

# National protest operational advice

College of Policing and National Police Chiefs' Council

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## Introduction

This document is intended to support accredited officers and staff who are responsible for policing protest activities. It should be used in conjunction with [authorised professional practice](#) (APP), in line with training and [National Police Chiefs' Council](#) (NPCC) advice. The guidance contained in this document is broad in scope to provide a range of scenarios relevant to operational policing. It is intended to inform and guide the independent operational decision making of commanders in this complex, changing and often emotive area of policing.

A key reason for the update of this advice is to reflect the scrutiny, insight and suggested improvements on the policing of protest activities by [His Majesty's Inspectorate of Constabulary and Fire & Rescue Services](#) (HMICFRS). The recent HMICFRS report '[Getting the balance right?](#)' (2021) has been instrumental in the development of this document – and in particular, its observation that:

'Having reviewed the evidence, our conclusion is that the police do not strike the right balance on every occasion. The balance may tip too readily in favour of protesters when – as is often the case – the police do not accurately assess the level of disruption caused, or likely to be caused, by a protest.

These and other observations led us to conclude that a modest reset of the scales is needed.'

Policing will continue to be impartial in its engagement with an activity that is fundamental to the operation of a healthy democracy. We recognise our positive and negative obligations towards protest activity, and we take these seriously. However, we are also clear that, in the words of HMICFRS, a 'fair balance should be struck between individual rights and the general interests of the community' (further links to reports can be found at [Appendix C](#)).

Against this context, this guidance document addresses protest activity in a democratic society, and the role of the police in balancing the rights of those involved with protest with the rights of those affected. The police must respond when necessary, and in a proportionate and lawful manner. The gold command strategy will clearly state the intention to ensure that rights are protected at all stages of any

operation or event. This document also acknowledges that the nature of protest has evolved – and is continuing to do so – hence the need to update the document as new legislation, inspection findings, learning and tactics emerge.

We regularly see the impact of technology, global networking and spontaneous events that can alter the protest dynamic in short time frames. While many protests are organised locally by experienced planners and are marshalled with the assistance of [legal advisors](#), we now live in an era where spontaneous protest can develop in the UK as a result of an incident anywhere in the world. While the great majority of protest activity in the UK is peaceful and requires no police engagement, protest activity can, on a one-off or repeated basis, cause significant disruption to the lives of others. Such incidents require careful consideration to balance the rights of those involved with the rights of the wider community.

It should also be recognised there may be a minority purporting to exercise freedoms of thought, expression and assembly as a veil for criminality. A distinction will, on occasion, need to be drawn between protest activity and those seeking to commit serious criminal acts.

Any demonstration in a public place inevitably causes a certain level of disruption to everyday life, including disruption of traffic. Public authorities have to show a certain degree of tolerance towards peaceful gatherings, depending on the circumstances of the specific protest. More recently, however, highly skilled ‘professional’ protestors have endangered the safety of themselves and others by using tactics that are explicitly designed to cause serious disruption. This disproportionately affects the rights and freedoms of others who are not protesting in this way. While the courts have consistently found that some temporary interference with the rights of others may be proportionate and necessary to uphold the rights of those protesting, the public will expect the police to intervene where protestors’ tactics are likely to cause serious disruption.

The ideology motivating a protest does not devalue the right to protest, and nor does the numbers protesting. However, the rights of those protesting are not absolute. The public are entitled to challenge perceived police inaction to disruption should they feel, or fear, that their rights are not being weighted sufficiently. The role of the police is to take proportionate steps to uphold the rights of all. They should strike an

appropriate balance where there are competing qualified rights (as opposed to absolute rights) and demonstrate that the competing rights have been considered<sup>1</sup>.

This document will focus on Article 8, Article 9, Article 10 and Article 11 of the [European Convention on Human Rights](#) (ECHR). However, it is important to recognise that these may not be the only rights engaged when considering protest. Articles 8 to 11 are qualified rights. While any interference by the police is a serious matter, it may well be both appropriate and proportionate. Grounds for interference are outlined in relevant legislation and case law.

Legislation in the area of protest and its associated right is often challenging to apply, particularly as there is no formal hierarchy of importance between Articles 8 to 11. The relative importance of people's rights in any specific situation may also not be easy to identify. This is particularly challenging for operational commanders making quick decisions, often under real-time media scrutiny.

References to case law and application of human rights legislation (including provisions within an Article) must be considered against the information and intelligence that a commander possesses when making decisions. They should not be subsequently tested against facts established at a later stage.

The guidance in this document is relevant to any developing or established public protest. This document is not a substitute for specialist legal advice or an exhaustive explanation of human rights and associated case law. The responsibility for effective and proportionate decision making in the area of policing protest rests with the individual commander, which is why this document is described as operational **advice**. It is not intended to restrict decision making, but does seek to enable more consistent decision making based on the principles and advice contained herein.

It is intended that this document will support more effective, confident and consistent decision making in this area across the UK, while also ensuring the balance that HMICFRS refers to is maintained and seen to be maintained.

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<sup>1</sup> PF and EF v UK (Application no. 28326/09).

## Legal and human rights overview

A fundamental duty of the police, under section 6 of the Human Rights Act 1998, is to act in a way that is compatible with the human rights of every person involved, even if it is not possible in the circumstances to uphold those rights to the fullest extent. This links to the Code of Ethics. Decision making in policing should always be underpinned by the comprehensive understanding of the Code of Ethics. Protest activity is often generalised as a right by some sections of the public. Protest activity is protected by multiple rights:

- freedom of thought, conscience and religion
- freedom of expression
- freedom of assembly and association

There is no absolute right, in and of itself, to protest without parameters<sup>2</sup>. Freedom to conduct your private and family life without intrusion, unhindered by severe protest disruption, is also a qualified right (see below regarding positive and negative duties). As a result, it is important to recognise rights both in isolation and collectively when balancing rights in an operational setting.

### European Convention on Human Rights

Article 8 – Respect for private and family life

Article 9 – Freedom of thought, conscience and religion

Article 10 – Freedom of expression

Article 11 – Freedom of assembly and association

Article 1 of Protocol No.1 – Peaceful enjoyment of property

The Human Rights Act 1998 requires existing domestic legislation to be read and to be compatible with human rights. [Section 3](#) of the [Human Rights Act 1998](#) states: 'So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.' This principle is particularly important when considering the way in which a statutory power granted to the police is exercised.

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<sup>2</sup> Other than in cases of peaceful industrial picketing at one's place of work (see below).



Human rights are living and conceptually evolving, developing with social and cultural changes. Consideration of case law, as well as the guidance it gives on application, is therefore important. A current example can be found in Article 9(1) of the Convention, which applies not only to ancient and settled world religions, but also extends to various coherent and sincerely held philosophical convictions. This potentially includes pacifism, veganism, a doctor's opinion on alternative medicine and opposition to abortion. Not all protest causes satisfy this criteria. However, those that do will require additional rationale as to the considerations taken with regard to Article 9.

It is important to note that a lack of prior notification to, or engagement with, the police does not make a protest assembly unlawful. However, the greater the understanding of the intentions of the protest assembly and the impact this will have on others' rights, the more it will assist the police to better balance the rights of all involved. Police should seek to audit engagement, or levels of engagement, with protest organisers and the wider public affected. Keeping open and transparent lines of communication are key to balancing rights.

The police have both positive duties (a duty to do something, in certain circumstances, such as take reasonable steps to protect those who want to exercise their rights peacefully) and negative duties (a duty to refrain from doing something, not prevent, hinder or restrict peaceful assembly) to uphold human rights. Any interference should only take place:

- in accordance with the law (within the confines of statute or common law)
- in pursuit of a legitimate aim (these aims are summarised in the subsections of each right, including prevention of disorder, protection of public health and prevention of crime)
- as is necessary in a democratic society (any interference must be justified by a pressing social need and must be proportionate to one or more of the legitimate aims as above)

The interference must not be discriminatory regarding specific characteristic(s) in any given protest or group, or between groups. The police must normally treat all peaceful protest in a similar way (particularly those of legitimate political interest), regardless of the particular views that a group are seeking to express.

Although an outline approach to the assessment of proportionality is included in Appendix 1, the concept is complex and a full consideration is outside the scope of this document. However, decision makers can consider the following framework (as part of wider decision making) to explore the proportionality of any interference<sup>3</sup>:

- whether the objective of the measure is sufficiently important to justify the limitation of a protected right
- whether the measure is rationally connected to the objective
- whether a less intrusive measure could be used without unacceptably compromising the achievement of the objective
- whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective and the effectiveness of the measure, the former outweighs the latter

The above approach is advocated throughout this document and emphasises criteria that must be met to ensure that any restriction on qualified rights under the ECHR is lawful. This is supported by key operational learning from the UK and the [European Court of Human Rights \(ECtHR\)](#) relating to protection of human rights.

Those charged with balancing rights must maintain operational currency with legal developments and engage legal advisors where appropriate. Managing accreditation, annual refresher events and attendance at continuing professional development sessions will assist officers to adopt a neutral position when balancing human rights and ensuring that professional policing standards are maintained. This will subsequently enhance public perception, provide legitimacy and further the valued tradition of policing by consent.

## Striking a fair balance

Not all rights are created equal; we have absolute, qualified and limited rights. These are alternatively expressed as non-derogable (absolute) and derogable (qualified or limited). As explained above, we also have positive and negative duties. This document does not explore the full complexity of all human rights considerations. It focuses on those that are often engaged and/or potentially infringed during times of

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<sup>3</sup> Bank Mellat v HM Treasury [2013] UKSC 39.

protest. Where competing or conflicting rights are to be balanced, the police must start from the position that the rights enshrined in Articles 8, 9, 10, 11 and Article 1 of Protocol No.1 are of equal importance. These rights complement each other, rather than one article taking precedence over another.

