

For Police Use Only



Policing Protest

Pocket Legislation Guide



Association of Chief Police Officers Terrorism and Allied Matters – ACPO(TAM)

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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.

In protest situations, frontline police officers have a key role to ensure the effective application of the law as described in this pocket guide. When police officers take action, they not only have to take account of the protestors' rights to freedom of expression and assembly but also of the interference these rights have on the rights and freedoms of others.

This pocket guide is designed to provide operational constables with an easy access guide should you be faced with protest and disorder. The guidance book covers the basic legislation and powers for the majority of offences concerned with policing protest. Each subject area has its own section and is colour-coded to help you find the information you need quickly. The pocket guide is useful for both first response and tactical / strategic planning use. It does not provide an in-depth or exhaustive account of legislation – for further guidance on the law you should refer to the Police National Legal Database (PNLD) or to the National Policing Improvement Agency (NPIA) Opsline. For direct advice contact NETCU or the National Public Order Intelligence Unit (NPOIU): Public Order Policing Section (POPS).

This pocket guide does not address individual force policy or associated procedures.

An offence is committed:

- I If a person uses towards another person threatening, abusive or insulting words or behaviour, **or**
- II Distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

and

With intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

A person is guilty of an offence under Section 4 only if he **intends** his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting. It is also necessary to show intent to provoke or cause belief that immediate violence will be used **or** a likelihood that such violence will be used or a person will believe such violence will be used.

This offence may be committed in a public or a private place, but no offence is committed by a person inside a dwelling and the other person is also inside that or another dwelling.

There is a power of entry to premises under Section 17 Police and Criminal Evidence Act 1984 in order to arrest anyone committing this offence.

If this offence is racially or religiously aggravated, Section 31(1)(a) Crime and Disorder Act 1998 should be considered.

Offences

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 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe that your actions are intended to cause fear or provocation of violence against a person or persons. I require you to stop. It is an offence contrary to Section 4 of the Public Order Act 1986 to cause fear or provocation of violence. I am arresting you for this offence.'

Caution

The meaning of 'dwelling'

Means any structure or part of a structure occupied as a person's home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose 'structure' includes a tent, caravan, vehicle, vessel or other temporary or moveable structure.

The meaning of 'threatening'

Given its ordinary meaning. Treat as a guideline. Whether it is fulfilled will be a question of fact in each case. Includes verbal and physical threats and also violent conduct.

The meaning of 'abusive'

Given its ordinary meaning. Treat as a guideline. Whether it is fulfilled will be a question of fact in each case. Means using degrading or reviling language.

The meaning of 'insulting'

Given its ordinary meaning. Treat as a guideline. Whether it is fulfilled will be a question of fact in each case. Has been held to mean scorning, especially if insolent or contemptuous. It does not mean behaviour which might give rise to irritation or resentment.

The meaning of 'distribute' and 'display'

Distribute means spread or disperse. Display means a visual representation.

The meaning of 'writing, sign or visible representation'

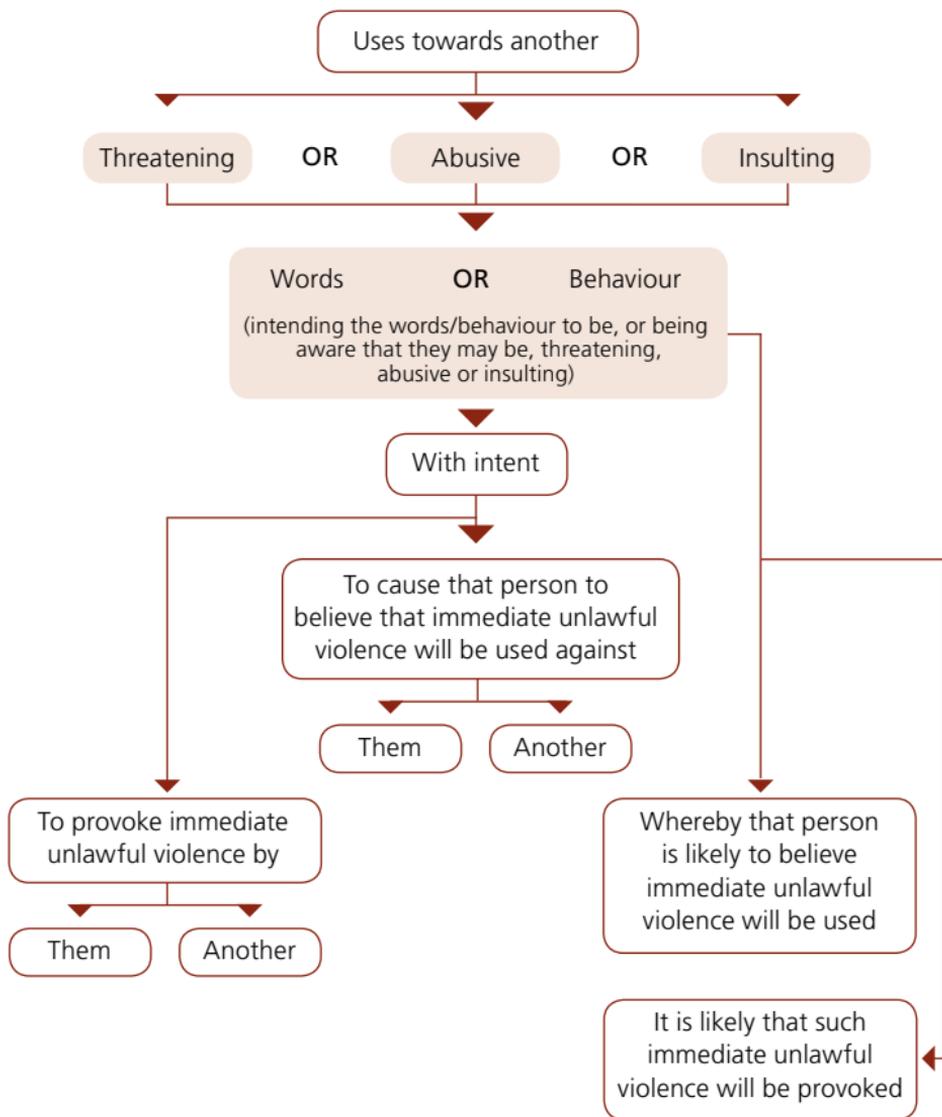
The words are to be given their natural meaning. The Oxford Dictionary defines a visible representation as a reproduced image or likeness, visible to the eye. This could include electronic forms of representation such as TV displays and computer monitor images as well as permanent forms such as photographs.

The meaning of 'towards another person'

When a charge of 'threatening behaviour' under Section 4 has been brought, the person who has been provoked or put in fear must be identified and this point proved. The 'other person' may be a police officer but the court will only decide that a police officer was put in fear or provoked if the actions of the defendant were more than the conduct which an officer could regularly expect in the course of his duty.

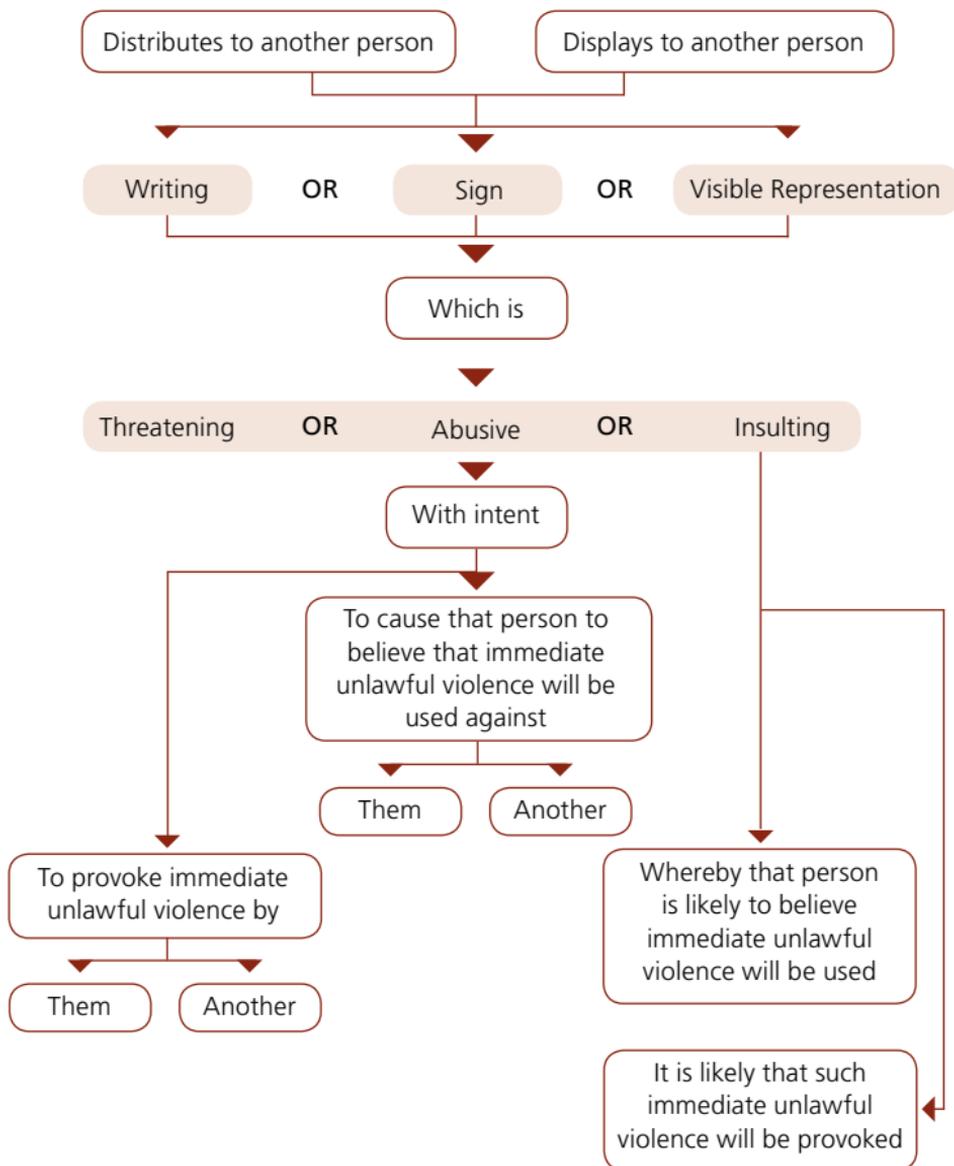
Causing fear or provocation of violence

Section 4(1)(a) Public Order Act 1986



Causing fear or provocation of violence (signs)

Section 4(1)(b) Public Order Act 1986



An offence is committed if with intent to cause another harassment, alarm or distress, a person:

- I Uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, **or**
- II Displays any writing, sign or other visible representation which is threatening, abusive or insulting,

and

This causes that or another person harassment, alarm or distress.

