

Public Order

Driver – Legal

Related Drivers – Equality, Diversity & Human Rights, Collaborative Working, Incident Management, Public Confidence in Policing, G20 Public Order Tactics

Background

The police have statutory powers in relation to the policing of protest, including those set out in the Public Order Act 1986¹, the Criminal Justice and Public Order Act 1994², the Criminal Law Act 1967³ and the Police and Criminal Evidence Act 1984⁴.

The Public Order Act 1986 confers carefully defined powers and imposes carefully defined duties on the police. It also defines a number of statutory offences, including riot, violent disorder, affray, causing fear or provocation of violence and causing harassment, alarm and distress. In addition, a number of other offences including common assault, criminal damage and possession of offensive weapons are punishable under the common law and other domestic legislation.⁵

The police also have powers and duties under the common law, including powers to prevent breaches of the peace.⁶ Every constable (and every individual citizen) has the power and is subject to the duty to seek to prevent, by arrest or other action short of arrest, any breach of the peace occurring in his or her presence, or any breach of the peace which (having occurred) is likely to be renewed, or any breach of the peace which is about to occur.

The use of all police powers must be considered in accordance with the Human Rights Act 1998, which requires all public authorities, including the police, to act in a way which is compatible with the rights set out in Schedule 1 to the Act, which are taken from the European Convention on Human Rights (ECHR), unless primary legislation requires them to act otherwise.⁷ The Human Rights Act also requires all primary and subordinate legislation to be read and given effect to in a way which is compatible with rights in the ECHR, so far as it is possible to do so.

Section 14 of the Public Order Act 1986 gives the police the power to impose certain conditions on persons organising or taking part in public processions or assemblies where the police reasonably believe that there is a risk of serious public disorder, serious damage to property, and serious disruption to the life of the community or intimidation of others.

In the report *Policing of the G20 Protest* the Home Affairs Select Committee recommended that officers are given training on the suitable legal application of the powers associated with Section 14 of the Public Order Act.⁸ All public protest training, especially that of a more advanced level, needs to incorporate the correct application of Section 14.

In addition, the Public Order Act 1986 requires organisers to give advance written notice to the police of any proposal to hold a public procession, unless it is not reasonably practical to do so. The notice must specify the time and date of the proposed procession, the proposed route and the name and address of the person (or one of the persons) organising it.

The Select Committee found a lack of communication between police and protesters, in particular the Climate Group. The Committee recommended that more funding be made available specifically for training in the softer issues of communication and speaking to crowds. At the very least each unit involved in the policing of large protests should contain one officer trained and able to communicate with crowds of protesters. This would enable communications with protesters to take place on a consistent, codified basis, and increase the opportunities for large groups of protesters to be policed by consent.

Potential Skills Needs

Communication skills – communicate effectively with crowds and protesters

Public order policing skills – application of Section 14 of the Public Order Act

'Soft' skills – personal qualities and interpersonal skills necessary to effectively deal with the public

¹ [Public Order Act 1986](#)

² [Criminal Justice and Public Order Act 1994](#)

³ [Criminal Law Act 1967](#)

⁴ [Police and Criminal Evidence Act 1984](#)

⁵ Such as the Offences Against the Person Act 1881, the Criminal Damage Act 1971 and the Criminal Justice Act 1988.

⁶ A breach of the peace occurs “whenever harm is actually done or is likely to be done to a person or in his presence to his property or a person is in fear of being so harmed through an assault, an affray, a riot, unlawful assembly or other disturbance”: *R v Howell (Errol)* [1982] QB 416 which was held by the European Court of Human Rights to be sufficiently clear to be regarded as “prescribed by law” in *Steel v UK* (1998) 28 EFRR 603, paras 25-29 and 55.

⁷ [Human Rights Act 1998](#)

⁸ [House of Commons Home Affairs Committee \(2009\) Policing of the G20 Protests. Eighth Report of the 2008-09 Session. HC 418, London: The Stationery Office Ltd.](#)