Protest activity and the policing of protest have the potential to engage and interfere with the human rights of a range of individuals, including:

- those taking part in a procession, demonstration or protest
- residents living on the route of the procession or near the protest site
- workers whose place of work is on the route of the procession or near the protest site
- the wider public who may be disrupted in their daily activities
- visitors to the area
- police officers themselves, who may be required to deal with serious levels of disorder or violence

## Article 8 – Respect for private and family life

Article 8 is a qualified right. Article 8(1) states that ‘everyone has the right to respect for their private and family life’. Subsection 2 provides the qualification, with detailed grounds upon which proportionate interference may be justified when necessary. It was once considered that Article 8 only provided protection for private matters in the home (*Marcks v Belgium*). The right to respect for one’s home means not just the right to the actual physical area, but also to the quiet enjoyment of that area and to a private life. While Article 8 protects individuals against interference by public authorities, it may also entail the state’s adoption of measures to secure the right to respect for one’s home. The rights guaranteed by Article 8 may include the right to respect for a company’s business premises.

It is common for protest activity to engage the Article 8 rights of those not directly connected to the protest, but who are affected by the consequences of it. Article 8 imposes both positive and negative duties on police. The state’s positive obligations are to take reasonable steps to protect and promote the public’s Article 8 rights and to prevent or punish infringement. In order for a state body to rely on Article 8(2) in justifying its actions, it must be able to provide the court with evidence that the

degree of the adverse effect on one person's enjoyment of the amenities of his home life – or the quality of his private and family life – is sufficiently serious to justify taking action that may have an impact on other people's freedom to exercise their own rights.

## Article 9 – Freedom of thought, conscience and religion

Article 9 is 'freedom of thought, conscience and religion', but what is sometimes overlooked is the freedom 'to manifest his religion or belief'. This is when a person seeks to manifest their religion or belief in public that situations can arise in which balancing these rights against those of others may become necessary.

It should be noted that the state has a positive obligation to protect a person's Article 9 right to practise their religion, wear religious clothing and symbols, and to ensure freedom to worship, free from interference from others (as outlined above in the human rights overview section). This right is asserted in Article 9(1) and is qualified in Article 9(2):

'Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order [...] or for the protection of the right and freedoms of others [...]'.

## Article 10 – Freedom of expression

Article 10 is freedom of expression. Article 10(1) states: 'This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority'. This is qualified in Article 10(2):

'The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society [...] for the prevention of disorder or crime [...] for the protection [...] or right of others [...]'.

Article 10 does not guarantee absolute freedom of expression, nor is there a hierarchy whereby freedom of expression is either superior or inferior to any other

convention right. It is the only right that is expressly described as carrying with it 'duties and responsibilities'. The court has emphasised the importance of Article 10 on many occasions, which is applicable not only to information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. These are considered the demands of tolerance and broadmindedness, without which there is no 'democratic society'<sup>4</sup>.

## Article 11 – Freedom of assembly and association

Article 11(1) states that 'everyone has the right to freedom of peaceful assembly and to freedom of association with others'. In Article 11(2), there is a qualification that such rights can be restricted as prescribed by law and when necessary in a democratic society, or in the interest of public safety and the prevention of disorder. It is when a person is seeking to exercise their Article 11 rights that the potential for having to balancing conflicting rights will most frequently arise. Different parties' freedom of expression and assembly will often come into conflict where a protest and counterprotest take place. This scenario has been considered by the ECtHR on a number of occasions, including *Fáber v Hungary*<sup>5</sup>. In that case, the court confirmed that the state had a positive obligation to protect the right of assembly of both demonstrating groups by finding the least restrictive means that would, in principle, have enabled both demonstrations to take place.

The right covers both private meetings and meetings in public places, whether static or in the form of a procession. Assembly is defined by a common purpose of its participants and is distinguished from a random group of individuals each pursuing their own cause, such as a queue to enter a public building<sup>6</sup>.

## Article 1 of Protocol No.1 – Peaceful enjoyment of property

'Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the

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<sup>4</sup> *Handyside v the United Kingdom*, paragraph 49; *Observer and Guardian v the United Kingdom*, paragraph 59.

<sup>5</sup> Application no. 40721/08.

<sup>6</sup> [ECtHR guide on Article 11](#), section 14.

conditions provided for by law and by the general principles of international law.’

The state has a positive obligation to protect this right, and therefore an obligation to prevent others interfering with this right. This principle has been relied upon by the courts in confirming that there is no right to protest, where to do so involves trespass on private land<sup>7</sup> or on land that is publicly owned, but which is not accessible to the public at large. Similarly, before the state can interfere with an individual’s right to enjoyment of his possessions, the state must fulfil certain criteria: it must be lawful and in pursuit of a legitimate aim, by means proportionate to the aim sought to be realised<sup>8</sup>. The destruction of *The Little Red Schoolbook* in *Handyside v UK*<sup>9</sup> by the state was not a breach of Article 1 of Protocol No.1, nor Article 10, as it met criteria set by the three rules regarding interference of possessions<sup>10</sup>.

## Additional rights

It is important to note that the above is a brief overview of the rights most commonly engaged in the arena of protest. There are also additional rights in the Human Rights Act 1998 that may be relevant, including the following.

- [Article 2 – Right to life](#)
- [Article 3 – Prohibition of torture \(or inhuman or degrading treatment\)](#)
- [Article 5 – Right to liberty and security](#)
- [Article 2 of Protocol No.1 – No one shall be denied the right to education](#)

## Peaceful protest

Protest is not defined in law and, as such, care must be taken when describing assemblies and considering any police actions. Although the ECtHR has not laid down a strict definition of what constitutes mass protests in its case law, it has examined different forms of assemblies amounting to mass protests<sup>11</sup>.

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<sup>7</sup> *DPP v Cuciurean* [2022] EWHC 736 (Admin).

<sup>8</sup> *Beyeler v Italy* [GC], sections 108-114.

<sup>9</sup> *Handyside v the United Kingdom*, sections 59 and 63.

<sup>10</sup> See the ‘[Three rules’ approach](#) as explained in the ECtHR’s guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights at paragraphs 77–93.

<sup>11</sup> *Navalnyy v Russia* [GC] (2018); *Alekseyev v Russia* (2010); *Shapovalov v Ukraine* (2012); *Virabyan v Armenia* (2012); *Frumkin v Russia* (2016), section 148; *Isikirik v Turkey* (2017).

The concepts of peaceful and lawful protest are not the same. While a protest has to be peaceful to attract the protection of Articles 10 and 11, it does not have to be lawful. It is well-recognised that the importance of public protest in a democratic society means that there will be occasions where a peaceful protest should be allowed to continue despite one or more of the following:

- a failure to comply with legal requirements as to notification meaning it is technically unlawful<sup>12</sup>
- there being the prospect of minor offences being committed (including offences not directly associated with the protest)
- in some cases, a minority of those attending committing more serious offences

Retrospective police investigation may be appropriate after the event to prosecute any criminal activities.

The rights protected by Articles 9, 10 and 11 apply only in the context of the peaceful protestor. A protestor whose actions or intentions extend to violence, or the incitement or encouragement of violence by others, cannot rely on the rights set out above. Nevertheless, an individual does not cease to enjoy the right to peaceful assembly as a result of sporadic violence or other punishable acts committed by others in the course of the same protest, provided that the individual in question remains peaceful in his or her own intentions or behaviour. The interpretation of 'peaceful' has traditionally been understood as non-violent. Conduct causing criminal damage that is other than minor or temporary falls outside the protection of the ECHR, as it is violent or not peaceful<sup>13</sup>. The ECtHR<sup>14</sup> offers the following guidance:

‘The question whether an assembly as such was peaceful is distinct from the assessment of the applicant’s conduct. This is assessed as a part of the proportionality analysis carried out in order to decide whether the measures complained of were “necessary in a democratic society.”

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<sup>12</sup> See for example [Bumbeș v Romania](#) at paragraphs 94 and 99–100.

<sup>13</sup> Attorney General’s Reference (No 1 of 2022) [2022] EWCA Crim 1259 at paragraph 115.

<sup>14</sup> See the [ECtHR mass protest](#) guide, section 2.

A key feature of effective protest will often be that it takes place within sight and sound of the people or organisation to whom the protestor wishes to deliver their message. There is a duty on the police not to prevent a protest taking place in such a location, unless there are compelling reasons – conforming with Article 11(2) – that justify a change in venue<sup>15</sup>. In these situations, the police should identify an alternative venue that is as close as reasonably possible to the intended protest location.

It may not be realistic for the police to give separate consideration to each protestor. However, it must be borne in mind that the rights under Articles 9, 10 and 11 are protected for each protestor and member of the public as individuals. The police have a duty to try to differentiate between different types of protesters – for example, those who have peaceful intentions and those who incite or use violence. Those with violent intentions, or who incite or use violence, are not protected by Articles 9, 10 or 11.

## Responsibilities

**Article 17** of the ECHR states that:

‘Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention’.

The significance of Article 17 to protest is that a person whose behaviour sets out to destroy the rights of another cannot guarantee to rely on the protection contained in Articles 10 and 11. For example, violence, or the incitement or encouragement of violence, falls outside the scope of protection under Articles 10 and 11.

The context in which Article 17 will most frequently need to be considered is where the protest seeks to undermine the rights and freedoms of another group in society, such as by the use of hate speech. While different countries may have different concepts as to what might constitute hate speech, the expression of racist ideology

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<sup>15</sup> See [Lashmankin v Russia](#) at paragraph 23.



and religious hatred has consistently been held by the ECtHR not to attract any protection under the ECHR. See, for example, in relation to Islamophobia in [Norwood v UK](#).

This can be contrasted to political protest. It is important to bear in mind that there is a difference between an expression of radical dissatisfaction and speech intended or likely to provoke hatred. In [Stern Taulats and Roura Capellera v Spain](#), the appellants publicly burned a large, upside-down picture of the Spanish King and Queen. These actions did not lead to violence or disorder. The ECtHR determined that this was an exercise of the freedom of expression that retained the protection of Article 10.