An offence under this section may be committed in a public or private place, except that no offence is committed by a person inside a dwelling and the person who is harassed, alarmed or distressed is also inside that or another dwelling.

If this offence is racially or religiously aggravated then the more serious offence under Section 31(1)(b) Crime and Disorder Act 1998 should be considered.

Note: Unlike Section 4 Public Order Act 1986, Section 4A has no specific power of entry. Officers should consider breach of the peace powers or whether the offence can be accommodated under Section 4 for entry purposes.

For the offence under Section 4A to have been committed – harassment, alarm or distress **has to** be shown to have been caused.

Offences

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 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe that your actions are intended to cause another person harassment, alarm or distress. I require you to stop. It is an offence contrary to Section 4A of the Public Order Act 1986 to intentionally cause another person harassment, alarm or distress. I am arresting you for this offence'.

Caution

The meaning of 'harassment'

Given its ordinary meaning. Means to subject someone to constant and repeated physical and/or verbal persecution.

The meaning of 'alarm'

Given its ordinary meaning. Means a frightened anticipation of danger.

The meaning of 'distress'

Given its ordinary meaning. Means to cause trouble, pain, anguish or hardship.

The meaning of 'dwelling'

See definition under Section 4 Public Order Act 1986 (see page 7).

The meaning of 'threatening, abusive, and insulting'

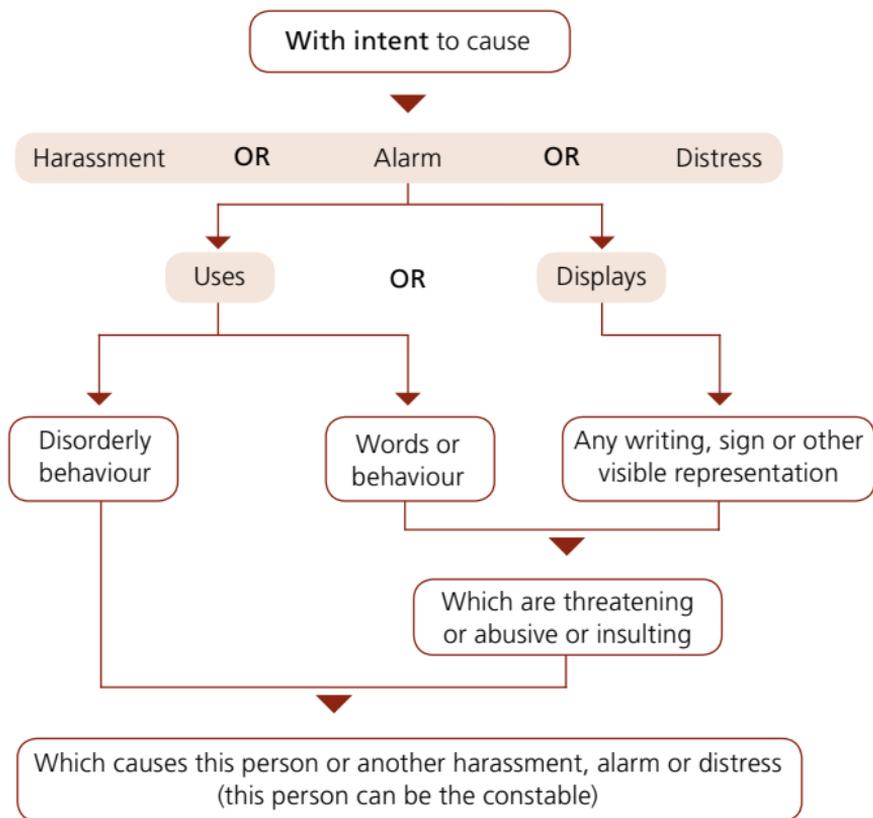
See guidance under Section 4 Public Order Act 1986 (see page 7).

The meaning of 'disorderly'

Is not defined by the Act. Defined by the Oxford Dictionary as unruly, unrestrained, turbulent or riotous.

The meaning of 'writing, sign or other visible representation'

See definition under Section 4 Public Act 1986 (see page 8).



Being threatening, abusive or insulting in a way likely to cause harassment, alarm or distress

Section 5 Public Order Act 1986

An offence is committed if a person:

- I Uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, **or**
- II Displays any writing, sign or other visible representation which is threatening, abusive or insulting,

and

Within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby,

An offence under this section may be committed in a public or private place except that no offence is committed by a person inside a dwelling and the other person is also inside that or another dwelling.

If this offence is racially or religiously aggravated, Section 31(c) Crime and Disorder Act 1988 should be considered.

Note: A person is guilty of an offence under Section 5 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting or (as the case may be) he intends his behaviour to be or is aware that it may be disorderly.

It must be proved that some person or persons were nearby and within sight or hearing and that they were likely to be caused harassment, alarm or distress.

The Criminal Justice and Police Act 2001 and the Anti-Social Behaviour Act 2003 allows police officers to issue 'Penalty Notices for Disorder' (PNDs) for certain elements of Section 5 Public Order Act 1986. It is advisable in certain cases to supplement the evidence (limited by space on the PND) by an MG11 statement or pocket book entry as people always have an option to elect a court hearing where evidence will be tested.

Offences

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 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe that your actions are likely to cause another person harassment, alarm or distress. I require you to stop. It is an offence contrary to Section 5 of the Public Order Act 1986 to be threatening, abusive or insulting in a way which is likely to cause harassment, alarm or distress. I am arresting you for this offence.'

Caution

The meaning of 'harassment'

Given its ordinary meaning. Means to subject someone to constant and repeated physical and/or verbal persecution.

The meaning of 'alarm'

Given its ordinary meaning. Means a frightened anticipation of danger.

The meaning of 'distress'

Given its ordinary meaning. Means to cause trouble, pain, anguish or hardship.

The meaning of 'dwelling'

See definition under Section 4 Public Order Act 1986 (see page 7).

The meaning of 'threatening, abusive, and insulting'

See guidance under Section 4 Public Order Act 1986 (see page 7).

The meaning of 'disorderly'

See definition under Section 4A Public Order Act 1986 (see page 12).

The meaning of 'display'

Display means a visual representation.

The meaning of 'writing, sign or other visible representation'

See definition under Section 4 Public Order Act 1986 (see page 8).

The meaning of 'person likely to be caused'

Can include a police officer but basic principle is that a police officer cannot be alarmed etc, by conduct which, although it would alarm others had they been present, is conduct a police officer meets regularly in the course of his duty.

Special Notes in regard to action against protestors displaying images and pictures capable of causing harassment, alarm or distress.

Common defences to persons charged with the display of such pictures and images have varied from – agreeing that the image or picture was distressing but that it was not threatening, abusive or insulting ; that their conduct was, in all the circumstances, reasonable ; and that the showing of the image or picture was a fundamental human right of ‘freedom of expression’ (Article 10 European Convention on Human Rights ECHR).

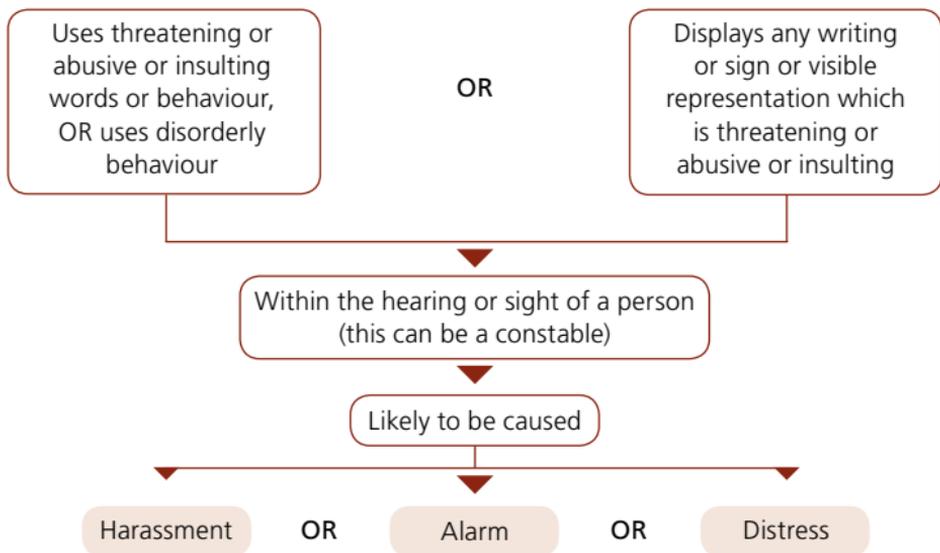
Each case has to be treated on its own merits alongside the context it is presented with. To prove an offence it is necessary to provide evidence for each element of the offence and to rebut any statutory defence. If evidential statements are not forthcoming from members of the public or targeted employees who may feel harassed, alarmed or distressed by the material on view, then the prosecution has to rely solely on the pictures or images themselves which in isolation will not be likely to provide sufficient evidence to prove every element of the offence.

It is good practice to anticipate potential defences by pointing out that the use to which the image is being put is for example insulting and that person(s) are being harassed, alarmed or distressed by it – so the protestor cannot say they were not aware that it might have that effect. This will provide evidence of an intention to have that effect if they carry on. Also try establishing what effect the protestor intends to have on person(s) looking at the picture or image. Secure all available evidence by statement or physical seizure of evidence such as pictures or images and any ancillary evidence. If possible record the scene by camera/video or recover CCTV.

