

## Legal Information

### On Arrest:

- You have the right to know why you are being arrested, so ask!
- Stay calm.
- Tell someone so you can be located later at the police station.

### At the Police Station:

- You have the right to free telephone legal advice from CDS Direct for a minor offence and to speak on the telephone or meet with a solicitor of your choice for free if you have been arrested for a more serious offence or where you are to be interviewed for a minor offence.
- You don't have to give any personal details to the police after arrest, but if you don't give a verifiable name and address it will delay your release. You also don't have to give your date of birth, but again this may delay your release.
- You have the right to have someone informed of your arrest.
- You have the right to remain silent, there is NO requirement to talk to the police. We strongly advise you to answer 'NO COMMENT' to all police questions.

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# Know your rights: A Climate Activist's Guide to the Law



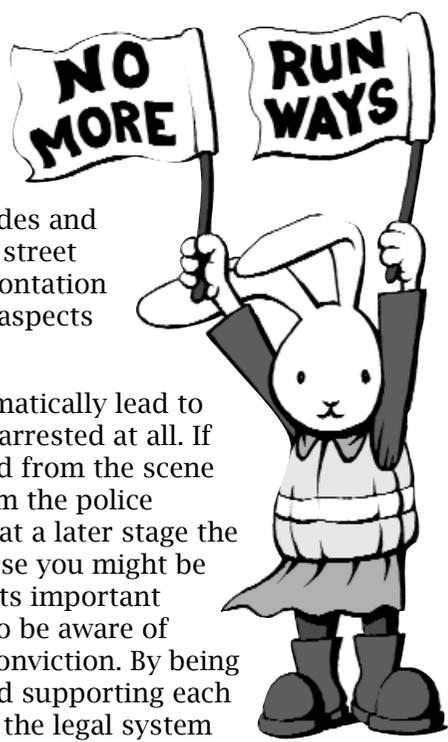
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<p>The Activists' Legal Project is a not for profit collective which provides information about the law to grassroots social change activists.</p>		<p>We provide information sheets on legal issues relevant to direct activists and offer free legal workshops facilitated by activists, with first hand experience of the criminal and civil 'justice' systems. For more information see our website: <a href="http://www.activistslegalproject.org.uk">www.activistslegalproject.org.uk</a> or email: <a href="mailto:info@activistslegalproject.org.uk">info@activistslegalproject.org.uk</a>.</p>
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# Know Your Rights: A Climate Activist's Guide to the Law

This booklet contains information on the legal implications of taking direct action, the likely charges, penalties and implications of conviction. It also sets out your rights on arrest and the arrest procedure.

Direct action is a fairly loose term used to describe a range of political actions. Generally they are actions aimed at directly confronting or highlighting an issue or a source of power. Direct action can take many forms, ranging from trespass, blockades and occupations to property damage and street theatre. Whatever form it takes confrontation and creative disruption are essential aspects of effective direct action.



But taking direct action doesn't automatically lead to arrest or conviction. You may not be arrested at all. If you are arrested, you may be removed from the scene and de-arrested later, or released from the police station without charge. Alternatively at a later stage the charges may be dropped, and of course you might be acquitted in court. Having said that, its important when planning to take direct action to be aware of the risk of arrest and the impact of conviction. By being well prepared, knowing our rights and supporting each other we can make our experience of the legal system a more positive and empowering experience.

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# What could I be arrested for?

Here are some potential climate action scenarios with information on the offences you might commit and be arrested for:

## Scenario 1: A March

Suppose you and a group of friends have organised a march about climate change through your local town, you didn't get permission and just as you are about to set off the police tell you, and all the participants, that they have put a condition on the march that you can't walk down the main street but must take an alternative route. You decide to proceed along the main street anyway.



**What offences might you as organiser and the participants be arrested for?**

**Organising a march without giving written notice** - Its an offence to organise a political march (theres no minimum number, so even 2 people could constitute a march) without giving the police 7 days notice in writing. The maximum penalty is a fine of up to £1,000. It can however be hard to prove who has actually organised a march unless you put your name on a poster etc or tell them!