In certain cases, the facts are very nuanced. Where the speech is undoubtedly encouraging hatred based on race, religion or ethnicity, the threshold for invoking Article 17 is very high. In [Féret v Belgium](#), the applicant distributed election leaflets carrying slogans such as, ‘Stand up against the Islamification of Belgium’ and ‘Send non-European job-seekers home’. The ECtHR found that the contents of the leaflets did not justify the application of Article 17<sup>16</sup>.

## Deliberate disruption

In some situations, the disruption of others’ ability to exercise their own fundamental rights is the protestor’s aim, not an incidental consequence or side effect of protest. Actions, while peaceful, may be both calculated and intended to cause disruption to the lawful activity of others. The lock-on, sit-down or lie-in styles of protest are familiar examples. Protests may be planned to cause maximum disruption to have the most impact. The target of the disruption may be an activity that is the focus of the protest, such as the obstruction of hunting in [Drieman and Others v Norway](#). It may equally be unrelated activities, calculated to raise the profile of the event, or to bring pressure to bear on decision makers.

In the important case of [Kudrevicius v Lithuania](#), the protestors were farmers who were in dispute with the government and, as part of a protest, put in roadblocks on major highways. The ECtHR found that:

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<sup>16</sup> See paragraphs 77–82 of the judgment in [Féret v Belgium](#), available only in French.

‘the disruption of traffic cannot be described as a side-effect of a meeting held in a public place, but rather as the result of intentional action by the farmers, who wished to attract attention to the problems in the agricultural sector and to push the government to accept their demands’.

The court considered the relevance of this intention to disrupt. While the court felt that causing disruption is not at the core of the freedom protected by Article 11, it did not consider the conduct of the demonstrators sufficient to fall outside the scope of protection under Article 11.

Thus, even where a peaceful protestor takes action that is designed and intended to disrupt the rights of others going about their own lawful activity, this does not mean that the protestor is no longer able to rely on their Article 9, 10 and 11 rights. In the course of striking a balance, while the aims of the protestor may be of some relevance, it will usually be important for the police to focus on the degree of disruption to the lawful activity of others that a protest might cause, rather than the intention of the protestor (see the concept of ‘serious disruption’ in the Public Order Act 2023 section on powers and policy).

Obstruction of the highway during protests is a very common situation, but one which can become difficult to resolve. The use of the highway for the purposes of protest has been confirmed as potentially reasonable and lawful by the domestic courts (see [DPP v Jones](#)) and falling within the scope of Articles 10 and 11 (see above). A degree of obstruction for this purpose is tolerated on a daily basis. However, to allow a complete obstruction of the highway for a significant period of time would be unlikely to represent a fair balance between the rights of the protestor and other members of the community.

The specific scenario of a deliberate highway obstruction by protestors in the immediate vicinity of an arms fair was considered in [DPP v Ziegler](#). This is a complex case, and it is important to read the judgement from the Supreme Court, not

just the outcomes from the lower courts<sup>17</sup>. There were two questions referred to the Supreme Court. The relevant question for this document is as follows.

‘Is deliberately obstructive conduct capable of constituting a lawful excuse for the purposes of section 137 of the Highways Act 1980?’

The court conducted a review of the case law of the ECtHR, which shows that the protection of Articles 10 and 11 of the ECHR extends to a protest that takes the form of intentional disruption obstructing others (see above). However, the extent of the disruption and whether it is intentional are relevant factors in the assessment of proportionality<sup>18</sup>. The factors relevant in this case include that the appellants’ action was, and was intended to be, a peaceful gathering. It gave rise to no form of disorder, did not involve the commission of any offence other than the alleged section 137 offence, was carefully targeted at vehicles heading to the fair, involved no complete obstruction of the highway and, insofar as the obstruction lasted 90 to 100 minutes, was of limited duration<sup>19</sup>. The district judge was entitled to take these factors into account in determining the issue of proportionality of the prosecution and conviction in favour of the appellants.

The Supreme Court recognised that the balancing act to be undertaken at the scene of the obstruction by the police may be different from that taken by the Crown Prosecution Service considering prosecution, or the criminal court hearing the charge. In the context of police intervention, for the policing to remain proportionate, consideration must be given to whether a protestor’s right to continue their protest in a different way, which is less disruptive, can be accommodated. It is important to note that there are two aspects to the Ziegler decision.

- It confirms the general point (as per *Kudrevicius v Lithuania*) that peaceful but deliberately obstructive protest does not fall outside the protection of Articles 10 and 11.

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<sup>17</sup> DPP (Respondent) v Zeigler and others [2021] UKSC 23.

<sup>18</sup> DPP (Respondent) v Zeigler and others [2021] UKSC 23, paragraphs 62–70.

<sup>19</sup> DPP (Respondent) v Zeigler and others [2021] UKSC 23, paragraphs 72–78.

- There is a specific point, confined to section 137 of the Highways Act 1980 that, when considering whether a protestor has a 'lawful excuse' to obstruct a highway wilfully, consideration must be given to whether, in all the circumstances, the enforcement of section 137 in order to bring their obstructive protest to an end would be in accordance with Articles 10(2) and 11(2).

For practical policing reasons, it may in some cases be necessary to deal with a crowd as a single entity. However, in terms of planning, decision making and communication, the rights of each individual protestor matter. Even where the conclusion is that one form of protest must be stopped completely, the police will need to consider whether action can be taken in a way that will preserve the rights of other protestors to continue their protest (see *Ezelin v France*<sup>20</sup>). If no consideration is given to this, there is a risk that the degree of police interference in the exercise of at least some people's Article 10 and 11 rights will be disproportionate.

## Counterprotest

Often, a protest will attract the attention of individuals with opposing views who will wish to stage a counterprotest. Assuming that both groups act peacefully, and not with the aim of inhibiting the rights of the opposing group, police must recognise that both are exercising rights protected by [Articles 10 and 11](#). The first protest to be organised does not have priority, or any favoured status, merely through being the first in time. Simply prohibiting a second assembly in the same place and at the same time as an already notified or planned public assembly, in cases where both can reasonably and safely be accommodated, is likely to amount to a disproportionate, and possibly discriminatory, response.

A distinction must be drawn between the general right to stage a counterprotest, which attracts an equal degree of protection under the ECHR to the first protest, and a specific counterprotest where the intention is (at least in part) to prevent or substantially curtail the exercise of Article 9, 10 or 11 rights by the other group. In the second scenario, conduct with the deliberate purpose to frustrate the exercise of

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<sup>20</sup> [Ezelin v France](#) (1991).

Article 9, 10 and 11 rights by others would itself not be protected by those same articles. In [Plattform ‘Ärzte für das Leben’ v Austria](#), it was confirmed that ‘the right to counter-demonstrate cannot extend to inhibiting the exercise of the right to demonstrate’.

## Harm to others

The potential for actual harm – as opposed to inconvenience, annoyance or offence – to be caused to others may be an important factor in determining what restrictions will be necessary and proportionate. This arises most commonly in the mundane but critical consideration of public safety, particularly when assemblies or processions take place on or near roads. In these circumstances, restrictions that are necessary to prevent a real and proximate risk of harm will be lawful.

The case of [Dulgheriu v LB Ealing](#) concerned a challenge to the imposition of a public spaces protection order (PSPO) that severely restricted the rights of anti-abortion protestors maintaining a vigil outside a clinic offering termination services. The Court of Appeal reiterated that Article 8, 9, 10 and 11 rights deserve equal respect. In relation to the impact of the protests, it found that there was evidence of ‘lasting psychological and emotional harm’ to service users. Having done so, it concluded that the rights of the service users visiting the centre outweighed the Article 9, 10 and 11 rights of the claimants and other pro-life protestors. Given that the conclusion that a protest is causing real, physical or psychological harm to a person (as opposed to annoyance, embarrassment, irritation or nuisance) may lead to significantly greater restriction on the exercise of Article 9, 10 and 11 rights, it is particularly important that police officers obtain cogent evidence establishing that such harm is occurring, or that there is a real risk that it will occur.

## Impact of repetitive or long-term protest

Disruption can be caused by protests in a number of ways. Some protest action may be extremely disruptive in the short term. For example, a protest group accessing an airport’s runway is likely to have a significant, immediate impact on flights. Other protest action may have limited impact in the short term but, over an extended period, could cause significant impact, such as sustained traffic disruption affecting local businesses, employees, deliveries and customers. The right to freedoms of

expression and assembly do not become exhausted through use, nor are the inherent importance of those rights reduced. However, when balancing rights, there are two considerations that may become relevant.

- The impact of the protest on the rights of others may increase (qualitatively or quantitatively) as the protest continues.
- Where a person has been able substantially to exercise their Article 9, 10 and 11 rights, the fact that they have already been able to do so is a legitimate factor to balance against the competing rights of others.

In cases where the protest causes a significant impact on the rights or freedoms of others, both the domestic courts and the European courts have confirmed that there is no legal right to protest for an indefinite duration.

For example:

- In [Molnar v Hungary](#) the ECtHR concluded that where a mobile protest had taken place in a city centre, significantly disrupting traffic, it was a proportionate interference in the protestors' rights to bring the event to an end after eight hours.
- In [The Mayor Commonalty and Citizens of London v Samede](#), the Court of Appeal confirmed that, notwithstanding the provisions of Articles 10 and 11, there was no right to establish a protest camp of indefinite duration on public land.

Where a senior police officer is considering whether a procession or assembly is causing or will cause serious disruption to the life of the community, reaching the threshold to impose conditions under Part II of the Public Order Act 1986:

- Under sections 12(2A) and 14(2A), prolonged disruption of access to any essential goods or service are deemed to fall within the definition of 'serious disruption' to the life of the community.
- For disruption due to noise, sections 12(2E) and 14(2E) of the Public Order Act 1986 now require the senior officer to have regard to both the duration and the intensity of the impact of the noise on persons in the vicinity.

In longer-term protests, the full scale of impact may not be immediately apparent. Where protest affects others over a protracted period, it is important that, from the

start, the police build a portfolio of evidence of the effect on local communities, businesses and transport networks.