Article 10 ECHR establishes the principle that everyone has the right to freedom of expression. Magistrates and judges will always consider whether the Article 10 rights override an individual’s rights not to be harassed, alarmed or distressed. They will make a balanced judgement on the basis of the evidence presented before them. It is worth emphasising that freedom of expression is not an absolute right but rather a qualified right. It should not become a vehicle for those protestors who engage in criminal activities to hide behind.

Being threatening, abusive or insulting in a way likely to cause harassment, alarm or distress

Section 5 Public Order Act 1986



Spontaneous processions and pre-planned processions

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

- I Serious public disorder, **or**
- II Serious damage to property, **or**
- III Serious disruption to the life of the community, **or**
- IV The purpose of the procession is 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.

The senior police officer may give directions imposing such conditions that appear necessary to prevent disorder, damage, disruption or intimidation by persons organising or taking part in the procession. The directions may include conditions as to the route and prohibitions on entering specified public places.

For pre-planned processions the Chief Constable by way of a written authority may impose conditions for the above reasons and in order to prevent the above offences taking place.

Offences

A person who takes part in a public procession and knowingly fails to comply with conditions (Section 12(5) Public Order Act 1986), **or**

A person who organises a public procession and knowingly fails to comply with conditions (Section 12(4) Public Order Act 1986), **or**

A person who incites another to take part in a procession and the person incited knowingly fails to comply with conditions (Section 12(6) Public Order Act 1986), commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning

'This procession is controlled by conditions imposed under Section 12 of the Public Order Act 1986. You are in breach of those conditions (state which conditions). Return to the route and stop your actions that are in breach of the conditions or you will be arrested.'

Wording upon arrest

'You are in breach of a condition imposed under Section 12 of the Public Order Act 1986. I am arresting you for failing to comply with those conditions.'

Caution

The meaning of 'public procession'

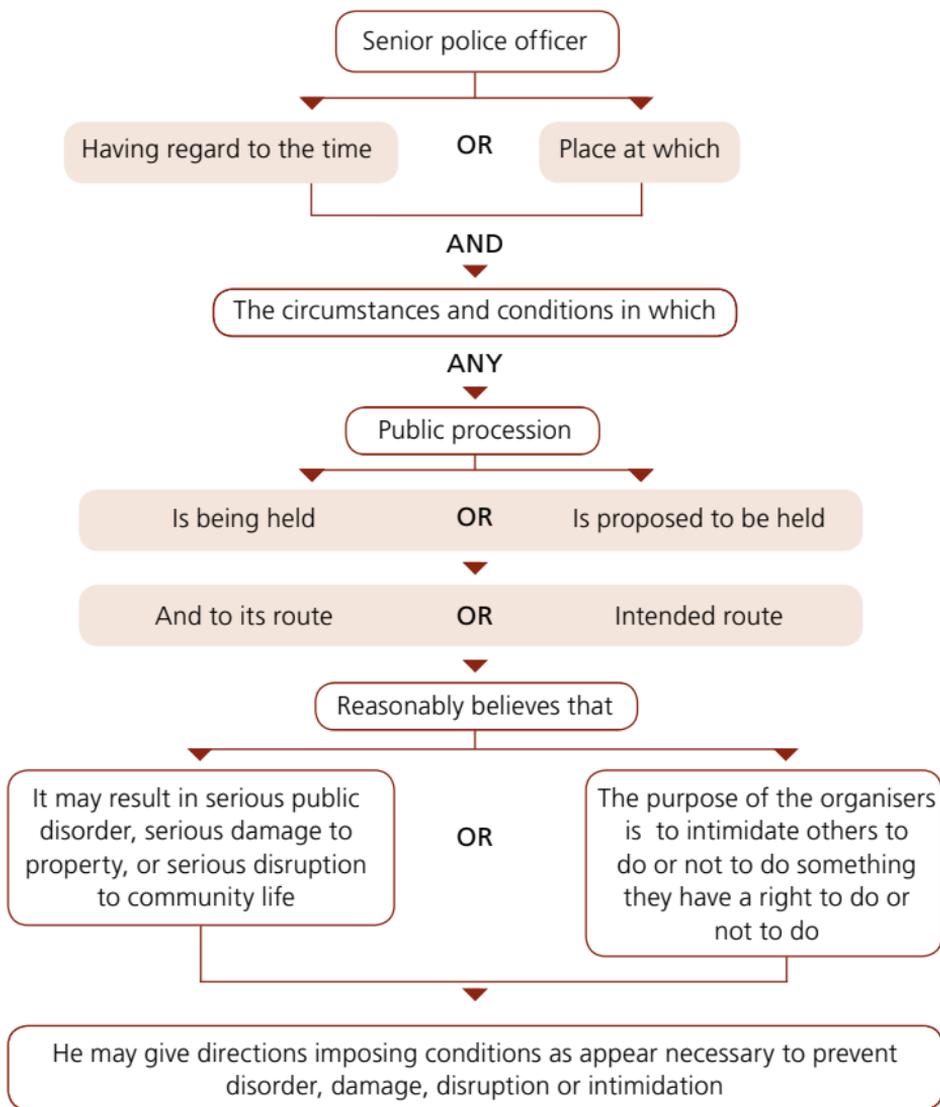
A public procession means a procession in a public place. (Section 16 Public Order Act 1986)

A procession consists of two or more people who are together with a common purpose and who are in motion.

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.

The meaning of 'senior police officer'

The senior police officer means (a) in relation to a procession being held, or to a procession intended to be held in a case where persons are assembling with a view to taking part in it, the most senior in rank of the police officers present at the scene, and (b) in relation to a procession intended to be held in case where paragraph (a) does not apply, the chief officer of police. The court's 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.



Spontaneous assemblies

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:

- I Serious public disorder, **or**
- II Serious damage to property, **or**
- III Serious disruption to the life of the community, **or**
- IV 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.

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

- I The place where such an assembly is being held, **or**
 - II The maximum number of persons who may constitute it, **or**
 - III 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.

Offences

A person who takes part in a public assembly and knowingly fails to comply with conditions (Section 14 (5) Public Order Act 1986), **or**

A person who organises a public assembly and knowingly fails to comply with conditions (Section 14 (4) Public Order Act 1986), **or**

A person who incites another to take part in a public assembly and the person incited knowingly fails to comply with conditions (Section 14(6) Public Order Act 1986), commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning

'This assembly is controlled by conditions imposed under Section 14 of the Public Order Act 1986. You are in breach of those conditions (state which conditions). Stop your actions that are in breach of the conditions or you will be arrested.'

Wording upon arrest

'You are in breach of a condition imposed under Section 14 of the Public Order Act 1986. I am arresting you for failing to comply with those conditions.'

Caution

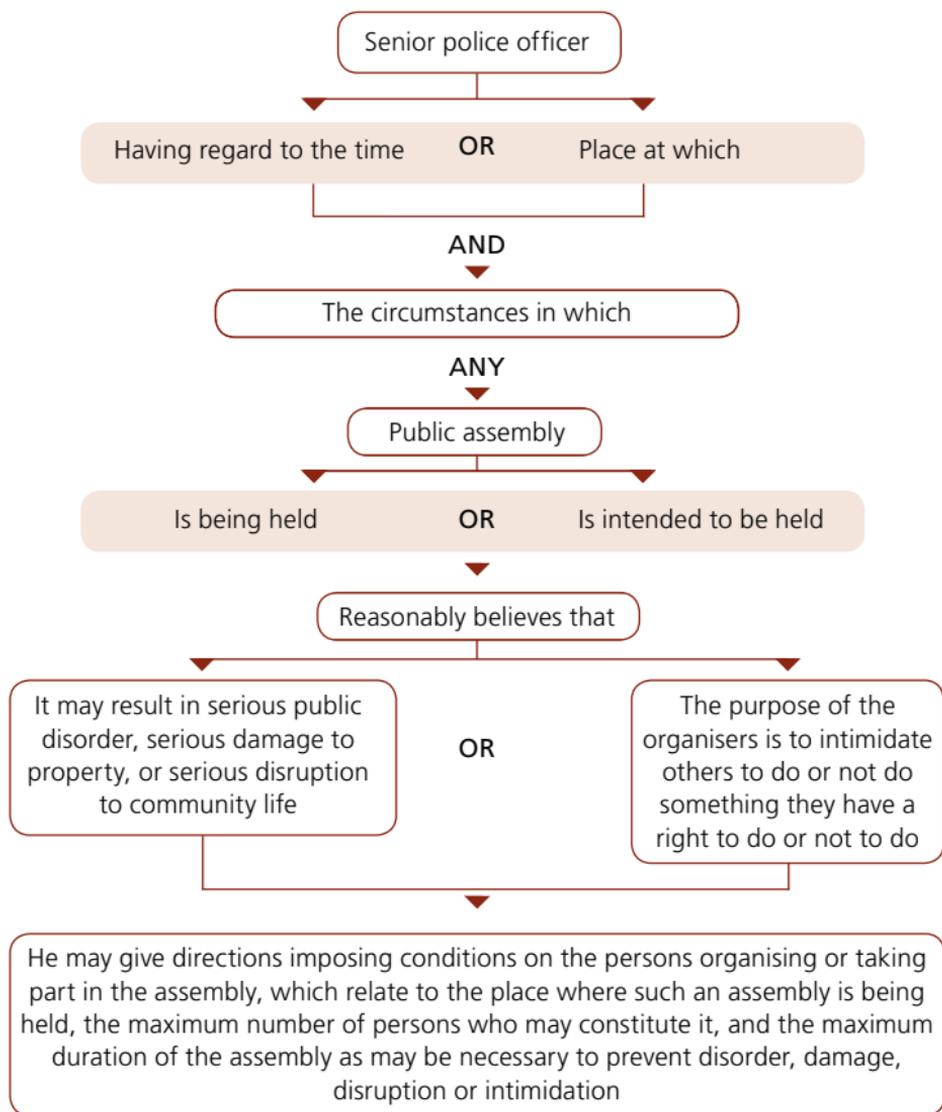
The meaning of 'public assembly'

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 meaning of 'senior police officer'

See definition under Section 12 Public Order Act 1986 (see page 20).