**Breach of conditions imposed on a march** - The police can impose conditions on your march, or ban it altogether, but only if they reasonably believe the march will lead to serious public disorder, serious property damage or serious disruption to the life of the community (sections 12 and 13 Public Order Act (POA)). The conditions could, as in this example, restrict the route, but can also be made about the duration, type of banner and

number of participants. If you know that a condition has been imposed, whether you are an organiser or simply a participant, it is an offence to fail to comply with it. Its also an offence to incite others not to comply. It can be difficult on the day to argue against the imposition of conditions, but if you are arrested for breaching them you may be able to argue in your defence in court that the conditions were unreasonable. The maximum penalty for breaching the conditions placed on a march is 3 months imprisonment or a fine of £2,500 for organisers or inciters and a fine of £1,000 for participants.

## Scenario 2: A Demonstration

You and a group of friends have organised a visit to a local travel agent to protest against short haul flights. You have set up a stall outside on the pavement, some of you are leafleting the public, others are holding a banner which says 'Fuck Easyjet'.

**What might you be arrested for?**

**Obstruction of the highway** - If you are standing on the pavement in front of the travel agency you may be committing an obstruction of the highway. You commit the offence if, without lawful authority or excuse, you wilfully obstruct the free passage of the highway. The 'highway' includes the pavement, grass verges and public roads. Its not necessary for the whole of the highway to be blocked for there to be an 'obstruction'. Its also not necessary to prove that anyone was actually obstructed. The obstruction has to be 'wilful', so if you are asked to move and you don't, this will be used as evidence of your 'wilful' obstruction. The maximum penalty is a fine of £1000. You can often avoid arrest for this offence by following instructions from the police on where you can stand, but it might not be the best spot for your protest.

Its unlikely that you will in reality be arrested for this offence unless you really are blocking the pavement or access to the travel agency.

**Breach of conditions on a public assembly** - the police might treat your protest outside the travel agency as a



public assembly. This is defined as two or more people gathered together in a public place. A public place includes not only public highways, but also parks, shopping precincts, shops and offices, restaurants,

pubs or any other place to which the public have access. There is no power to ban a public assembly and there is no need to give advance notice (except when it's within a 'designated area' eg within a particular area around Parliament and at some military bases). The police can impose conditions on a public assembly (section 14 POA) which restrict the place, duration and numbers, but only where its necessary to prevent serious disorder, disruption of the life of the community, or intimidation. Breach of the conditions is an offence with the same penalties as for breach of the conditions on a march (see Scenario 1 above).

**Disorderly conduct** - Its an offence under POA section 5 to use threatening, abusive or insulting words or behaviour, or disorderly behaviour or display any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress.

The banner with the word 'Fuck' may get you arrested for disorderly conduct. There must be someone who is likely to be alarmed or distressed eg a passer by or even a police officer.

Where the only person involved is a police officer, the court might decide that the words or behaviour used did not cause harassment, alarm or distress, because a police officer is more robust and used to strong language.

There is a two stage power of arrest; the police can only make an arrest if you have been warned to stop the disorderly conduct and have then gone on to repeat it. The offence carries a maximum sentence of a fine of £1,000.



### Scenario 3: Blockade

You and a group of friends are locked together with arm-tubes and are lying on the ground blocking the entrance to a nuclear power station.

#### What might you be arrested for?

**Obstruction of the highway** - In this scenario you may be committing this offence, but only if you are actually sitting on and obstructing a public road. See above for more details of this offence and penalties.

#### Aggravated trespass -

If you are actually on private land, eg land belonging to the power station, rather than on public land, you may instead be committing this offence. It's aggravated trespass if you go onto private land, without the consent of the owner, with the intention of intimidating, disrupting or obstructing someone from going about their lawful activity (Criminal Justice Act

1994, sec. 68). In this scenario the 'lawful activity' that you might be disrupting is the movement of vehicles in and out of the entrance to the power station. The maximum penalty is 3 months imprisonment, a fine of up to £2,500, or both.