## Operational application

Public order and public safety (POPS) policing operations often necessitate that decisions are made based on limited information. Where this is necessary, the decision must be taken in accordance with the [risk principles](#) and identified gaps in the intelligence picture must be recorded, along with a rationale. The national decision model (NDM), Code of Ethics and disorder model can assist with the planning and management of events.

## Information and intelligence

It is important to acknowledge that successful POPS policing operations use the wider police family when appropriate. This ensures that the police can provide a neutral stance when managing an increasingly wide spectrum of protest activity. College of Policing [APP](#) clearly outlines the [structures and protocols](#) that should be in place when planning a policing operation.

Protest groups may use social media throughout all phases of their activity. Groups may stream live footage, selectively posting details of incidents. Generated media may be used as a forum for complaint, comment and further publicity. It is therefore important that the police consider the opportunities and risks of social media. Any access of social media must be considered in conjunction with the provisions contained in the [Regulation of Investigatory Powers Act 2000](#) (RIPA) [code of practice](#). It must be remembered that such information is not always accurate, reliable, valid or representative of the views of all those involved.

The National Police Coordination Centre (NPoCC) Strategic Intelligence and Briefing team has the following key responsibilities:

- delivery of the national POPS strategic risk assessment
- intelligence support from public order specialists
- analytical assessments across strategic risk assessment themes

Early engagement with the NPoCC Strategic Intelligence and Briefing team can assist commanders with strategy development and intelligence collection plans.

It is advisable that bronze intelligence consults a digital media investigator who can provide a digital intelligence and investigation strategy. This will support the gathering of online content in a proportionate manner in accordance with [information management](#) and [intelligence management](#).

## Engagement

Early and ongoing engagement, both with protest groups and with those who may be affected by any protest activity, is fundamental to a 'no surprises, no promises' policing response. It can be seen as an aspect of both the positive and negative obligations of the police under the ECHR, as effective engagement is likely to assist in protests taking place in a way in which both the rights of the protestor and the wider community are balanced. An example is where protest groups are provided with the opportunity to vary their plans and to communicate any such changes in advance, for the benefit of all involved.

Engagement can take place at various levels between organisations and groups. However, it is important that this is coordinated to ensure that commanders have all available information required to make decisions and prevent any fragmentation of message. The police should not give up attempting to engage with organisers if initial approaches are unsuccessful or are rebuffed. Attempts at engagement with organisers, as well as the degree of success and outcome of such engagement, must be carefully recorded. The use of sector-specific loggists and secure data systems is recommended. This will assist with the preparation of materials for court or inquiry purposes.

## Investigation strategy

An investigation strategy should be explored from the outset. Where intelligence indicates that serious disruption or criminality may develop or may be the aim of an assembly, it is important that police commence a portfolio of evidence capturing the intentions and the effect on other individuals, local communities, businesses and transport networks.



Early engagement or appointment of bronze (crime) will assist with the development of the criminal justice strategy and deployment of specialist resources. Detectives, logistics and processes may be required – in addition to specialist uniformed teams – to successfully fulfil a police strategy. Consideration of these elements should start as soon as information or intelligence becomes available.

Consideration should be given to the following:

- co-locating bronze crime with the silver commander
- deploying detectives to the scene with a continuity log
- considering prisoner transport and custody gatekeepers for large operations
- gatekeepers for custody, exhibits and property, ensuring correct procedures for body-worn video, statements and logs are secured

The Crown Prosecution Service will offer advice to commanders supporting the criminal justice strategy. They offer an online portal covering [offences during protest, demonstrations or campaigns](#) that should be consulted, along with the College of Policing Knowledge Hub platform. Specialist knowledge and experience is beneficial when managing complex situations. The advice provided regarding evidential stages, the public interest stage, charges, alternatives to prosecutions and relevant case law has provided great assistance with the policing of recent protests.

## Journalists

The media has a crucial role in providing information on the authorities' handling of public protest and the containment of disorder. The police should ensure that they do not interfere unnecessarily with journalists doing their work, even if inadvertently.

Although journalists attending the scene of a protest assembly do not have any specific legal status or immunity<sup>21</sup>, once a person has been identified as a journalist, it will be unnecessary in many cases to impose the same conditions or restrictions on them as on protestors, such as allowing movement through cordons where it is safe to do so. Whereas a journalist could previously have relied upon a proof of

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<sup>21</sup> Section 17 of the Public Order Act 2023 will restrict the exercise of police powers for the sole purpose of preventing a person from observing or reporting on a protest. However, this section of the Act is not yet in force.

employment (such as a National Union of Journalists card) and therefore a code of conduct, the advent of digital journalism has made it more difficult to identify those who are genuinely reporting on events, rather than being involved in them. The following two principles ought to be followed.

- Any unnecessary restrictions placed on a person who is identifiable as a journalist, and who is seeking to act in that capacity, will interfere with their Article 10 rights.
- However, even where a person is apparently reporting on events, it may still be necessary to require them to comply with reasonable instructions to enable the police to carry out their duties safely and effectively. Where such an instruction is given, the reason why it was believed to be necessary to do so should be carefully recorded.

A practical application of this approach is found in [Pentikäinen v Finland](#). This was a case in which a journalist was arrested following his refusal to comply with lawful and reasonable orders given by police during a protest. The ECtHR found that the importance of the watchdog role of the media meant that any attempt to remove journalists from the scene of a public protest must be subject to strict scrutiny. The police had not sought to prevent him from reporting from the scene of the protest, and he was arrested only because he had failed to comply with police orders, rather than because of his status as a journalist. His status as a journalist did not exempt him from his obligation to comply with the order.

## Legal advisors and observers

‘Legal advisor’ is not a term recognised in any statutory or regulatory framework in the UK. Anyone can provide legal advice in all manner of informal settings. The key is how an advisor presents themselves and what they purport to be – hence a legal advisor must make it clear to what extent they are, or are not, legally qualified.

The term or role of an independent legal advisor has been used at protests in recent times with an expectation that the individuals will have privileges not afforded to others present. The term ‘independent’ should be read within the ordinary dictionary meaning, which is to be ‘free from influence, guidance, or control of another or

others'. This is distinct from purporting to be an accredited professional with a practising certificate and an appropriate level of professional indemnity insurance.

To claim to be a solicitor, or barrister, without the requisite registration on the roll (according to profession) may be an offence<sup>22</sup>. The legislation relating to the title 'solicitor' includes 'any name, title, addition or description implying that he is'<sup>23</sup>.

Practising professionals, with the requisite standing, should be able to evidence the same with relative ease. Once the standing of the individual concerned is confirmed, an appropriate response can follow. A similar approach should be taken to that for journalists. Unnecessary restrictions are to be avoided, but where there is an identifiable policing need to do so, they can be given instructions (or be subject to conditions) like any other person participating in an assembly.

A 'legal observer' is not a term that has, or indicates, any specific status. Legal observers are usually encouraged by protest groups not to participate actively in the protest, and not to obstruct police officers in any way. Legal observers are not automatically entitled to be treated differently to any other person. They are not usually in a position to negotiate, mediate or be a channel of communication with protestors.

## Assessing threat and risk

The policing of assemblies can be challenging. The POPS APP, along with the [risk principles](#) and [NDM](#), should be used to build an accurate assessment of the potential risks. With an accurate intelligence picture and engagement with stakeholders, mitigation steps can make a significant improvement to the safety of all involved.

Threat and risk assessments should consider the following elements.

- **People** – An assessment of the individual or group can be made using ICII (identity, capability, intent and immediacy).

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<sup>22</sup> See section 20 of the Solicitors Act 1974: 'no unqualified person is to act as a solicitor'.

<sup>23</sup> See section 21 of the Solicitors Act 1974: 'Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is, qualified or recognised by law as qualified to act as a solicitor shall be guilty of an offence...'

- **Objects** – The use of equipment, platforms or lock-on objects can significantly alter an assessment.
- **Places** – The location used for an assembly can increase or decrease the safety of the public, protestor and police in attendance.
- **Situation** – An assessment will be influenced by the current activities, interactions and what may be coming next. The perception of police action (including police use of force), speakers, emotion or scheduled events can trigger a rapid change in crowd dynamics and crowd psychology.

Particular consideration should be afforded to vulnerable people when assessing threat and risk. Young people can be drawn to crowds and can be used by others to initiate actions that they would otherwise not engage with. While the list is not exhaustive, persons vulnerable by age or mental health, victims of coercive relationships and those under the influence of drink or drugs should be factored into an assessment.

Police have an enhanced obligation to carry out their functions in a way that takes account of the need to safeguard and promote the welfare of children<sup>24</sup>. As part of the planning and risk assessment for an operation, the likelihood of children attending ought to be considered and recorded. Where police are aware that children may attend an event, they have a specific duty when planning for an event to specify safeguarding considerations, including working with the event organiser, charities and children's services, which may assist with contingency planning.

## Powers and policies

This document is not intended to contain a comprehensive statement of the full range of powers available to the police in the realm of public order. It focuses on those key features of peaceful public protest that are likely to lead officers to be considering taking action under either the Public Order Act 1986 (via the imposition of conditions) or the new powers under the Public Order Act 2023, many sections of which are yet to come into effect.

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<sup>24</sup> See [Castle v Commissioner of Police](#) [2011] EWHC 2317 (Admin).

## Changes to the Public Order Act 1986

The [Police, Crime, Sentencing and Courts \(PCSC\) Act 2022](#) introduced a number of changes to the exercise of powers by the police under Part II of the Public Order Act 1986 in relation to both processions and assemblies. The government has produced its own guide to these changes in a [Home Office factsheet](#). The key changes to the provisions of the Public Order Act 1986 are as follows.

### Range of conditions that may be imposed on assemblies

A new subsection has been introduced, section 14(1A), that aligns the conditions that may be imposed on an assembly with those for a procession, such as start and finish times and maximum noise levels.