Section 60AA Criminal Justice and Public Order Act 1994

A police officer of the rank or above the rank of Inspector may authorise the removal of items worn to conceal identity in a specified locality for up to 24 hours.

The authorisation may only be given if there is reasonable grounds to believe that such an authorisation is required to prevent or control the committal of offences within the locality.

The authorisation must be recorded in writing.

Offences

A person who fails to remove an item worn to wholly or mainly conceal their identity, when required to do so by a constable in uniform, commits an offence. A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984, **or**

Any person who fails to hand over such a face covering for seizure commits an offence of obstruction of a police officer contrary to Section 89(2) Police Act 1996.

Warning and wording upon arrest

'I believe that you are wearing an item wholly or mainly to conceal your identity. I require you to remove it. Failure to do so is an offence contrary to Section 60AA of the Criminal Justice and Public Order Act 1994 and will lead to your arrest.'

'I am arresting you for failing to remove the item which I believe you are wearing wholly or mainly to conceal your identity.' **or**

'I intend to seize this item as I believe you intend to wear it wholly or mainly to conceal your identity. The seizure is authorised by Section 60AA of the Criminal Justice and Public Order Act 1994. Failure to do so will be construed as an obstruction of my duty and may lead to your arrest.'

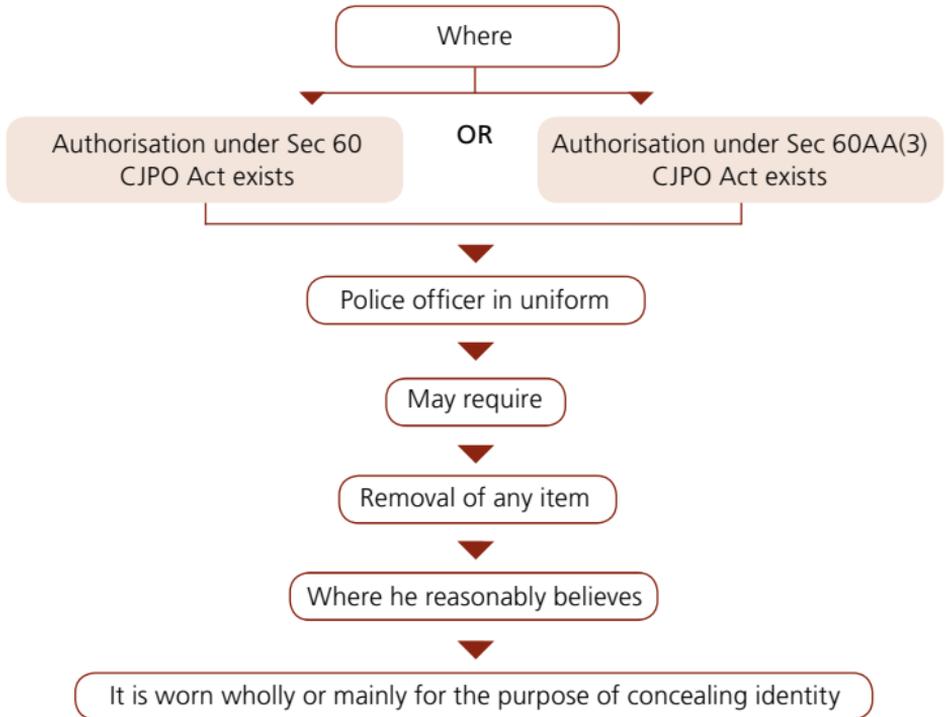
'You are obstructing me in the execution of my duty. I am arresting you for this offence.'

Caution

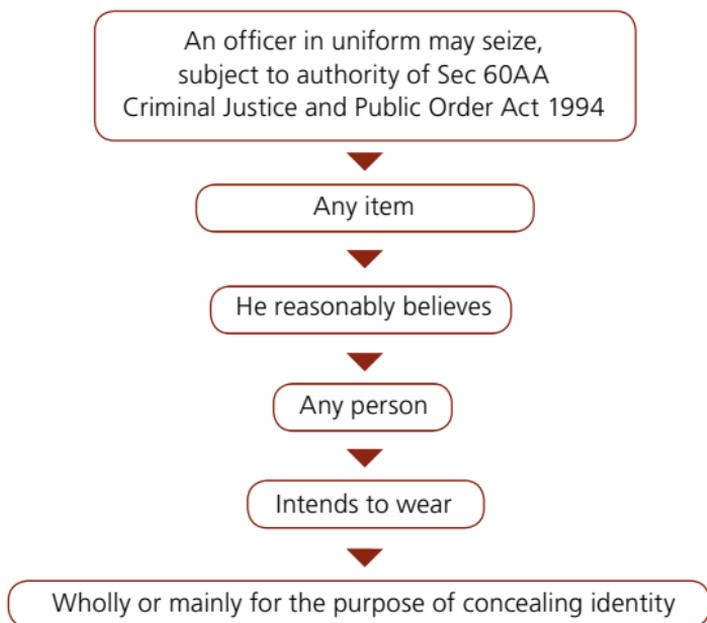
Section 60AA Criminal Justice and Public Order Act 1994 is a stand-alone power to direct the removal of any item used to conceal identity and may be employed independently of Section 60 Criminal Justice and Public Order Act 1994.

Power to require the removal of disguises

Section 60AA(1) & (2)(a) Criminal Justice and Public Order Act 1994



Section 60AA(2)(b) Criminal Justice and Public Order Act 1994



Police directions stopping the harassment of a person in his home

Section 42 Criminal Justice and Police Act 2001
(also see Section 42A – page 31)

A constable present at the scene may give a direction to any person if:

- I That person is present outside or in the vicinity of any premises used by any individual as their dwelling, **and**
- II The constable believes on reasonable grounds that that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual, or persuading the resident or another individual that they should not do something they are entitled or required to do or should do something they are not under any obligation to do, **and**
- III The constable believes on reasonable grounds that that person's presence (either alone or with another person who is present) amounts to or is likely to result in harassment of the resident or is likely to cause alarm or distress to the resident.

Directions must be proportionate and may include a requirement to leave the vicinity of the premises in question, and a requirement to leave that vicinity and not to return to it within such period as the constable may specify, not being longer than three months.

Such directions must be given initially by the most senior police officer present although any constable may make any subsequent variation or withdrawal of the directions. In practice no such variation or withdrawal should be made without consultation with the most senior police officer present.

Offences

A person who fails to comply with any such directions commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning by the senior officer present

'I believe that your presence here (either alone or together with that of any other persons who are present) amounts to, or is likely to result in harassment or is likely to cause alarm or distress to the residents of this dwelling. Under Section 42 of the Criminal Justice and Police Act 2001, I now require you to leave the vicinity of these premises and not to return for (specify time). If you fail to leave immediately or return within that period you will be liable for arrest.'

Police directions stopping the harassment of a person in his home

Section 42 Criminal Justice and Police Act 2001
(also see Section 42A – page 31)

Warning by any officer once the direction has been given by the senior police officer

'You have been warned that your presence here (either alone or together with that of any other persons who are present) amounts to, or is likely to result in harassment or is likely to cause alarm or distress to the residents of this dwelling.

Under Section 42 of the Criminal Justice and Police Act 2001, you have been required to leave the vicinity of these premises immediately. If you fail to do so you will be liable for arrest.'

Wording upon arrest

'You are under arrest for failing to comply with a direction given under Section 42 of the Criminal Justice and Police Act 2001.'

Caution

The meaning of 'vicinity'

There is no specified meaning of this term. Ultimately it is a matter of degree given the unique circumstances prevailing in each situation.

The meaning of 'dwelling'

Any structure or part of a structure occupied as a person's home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied. For this purpose, 'structure' includes a tent, caravan, vehicle, vessel or other temporary or moveable structure. As defined under Section 8 Public Order Act 1986.

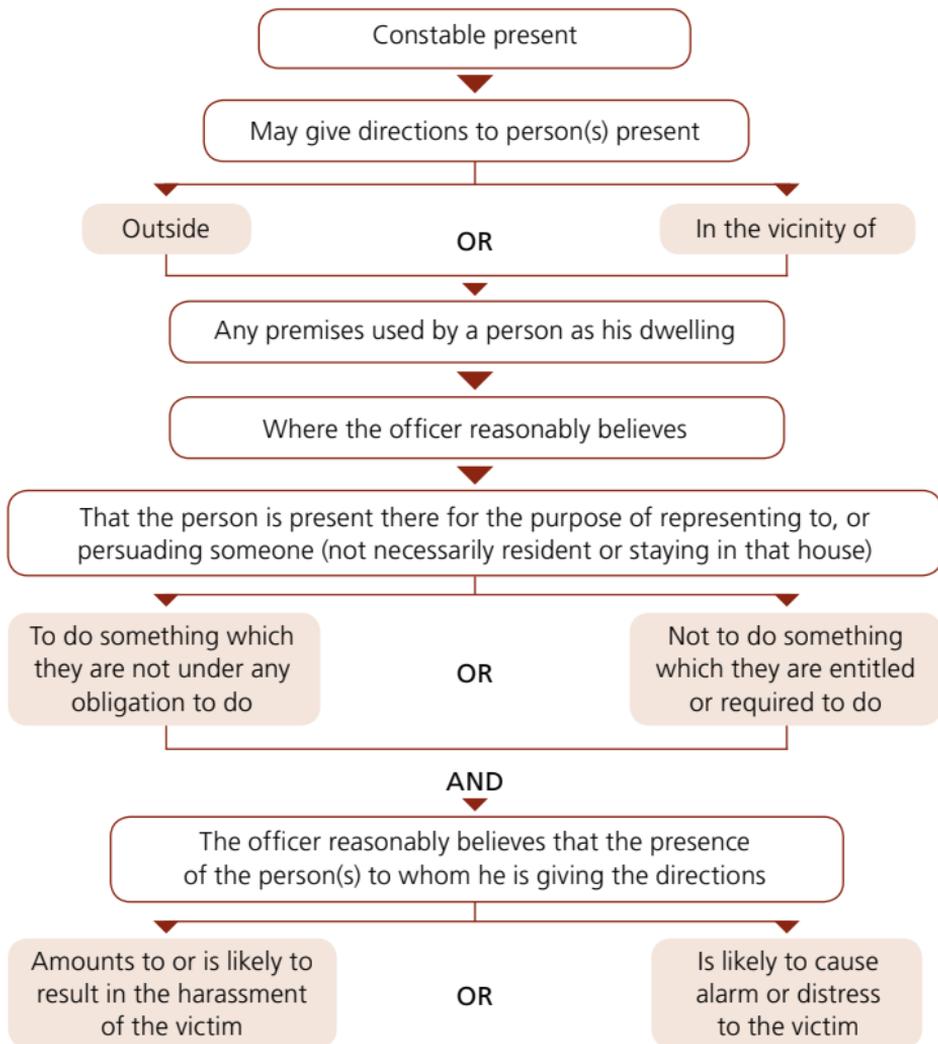
The meaning of 'senior police officer'

There is no definition within the Act, however the court's 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.