### Scenario 4: Site visit

Your affinity group has cut through the fence of a coal-fired power station. Inside the compound you enter one of the sheds on site to talk to workers, some of your group lock on to the conveyor belt carrying coal to the furnace. You pick up a company hard hat as a souvenir of the action. In one of the offices you start writing slogans on the company's computer screens with a marker pen.

#### What might you be arrested for?

**Criminal damage** - You commit this offence if you destroy or damage property or threaten to destroy or damage property, either intentionally or recklessly, without lawful excuse (section 1(1) of the Criminal Damage Act 1971). In this scenario cutting through the fence may be criminal damage. The damage does not have to be permanent, so writing in marker pen on the computer screens can also be criminal damage. There is a defence of 'lawful excuse', if you believed that the destruction of the property was necessary to protect neighbouring property, which was in immediate need of protection. The classic example of this defence is breaking down your neighbour's door in order to put out a fire. Where the value of the damage you have caused is less than £5,000 then the case must be heard in the magistrate's court.

Where the value of the damage is greater than £5,000 then it can be heard either in the magistrates or the Crown Court. In the magistrate's court the maximum sentence is 3 months in prison or a fine of up to £2,500 and a compensation order of up to £5,000. In the Crown Court the maximum sentence is 10 years in prison or an unlimited fine and a compensation order equivalent to the amount of the damage.

**Aggravated trespass** - In this scenario you may have committed aggravated trespass, you have entered the power station, which is private property, without permission, and you have disrupted or obstructed lawful activity - being on the site may for health and safety reasons require them to stop the plant, locking on to the conveyor belt is likely to disrupt work. Talking to workers may also be intimidation, which prevents them from going about their work. See above for more details of this offence.



**Harassment** - Its an offence under the Serious Organised Crime and Police Act to engage with two or more people, with the intention to persuade them not to do something that they are entitled or required to do, or to do something that they are not under any obligation to do. So leafleting/talking to two or more workers at the power station with the intention of persuading them not to go to work could be an offence. The maximum penalty is 6 months imprisonment or a fine of £5,000, or both.

**Theft** - In this scenario removing the company hard hat may be theft. The offence is defined as the dishonest appropriation of property belonging to another, with the intention of permanently depriving the other of it (section 1(1) of the Theft Act 1968). It would be a defence if you can prove that you did not intend to 'permanently deprive' them of the hard hat. The maximum sentence is 7 years imprisonment.

**Burglary** - In this scenario you may be committing burglary by entering the offices or buildings on site and causing criminal damage or stealing the hard hat. The offence is committed if you enter a building as a trespasser intending or actually stealing or attempting to steal anything in the building or inflicting or attempting to inflict on any person in the building grievous bodily harm or rape or cause criminal damage (Section 9 of the Theft Act 1968). The maximum sentence is 10 years imprisonment.

## Scenario 5: AGM visit

You and a group of about 20 others have entering the hotel where the NPower Annual General Meeting (AGM) is taking place, you have disrupted the chair's presentation by making a lot of noise. One of your group has unplugged and then cut off the plugs to the equipment for the powerpoint presentation.

### What might you be arrested for?

**Aggravated trespass** - In this case you may be committing the offence of aggravated trespass - you have entered private property (the hotel) without permission and are interfering with a lawful activity (the holding of the AGM). See above for details of the penalties.

**Criminal damage** - the person who has cut the plugs off may have committed criminal damage unless they have a 'lawful excuse'. See above for further details



## What are my rights?

### Can the police take my name and address?

Generally the police have no powers to obtain your personal details. It's not an offence to refuse to give the police your name and address, **except** when you are the driver of a vehicle (an offence under the Road Traffic Act) or if the police suspect you of engaging in 'antisocial behaviour' (behaviour which has caused or is likely to cause harassment, alarm or distress), when refusing to give your name and address is an offence (section 50 Police Reform Act 2002) and could lead to your arrest. Before giving your details ask what 'antisocial behaviour' they suspect you've committed, as they could just be trying it on in order to get your details.

Its not an offence to refuse to give your details if the police say you have committed a criminal offence, but it may make it more likely that you will get arrested if you don't (see later section 'When can the police arrest me?'). If they can't tell you what offence they think you have committed or it doesn't sound at all plausible then they may just be trying to get your details for evidence gathering purposes, in which case don't give them the pleasure.



