



Other Offences

Failure to comply with powers to remove trespassers on land

Section 61 of the Criminal Justice and Public Order Act 1994 gives the police powers to remove trespassers from public or private land who look as though they plan to set up a camp, or the police suspect that is the intention. It was used to evict one of the camps at Balcombe.

The police must reasonably believe that individuals are trespassing with the “intention to reside” or have damaged the land, used “threatening, abusive or insulting words or behaviour” or have more than six vehicles. They can then direct you to leave the land and to remove any vehicles or other property.

In making a decision to evict, a police officer of the rank of inspector or above must assesses whether doing so is legal (are all conditions present?); necessary (could other methods be used, such as regular patrols or arrests if anyone commits a criminal offence?) and proportionate (are your rights to protest balanced against the rights of the landowner or local community and is it right to evict everyone?)

It is an offence not to leave or to return within three months, but there are often opportunities to prolong your occupation, because the law does not define “as soon as reasonably practical” or set a deadline by which you have to leave.

The maximum penalty for this offence is three months imprisonment or a fine of £2500, or both.

Trespassory Assembly

A trespassory assembly is a static gathering involving more than 20 people in the open air on land to which the public has no right, or a limited right, of access.

Section 14A of the Public Order Act 1986 provides a chief police officer with powers to apply for an order to prohibit all trespassory assemblies in a district, as long as he has a reasonable belief that assemblies are planned on land where:

- The public has no right or limited right of access.
- The occupier has not granted permission of the occupier, or an assembly might exceed the occupier's permission or the public's right of access.
- There is a risk of serious disruption to the "life of the community".
- There is a risk of damage to land or any building of historical, architectural, archaeological, or scientific importance.

In such circumstances, the chief officer can apply to the council of the district where trespassory assemblies make take place, asking it to make an order, with the consent (in England and Wales) of the Home Secretary. In Scotland, a council can make an order without seeking consent.

Section 14B says that anyone who organises, takes part in or incites others to participate in an assembly prohibited by an order is guilty of an offence.

Under Section 14C, a police constable in uniform who reasonably believes someone is on the way to a prohibited assembly may stop and direct the person not to proceed in the direction of the assembly. Officers can only exercise this power within the area where the order applies. It is an offence to fail to comply with the constable's direction.

In 1999, the House of Lords ruled that the first two protesters arrested for trespassory assembly were wrongly convicted. Dr Margaret Jones and Richard Lloyd had taken part in a peaceful roadside demonstration in June 1995, marking the 10th anniversary of the infamous "Battle of the Beanfield", when demonstrators had sought to gain access to Stonehenge. Salisbury District Council had made an order prohibiting the holding of all anniversary

“trespassory assemblies” within a radius of four miles from the ancient monument.

Jones and Lloyd were arrested and convicted by magistrates, but cleared on appeal by Salisbury Crown Court. In January 1997 two High Court judges ruled that the Crown Court had misinterpreted the law but in March 1999, the Lords ruled, on a 3-2 majority verdict, that the defendants had not committed the offence. Their ruling established that the use of a public highway did not amount to trespass and the rights of the public extend to peaceful assembly, so long as the assembly does not obstruct the highway.

Failure to comply with powers to direct unauthorised campers

Section 77 of the Criminal Justice and Public Order Act 1994 provides local authorities with the power to “direct unauthorised campers (in vehicles) to leave land”.

After a notice is served, an individual commits an offence by failing to leave the land or remove any vehicle “as soon as practicable”, or by returning within three months.

Section 77 has mainly been used against Roma and Travellers. However, local authorities might use it against a fracking camp that includes caravans, trailers or live in-trucks.

“Besetting” under section 241 of the Trades Union and Labour Relations (Consolidation) Act 1992

Section 241 is part of trades union legislation but the offence of “besetting” (“intimidation or annoyance by violence or otherwise”), dating back to late nineteenth century law, has most commonly been used against secondary picketing but it is not restricted to labour disputes.

The Act says a person commits an offence if they watch or beset “the house or other place where that person resides, works, carries on business or happens to be” with a “view to compelling another person to abstain from doing or to do any act which that person has a legal right to do or abstain from doing.”

Two activists at Balcombe were arrested and convicted of “besetting” after they were alleged to have compelled Cuadrilla’s staff, contractors and suppliers to not go about their lawful business, by locking onto the gates of the site. The company said the delay prevented deliveries and cost it £5000. Others were acquitted because they were not physically in proximity to the workforce and “besetting” must be successful to constitute an offence.

Conviction under section 41 can lead to a maximum sentence of six months imprisonment or a fine of up to £5000, or both. The convictions at Balcombe, however, resulted in one 12-month conditional discharge and one £200 fine.