Note: The Crown Prosecution Service has received counsel's advice in relation to the harassment of residents who are not themselves the target(s) of protestor activity but live near such a target. The advice is that such victims are not covered by this legislation and other remedies must be sought.

Police directions stopping the harassment of a person in his home

Section 42 Criminal Justice and Police Act 2001



An offence is committed:

- I Where a person is present outside or in the vicinity of any premises used as a dwelling, **and**
- II The person is there to represent to the resident or another individual that they should not do something they are entitled or required to do or should do something they are not under any obligation to do, **or**
The person is there to persuade the resident or another individual that they should not do something they are entitled or required to do or should do something they are not under any obligation to do, **and**
- III The person intends his presence to amount to the harassment of the resident or the person intends his presence to cause alarm or distress to the resident or the person knows or ought to know that their presence is likely to result in harassment, or is likely to cause distress or alarm to the resident, **and**
- IV The person's presence amounts to, or is likely to result in, the harassment of, or the causing of alarm or distress to either the resident, a person in the resident's dwelling or a person in another dwelling in the vicinity of the resident's dwelling.

Offences

A person who engages in the above activity commits an offence. A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Wording upon arrest

'It is an offence under Section 42A of the Criminal Justice and Police Act 2001 to cause harassment, alarm or distress to a resident (or a person) in this vicinity. I am arresting you for this offence.'

Caution

The meaning of 'vicinity'

There is no specified meaning of this term. Ultimately it is a matter of degree given the unique circumstances prevailing in each situation.

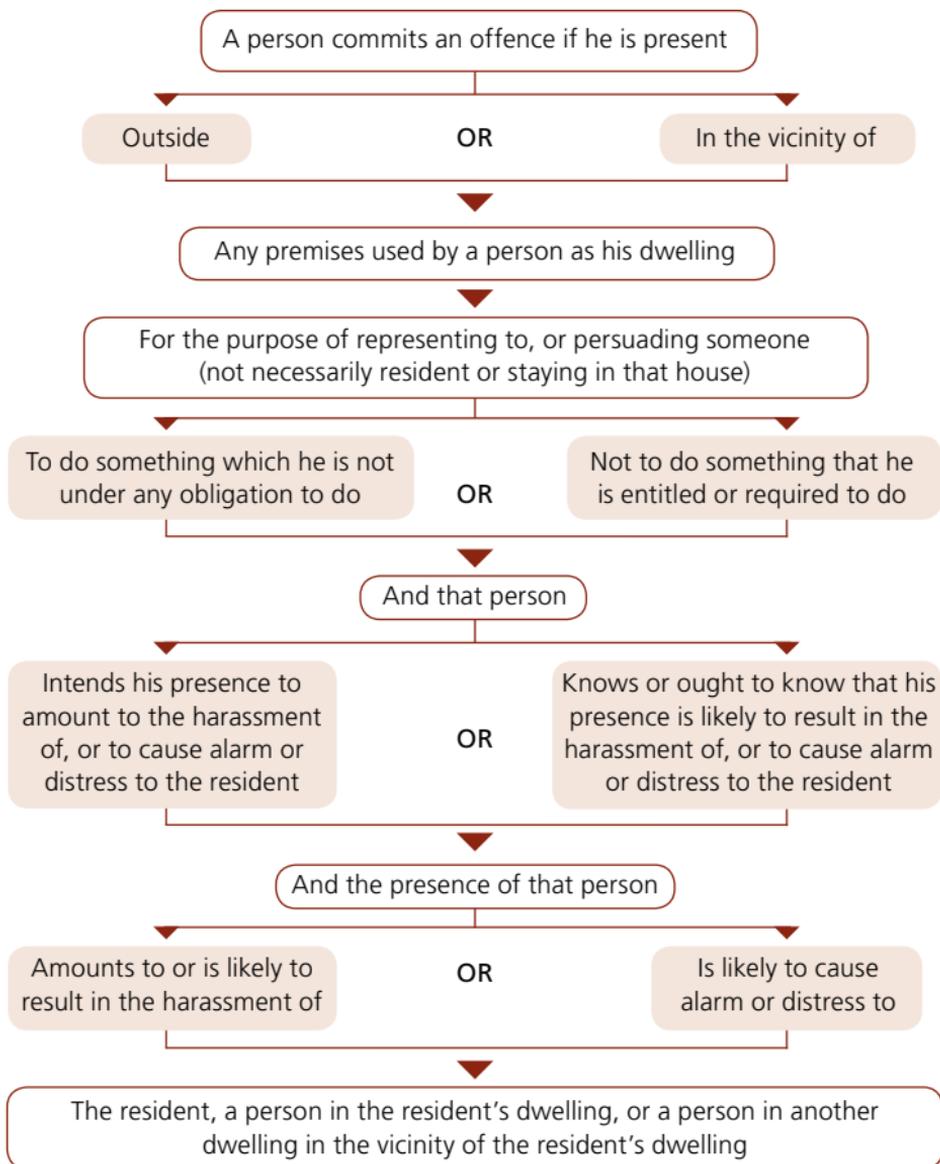
The meaning of 'dwelling'

Any structure or part of a structure occupied as a person's home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and, for this purpose, 'structure' includes a tent, caravan, vehicle, vessel or other temporary or moveable structure. As defined under Section 8 Public Order Act 1986.

Note: The Crown Prosecution Service has received counsel's advice in relation to the harassment of residents who are not themselves the target(s) of protestor activity but live near such a target. The advice is that such victims are not covered by this legislation, and other remedies must be sought.

Offences of harassment of a person in his home

Section 42A Criminal Justice and Police Act 2001



Power to require name and address of persons acting in an anti-social manner

Section 50 Police Reform Act 2002

A constable in uniform may require the name and address from a person who the constable has reasonable grounds to believe has been acting or is acting in an anti-social manner.

Offences

A person who fails to give their name and address commits an offence, **or**

A person who gives a false or inaccurate name and address commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Note: There is no power to require a date of birth within this legislation.

Warning

'I believe that you have been acting in an anti-social manner and I require you to give me your name and address. Failure to do so is an offence which will lead to your arrest.'

Wording upon arrest

'It is an offence contrary to Section 50 of the Police Reform Act 2002 to fail to provide your name and address. You have failed to do so and I am arresting you for this offence.'

Caution

The meaning of 'anti-social manner'

'Anti-social behaviour' means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person.

Harassment means to subject someone to constant and repeated physical and / or verbal persecution.

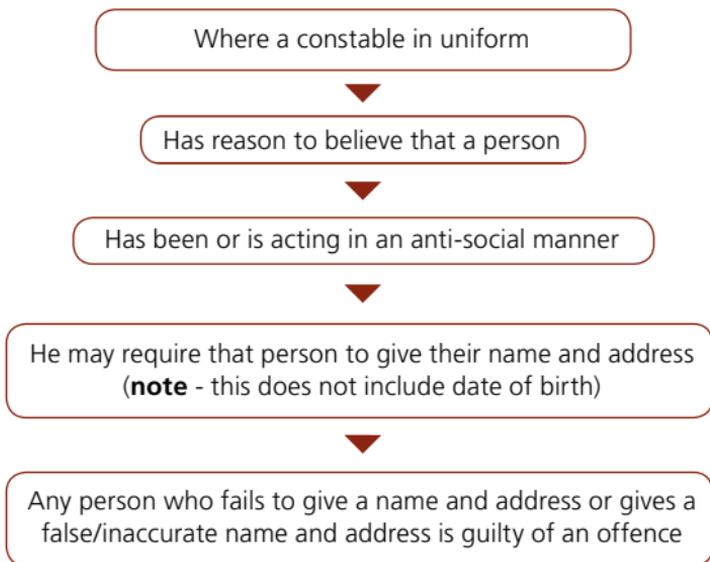
Alarm means a frightened anticipation of danger.

Distress means to cause trouble, pain, anguish or hardship.

These words should be seen in context with the term 'likely to be caused'. What may distress a vulnerable person may not distress others. The conduct has to be seen in its full context. Remember that a third party, (not the one subjected to the behaviour), may experience distress, alarm or harassment.

Power to require name and address of persons acting in an anti-social manner

Section 50 Police Reform Act 2002



Interference with contractual relationships so as to harm animal research organisations

Section 145 Serious Organised Crime and Police Act 2005

This piece of legislation creates the offence of interference with contractual relationships so as to harm animal research organisations.