### Can the police stop and search me?

**There are a number of different pieces of legislation that permit the police to search you:**

1. Under section 1 of the Police and Criminal Evidence Act 1984 you and your vehicle can be stopped and searched if the police have a 'reasonable suspicion' that you're carrying drugs, weapons, stolen items or items (tools etc) to carry out theft, burglary or criminal damage.
2. You and your vehicle can be stopped and searched if the police have 'reasonable suspicion' that you are a terrorist (section 43 Terrorism Act 2000). The search is for any items that will constitute evidence that you are a terrorist eg laptops, paperwork, address books, phones. Under the Act, terrorism is very broadly defined, it includes serious damage to property as well as violence to people. Your action must also be designed to influence the government or to intimidate the public or a section of the public, and must be for the purpose of advancing a political, religious or ideological cause.
3. You and your vehicle can be stopped and searched if a search has been specifically authorised by a senior police officer (section 60, Criminal Justice and Public Order Act 1994). The search can only be for offensive weapons and dangerous instruments.

This is a blanket search power, the police don't need any grounds to suspect you are carrying weapons or dangerous instruments. The definition of these is wide-ranging, it could include a flick knife, a broken bottle, a pair of scissors, a spanner or an umbrella. But it's not a right to search for anything else eg address book, diary, camera film. It is an offence to refuse to be searched under this power. Sometimes when they use this search power the police surround a group of people and search them one at a time before release (known as 'kettling').

4. If a search has been authorised under section 44, Terrorism Act 2000, you and your vehicle can be searched for articles that could be used in connection with terrorism. Again it's a blanket search power and there is no need for the police to have any grounds for the search. It is an offence to refuse to be searched under this power.

5. Under all of the above stop and search provisions the following apply:

- There is no need to give your name and address, unless you are the driver of a vehicle being searched.
- You only have to remove outer clothing for searches in public places. They can 'pat you down', but this must be done by a same-sex officer. They can check bags and pockets.
- If they find any weapons or other items, that they are entitled to search for, these can be seized.
- They must provide you with a written record of the search and a list of anything they seize.

## What should I take on the action?

As well as all the kit you might need for the action itself, you might want to take some of the following in case you get nicked, although there is no right to have these things in the cell with you, there's no harm in asking

- **A book** (or three) - you may be on your own in a cell for many hours
- **A notebook** (not spiral bound) and pencil (rather than a pen) - it's useful to write down what you can recall of your arrest as soon as possible
- **Toilet paper** - there's rarely any in police cells
- **Food and drink**, but only in sealed packages, especially if you have special dietary requirements
- **Spare clothes** - it can get very cold in the cells
- **A toothbrush** (in case of a long stay, and it gives the police the chance to make jokes about you having come for a holiday)

## What should I NOT take?

The police would enjoy getting their hands on your address book, mobile phone (unless it has a clean SIM card), diary, list of people you met at a gathering etc. Don't give them the pleasure - leave it all at home. Likewise don't have anything with you which shows that you've been preparing for the action, or anything which mentions future actions, other people or groups. Leave behind illegal drugs and anything that could be an offensive weapon.

## When can the police arrest me?

You can be arrested for any offence, however minor. But before they arrest you, the police must have 'reasonable' grounds for suspecting you have committed, or are about to commit an offence. It must also be 'necessary' to arrest you. The reasons why it might be necessary include:

- you've refused to give your name or address
- they believe you've given a false name or address
- to prevent you injuring yourself or someone else
- to prevent you damaging property or obstructing the highway
- to allow the prompt investigation of the offence.

## What rights do I have on arrest ?

**You have the right to receive legal advice whilst in custody.** Though recent changes to the legal aid scheme mean that you will not necessarily be entitled to receive free legal advice from your own solicitor. If you have been arrested for a minor offence and are not going to be interviewed you have the right to free telephone legal advice from CDS Direct. If you have been arrested for a more serious offence or where you are to be interviewed for a minor offence you have the right to speak on the telephone or meet with a solicitor of your choice for free.

