

How to:



**Friends of
the Earth**

protest on the right side of the law

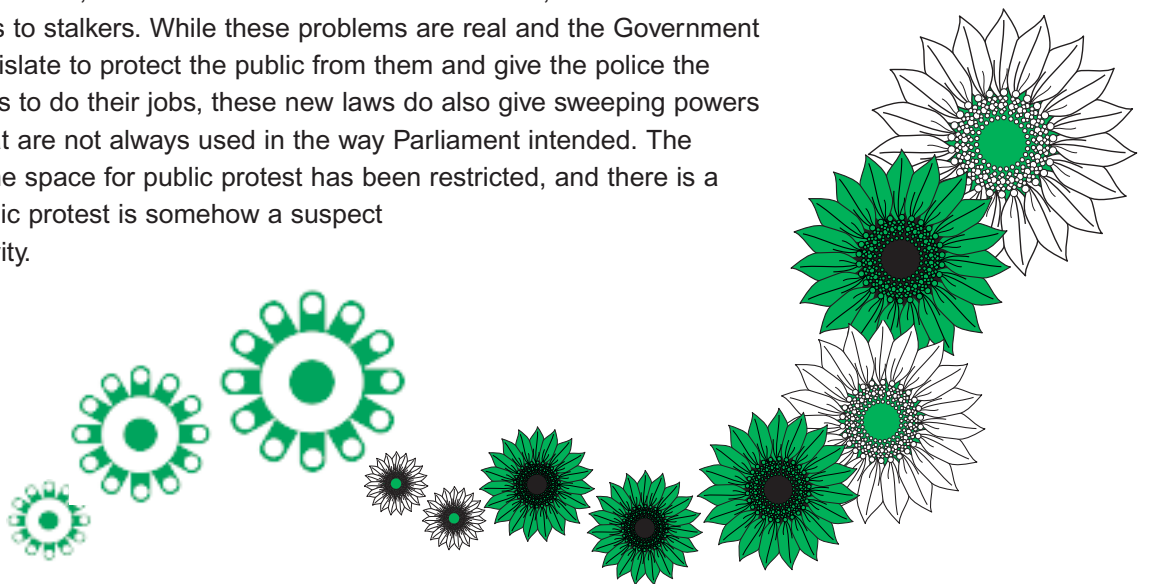
You may have heard about new laws and new police powers that restrict the right to protest. You may have concerns about how these affect your ability to use public protest in your campaigns. **Eduardo Gill-Pedro** is a former Rights and Justice Campaigner for Friends of the Earth now working full time for Liberty. Here he gives you some essential information and practical tips for effective peaceful protest

Peaceful protest is not extreme or unlawful; it is a vital part of a democratic society and has a long and respected tradition in this country. Many of the rights and freedoms we enjoy today were gained because people were prepared to go out on the streets and protest – ranging from women's right to vote, the rights of gay and lesbian people, and workers' rights to be part of a trade union.

Peaceful protest can be an effective campaigning tool. A well-organised peaceful protest is a powerful way of raising the profile of your campaign, and because it is so visible it can be great for building networks and alliances by bringing your campaign to the attention of others who may share your views and concerns. This guide will hopefully help you gain the self-confidence to exercise that right with much more confidence and effectiveness.

The big picture

In recent years, the Government has introduced new criminal laws to deal with a whole range of threats, from terrorism to anti-social behaviour, and from animal rights extremists to stalkers. While these problems are real and the Government is entitled to legislate to protect the public from them and give the police the appropriate tools to do their jobs, these new laws do also give sweeping powers to the police that are not always used in the way Parliament intended. The upshot is that the space for public protest has been restricted, and there is a feeling that public protest is somehow a suspect or extreme activity.



What the new laws mean for you and your local group

You still have the right to protest, but the new laws mean that the police have more excuses to make protest difficult and it is easier for companies to try to prevent you from protesting. There are golden rules to bear in mind in all your campaigns that involve peaceful protest:

Bring people with you

Make sure you are agreed on what you are there for, and that everyone feels that they are part of the protest – a genuinely united group is much more powerful than a group that feels they have been brought there by one or two leaders.

Do not behave antagonistically

In dealing with the police, company employees or members of the public, stay calm and seek to reason. If told to do something, ask why, politely – even if the other person is not being polite.

Assert your right to protest

Remember that you have a right to protest, and you are following a noble tradition with distinguished predecessors.

The right to protest

Three essential things

1 You have a right to assemble on the public highway

If you want to gather together and demonstrate about an issue, you do not need permission from police, from the council or anyone else. Provided you do not completely block off the public highway, and you act peacefully and without any threats of violence, you will generally not be committing any crime.

The police cannot prohibit an assembly, and you do not need to give notice (except to assembly around Parliament). The police can impose conditions, but only if they reasonably believe that the conditions are necessary to prevent “serious public disorder, serious damage to property or serious disruption to the life of the community”. The conditions may only be as to the place of assembly, the maximum duration and the maximum number of people.

Peaceful protest: a noble tradition with distinguished predecessors.



TOP TIP

If the police impose conditions on the assembly, you may want to ask (politely) why they are necessary. They must have reasons to believe that the conditions are necessary to avoid serious consequences.