### Disruption due to noise

New subsections introduced into sections 12 and 14 now provide for the noise generated by a procession or an assembly to be a free-standing basis for the imposition of conditions. The threshold for considering the imposition of conditions is **either** of the following.

- The noise generated by persons taking part in the assembly or procession may result in serious disruption to the activities of an organisation that are carried on in the vicinity. For example, this may include instances where people connected with the organisation are, for a prolonged period of time, not reasonably able to carry out the organisation's activities.
- The noise generated by persons taking part in the assembly or procession may have a significant relevant impact on persons in the vicinity. 'Relevant impact' is defined as noise that may result in the intimidation or harassment of persons of reasonable firmness, or which may cause such persons to suffer alarm or distress.

A person of 'reasonable firmness' is someone with the characteristics of persons likely to be in the vicinity. Specific account can therefore be taken of the proximity of an assembly or procession to, for example, a school or nursing home. In considering whether the noise may have a 'significant impact' on persons in the vicinity, the senior police officer **must** have regard to:

- the number of persons likely to be affected by the noise
- the likely duration of that impact on such persons
- the likely intensity of that impact on such persons

The government guidance on the amendments emphasises that noisy protest is not prohibited. The police will need to consider the human rights of both the protestor and those affected by the noise generated by the protest.

## Imposition of conditions on a one-person protest due to noise

Section 14ZA is an entirely new provision. It enables a senior officer to impose similar conditions on a one-person protest (whether static or moving) where the noise generated by that protest may have a similarly disruptive effect to that set out above.

## Meaning of ‘serious disruption to the life of the community’

Additional subsections have been added to sections 12 and 14, which provide for specific situations that might constitute ‘serious disruption to the life of the community’. The two specific scenarios identified are where it may result in a significant delay to the supply of a time-sensitive product to consumers of that product or a prolonged disruption of access to any essential goods or essential services<sup>25</sup>.

The Act also provides for the government to make regulations relating to serious disruption to the life of the community, or serious disruption to the activities of an organisation. It is anticipated that Regulations adding further to what may constitute serious disruption will come into effect in June 2023.

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<sup>25</sup> This includes (but is not limited to) access to:

- the supply of money, food, water, energy or fuel
- a system of communication
- a place of worship
- a transport facility
- an educational institution
- a service relating to health

Although the Act is now quite specific in how the threshold of disruption caused by noise and physical disruption is to be assessed, any conditions imposed under sections 12 and 14 will still need to strike a proportionate balance between the rights of the protestor and those of the wider community.

## Amendment to the offence of knowingly failing to comply with a condition

Faced with the imposition of conditions on a procession or assembly, protestors have been known to cover their ears or tear up written conditions handed to them in an attempt to evade conviction 'knowingly' failing to comply with a condition imposed. The offences have now been amended in sections 12(5)-(5A) and 14(5)-(5A), so that a person who fails to comply with a condition is guilty of an offence if they knew, or ought to have known, that the condition was imposed. The original defence, available to a person who can prove that the failure to comply with a condition arose from circumstances beyond their control, is still potentially available.

## The Police, Crime, Sentencing and Courts Act 2022 Act

As well as amending the Public Order Act 1986, the PCSC Act 2022 created additional powers and offences potentially affecting the policing of protest activity.

### Public nuisance

Section 78 of the PCSC Act 2022 implements a recommendation by the Law Commission to abolish the existing common law offence of public nuisance, replacing it with a new statutory offence. Under section 78 of the Act, a person commits an offence if they do an act (or omit to do something they are required to do) with the intended consequence of either:

- causing, or creating a risk of, serious harm to the public or a section of the public
- obstructing the public (or a section of the public) in the exercise or enjoyment of a right that may be exercised or enjoyed by the public at large

'Serious harm' is defined as any of:

- death, personal injury or disease
- loss of, or damage to, property

- serious distress, serious annoyance, serious inconvenience or serious loss of amenity

## Expedited public spaces protection orders

The PCSC Act 2022 introduces a new power for local councils (not the police) to make an expedited PSPO in the vicinity of schools and sites providing vaccination or test-and-trace services. The conduct that the orders focus on preventing is persistent, unreasonable conduct that causes harassment to people working at or accessing the site, or that impedes access to the site or the provision services at the site. This will allow councils to take rapid action to protect those who work and use the essential services that these sites provide from the harm that some protests targeting these sites have been able to cause. Breach of a valid expedited PSPO without reasonable excuse is an offence.

## Public Order Act 2023

The **Public Order Act 2023** (POA 2023) received Royal Assent on 2 May 2023. Some of the sections came into immediate effect, but others are not yet in effect. It is anticipated that sections will come into force at various times, due in part to required changes with associated legislation by way of statutory instruments.

Sections that are yet to commence are clearly marked below. These sections should not be considered until the commencement date has been published and sections have been confirmed online.

The Home Office has produced a **factsheet** that may also assist in understanding the scope and effect of the new provisions. However, it must be borne in mind that many of the powers described on the website are not yet in force.



## Provisions in force

### Sections 1 and 2 – New offences of locking on and going equipped to lock on

Section 1 creates an offence of ‘locking on’. This measure criminalises the protest tactic of individuals attaching themselves to others, objects or buildings with the intention of causing serious disruption to two or more individuals or to an organisation, or being reckless as to whether serious disruption is caused. There is a defence available if the individual can prove that they had a reasonable excuse for locking on. The locking-on offence will carry a maximum penalty of six months’ imprisonment, an unlimited fine or both.

Section 2 creates an offence of ‘being equipped for locking on’. This is committed where a person has an object with them (in a place other than a dwelling) with the **intention** that it may be used in the course of, or in connection with, any person committing a locking-on offence. Given that many items that could be used to lock on are everyday objects to be carried on the streets (such as a bicycle lock), it is the intention that will be the key consideration when considering if there is a suspicion that a person is committing an offence under section 2. The amendment to The Police and Criminal Evidence Act 1984 (PACE) that will give a power to search for items used, or to be used, in the offence of locking on is not yet in force.

The maximum penalty for the offence of going equipped to lock on will be an unlimited fine.

It is important to note that the meaning of ‘serious disruption’ for the purposes of an offence under sections 1 or 2 of the POA 2023, as set out in section 34 of the new Act, is **different** from that for ‘serious disruption to the life of the community’ within sections 12 and 14 of the POA 1986.

### Sections 3 to 5 – Offences of causing serious disruption by tunnelling, being present in a tunnel and being equipped for tunnelling

These offences have been introduced to assist police when managing tunnelling protest activity. It should be noted that the definition of ‘tunnel’ varies between section 3 and section 4 of the POA 2023.

## Section 34 – Meaning of ‘serious disruption’ for locking on

Section 34, which is in force, provides as follows:

- ‘(1) For the purposes of this Act, the cases in which individuals or an organisation may suffer serious disruption include, in particular, where the individuals or the organisation—
- (a) are by way of physical obstruction prevented, or hindered to more than a minor degree, from carrying out—
    - (i) their day-to-day activities (including in particular the making of a journey),
    - (ii) construction or maintenance works, or
    - (iii) activities related to such works,
  - (b) are prevented from making or receiving, or suffer a delay that is more than minor to the making or receiving of, a delivery of a time-sensitive product, or
  - (c) are prevented from accessing or suffer a disruption that is more than minor to the accessing of, any essential goods or any essential service.’

The above definition is not exhaustive: a person could cause serious disruption in a way that is not covered by section 34. However, it is likely that although there are similarities with the threshold for imposing conditions under sections 12 and 14 of the POA 1986, there are also differences. The most obvious difference is that the person or organisation being disrupted does not have to be in the vicinity or nearby a community. A person undertaking a journey may experience serious disruption despite being some distance from, or merely travelling through, the area where the lock-on takes place.

It is extremely important to note that a purely symbolic lock-on is not an offence. The offence is only committed where a person has intentionally caused serious disruption (or is reckless as to whether such disruption is caused).

Although the threshold in section 34 for 'serious' is disruption that is 'more than minor', police officers must keep in mind the importance of any action taken in response to a lock on being proportionate.

## Section 6 – Obstruction etc of major transport works

This offence concerns obstruction and interference of major roadworks. The definition lists 'undertaker', which is defined as a person authorised to construct or maintain any major roadworks.

## Section 7 – New offence of interference with key national infrastructure

Section 7 creates an entirely new offence of interference with 'key national infrastructure'. It is committed where a person does any act (an omission is insufficient) with the intention of interfering with the use of any key national infrastructure, or is reckless as to whether such interference is caused.

'Interference' is defined as where the action 'prevents the infrastructure from being used or operated to any extent for any of its intended purposes', to include where 'its use or operation for any of those purposes is significantly delayed'.

Key infrastructure is closely defined within sections 7 and 8. The definition is exhaustive, but includes the national road network (not local roads), rail and air infrastructure, newspaper printing, and downstream oil and gas infrastructure.

Two specific defences apply where a person can show that they had a reasonable excuse for the act, or where the act was done wholly or mainly in contemplation or furtherance of a trade dispute.

The offence will attract a maximum penalty of 12 months' imprisonment, an unlimited fine or both.

## Section 15 – Processions, assemblies and one-person protests delegation of functions

Within London, the minimum rank for an officer who may attach conditions to an upcoming protest or prohibit a trespassory assembly has been changed to that of commander (which is equivalent to assistant chief constables outside London).

## Section 17 – Exercise of police powers in relation to journalists etc

This section provides clarity on when officers can exercise powers on those observing or reporting on a protest event. The explanation of ‘journalist’ is not limited to registered card holders but to any person observing or reporting on an event.

## Provisions not yet in force

The following parts of the [POA 2023](#) are not yet in force. It is particularly important to note that the powers to stop and search under PACE have not been amended, nor has the power to authorise searches without reasonable grounds to suspect come into effect.

