

Student Protest on Campus

*This is a first draft and we are seeking more information, so if you have any relevant experiences with protesting on your university campus or know of anyone that has please get in touch:
info@activistslegalproject.org.uk*

This briefing aims to give you information about the likely impact of protesting on your higher education campus.

Your Right to Protest

You have the right to protest on campus. Article 10 of the European Convention on Human Rights, now incorporated into the Human Rights Act 1998 gives everyone the right of freedom of expression, which includes the right to free speech and the right to protest. Though this right can be restricted, for example where it interferes with the rights of others.

Article 10 says 'Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.' '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,'

Criminal Law

The criminal law applies on university and college campuses and in university/college buildings in exactly the same way that it does in other places. If you commit what amounts to a criminal offence on campus then you could be arrested and charged with an offence in exactly the same way as if you were protesting elsewhere. For more information on the kinds of offences for which activists might be arrested, see the ALP Briefing: *A guide to possible offences* www.activistslegalproject.org.uk.

Student Disciplinary Procedures

In addition to the criminal law, students who take action on campus, or are convicted of criminal offences off campus may be subject to student disciplinary procedures. Before taking action check your university or college code of conduct/disciplinary policy to see exactly what it says, what is considered to be misconduct and what action may be taken against you if you breach the code/policy. You should be able to find your university code of conduct/disciplinary policy and procedures on your university's website, or you can ask your students union for a copy.

Codes of conduct/disciplinary policies - Most universities and colleges have fairly similar student codes of conduct/disciplinary policies. These policies tend to cover the following areas of 'misconduct' relevant to protesting on (and off) campus:

- commission of something less than a criminal offence on campus eg
 - disrupting the activities of the university
 - disrupting the activities of any person lawfully on university premises

- violence
- dissemination of offensive material
- actions likely to cause injury or compromise safety
- failing to give name/details to a university staff member
- commission of a criminal offence on campus
- conviction for a criminal offence (off campus)

Disciplinary procedures - Most universities set out in their policies the procedure that university staff must use if they believe you are in breach of the policy. There will usually be an opportunity for you to state and argue your case and to appeal against any decision. You may also have the right to be represented or to support at the hearing from a student union rep or a friend.

Possible reprimands include:

- warning
- requirement to give an undertaking as to future good behaviour
- payment of compensation
- fine
- 'community service' on campus
- suspension
- expulsion

How do universities/colleges apply disciplinary policies in practice? - Although most university student disciplinary policies are quite similar there is quite a bit more variation in the way that you will be treated if you breach these policies at different universities, so its difficult to give a definitive answer to this question. Many, but not all, universities seem to treat protests, even those which might technically break the law, relatively leniently and do not subject students to disciplinary procedures for on-campus protests and if they do then reprimands are relatively light, eg warnings, undertakings, small fines. The best way to find out how your university treats students who protest on campus is to talk to other students at your university, also try checking through back issues of your student newspaper or local newspapers to see if any incidents have been reported there or check with the university administration to see if they have any statistics on the use of disciplinary procedures.

If you think your tutor is likely to be sympathetic, consider telling them about your intended action/possible arrest as you may need to miss some coursework to go on the action or to go to court. They may also be willing to support you if disciplinary proceedings are taken against you.

Protesting on Campus

Is a student who protests on campus a trespasser? - Generally no. University or college campuses and university or college buildings on non-campus universities and colleges are private property so a person who does not have permission/licence to be

there is a trespasser in civil law and can be invited to leave. Students (and graduates of the establishment in question) have a right to be on campus and in the university's buildings, so are not trespassers. But if your protest intimidates or deters anyone from engaging in a lawful activity, or obstructs or disrupts that activity then you may have committed the criminal offence of aggravated trespass (see *George Fox 6* case below), you will then have exceeded your permission to be on campus and will in effect be a trespasser.

The George Fox 6 case - A group of students and graduates attended a 'Corporate Venturing' conference at Lancaster University to protest at corporate links with the university. Some of them leafleted outside whilst others occupied the lecture theatre, shouting and making noise which delayed and disrupted the event. Those who had been inside the lecture theatre were removed by security guards, but were not arrested until about 5 weeks later when they were charged with aggravated trespass.

At their trial the judge said that the rights to free speech, including protest (Article 10 European Convention on Human Rights) are rights that are qualified by the law on aggravated trespass (Section 68 Criminal Justice and Public Order Act 1994). Although the George Fox 6 had a license to be on university premises, as they were all students or graduates of the university, those who disrupted the conference had exceeded the terms of their license by protesting in a way that interfered with the rights of the conference delegates. Those who were leafleting outside the lecture theatre had not exceeded their licence. The George Fox 6 were found guilty of aggravated trespass and were fined, though none of them was subjected to the university's own disciplinary procedure. A spokesperson for the George Fox 6 support group says that 'the decision of the university to press for charges to be brought against these students was exceptional, there have been many other protests before and since at Lancaster which the University have not pursued'

What rights do security guards have to remove/arrest protesters on campus?

If you have exceeded your permission to be on campus or in a particular building belonging to the university, then the university's security guards and academic staff will be entitled to ask you to leave, or to stop the activity. If you refuse they can use reasonable force to remove you. If what you are doing is a criminal offence then a security guard or other member of staff can arrest and detain you until the police arrive (citizen's arrest), though its more likely that they will call the police. Security and other staff can use reasonable force to arrest and detain you.

What is the likely impact of taking action on campus?

Leafleting

This should not be a problem, so long as your leaflet is not offensive. If the text or pictures on your leaflet causes someone to feel harassed, alarmed or distressed then you may commit the offence of 'disorderly conduct'. For example animal rights activists handing out leaflets with pictures of animal experimentation on them have been threatened with arrest for this offence. It is clear from the judgement in the George Fox 6 case that handing out leaflets outside the lecture hall was not interference with the rights

of the conference goes, so was not aggravated trespass.

Banner Drops

Many universities have a clause in their policy stating that displaying a banner or poster anywhere other than on an authorised notice board is a breach of the policy, but they also often seem to turn a blind eye to the use of banners at on-campus demonstrations. Again if your banner has a message that is likely to cause offence you may commit the offence of disorderly conduct.

Die-Ins

As long as you do not obstruct any pathways or doorways, or prevent anyone (student or otherwise) from going where they want to go, it's unlikely you would be committing an offence, if you were blocking access then it could be aggravated trespass.

Careers Fairs/Talks

As a student, you are entitled to attend careers fairs and talks and to ask speakers questions. However, creating noise and interfering with speakers may be considered to be 'obstructing' or 'disrupting' the rights of the other participants and you may be committing the offence of aggravated trespass. The George Fox 6 case gives the best indication of where the legal boundaries lie. Though students at other universities have done similar actions without repercussions: see www.indymedia.org.uk for more information on the types of protests that students have taken on (and off) campus.

Occupations

Occupation, for instance of a university lecture theatre or library, may leave you open to disciplinary procedures and you may also commit the offence of aggravated trespass, eg if your occupation prevents the space being used by others. Scottish students who occupied a lecture theatre in order to demand a withdrawal of arms companies on campus were put in front of a disciplinary board to argue against their expulsion. Students who occupied the exam schools at Oxford University to protest against top-up fees were disciplined and fined £65 by the university.

Hacking

This is treated by most universities as a very serious matter, for example two students at Oxford who hacked into the university computer system (apparently to show the university how insecure it was!) were suspended for 3 months and 9 months.

For more briefings on legal issues relevant to grassroots activists and to find out about our workshops see our website: **www.activistslegalproject.org.uk**

or contact us:

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