If the police impose very strict conditions, it may amount in effect to a prohibition and an unlawful interference with your right to protest: for example, if they say the demonstration must be 500 metres away, with a maximum number of three people and only for five minutes. Try to negotiate less strict conditions. If you still feel that the police acted unlawfully, you may be able to sue the police under the Human Rights Act (see links on page 14 for sources of help and advice).

2 Trespass is not (normally) a criminal offence

Your right to assemble is only on the public highway. If you assemble on private land without permission, you will probably be committing trespass. Generally, this is not a criminal offence. You can be sued for damages (very unlikely) or you can be asked to leave and be forcefully removed if you refuse. But you will not be committing any crime, and so should not be arrested.

There are certain circumstances in which trespassing can amount to an offence. The most important for the purposes of this briefing is aggravated trespass. If you trespass on land and you do something which is intended to intimidate, disrupt or obstruct someone engaged in a lawful activity, you will be guilty of this offence. So if you enter a shop forecourt to stop lorries from entering or leaving or you intimidate customers into not shopping, you may be convicted. The police can arrest you if they reasonably suspect you of committing aggravated trespass.

3 When protest becomes harassment

When you think of harassment laws, you think of stalkers and sex pests. But these laws are also being used by companies to try to stop protesters. There are three types of situation when protest can become harassment:

- A course of conduct (two or more incidents) against one person, or a group of people (but not a company), that amounts to harassment. Harassment is not defined but can include conduct that causes alarm or distress. Shouting of words or holding up placards can be harassment.
- One incident where two or more people are harassed, and the intention is to persuade someone not to do something they are entitled to do or force them to do something they are entitled not to do.
- One incident where someone is harassed in the vicinity of any dwelling, with the intention to persuade someone not to do something or to force them to do something.

Although many types of public protest can fall within the definitions above, you will not be committing any offence if your conduct is reasonable – and because you have a right to peaceful protest, if you are peacefully protesting, there is a strong argument that your conduct is reasonable.

In addition to the criminal offence, companies against whom you are protesting can apply for an injunction to stop you. An injunction is a civil remedy, but there are criminal penalties for breaching it.

Companies have been known to apply for very broad injunctions which can in effect prevent you from protesting altogether. In that case, the protesters should contest the injunction application in court – the court should not grant injunctions that disproportionately restrict your right to protest. See links on page 14 for where to get legal advice.



TOP TIP

If you are on the pavement outside a shop, and a security guard tells you to move, ask him to tell you exactly where the part of the pavement that belongs to the store (the curtilage) ends – if you are on the public highway, he has no power to move you on.



TOP TIP

To commit the offence, the harasser must know, or ought to know, that his or her actions amounted to harassment.

“ Provided you do not completely block off the public highway, and you act peacefully and without any threats of violence, you will generally not be committing any crime.”

How to...Pull-out section

Case studies



EDO

A group of anti-war protesters began a campaign against an arms manufacturer in Brighton, organising peaceful protests outside the factory gates.

The company, EDO, applied to the High Court for an injunction to stop the protests, arguing that they were causing their employees “alarm and distress”. They asked for an injunction limiting the protests to two and a half hours a week, away from the factory gates, with a maximum of ten protesters who would not be allowed to make any noise.

The Court did grant an injunction, but didn't impose the very restrictive conditions asked for. However, the injunction granted applied to “the whole world” rather than named individuals, as is the normal case with injunctions. This made it much easier for the



company to use the police to harass the protesters. In total 14 people were arrested and two people were jailed and then prosecuted for crimes such as filming EDO's security guards.

In the end, all the prosecutions were dropped.

Derby rally



johnbirdsell.co.uk/Friends of the Earth

In March 2005, Derbyshire hosted the G8 Environment & Development Ministers meeting. Friends of the Earth viewed this as an opportunity to present Ministers with the message that Africa needs water, not oil. Together with People & Planet, we planned a Walk for Water to the hotel where the meeting was taking place, and were in regular

contact with the Derbyshire Police force. But they became progressively less co-operative due to increased pressure from the local authorities and the Home Office. The local media had been publishing scare stories about the protests turning into riots. Consequently an exclusion order was issued, preventing protestors from coming within two miles of the hotel.

Although the legal right to protest was maintained, it was done so in a way which diminished the effectiveness of the protest to an almost inaudible whisper to the Ministers sitting in their meeting.

However, due to the working relationship we had developed with the police, we were able to negotiate for six members of Friends of the Earth to have their photo taken at the gates of the hotel and hand over a copy of the report to a representative of the Ministers. We were the only organisation allowed to protest within the exclusion zone.

Links and resources

Friends of the Earth's Rights and Justice Centre

Provides free or affordable legal advice to groups and campaigners seeking to use the law to protect their environment: legal@foe.co.uk
Tel: 020 7566 1726

Liberty's Your Rights Guide

Comprehensive guide to human rights issues, including on right

to protest. Can also provide initial legal advice to online or telephone queries:

<http://www.yourrights.org.uk>

FreeBeagles Legal Resource for Campaigners

Information and resources on a variety of legal issues that may affect campaigners:

<http://www.freebeagles.org>

Law Society

Information about choosing and using a solicitor on a particular area of law:

<http://www.lawsociety.org.uk/choosingandusing/findasolicitor.law>