- Sections 3 to 5 – Offences related to tunnelling.
- Section 9 – Interference with access to, or provision of, abortion services.
- Sections 10 to 14 – Powers for stop and search.
- Section 16 – Assemblies and one-person protests: British Transport Police and Ministry of Defence Police.
- Part 2 – Serious disruption prevention orders.

This document, along with other College of Policing document and advice, will be provided as and when the powers are enacted.

## Injunctions and PSPOs

When policing protests, the police are increasingly required to liaise with third parties (including local government and governmental departments) who may be seeking civil injunctions against protestors, or to take account of injunctions that have been granted.

In the past, injunctions obtained by public bodies have tended to relate to possession of land occupied by protestors. However, recent protests, including those by organisations such as Insulate Britain and Just Stop Oil, have led to public bodies seeking anticipatory injunctions to prevent trespass or nuisance<sup>26</sup>. The Public Order

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<sup>26</sup> See the Court of Appeal decision in *National Highways Ltd v Persons Unknown* [2023] EWCA Civ 182.

Act 2023 will grant the Secretary of State additional powers to seek injunctions, potentially including a power of arrest, in order to prevent serious disruption to national infrastructure or access to essential goods or services. At the time of writing, while the Act has received royal assent, this power is not yet in force.

In addition, local authorities are able to obtain PSPOs under the Anti-Social Behaviour, Crime and Policing Act 2014, which operate in a similar way to an injunction. The main difference is that breach of a civil injunction is a contempt of court, while a failure (without reasonable excuse) to comply with a PSPO is a criminal offence.

Recent years have seen commercial businesses increasingly resort to civil injunctions to resolve issues associated with prolonged or reoccurring disruptive protest. While it is appropriate for the police to consider providing objective evidence for these cases, whether to a commercial business or a protestor, it is important that the police remain impartial in any application for injunctions. When the court grants an injunction, it is essential that the police are fully sighted on its contents and that the businesses' expectations are managed with regard to its enforcement. The injunction will very rarely impose specific duties on the police regarding enforcement, and an assertion that it does so will have to be considered critically. If this were indeed the case, the police would normally have a right to go back to the judge who granted the injunction to seek clarification and to request modification of any terms that imposed specific duties or obligations on them.

The terms and scope of any injunction or PSPO, and any implications for the policing operation, must be contained within the tactical plan, which will need to be communicated clearly to officers deployed onto the operation. For example, officers will have to know whether a power of arrest applies to the injunction. Even if there is not such a power, the existence of the injunction may be a relevant factor for an officer to consider when deciding if an arrest for an offence is necessary.

Where a civil injunction or PSPO has been granted, it is essential that the police are provided with:

- a full copy of the order made, including any appendices and maps
- a copy of the judgment when the injunction was granted, as well as any subsequent judgments extending or varying the injunction

In order to fully understand the position, it will also be helpful to obtain the information presented to the court by each side at the hearing of the application.

## Industrial action

Section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) provides that, in specific circumstances, it is lawful for a person to picket peacefully at, or near, his own place of work, and for a trade union official to be in attendance. While there are numerous conditions attached to how these rights may be exercised (particularly in relation to trade union involvement), it is one of the few areas in which a right to protest is expressly granted by domestic legislation. The statutory right does not extend to 'secondary picketing' at a place other than one's usual place of work, although the general freedoms in Articles 10 and 11 still apply.

The TULRCA also contains an important offence of intimidation by 'annoyance, violence or otherwise'<sup>27</sup>, and covers activity similar to that falling within the scope of harassment, although there are differences in relation to the precise actions it covers. It is important to note that the offence can be committed by anyone. No direct connection to an industrial dispute is required and it may have direct application to protestors whose target is a workplace or business.

Although peaceful pickets, lawfully organised by a trade union, will rarely require significant police involvement, the law surrounding picketing and industrial action is not straightforward. A detailed code of practice is available<sup>28</sup>. When dealing with incidents relating to industrial relations that do require police involvement, officers should familiarise themselves with the relevant requirements placed on employers, trade unions and employees under the Act, and should consider seeking legal advice.

## Identify options and contingencies

Once a strategy has been set, the planning process should identify the resources that are required to meet the strategic aims. This should be flexible enough to adapt

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<sup>27</sup> See section 241 of the Act.

<sup>28</sup> See the government's [Code of Practice: Picketing](#).

to changing circumstances based on foreseeable contingencies. For complex or protracted operations, the options and contingencies should be reviewed at regular intervals. The silver commander remains responsible for developing the tactical plan and use of the assets. Operational parameters should be set at the planning stage and reviewed when necessary.

## Containment

The use of containment as a crowd control measure must be:

- resorted to in good faith
- proportionate to the situation making the measure necessary
- enforced for no longer than is reasonably necessary
- considered against necessity, communication, timescale and differentiation tests

If the use of containment does not meet this criteria, its use may be found to be arbitrary and in violation of ECHR Article 5. It is important that specific contingencies are put in place for any events where it is anticipated that it might be necessary to consider the use of containment. Further guidance is available in POPS APP.

## Community mediators

Community mediators are individuals or groups, independent from the police (for example, religious leaders, community advocates and voluntary sector agencies), who represent and regularly engage with a specific community or protest group. They are a useful contact for the police, as they can:

- facilitate or establish dialogue with a group – ‘no surprises, no promises’
- dispel rumours and reduce potential conflict
- positively influence sections of the groups, facilitating the flow of information
- increase community engagement

## Evidence gathering teams and image retention

The police gathering and storing data of people attending protests will interfere with Article 8 rights. Overt gathering of personal data for the legitimate aim of prevention of disorder or crime and safeguarding the rights and freedoms of others was

confirmed in [Catt v United Kingdom](#). This case also acknowledged that police have to collect the data before evaluating its value.

The retention and deletion of the gathered data is fundamental to avoid breaching Article 8 rights. In particular, sensitive data without a legitimate police purpose must be avoided. The introduction of the Law Enforcement Data Service (LEDS) and the revision of Management of Police Information (MoPI) guidelines will have a major impact on the treatment of information gathered.

The use of evidence gathering teams (EGTs) to record a state of normality in advance of, during and after protest will offer context regarding any potential impact of protestor action, in addition to obtaining evidence of any offences. EGTs will also provide useful evidence in relation to the conduct of both stakeholders and the police during the protest.

The use of body-worn video cameras can supplement the use of EGTs but should not replace them. Automatic facial recognition at public events, including protests, is still at an early stage and falls outside the scope of this document.

An EGT will:

- secure photographic, video and digital imagery, and audio evidence to support the investigation and prosecution of offenders
- record the delivery of warning messages
- consist of a minimum of two trained and appropriately equipped officers (with one of these officers acting as a minder for the other)
- develop logs and statements, in accordance with disclosure rules

## Forward intelligence teams

Forward intelligence teams (FITs) may be effective in identifying and engaging with individuals who may become involved in – or encourage – disorder or violence, or who may increase levels of tension. Through the monitoring of these individuals and groups in an overt uniform capacity, FITs can be effective in deterring the planning, preparation or commission of disorder and unlawful acts. FITs also provide real-time updates for commanders regarding identity, capability, intent and immediacy (ICII).



FITs will always complete a detailed post-event intelligence report. FITs maintain a level of specialist knowledge around protest groups and capabilities.

An FIT will:

- be tasked to undertake overt information and intelligence gathering
- identify and engage with individuals or groups who may become involved in – or encourage – disorder or violence, or who may increase levels of tension
- provide commanders with real-time updates so that resources can be deployed efficiently and effectively
- provide information to assist in early resolution of events – for example, arrests or release of contained persons
- consist of a minimum of two trained officers, normally working to bronze intelligence

## Police liaison teams

Police liaison teams (PLTs) are clearly identifiable with light blue tabards and should be deployed to engage with the protestors and the community to communicate police messages and clarify issues raised. Face-to-face communication between the police and the public is a key element of the British model of policing. PLT officers are ideally placed to engage directly with the public and protestors. They are not deployable to gather intelligence, they are deployed to reassure the groups assembled. PLTs can increase:

- dialogue policing
- communication of the media plan
- the link with social media

## Protestor removal teams

Protestor removal teams (PRTs) are specially selected officers who have been provided with specialist training and equipment to assist with the management and potential removal of protestors. The level of specialism is related to their role, with the most common teams deploying debonding solutions to dissolve solvents.

Increased training is provided for officers who face more challenging situations at ground level or in complex environments.

The health and safety considerations for the protestors, public and officers should not be underestimated by commanding officers. While the activities of some protest groups involve dangerous acts carried out by experienced members, these cannot be regarded as a safe practice, regardless of any proclaimed experience. The policing operations to apprehend such members by accredited PRTs also carry significant risk.

Evidence of the methods used by protestors to either frustrate the actions of or endanger the safety of the protestor, public and police teams must be sought to support prosecution cases against the individuals. On occasions, the use of drones may assist with this task.

Once an operation has started, the police have the responsibility for the safety of the public, protestor and PRT officers. As this is a significant responsibility, the following should be considered by commanders.

- The necessity for, and correct completion of, a risk assessment.
- The time requirement and importance of conducting pre-use checks on all equipment.
- Views of the PRT leader regarding the safest way to achieve the set aim.
- Whether suitable medical provision is in place.
- Whether an immediate rescue plan is in place as a possible contingency.
- The safety implications for the removal of persons.
  - The number and manner of the protester(s) will have an impact on safety. If protestors are showing resistance, it may not be viable to achieve a safe removal.
  - Do the benefits of a removal outweigh the risks associated?

## Take action and review

Debriefing should be a standalone phase of the operation. It should inform future operations and the intelligence community of any relevant observations, both positive and negative, regarding the event. It is an opportunity to identify:

- information, intelligence and any gaps in these
- potential requirements for future operations, including detailing and engagement, welfare and logistical issues
- any follow-up actions needed
- learning for future operations

The national operational POPS debrief form must be completed, regardless of outcomes. Scalable debriefs should be held by forces. Independently facilitated or structured debriefs can be arranged with NPoCC Ops or the College of Policing respectively.