An offence is committed:

- I Where a person commits a crime or a tortious act with the intention of harming an 'animal research organisation' which causes the person to whom it is made to suffer loss or damage, **or**
- II Where a person makes a threat to someone that they or someone else will commit a crime or tortious act with the intention of harming an 'animal research organisation' which causes the person to whom it is made to suffer loss or damage, **and**
- III Such a threat or act is made where it is intended or likely to cause the person to whom it is made to fail to perform a contractual obligation owed to a third party, **or**
- IV Such a threat or act is made where it is intended or likely to cause the person to whom it is made to terminate a contract involving a third party, **or**
- V Such a threat or act is made where it is intended or likely to cause the person to whom it is made to decide not to enter into a contract with a third party.

Offences

A person who engages in activity as described above commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

It is advisable to consult your supervisor prior to the arrest for this offence, as it should be noted that proceedings would only take place with consent of the Director of Public Prosecutions (Section 147(2) Serious Organised Crime and Police Act 2005). The DPP usually devolves this to local Crown Prosecution Service branches.

In practice this offence may well be dealt with by way of charge after an arrest for a matter such as aggravated trespass or malicious communications. However, this is not exclusively the case; if a tort is committed or threatened then the initial arrest may well be for the offence under Section 145 Serious Organised Crime and Police Act 2005.

Interference with contractual relationships so as to harm animal research organisations

Section 145 Serious Organised Crime and Police Act 2005

Warning and wording upon arrest

'I believe that you have committed an offence (or tort) namely (state offence or tort). By doing so I believe you have also committed an offence in relation to Section 145 of the Serious Organised Crime and Police Act 2005. I am arresting you for this offence.'

Caution

The meaning of a 'tortious act'

A tortious act is one which is wrong in civil law but is not a criminal offence. The normal remedy is for the victim of the tort to sue for damages in the civil courts. The effect of this section is to make a tortious act which causes loss or damage, and which is committed with the necessary intention, a criminal offence. But there are exceptions where the tort is committed in furtherance of a trade dispute or where the tort simply consists of an inducement to breach a contract - this is considered to be a legitimate exercise of free expression. Consequently, the most common torts (trespass, nuisance, interference with trade and defamation) would have to be proven in court (including the damage suffered).

The meaning of an 'animal research organisation'

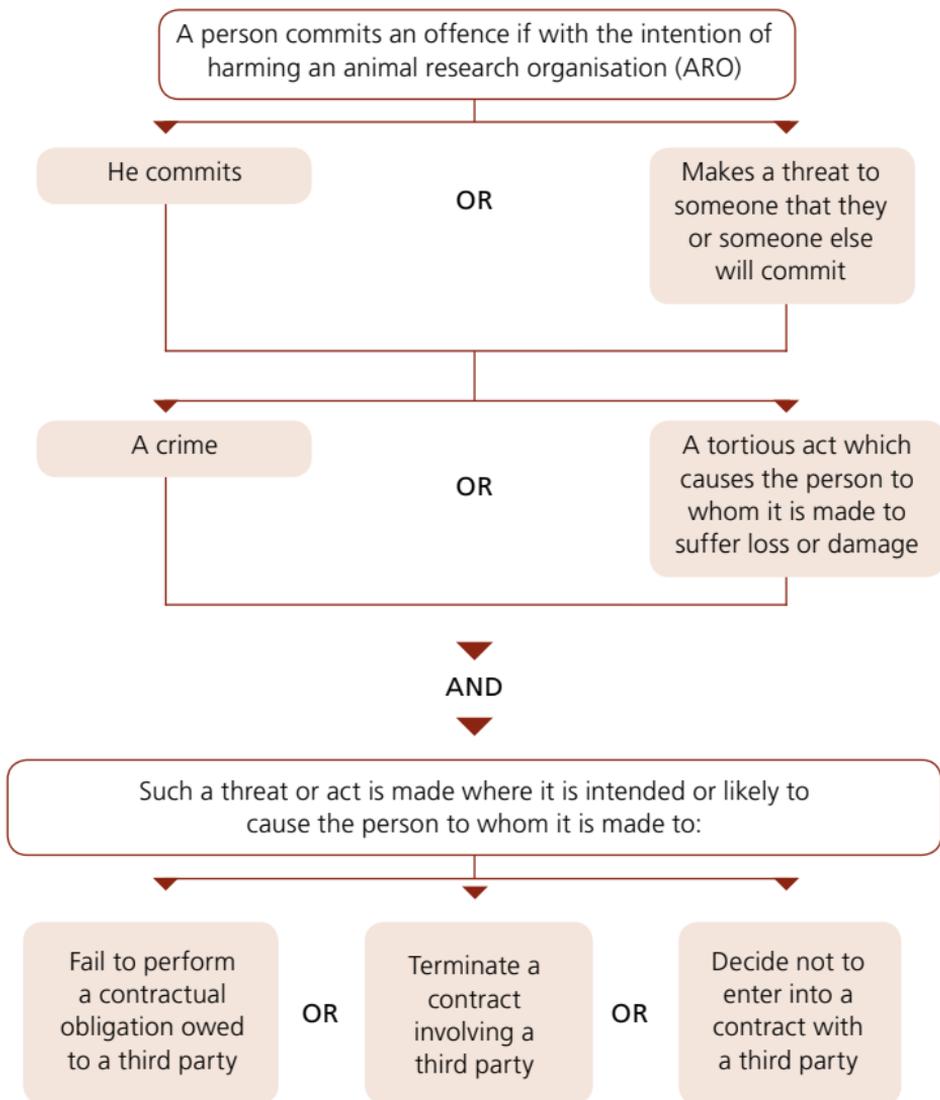
A person or organisation falls within this description if he or it is the owner, lessee or licensee of premises constituting or including a place specified in a licence granted under Section 4 or 5 Animals (Scientific Procedures) Act 1986, a scientific procedure establishment designated under Section 6 1986 Act, a breeding or supplying establishment designated under Section 7 1986 Act. In addition, a person or organisation falls within this description if he or it employs, or engages under a contract for services any of the following: the holder of a personal licence granted under Section 4 1986 Act, the holder of a project licence granted under Section 5 1986 Act, a person specified under Section 6(5) 1986 Act, or a person specified under Section 7(5) 1986 Act.

The meaning of 'harm' to an animal research organisation

Harm to an animal research organisation includes causing it to suffer loss or damage or preventing/hindering it from carrying out any of its activities.

Interference with contractual relationships so as to harm animal research organisations

Section 145 Serious Organised Crime and Police Act 2005



Intimidation of persons connected with animal research organisations

Section 146 Serious Organised Crime and Police Act 2005

This piece of legislation creates the offence of intimidation of persons connected with animal research organisations. An offence is committed:

- I Where a person makes threats to another that they or someone else will commit a crime or tortious act with the intention of harming an 'animal research organisation', **and**
- II Such a threat is made intending the person to whom it is made not to do something they are entitled to do, or to do something they are not obliged to do, **and**
- III Does so mainly or wholly because that person is connected with an 'animal research organisation'.

Offences

A person who engages in activity as described above commits an offence.

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

It is advisable to consult your supervisor prior to the arrest for this offence, as it should be noted that proceedings would only take place with consent of the Director of Public Prosecutions. (Section 147(2) Serious Organised Crime and Police Act 2005). The DPP usually devolves this to local Crown Prosecution Service branches.

In practice this offence may well be dealt with by way of charge after an arrest for a matter such as aggravated trespass or malicious communications. However, this is not exclusively the case as if a tort is threatened then the initial arrest may well be for this offence alone.

Warning and wording upon arrest

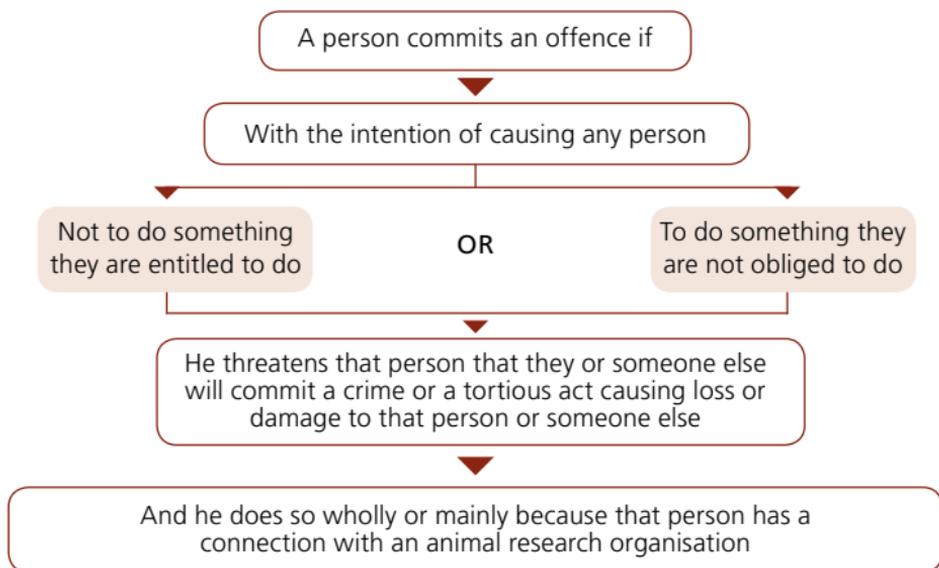
'I believe that you have committed an offence by making a threat to commit an offence (or tort) namely (state offence or tort). By doing so I believe you have committed an offence in relation to Section 146 of the Serious Organised Crime and Police Act 2005. I am arresting you for this offence.'

Caution

The meanings of 'a tortious act' and 'animal research organisation' have the same meaning as described in Section 145 of this Act. (see page 38)

Intimidation of persons connected with animal research organisations

Section 146 Serious Organised Crime and Police Act 2005



Section 68 Criminal Justice and Public Order Act 1994
(amended by Section 59 Anti-Social Behaviour Act 2003)

An offence is committed:

- I Where a person trespasses on land (which includes a building), **and**
- II Does anything intentionally to intimidate persons present on that land or adjoining land so as to deter them or any of them from engaging in any lawful activity, **or**
- III Does anything intentionally to obstruct persons present on that land or adjoining land engaging in any lawful activity, **or**
- IV Does anything intentionally to disrupt persons present on that land or adjoining land from engaging in any lawful activity.

