish vans, etc.).

7. Uniforms

It is an offence to wear any uniform, or other identifying object, signifying association with a particular political organisation in any public place or at a public meeting – section 1, Public Order Act 1936. The term 'uniform' is not fixed in law, in is open to the discretion of the court.

8. Ethical shoplifting or defacing goods

Some people, protesting against illegal logging, 'ethically shoplift' goods from stores. Unless you have absolute evidence that the goods were made from unlawfully obtained

materials, and you take them straight to the nearest police station, or a police officer, to turn them in and make a formal complaint, you can be convicted for shoplifting – sections 1 to 6, Theft Act 1968, and/or section 3, Theft Act 1978 ('making off without paying').

Other campaigns have involved applying stickers to goods to mark them as containing peat, GM crops or rainforest timber. This is a risky tactic for two reasons:

- ◆ It could constitute 'criminal damage'. 'Damage is an offence by any person who without lawful excuse destroys or damages property belonging to another so intending to destroy or damage such property or being reckless as to whether any such property would be damaged or destroyed' – section 1(1), Criminal Damage Act 1971.
- ◆ It is an offence to interfere or contaminate (or make it appear so) any goods with the intent to cause public alarm, anxiety, or economic loss due to the goods being shunned – section 38, Public Order Act 1986 – (punishment, 10 years imprisonment!).

9. Assault and alleged used of violence/intimidation

'Assault' is 'any act which intentionally or recklessly causes another person to apprehend immediate and unlawful personal violence'. A person who causes another person to injure themselves, whilst running away or escaping, may also be liable for their assault.

There are various levels of assault:

- ◆ Common assault occurs where the injury is minor or non-existent, such as a graze or minor bruising – section 39, Criminal Justice Act 1988.
- ◆ Actual bodily harm occurs where the injury includes any harm to health or comfort of the victim, such as lost teeth, fractures, loss of consciousness or psychological injury – section 47, Offences Against the Person Act 1861.
- ◆ Grievous bodily harm involves the wounding or bodily harm to another person, with or without a weapon or instrument, that results in permanent disability, disfigurement, sensory impairment, substantial loss of blood, lengthy hospital treatment or psychiatric injury – section 20, Offences Against the Person Act 1861.
- ◆ Assault on a police officer occurs where, using any force, you cause any harm to an officer in the execution of his duty, or any person assisting that officer – section 51, Police Act 1964.

All these are possible as a result of a protest action, for example when things start to go out of control, even if it was not your intention to cause such harm.

Other potential offences, where an excuse of 'violence' can be used against protesters, include:

- ◆ Using disorderly behaviour which causes a person to feel

harassment, alarm or distress – section 5, Public Order Act 1986 (also includes the use of threatening, abusive or insulting words).

- ◆ Causing harassment by following a course of action in pursuit of another person (on more than one occasion) so causing fear or distress – Protection From Harassment Act 1997.
- ◆ Possession of a blade (with a cutting edge longer than 3 inches – less than doesn't count unless used with intent) or sharply pointed object – e.g. scissors, knives, tent pegs, keys, pencils – in a public place without reasonable authority or excuse – section 139, Criminal Justice Act 1988/section 1, Prevention of Crime Act 1953 (a useful law to arrest someone for carrying anything that can be construed as an 'offensive weapon').

The use of non-violent direct action doesn't just mean 'not using violence'. It means actively working to prevent any violence. Allegations of violence by protesters is often used as a means to discredit direct action. This is often backed up by the use of charges by the police – often later dropped – that involve the alleged use of behaviour, words or actions that are construed as 'violent' or 'harassment' under the laws listed above. Those involved in actions should specifically prepare themselves to avoid acting in a manner, or possessing any item, that leads to such charges being brought.

10. Trespass

Trespass is not a criminal offence – it is a civil offence. The police have no automatic right to act against trespass unless other criminal laws are broken in the process (noted above – aggravated trespass, breach of the peace, etc.).