For more information on getting legal advice see the section 'Should I get a solicitor?' on page 17.

**You have the right to have someone informed of your detention.** You don't have the right to make the phone call yourself, but if they're not busy or are particularly friendly they may let you make the call.

**You have the right to remain silent,** there is NO requirement to talk to the police. We strongly advise you to answer 'NO COMMENT' to all police questions and not to write or sign any statement written by the police or sign any police notebook. If you are in any doubt then seek legal advice.

There is no legal obligation to answer any questions or to sign anything. You don't have to give the police any information. Remember there is no such thing as a friendly chat with a police officer, it's all evidence gathering which could help get you or someone else convicted.

**You have the right to see the PACE codes of practice.** These tell you what your rights are whilst in police custody and will help to pass the time if you forgot to bring a book!

**You have the right to see a police doctor if you are injured or need medication.** In addition if you've been injured by the police get an independent doctor to examine you as soon as possible and take photographs of your injuries, in case you want to make a complaint or claim against the police.

# What will happen at the Police Station?

## Booking in

On arrival you will be booked in by the Custody Sergeant, who will ask lots of questions about your personal details. There is no obligation to give any information. But if you decide not to give your name and address (and your date of birth) then your release from custody may be delayed. There is no requirement to carry any form of identification in the UK, this applies equally to UK nationals and foreign nationals. So it may be best to leave your passport /ID card etc somewhere safe, rather than take it on the action. At this stage the custody sergeant will also advise you of your rights to legal advice and to have someone informed of your arrest. You can either exercise the rights now or defer them until later.

## Searches

You will be given a 'pat-down' search by a same sex officer, the only clothes you have to take off for the search are outer clothing eg hats, coats, shoes and socks. You cannot be strip searched, unless they believe you are concealing weapons, drugs or evidence. If you have been arrested for a more serious offence, eg criminal damage, theft, or burglary, the police have the power to conduct a search of your home, workplace or vehicle, without the need to obtain a search warrant.

## Property

Your property will be taken from you (including anything you could use to harm yourself or others eg your shoes, draw cord of your hoodie and belt, maybe even your glasses) and itemised on your custody record. Sign for the items immediately below the last item (so they can't add any further items, eg bolt croppers) and don't sign for anything that isn't yours. If you are released without charge then all your property will be returned. If you are charged or bailed to return to the police station at a later date, your personal possessions will be returned, but anything that might be evidence will be retained (tools, D-locks, banners, leaflets, mobile phones, camera film etc).

## In the Cells

You will then be put in a cell to twiddle your thumbs for a few hours. You are entitled to three meals a day and drinks. They are supposed to take account of special diet requirements, but don't count on it. You may be allowed to keep food you have with you when arrested (police stations vary widely in what they allow). So it's worth taking shop-bought sealed snacks and cartons of drink (not glass or cans or home-made sandwiches and cake, because you might conceal drugs or weapons in them).

## Interviews

It's unlikely that you'll be interviewed for minor offences like obstruction of the highway or aggravated trespass. However, if you've been arrested on a more serious charge (eg criminal damage, theft, burglary), there's a good chance you will be interviewed. You have the right to have a solicitor present at any interview. You also have the right to remain silent. We recommend that you give a 'no comment' interview, unless you have received legal advice to the contrary.



The police are well trained in interview techniques and if you start answering questions they may pretend to be sympathetic, so that you drop your guard and give them some vital information. If you do decide to answer questions you should not under any circumstances talk about what other people have done or mention any names.

## Detention without Charge

You can be detained in police custody without charge for a maximum of 24 hours for a minor offence or 36 hrs for a more serious offence (eg criminal damage, theft). If the police want to detain you longer without charge, they must apply to a magistrate.

You are most likely to get out within 4-12 hrs, depending on how easily your address can be verified and how busy they are at the police station that day.

## Photographs, Fingerprints and DNA

The police can take your photograph, at any time, without your consent. Your fingerprints can be taken before you've been arrested, but only if the police have reasonable suspicion that you've committed or attempted to commit an offence and they cannot ascertain your name and

address or they believe you've given a false name and address. After arrest your fingerprints and DNA (saliva/hair sample) can be taken, without your consent, where you have been arrested for a recordable offence (obstruction of the highway and breach of the peace are not recordable offences, so your consent is required). They can, and will, use 'reasonable force' to get any of these.