That person commits an offence of aggravated trespass.

Offences

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 Police and Criminal Evidence Act 1984.

Warning

'You are trespassing on land. I believe that your actions are intended to intimidate, obstruct, or disrupt any persons engaged in a lawful activity. If you do not leave this land immediately you will be arrested for aggravated trespass contrary to Section 68 of the Criminal Justice and Public Order Act 1994.'

Note: Officers must prove beyond reasonable doubt that the warning has been heard. A case was once lost when defendants denied having heard a police message shouted over a megaphone, claiming it had been drowned out by the noise from other protestors.

Wording upon arrest

'I am arresting you for aggravated trespass contrary to Section 68 of the Criminal Justice and Public Order Act 1994, as I believe that your actions are intended to intimidate, obstruct or disrupt any persons engaged in lawful activity.'

Caution

Section 68 Criminal Justice and Public Order Act 1994
(amended by Section 59 Anti-Social Behaviour Act 2003)

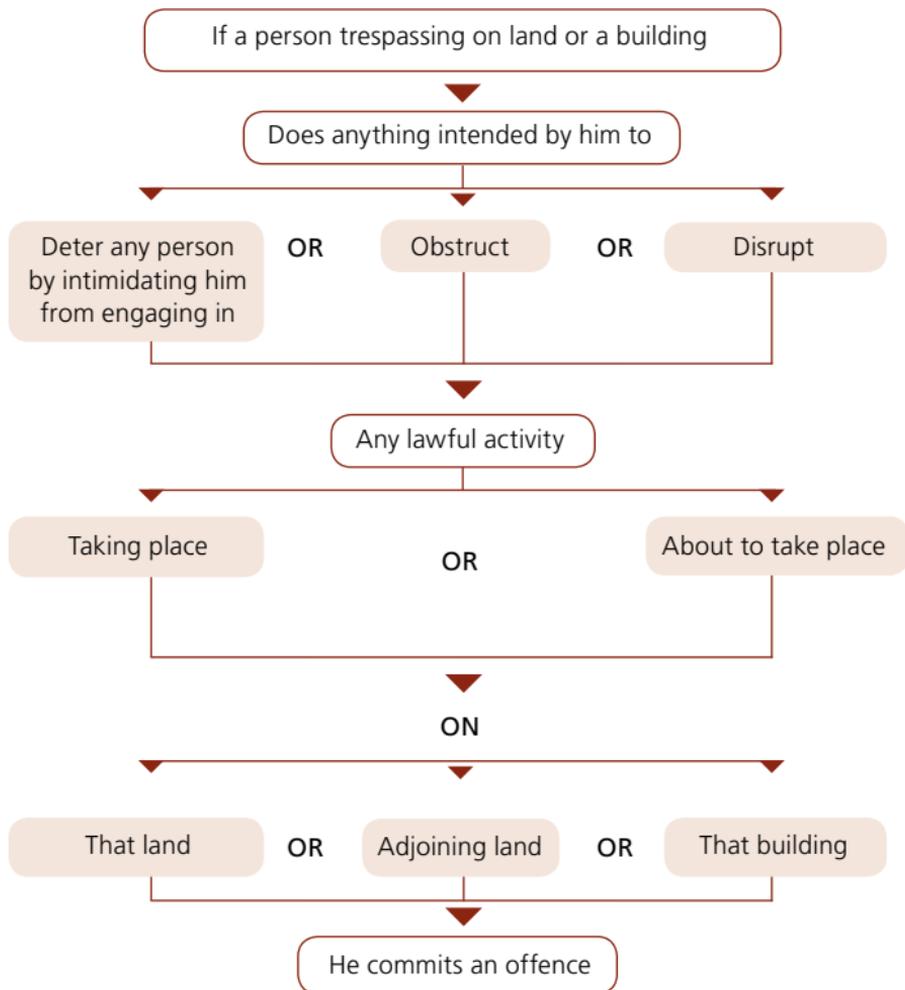
The meaning of 'land'

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 invasion by protestors.

The meaning of 'trespass'

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 that 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 gives an idea of the concept of trespass upon a right of way.

Section 68 Criminal Justice and Public Order Act 1994
(amended by Section 59 Anti-Social Behaviour Act 2003)



Power to remove persons committing or participating in aggravated trespass

Section 69 Criminal Justice and Public Order Act 1994

An offence is committed:

- I If a senior police officer present at the scene reasonably believes that a person is committing, has committed or intends to commit the offence of aggravated trespass on land, (which includes a building), **or**
- II If a senior police officer present at the scene reasonably believes that two or more persons are trespassing on land, **and**
- III Their common purpose is to intimidate persons present on that land or adjoining land so as to deter them from engaging in any lawful activity, **or**
- IV Their common purpose is to obstruct persons present on that land or adjoining land so as to deter them from engaging in any lawful activity, **or**
- V Their common purpose is to disrupt a lawful activity.

He may direct that person to leave the land and not to return for three months.

Offences

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 Police and Criminal Evidence Act 1984.

Power to remove persons committing or participating in aggravated trespass

Section 69 Criminal Justice and Public Order Act 1994

Warning

'You are trespassing on land. I believe that your actions are intended to intimidate, obstruct, or disrupt any persons engaged in a lawful activity. If you do not leave this land immediately you will be arrested for failing to leave land on which you are trespassing contrary to Section 69 of the Criminal Justice and Public Order Act 1994.'

Note: 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.

Wording upon arrest

'I am arresting you for failing to leave land on which you are trespassing, as I believe that your actions are intended to intimidate, obstruct or disrupt persons engaged in lawful activity. This is contrary to Section 69 of the Criminal Justice and Public Order Act 1994.'

Caution

The meaning of 'land'

Land has the meaning as detailed in Section 68 Criminal Justice and Police Act 1994, as amended by Section 59 Anti Social Behaviour Act 2003 to include buildings.

The meaning of 'trespass'

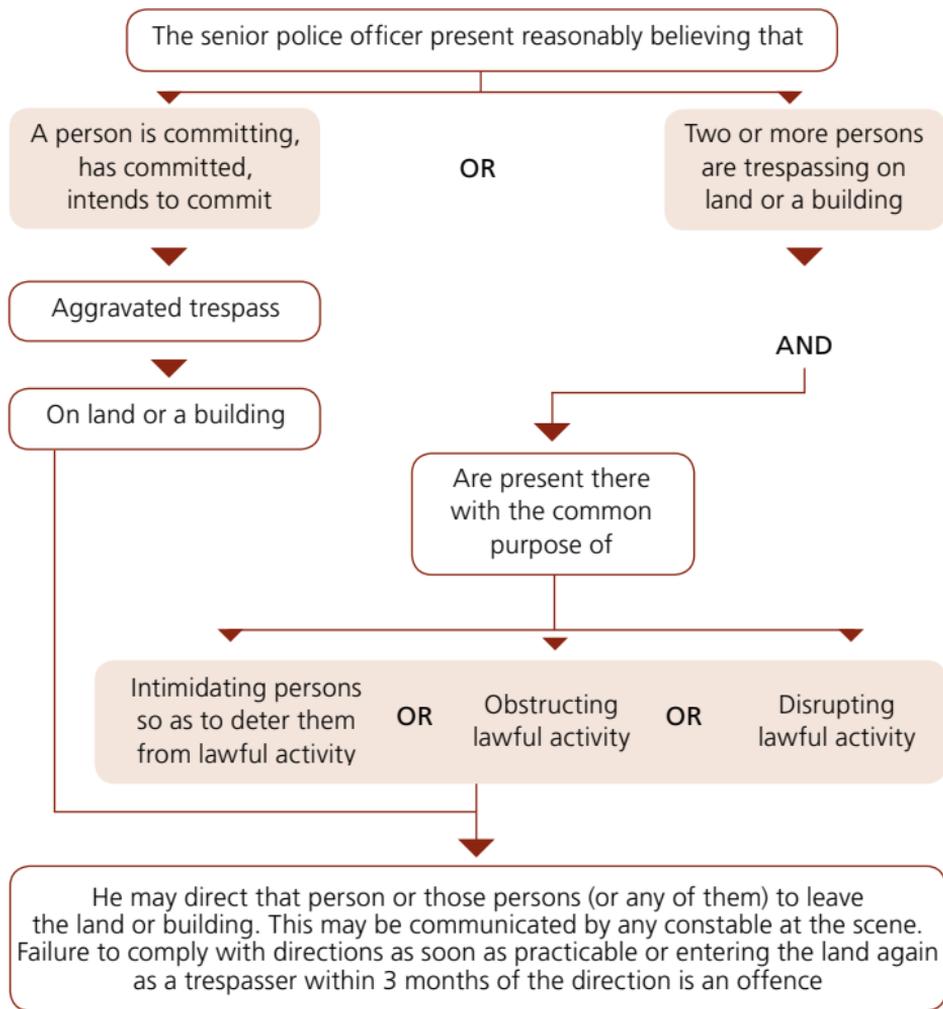
Trespass means to unlawfully enter or remain on land against the interests of the occupier of that land. It would also include the occupation of a public right of way where a person was using that right of way not as a means to travel from point A to point B, but as a means of causing obstruction, disruption,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

The meaning of 'senior police officer'

There is no definition within the Act, however the court's 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.

Power to remove persons committing or participating in aggravated trespass

Section 69 Criminal Justice and Public Order Act 1994



The 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 (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 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 and 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, whether by way of a warning or by way of an arrest, 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 Protection from Harassment Act 1997

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.

Where an arrest is made, the suspect should be told of the grounds of the arrest and cautioned.