Trespass occurs where a person is present on someone's land without the owner's permission, or even if they have permission, they exceed the terms of that permission. The landowner, or someone appointed by them, may use 'reasonable force in the circumstances' to eject the person trespassing if they refuse to leave.

The defining issue with trespass is damage. Just walking through crops doesn't necessarily cause substantive damage. However, if the trespass does involve damage to property, fences, using vehicles, or the use of threatening or abusive words or behaviour, then the police may act for trespass under sections 61/62 of the Criminal Justice and Public Order Act 1994.

11. Rights of way

Rights of way can be highways (e.g., paved roads, but not motorways which are not strictly public highways), byways (unpaved roads), bridleways or footpaths. The public have a

right to pass and re-pass any number of times on all rights of way, at any time of day or night.

Rights of way across land are very useful for monitoring unlawful activities – such as unregulated waste dumping or pollution. The paths on the Ordnance Survey map are strictly not legally valid. You have to get a copy of the definitive map from your local authority.

It is an offence to block or obstruct any right of way, string barbed wire across or beside it, or to erect notices that mislead the public into thinking a right of way does not exist (e.g., 'private, no entry'). Providing that you don't specifically set out to clear an obstruction of a right of way, you may 'remove as much of the obstruction as is necessary to pass' – section 333 of the Highways Act 1980. So, avid walkers can carry a machete and bolt cutters at all times when walking, with lawful reason.

Rights of way can also override local bylaws, which has traditionally made them a useful for protesting around military bases. But they are also significant as part of many countryside-related protests – for example leading demonstrations legally across proposed development sites.

12. Indecent exposure

Sometimes, strategically taking your clothes off can be a crowd-stopping protest. But doing so will leave you liable for indecent exposure under common law, and under section 28 of the Town Police Clauses Act 1847.

13. Litter

It is an offence to throw down or otherwise deposit onto or from any public place, anything whatsoever that may cause defacement by litter – section 5, Litter Act 1983/section 87, Environmental Protection Act 1990. There may also be local bylaws on litter – e.g. dog fouling.

Legal action

Often, good protesting will end up with, or the threat of, legal action. It's important to consider how you will deal with the threat of legal action before you actually managed to get arrested, injunctioned or summonsed.

A. Arrest, warrants, 'citizens arrest'

The police have general powers of arrest under various laws. But there is also a special class of 'arrestable offences', generally defined as any offence where you get imprisoned for 5 years or more. In these cases the police may arrest without a warrant. For lesser offences, the police must obtain a warrant from a local magistrate to secure the arrest. The general procedures are controlled under sections 24/25 of the Police and Criminal Evidence Act 1984.

The public also have rights of arrest for 'arrestable offences', and some civil offences. However, properly carrying out a citizens arrest involves complex legal knowledge of the processes involved, and the types of offence you may action. If it goes wrong you can be charged with assault. Therefore it's only to be used as a campaign tactic with special legal support.

The police also have powers to stop and search under various laws. These have been used to 'filter' people who are on their way to a demonstration in order to remove/deter as many people as possible under minor offences, or get the names/addresses of those attending.

A 'warrant' is essentially a court order that gives the police power to arrest, or search a persons home or property. To secure the warrant the police must provide evidence to a magistrate that they have cause to arrest the person, or carry out a search for further evidence of a crime.

When carrying out any action, the police must act in accordance with the relevant code of practice under sections 60(1)(a) and 66 of the Police and Criminal Evidence Act 1984. These are revised regularly, and are published by the Stationary Office. They are:

- Code A* the use of stop and search powers;
- Code B* the searching of premises and the seizure of property found;
- Code C* the detention, treatment and question of persons by the police;
- Code D* the identification of persons by the police;
- Code E* on tape recording interviews.

Studying the codes of practice is useful if you undertake the types of activity where you are likely to/want to get arrested. By understanding the procedures you are better able to handle the process of arrest and detention. But mainly, it's difficult to be intimidated when you know your rights.

If you are arrested and detained, you are allowed to have a copy of the codes of practice to keep with you in order to study your rights whilst in detention. You may also ask for/take with you a pen and paper to make notes.