## Appendix A: Structured approach when assessing and recording proportionality

1. The courts have settled on an approach to assessing the lawfulness, particularly the proportionality, of the state's interference in citizen's ECHR rights where the action is said to be justified under Articles 9(2), 10(2) or 11(2) of the ECHR. Police officers should be aware that this is likely to be the basis for a court's determination of whether their decisions were in accordance with the ECHR. If a police officer follows the same process and records their reasons for taking action by reference to the same criteria, this will give the best prospect of the action being lawful. It will also provide significant assistance to an officer required to account for their actions or decisions.
2. The structured approach<sup>29</sup> requires consideration of the following.
  - a. Is the individual exercising one or more of one of their rights under Articles 9, 10 or 11?
  - b. If so, is there an interference by the police with that right?
  - c. If there is an interference, is it prescribed by law?
  - d. Is the interference in pursuit of a legitimate aim, as set out in paragraph 2 of Article 10 or Article 11?
  - e. If so, is the interference 'necessary in a democratic society' to achieve that legitimate aim?
    - i. Is the aim sufficiently important to justify interference with a fundamental right?
    - ii. Is there a rational connection between the means chosen and the aim in view?
    - iii. Are there alternative, less restrictive means available that may be effective in achieving that aim?
    - iv. Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?

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<sup>29</sup> As per DPP v Ziegler [2021] UKSC 23 at paragraph 16.

3. When taking significant decisions in relation to the policing of a protest, police officers should consider following the above process and recording their reasoning at each stage.
4. Is the individual exercising one or more of their rights under Articles 9, 10 or 11?
  - a. In the context of a **peaceful** protest, the first question is likely to cause few difficulties: the protestor is very likely to be exercising these rights.
  - b. If the protest involves a direct attack on the rights of others, is hate speech, promotes or provokes violence, or is a rejection of the foundations of a democratic society (for example, significant deliberate property damage<sup>30</sup> or preventing people from voting), then it may fall outside the protection of Articles 9, 10 or 11.
  - c. However, peaceful but deliberately disruptive protest which interferes in the rights of others does not fall outside the protection of those Articles. See DPP v Ziegler [2021] UKSC 23 at paragraph 70: 'intentional action by protesters to disrupt by obstructing others enjoys the guarantees of articles 10 and 11, but both disruption and whether it is intentional are relevant factors in relation to an evaluation of proportionality'.
5. Is there an interference by the police with that right?
  - a. In the context of public order policing, the second question will often also be straightforward to answer. However, it must be borne in mind that it is not just the coercive use of police powers that may lead to an interference in a person's exercise of their rights. In Leigh v Commissioner of Police [2022] EWHC 527, the High Court found that communications with organisers in advance of an event concerning the likelihood of their being prosecuted for contraventions of the law was capable of having a chilling effect, discouraging them from exercising those rights. Where the police are discouraging people from protesting (such as where they are told they face the risk of arrest and/or prosecution), they must ensure that there is a lawful basis for such discouragement.

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<sup>30</sup> See the review of the acquittals of those who toppled the statue of Edward Colston into the harbour at Bristol in Attorney General's Reference (No.1 of 2022) [2022] EWCA Crim 1259.

- b. Given that the state has a positive obligation to uphold a person's rights, there may also be circumstances where **inactivity** on the part of the police could constitute an interference.
- 6. Is the interference prescribed by law?
  - a. When taking significant action that interferes with a person's exercise of their Convention rights, police officers should always be able to identify the legal power that they are exercising. Where possible, both the source of the power and the basis for that power being exercised should be contemporaneously recorded.
- 7. Is the interference in pursuit of a legitimate aim?
  - a. In broad terms, this will often be the prevention of crime and disorder or the protection of the rights of others. However, the specific outcome that the police are seeking to achieve, the nature of the crime or disorder to be prevented, and/or the specific rights of others that require protection should also be identified, as these matters will be significant when considering proportionality.
- 8. Is the interference 'necessary in a democratic society' to achieve that legitimate aim?
  - a. This assessment is highly fact-specific and will depend on all the circumstances of the case. The following four questions will assist in reaching a decision as to whether the proposed measures are proportionate and can be demonstrated to be so.
- 9. Is the aim sufficiently important to justify interference with a fundamental right?
  - a. It is now well-recognised that a degree of disruption associated with public protest is the price paid for freedom of expression in a democracy. In some cases, the degree of law-breaking and/or interference with the rights of others will not be serious enough to warrant interference with a protestor's rights under Articles 10 and 11.
  - b. It is not in every case that the aim of the prevention of crime is sufficiently important to justify such interference. For example, in *Bumbeş v Romania* (App No 18079/15), the ECtHR stated, 'the

absence of prior notification and the ensuing “unlawfulness” of the event [...] do not give carte blanche to the authorities; the domestic authorities’ reaction to a public event remains restricted by the proportionality and necessity requirements of Article 11 of the Convention [...] the enforcement of rules governing public assemblies should not become an end in itself’.

- c. It follows that an officer should identify and record the aim, as well as why this aim is sufficiently important to justify interfering with a person’s exercise of their Article 9, 10 and 11 rights.

10. Is there a rational connection between the means chosen and the aim in view?

- a. For operational policing, this may simply require the police officers to identify why it is anticipated that the proposed police action will be effective in preventing crime and disorder or upholding the rights of others (or any of the other aims set out in Articles 10(2) and 11(2) that might apply).

11. Are there less restrictive alternative means available to achieve that aim?

- a. This is often a critical consideration. It requires the police officer to consider whether the same – or a similar – outcome could be achieved through a less intrusive condition, restriction or policing response. It may involve considering and excluding less restrictive options on the basis that they will not be effective. When there is the opportunity to consult with the organisers of an event in advance, officers should consider explaining to the organisers (and recording) why less restrictive options have been considered and rejected.

12. Is there a fair balance between the rights of the individual and the general interest of the community, including the rights of others?

- a. This is often the most difficult part of the assessment. It is highly fact-specific, and factors that vary from one protest to another may tip the balance in different directions. In the case of *City of London Corp’n v Samede* [2012] EWCA Civ 160, a list of factors was identified by the

Court of Appeal that has been subsequently endorsed as a useful guide to the sorts of matters that should be under consideration<sup>31</sup>:

- the extent to which the continuation of the protest would breach domestic law
  - the importance of the precise location to the protesters
  - the duration of the protest
  - the degree to which the protesters occupy the land
  - the extent of the actual interference the protest causes to the rights of others
- b. There are many other factors that may arise in the individual case. However, it will almost always be necessary to give consideration to the timing and location of the intended protest. In *Ziegler v DPP*<sup>32</sup>, the Supreme Court expressly endorsed the words of the ECtHR that: ‘the assembly’s location, time and manner of conduct, such as, for example, whether it is static or moving or whether its message is expressed by way of speeches, slogans, banners or by other ways, are important aspects of freedom of assembly. Thus, the purpose of an assembly is often linked to a certain location and/or time, to allow it to take place within sight and sound of its target object and at a time when the message may have the strongest impact.’
- c. The police must not distinguish between the differing causes, or the views or values of those protesting. It is relevant for the police to consider the type – but not the content – of speech that may be curtailed by police action. In *DPP v Ziegler*, it was confirmed that it can be appropriate to take into account the general character of the views when considering the degree of protection that they attract. Political and economic views are at the top end of the scale and are particularly worth of protection, while ‘pornography and vapid tittle-tattle are

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<sup>31</sup> Paragraph 39.

<sup>32</sup> Paragraph 76, citing *Lashmankin v Russia* (App No 57818/09).



towards the bottom'<sup>33</sup>. It would not be appropriate for the police to go any further than a broad assessment along these lines.

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<sup>33</sup> Paragraph 17, citing Samede at paragraph 41.

## Appendix B: Glossary

Term	Explanation
<b><u>APP</u></b>	Authorised professional practice. Manual of guidance developed by the College of Policing.
<b><u>College of Policing</u></b>	The College of Policing supports professional development, sets standards and shares knowledge and good practice.
<b><u>NPoCC</u></b>	<p>National Police Coordination Centre. The NPoCC (Ops) and NPoCC (SIB) act to coordinate nationally, and to proportionately and lawfully share information to inform both UK policing and law enforcement stakeholders, to assist them with the development of assessments, event planning and the review of security in line with policing's core duties to prevent and detect crime, keep the peace, and protect life and property.</p> <p>The POPS APP should be consulted for further information regarding the work carried out by the NPoCC.</p>
<b><u>Serious disruption</u></b>	Meaning of 'serious disruption', as provided by the <b><u>Public Order Act 2023</u></b> , to be regarded when considering section 1 and section 3 offences within that Act.
<b><u>Serious disruption to the life of the community</u></b>	Meaning of 'serious disruption to the life of the community', as provided by the <b><u>Public Order Act 1986</u></b> , when considering imposing conditions on public processions or public assemblies.

## Appendix C: Human rights case law

Link	Summary
<a href="#"><u>Attorney General for Northern Ireland – Abortion Services (Safe Access Zones) (Northern Ireland) Bill</u></a>	The Abortion Services (Safe Access Zones) (Northern Ireland) Bill was passed in March 2022, with the aim of protecting the rights of women to access abortion and related services. The bill prohibits anti-abortion protests and certain behaviours in designated safe-access zones around abortion clinics and related premises. The Supreme Court was asked to decide whether the bill's lack of a defence of reasonable excuse created a disproportionate interference with the rights of anti-abortion protesters. The Supreme Court ultimately ruled that the bill was compatible with the ECHR rights of those who seek to express their opposition to abortion treatment services.
<a href="#"><u>DPP v Ziegler (2021)</u></a>	This was a decision of the Supreme Court that concerned the relationship between the criminal law and the rights to freedom of expression and freedom of peaceful assembly guaranteed by Articles 10 and 11 of the ECHR. The appellants protested by lying down in the middle of an approach road. They were arrested and charged with wilful obstruction of a highway without lawful authority or excuse. They were acquitted following a trial at a magistrates' court. The Divisional Court allowed the appeal and directed that convictions be entered. The Supreme Court allowed the appeal by a majority. The judgment sets out the test to be applied by an appellate court in respect of a statutory defence of lawful excuse when ECHR rights are engaged in a criminal matter.