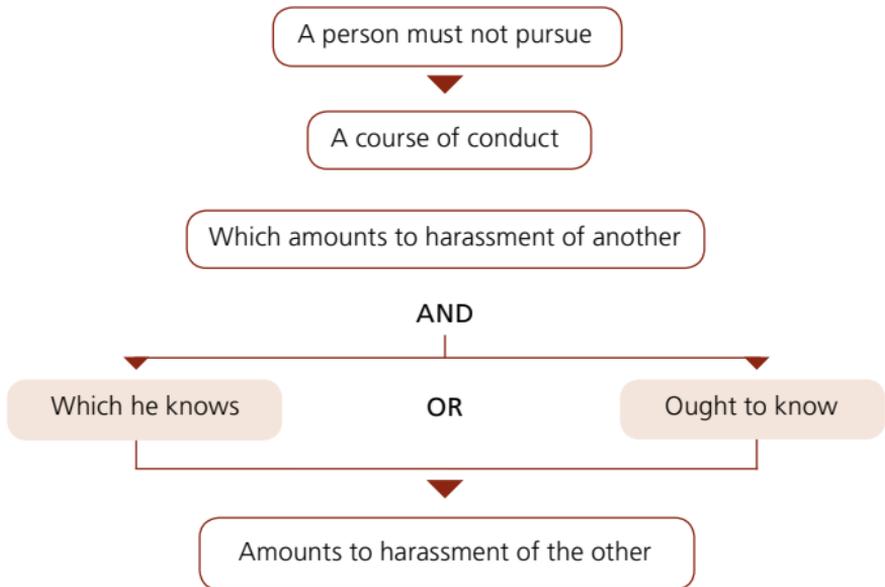
The meaning of 'harassment'

Harassment includes alarming the person or causing them distress.

The meaning of 'course of conduct'

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.

Section 1 The Protection from Harassment Act 1997



Section 3 The Protection from Harassment Act 1997

Civil remedy

Section 3 Protection from Harassment Act 1997 provides a civil remedy which enables a victim of harassment to seek a High Court injunction. There is no need for a person to have been convicted of harassment in order for an injunction to be granted against them. If a court is satisfied that harassment has taken place or is anticipated, then it may grant the injunction.

Section 3A Protection from Harassment Act 1997 which was inserted by Section 125 Serious Organised Crime and Police Act 2005 provides a civil remedy in relation to the harassment of two or more persons in Section 1(1A) Protection from Harassment Act 1997. Either the victim of harassment, or any person at whom the persuasion not to do or do something is aimed, can apply for an injunction.

High Court injunctions that relate to domestic extremism campaigns are listed on the NETCU website. www.netcu.org.uk

Offence

Section 3(6) Protection from Harassment Act 1997 states that an offence is committed when, without reasonable excuse, the defendant does anything which he is prohibited from doing by the injunction.

A police officer may arrest a person who is committing an offence subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning

'Demonstrations in this area are controlled by conditions in a High Court injunction obtained under Section 3 of the Protection from Harassment Act 1997. You are in breach of those conditions (state which conditions).'

Wording upon arrest

'You are in breach of a condition imposed by a High Court injunction obtained under Section 3 of the Protection from Harassment Act 1997. I am arresting you for breach of this injunction.'

Caution

The meaning of 'any person'

In this context any person means an individual or company.

Section 4 The Protection from Harassment Act 1997

An offence is committed:

- I Where a person pursues a course of conduct, **and**
- II Such a course of conduct causes another to fear on at least two occasions that violence will be used against them, **and**
- III The person knows or ought to know that his course of conduct will cause the other to fear violence on each of the separate occasions.

Offences

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

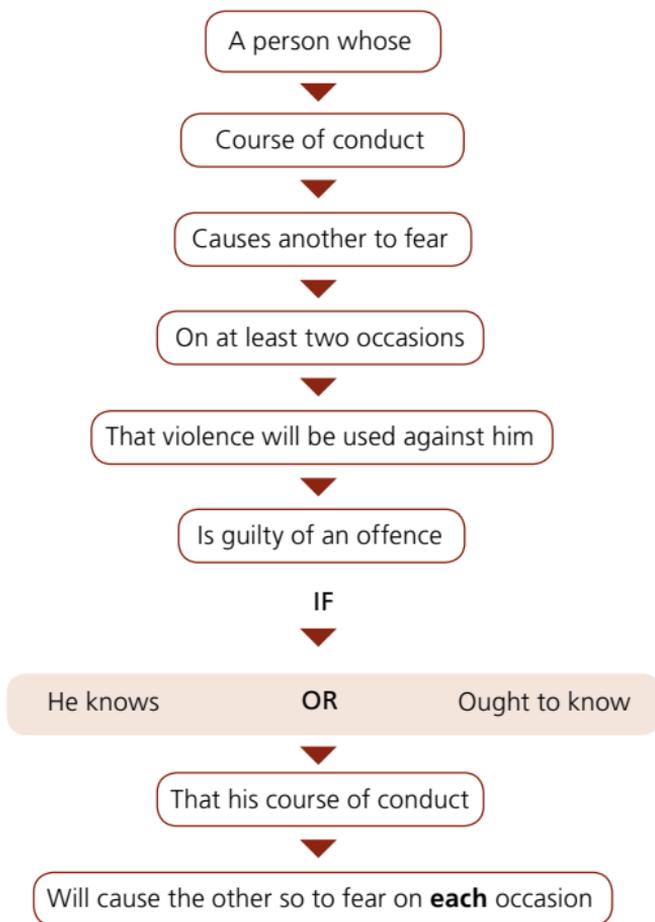
A police officer may arrest without warrant for an offence under Section 2 or 4 Protection from Harassment Act 1997, subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe that you have committed an offence in relation to (state section) of the Protection from Harassment Act 1997. I am arresting you for this offence.'

Caution

Section 4 The Protection from Harassment Act 1997



An offence is committed where a person:

- I Persistently follows another person from place to place, **or**
- II 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**
- III Follows that person with two or more other people in a disorderly manner in or through a street or road, **or**
- IV Uses violence or intimidates that person or his spouse or civil partner or children or injures his property, **or**
- V Hides any tools, clothes or other property owned or used by that person or deprives him of them or hinders him in the use thereof, **and**
- VI Does so wrongfully and without legal authority and with a view to compelling another to abstain from doing an act that they have a legal right to do or compelling another to do any act that they have a right to abstain from doing, he/she commits an offence.

Note: CPS guidance states that there must be clear evidence of an intention to compel, coupled with evidence of the unlawfulness of the action and absence of legal authority.

Offences

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

A police officer may arrest without warrant subject to the necessity test required by Section 24 Police and Criminal Evidence Act 1984.

Warning

It may not be required to make an arrest as a warning may lead to compliance and therefore negate the necessity for the arrest.

For example: '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). I now require you to stop (state the act that you wish the protestor to stop doing) immediately. Failure to do so is an offence that will make you liable for arrest.'

Wording upon arrest

For example: 'Your presence here is preventing a person from doing something that they have a legal right to do. You have been asked to refrain from this behaviour but have failed to do so. I am arresting you for this offence.'

Caution

An offence is committed if a person:

- I 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?

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 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe you are wilfully obstructing the highway without lawful authority or excuse. I require you to stop and the obstruction be removed. You have failed to stop and remove the obstruction. I am arresting you for highway obstruction contrary to Section 137 of the Highways Act 1980.'

Caution

The meaning of 'highway'

A common law interpretation of 'highway' is provided in *Lang v Hindhaugh* (1986) 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.

The meaning of 'lawful authority or excuse'

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.

Note: This legislation should be considered as viable for both policing protest and unlawful street collections. When officers are dealing with street collections they must first establish that the collection is lawful i.e. a valid permit has been issued by the authorising body. If the collection is lawful and in the absence of evidence to suggest other offences, then the collection should be allowed to continue.



An offence is committed if a person without lawful authority or excuse:

- I Deposits any thing whatsoever on a highway to the interruption of any user of the highway.

Note: This offence is different from Section 137 Highways Act 1980 in that there is no need to prove the elements of wilfulness or obstruction however there is the same necessity to prove the person(s) was acting without lawful authority or excuse. For an offence to be committed there must be a conscious deliberate depositing of something on the highway and that the interruption of any user of the highway was, in all the circumstances, an unreasonable interruption.

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 Police and Criminal Evidence Act 1984.

Warning and wording upon arrest

'I believe you have deposited a thing on the highway without lawful authority or excuse to the interruption of users of the highway. I am arresting you for depositing a thing on the highway contrary to Section 148(c) of the Highways Act 1980'.

Caution

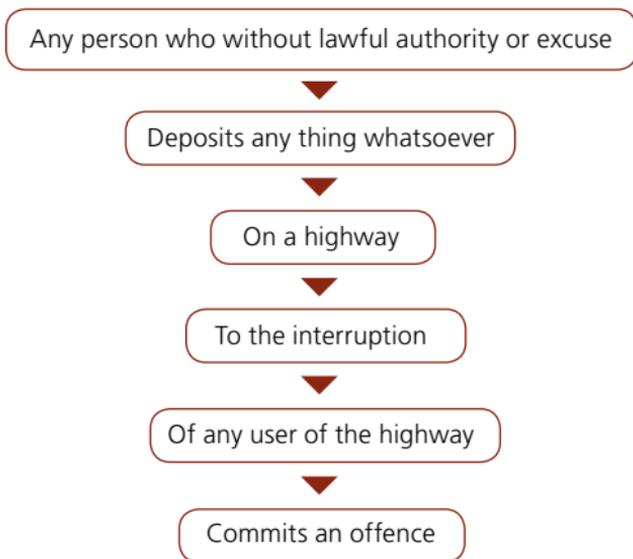
The meaning of 'highway'

See definition under Section 137 Highways Act 1980, (see page 58).

Note: This legislation should be considered as viable for both policing protest and unlawful street collections. When officers are dealing with street collections they must first establish that the collection is lawful i.e. a valid permit has been issued by the authorising body. If the collection is lawful and in the absence of evidence to suggest other offences, then the collection should be allowed to continue.

The meaning of 'lawful authority or excuse'

'Excuse' imports the concept of reasonableness as a question of fact. Therefore, so far as Section 148(c) is concerned, the court must be satisfied that the interruption of any user, in all the circumstances, was a reasonable interruption.



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