When confronted by the police people tend to automatically do what they are told. In fact, you should first establish that you are talking to a real police officer. The police must always carry their warrant card. You are allowed to view this before engaging in discussion with the officer in order to properly verify their identity.

Never just talk to the police. After verifying their identity, ask them politely for the reason why they wish to talk to you, or what assistance they would like from you. If they make an allegation of some offence against you, you are entitled to ask for their reasons for believing that you are a suspect.

The moment you are cautioned – when they say, *You do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence* (the statement need not be absolutely according to the code of practise – small deviations are permissible)...

then you have to start thinking seriously about what precisely you do say. You do not have to be arrested before being cautioned – all that arrest means is that they have just taken over control of your body. Legal liability in evidence starts with the moment you are cautioned.

The purpose of arrest is to secure the person from escape, to verify their identity, or prevent tampering with evidence (general conditions of arrest under section 25 of the Police and Criminal Evidence Act 1984). When arrested, the person must be informed immediately that they have been arrested (e.g., 'your nicked'), and the grounds for the arrest.

To resist arrest you need to attempt to evade the arrest by running away, or try and hit/harm the officer effecting the arrest. Passively resisting arrest is a grey area in law. The assumption is the suspect would be attempting escape – protesters tend to want to stay where they are.

The simplest way to passively resist arrest is to stay still and/or hold on to something. If you do this the police will use pressure points on your arms, neck and legs to make you let go. If you wear firm padding around the neck, shoulders and joints they will find this more difficult. They can't make you remove the padding from next to your skin unless they first arrest you and take you somewhere private to ask you to remove it – *Catch 22*.

Once they have you, you should not kick or lash out (you might hit one of them). The best tactic is to go totally floppy – it makes it very difficult to move you. But if you do this you may get hurt as they try and move you.

The police may use 'reasonable force' to effect an arrest. This can mean being 'nicely' dragged away, one policeman on each arm. It can also mean, in order to encourage you not to resist, the excessive tightening of hand cuffs, or dragging you face down, legs first across rough ground.

Unless the police wish to conduct an immediate search, or carry out further investigation with you present, you should be taken to the police station as soon as possible (the general conditions of arrest are specified under sections 28/30 of the Police and Criminal Evidence Act 1984). Any police station will do, but if they intend to hold you for more than 6 hours, or for a special class of offence such as terrorism, it must be to a designated police station (that is, they have the facility to hold you for longer periods).

You can also be 'de-arrested' if the police officer considers

you no longer need to be kept under arrest. For this reason arrest has often been used to remove people from a site, and then when they are safely away from the area, they are dumped and de-arrested.

B. Detention and charge

Once arrested, you may be held for 24 hours. Depending on where you are arrested, taken, and when you are first questioned, this may run from the time of arrest, or the arrival at the police station where you will be kept (it's called the 'relevant time'). You can be held for up to 36 hours from the 'relevant time', but they must get an order from a senior officer to do so. If they apply to the court before the expiry of 36 hours, they can hold you for up to 96 hours – section 43/44, Police and Criminal Evidence Act 1984.

On first being detained, you will be informed of your rights by the custody officer. You will have an opportunity to ask for legal representation, to call someone to tell them of your detention, and to ask for access to the Police and Codes of Practice, and a pen and paper to make notes. Whilst in detention you are also allowed regular drinks, and up to three meals a day that meet your particular dietary or religious requirements.

Depending what you've done, at some point you'll get let out. There are various options:

- ◆ You can be released without further action. However, if they have been sitting on new evidence they can re-arrest you and the whole process starts again.
- ◆ You can be released under police bail. This requires that you return to the police station at a certain date and time. This is popular option for dealing with protesters because you can be bailed with conditions – such as not going back to the site of the protests.
- ◆ You can be charged, and bailed (again with conditions) to attend a court on a specific date.
- ◆ You can be charged and held, and brought before the next sitting of the court. It will then be up to the court to decide whether to grant you bail, or to remand you to prison.