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Link	Summary
<a href="#"><u>DPP v Cuciurean (2022)</u></a>	<p>The defendant was charged with committing criminal damage on privately owned land by constructing a tunnel preventing work on the HS2 project. It was held that the decision in Ziegler does not establish a general principle that the prosecution must always prove that a conviction would be proportionate to the defendant's rights under Articles 10 and 11 of the ECHR for all offences arising out of non-violent protest. The prosecution must prove proportionality in this manner when the offence is subject to a defence of 'lawful excuse' or 'reasonable excuse' that has been properly raised. Ziegler did not establish any benchmark for highway cases concerning proportionate conduct. The prosecution's duty to prove proportionality solely depends on the proper interpretation of the specific offence in question. The appeal was allowed with a direction to convict the respondent of the offence charged under section 68(1) of the Criminal Justice and Public Order Act 1994.</p>

## Appendix D: Hyperlinks

Link	Description
<a href="#"><u>Human Rights Act (1998)</u></a>	Full version of the Human Rights Act from <a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a>
<a href="#"><u>European Convention on Human Rights</u></a>	The text of the Convention is presented as amended by the provisions of Protocol No. 15 (CETS No. 213), as from its entry into force on 1 August 2021
<a href="#"><u>His Majesty's Inspectorate of Constabulary and Fire &amp; Rescue Services</u></a>	Link to the general website of the HMICFRS
<ul style="list-style-type: none"> <li>▪ <a href="#"><u>Adapting to Protest (July 2009)</u></a></li> <li>▪ <a href="#"><u>Adapting to Protest – Nurturing the British model of policing (November 2009)</u></a></li> <li>▪ <a href="#"><u>Getting the balance right? (March 2021)</u></a></li> </ul>	
<a href="#"><u>European Court of Human Rights (ECtHR)</u></a>	Official website of the ECtHR
<ul style="list-style-type: none"> <li>▪ <a href="#"><u>Guide on Article 8 of the ECHR – Right to respect for private and family life</u></a></li> <li>▪ <a href="#"><u>Guide on Article 9 of the ECHR – Freedom of thought, conscience and religion</u></a></li> </ul>	

Link	Description
<ul style="list-style-type: none"><li>▪ <a href="#">Guide on Article 10 of the ECHR – Freedom of expression</a></li><li>▪ <a href="#">Guide on Article 11 of the ECHR – Freedom of assembly and association</a></li><li>▪ <a href="#">Guide on the case-law of the ECHR – Mass protests</a></li></ul>	
<a href="#">National Police Chiefs' Council</a>	Official site of the NPCC – coordinates the operational response across policing
<a href="#">Police, Crime, Sentencing and Courts Act 2022</a> <ul style="list-style-type: none"><li>▪ <a href="#">Factsheet</a></li></ul>	Full version of the PCSC from <a href="#">legislation.gov.uk</a>
<a href="#">Public Order Act 1986</a>	Full version of the Public Order Act 1986
<a href="#">Public Order Act 1986 (Serious Life to the Community) Regulations 2023</a>	Draft statutory instrument amending the Public Order Act 1986
<a href="#">Public Order Act 2023</a>	Full version of the Public Order Act 2023 – not all sections commenced as of 1 June 2023
<a href="#">Crown Prosecution Service</a>	Offences during protest, demonstrations or campaigns, highlighting the evidential

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Link	Description
<ul style="list-style-type: none"><li>▪ <a href="#"><u>Non-exhaustive list of offences arising out of public protest</u></a></li></ul>	stage, public interest and relevant case law

## Appendix E: Variations for Scotland and Northern Ireland

This section will be updated following consultation with Police Scotland and the Police Service of Northern Ireland.



## Appendix F: HMICFRS 'Getting the balance right' – Areas for improvement and recommendations

### Areas for improvement

No.	Area
A	Forces should improve the quality of the protest-related intelligence they provide to the National Police Coordination Centre (NPoCC) Strategic Intelligence and Briefing Team. And this team should ensure that its intelligence collection process is fit for purpose.
B	On a national, regional and local basis, the police should develop a stronger rationale for determining the number of commanders, specialist officers and staff needed to police protests.
C	The police's use of live facial recognition technology is an area for improvement. The National Police Chiefs' Council (NPCC) should continue to work with the government and other interested parties. These bodies should develop a robust framework that supports forces, allowing the use of live facial recognition in a way that improves police efficiency and effectiveness while addressing public concerns about the use of such technology. The framework should be designed to help the police satisfy the requirements explained in the Court of Appeal judgment: [2020] EWCA Civ 1058.
D	The police's protest-related community impact assessments are an area for improvement, particularly those that need to be completed after the event. These assessments should assist the police to understand fully the impact of protests on communities. They should include assessments of the impact of protest on local residents, visitors to an area, businesses and the critical infrastructure, including transport networks and hospitals.

## Recommendations

No.	Recommendation
1	By 30 June 2022, the NPCC, through its National POPS Group and National Protest Working Group, should analyse the results from the national development team trial. In the light of this analysis, the NPCC should secure an appropriate longer-term arrangement for managing the risks presented by aggravated activists.
2	With immediate effect, the NPCC, through its National POPS Group and National Protest Working Group, should closely monitor progress on integrating the management of protest-related covert human intelligence sources with the devolved force model. And, by 30 June 2022, the NPCC should ensure that a post-implementation review is conducted.
3	By 30 June 2022, the College of Policing, through its planned review, should bring the public order authorised professional practice (APP) up to date and make arrangements to keep it current, with more regular revisions as they become necessary. It would also be beneficial to consolidate the APP, protest operational advice and aide-memoire into a single source (or a linked series of documents).
4	By 31 December 2021, chief constables should make sure that their legal services teams subscribe to the College of Policing Knowledge Hub's Association of Police Lawyers group.
5	By 31 December 2021, the College of Policing should ensure that all POPS commander and adviser students attending its licensed training are enrolled in the College of Policing Knowledge Hub's Specialist Operational Support – POPS group, before they leave the training event.

No.	Recommendation
6	<p>By 31 December 2021, chief constables should ensure that their forces have sufficiently robust governance arrangements in place to secure consistent, effective debrief processes for protest policing. Such arrangements should ensure that:</p> <ul style="list-style-type: none"> <li>▪ forces give adequate consideration to debriefing all protest-related policing operations</li> <li>▪ the extent of any debrief is proportionate to the scale of the operation</li> <li>▪ a national post-event learning review form is prepared after every debrief</li> <li>▪ the form is signed off by a gold commander prior to submission to the NPoCC</li> </ul>
7	<p>By 31 December 2021, the College of Policing should ensure that all POPS commander and adviser students attending its licensed training are enrolled in the College of Policing Knowledge Hub's Specialist Operational Support – POPS group, before they leave the training event.</p>
8	<p>By 30 June 2022, on behalf of HM Government, the Home Office should lead a joint review of police and local authority powers and practices concerning road closures during protests. This should be done with the support of, and in consultation with, the Department for Transport, the Ministry of Housing, Communities &amp; Local Government, Westminster City Council, MPS, Transport for London and other interested parties. The review should include a comparison of the arrangements in London with those in other parts of England and Wales. Its findings should lead to decisions on whether to:</p> <ul style="list-style-type: none"> <li>▪ retain, modify or repeal section 52 of the Metropolitan Police Act 1839 and section 21 of the Town Police Clauses Act 1847; and</li> <li>▪ establish new multi-agency arrangements for implementing road closures in London during protests</li> </ul>

No.	Recommendation
9	<p>By 30 June 2022, the NPCC, working with the College of Policing, should provide additional support to gold commanders to improve the quality of gold strategies for protest policing. This support should include:</p> <ul style="list-style-type: none"><li>▪ the creation and operation of a quality assurance process; and/or</li><li>▪ the provision of more focused continuing professional development</li></ul>
10	<p>The additional support should ensure that gold commanders for protest operations include an appropriate level of detail within their gold strategies. This may include the levels of disruption or disorder above which enforcement action will be considered.</p>
11	<p>By 30 June 2022, NPoCC should revise the national post-event learning review form so that it contains a section to report on the policing operation's impact on the community.</p>
12	<p>By 30 June 2021, the Home Office should consider laying before Parliament draft legislation (similar to section 11 of the Public Order Act 1986) that makes provision for an obligation on organisers of public assemblies to give the police written notice in advance of such assemblies.</p>
13	<p>By 30 June 2021, the Home Office should consider laying before Parliament draft legislation (similar to section 13 of the Public Order Act 1986) that makes provision for the prohibition of public assemblies.</p>
14	<p>By 30 June 2022, the Home Office, working with the NPCC and other interested parties, should carry out research into the use of fixed penalty notices for breaches of public health regulations in the course of protests. The research should explore the extent to which recipients complied with the scheme, and any consequential demand on the criminal justice system. The outcome of this research should inform a decision on whether to extend either the penalty notices for disorder scheme or the fixed penalty notice scheme to include further offences commonly committed during protests.</p>

## Acknowledgement and document revision

This document has been prepared in consultation with various internal and external POPS stakeholders. George Thomas (Barrister) from Serjeants Inn Chambers has kindly provided legal support in the development of this document. This is a 'living' advice document. It will be reviewed – and content will be added or removed – as the policing or assemblies, legislation and case law develop.

Status	Version	Date	Change
Approved	V3.3	April 2022	Updated
Approved	June 2023	8 June 2023	Updated statute and case law

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## About the College

We're the professional body for the police service in England and Wales.

Working together with everyone in policing, we share the skills and knowledge officers and staff need to prevent crime and keep people safe.

We set the standards in policing to build and preserve public trust and we help those in policing develop the expertise needed to meet the demands of today and prepare for the challenges of the future.

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