

Dealing with trespassers at your place of work can be a tricky business. Contrary to popular belief, the fact that someone has entered your property without permission does not grant you free reign to deal with them as you see fit.

There are many different reasons that a person or group of people may trespass on your business premises, from petty vandals and ex-employees to travellers and protesters, and different cases must be handled in different ways.

Below, we will highlight some of the things commercial property owners should be aware of when dealing with situations involving trespass.

Trespassing is usually a civil matter and, in most cases, the first action if someone trespasses on your property should simply be to ask them to leave. It is only if they refuse that you have the right to use reasonable force.

The difficulty comes in determining what reasonable force constitutes as the circumstances will determine how much force is necessary. If the person does not pose a threat to the premises or persons present, then any use of force may be considered excessive or unnecessary.

Therefore, property owners will often call the police to deal with the situation rather than risk liability. Trespass is not a criminal offense so police will not arrest trespassers unless they believe they are committing or intend to commit aggravated trespass; a further act beyond the actual trespass intended to “deter, disrupt or obstruct” the lawful business taking place.

Step 1: Landowner request trespassers to leave

The first thing to do is request that the trespassers leave the property or stop using it in the manner that they are.

At any large gathering there is the potential for a minority of people to use the event as an excuse to cause trouble. Occasionally, peaceful protests can escalate into violent and dangerous situations. Businesses may face increased risks during periods of public protests and social unrest, which can threaten employees, disrupt operations, and damage property

What is trespass?

Trespassing means that you have entered onto land, or a building, without the owner's permission. Some places have 'implied permission', such as supermarkets. In these cases, you do not need to get consent to enter the premises. Other places, however, require the express permission of the owner. If you fail to do so, you are trespassing.

Trespass is considered a matter of civil law, so you cannot be arrested for trespassing alone. The police may help a landowner remove trespassers from their land, but there cannot be a criminal prosecution (although the trespasser may be sued in the civil courts).

What is aggravated trespass?

Aggravated trespass means that you have entered onto land, or a building, without the owner's permission, with the intention of disrupting, obstructing or intimidating others from carrying out lawful activities.

For example, imagine that activist's trespass onto a dairy farm and chain themselves up, thereby blocking entry to the dairy and disrupting normal operations.

Aggravated trespass is an offence under section 68 of the Criminal Justice and Public Order Act 1994. Due to recent legal changes, it is also an offence to return to the same land within 12 months of committing aggravated trespass.

What might the police and courts call 'intimidation'?

The police and the court may try to classify any 'additional' conduct whilst trespassing as intention to intimidate (or indeed to obstruct or disrupt).

There is no requirement that it should itself involve a crime and it could include! Activities such as playing a musical instrument, taking photographs or chanting slogans.

What is the penalty for aggravated trespass?

Aggravated trespass can only be tried in the Magistrates' Court. The maximum penalty is three months' imprisonment, a fine, or both. First time offenders are likely to receive a conditional discharge.

Aggravated trespass and protester behaviour

Although aggravated trespass has been illegal for many years, it is a particularly relevant offence to discuss at this current moment in time. The government is keen to crack down on 'disruptive' protests, and is calling upon the full force of the criminal justice system to regulate protestor behaviour.

Actions:

- Inform your manager or supervisor immediately.
- Activate any CCTV Cameras – Mobile Phone Video recording with Sound.
- Activate any Security Body Worn Security Cameras
- Consider locking and securing any other access / entry to the Building.
- Inform the Police by Tel 101 or in Emergencies Dial 999: - Note the Log Number of the reported Incident.

The following information will be required:

1. How Many people are involved?
2. Do you know or can you identify the Protestors Group?
3. Do the group have any Banners Flags. Loud Hailers – How many?
4. Describe their behaviour - What they are doing – What are they Saying?



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