In cases involving protesters, unless you've done something really stupid/serious, you will often be bailed to return to the police station. Then, at some point before the bail expires, you'll get a letter telling you that the case has been dropped. If you are charged, you will usually have to attend court. But you may find that no evidence is offered by the Crown Prosecution Service to support the charges, and the case will be summarily dismissed.

C. Going to court

A simple rule – if you are about to go back to the police station after a period of police bail and you haven't receive

notification that the case has been dropped, or if you have been charged and are due to appear in court... **get a lawyer!** (preferable one who specialises in protest cases)

D. Complaints against the police

As noted earlier, when held, apprehended or questioned by any police officer, you are entitled to have their name and number. The exception (not clear in law) are large protests where increasingly the police are 'anonymised' by riot gear.

If you believe that you have been mistreated in any way, or that the police have acted improperly, you are entitled to make a complaint. If you call the headquarters of the police force concerned, and ask for the 'police complaints and discipline' department, you can get details of how to make a complaint. They don't like this, because complaints form part of their public performance indicators, so you may have to persevere to get your complaint logged and actioned.

Injunctions

So far we've looked at the criminal law. But there are many cases where the criminal law does not apply. There are also cases where the police may not press charges, or the person/corporation concerned may not wish to press charges because they do not wish to make martyrs of the protesters.

Often in these cases the person/corporation will seek an injunction to prevent further unlawful protest action. An injunction is an order of the court prohibiting a named person from taking any action that may damage the property or business interests of another. Injunctions can be applied for with notice, but usually they are applied for without notice – meaning the 'interim injunction' becomes active once it has been served upon you.

Once served, you are bound by the terms of the injunction. Along with the injunction, you will also be given a date to appear before the court to defend yourself against the injunction, and get it overturned. At the hearing of the court to review the injunction you can present evidence to argue why the injunction should not be made permanent. You can also seek damages yourself for the wrongful bringing of the case.

The problem with injunctions is that if you breach them it is not the company who prosecutes you – it will be the courts. The penalties for contempt of court, especially where repeated, are harsh. This is why corporations favour

injunctions. It means they do not pursue the protesters, it is the court – so keeping any blame for action against those concerned at 'arms length'.

The injunction is usually served upon named individuals. But with protest groups, the injunction usually covers the main organisers, and 'any other persons associated'. This can be a problem because it means anyone remotely associated with the campaign is enjoined. However, there is an up side. Anyone who believes they may be covered is entitled to write to the solicitors of the plaintiff and ask for a copy of the injunction. This will cost the plaintiff money – perhaps £25 a time. So if all the supporters of the campaign – potentially hundreds or thousands of people – write in, they can massively push up the costs of the legal action on the plaintiff (this can backfire however, if they ultimately recover the costs of the case against you).

If the injunction is confirmed, you will be covered by its conditions forever – all you can do is move on.

Legal support

To hand out leaflets, or to run a stall in the street, detailed legal advice is not essential. You just need to be aware of the general issues involved in the action, and to take care when on the street. Then, if told to do something by the police, consider it politely and perhaps comply. People are generally not arrested and dragged off to the cells for basic street actions.

If you undertake larger scale action, such as marches or pickets, then you should seek advice. This is because, as an organiser, you could potentially leave yourself open to major liabilities if things go wrong. The alternative is not to have an organisation – just do it. But that risks a more high profile response from the police.

The more extreme forms of protest, such as mass trespass or damaging direct action, you need to take very careful legal advice. More importantly, you need legal support during the action. The purpose of legal observers/legal support is to have someone, not involved in the action itself, who can take notes, ask questions of the police, and track down where people have been taken when/if they get arrested. They can also arrange for support of anyone who is detained for any period of time – for example getting them a ride home when they are released.

The Free Range Network is a 'disorganisation' of activists and specialists that organises workshops and develops information resources for community and grass roots campaigning organisations. Free Range Practice Guides are produced on an occasional basis, and are intended to develop the level of practical skill within community organisations.

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