## Outcomes

Sooner or later the police will have to decide whether to charge you. They might:

- **release you without charge** – so you can collect your belongings and walk out.
- **charge you with an offence** – generally you will then be released from police custody and given a date for the first court hearing of your case, the date for this should be within a week of the date of your arrest. On your release bail conditions may be imposed eg to stay away from the site of the action, sleeping at your home address or reporting to a police station. But if they can't verify your address, you have breached bail before or have an outstanding warrant for arrest they may hold you in custody until you can be taken to court, generally on the next working day.
- **bail you to return to the police station** – if they can't decide whether to charge you (eg they don't have enough evidence yet) you may be released, but will be required to report back to the same police station, usually within a month. They will then let you know if you are to be charged. They can also impose bail conditions, as above.
- **report you to the Crown Prosecution Service (CPS)** – you will be released and if the CPS decide you should be charged, you will receive a summons in the post requiring you to attend court on a particular date.

- **offer you a caution** – if you accept a caution, you will need to admit your guilt by signing a form, you will then be released and there will be no further penalty. If you're anxious to avoid court for whatever reason, it may be an idea to accept it. Although not a conviction, a caution does constitute part of your criminal record. If you're asked only to disclose convictions then there is no need to declare the caution. Also see later section on Future employment (page 15).

## What happens if I get convicted?

The maximum sentences mentioned above are very rarely imposed and usually only on serial offenders. Sentencing decisions take account of amongst other things previous convictions, motives and your personal circumstances. A prison sentence is very unlikely, except for the most serious of offences. The most likely outcome of a conviction for activists is a fine (usually in the £100s not £1000s) or a community order requiring you to carry out 'unpaid work', work of benefit to the community, for between 40-300 hours (this used to be known as community service). You may also be ordered to pay court costs and compensation.

## What's the impact of a conviction?

### Current employment

If you are in employment then look at your job contract (before you take action!) to see if there are any clauses stating that a criminal conviction could lead to your dismissal. Often these clauses relate to offences committed whilst at work rather than in your spare time. Of course, arrest and conviction aren't the same thing, and getting arrested alone shouldn't be grounds for your dismissal. If your bosses are likely to be supportive then talk to them in general terms before you take action so that they are less shocked after it has happened, as you may need to take time off work later to travel to court cases etc. Also consider whether lots of local publicity about your arrest / conviction may upset your relationship with your employer. Its probably best to keep their name out of the paper.

There are some professions where 'bringing the profession into disrepute' can mean that you get struck off and can no longer practice. So check with your professional body what the position might be, they usually have a confidential phone line.

### Future employment

The biggest impact of having a conviction is likely to be when you are looking for new employment. If the job you are applying for involves working with children or vulnerable people then you will, by law, be required to have an 'intermediate' Criminal Records Bureau (CRB) check when you apply. This intermediate level CRB check discloses all convictions (including 'spent' convictions, see box), cautions, reprimands and warnings. You cannot be employed where these relate to certain offences against children or vulnerable adults, otherwise it is at the discretion of the employer whether to employ you. For other kinds of work the job application form may have a section asking about previous convictions (see below for info on what you must disclose).

### The duty to disclose convictions

The Rehabilitation of Offenders Act (1974) provides that after a certain period of time (depending upon the type/length of your sentence) the conviction becomes 'spent' and there is no need to disclose it to a potential employer, insurance company, landlord, credit company. For example, a fine becomes spent after 5 years regardless of the amount. There is however a very large category of people for whom convictions can never be spent, including people working in the following professions: doctors, dentists, nurses and midwives, lawyers, opticians, teachers, police officers and people working with children and vulnerable people. They must always disclose their convictions.

If you don't answer honestly and they find out you do have convictions then this would be grounds for your dismissal.

If you do declare convictions make sure you explain what they are for, not simply that it was, say, a conviction for criminal damage, but explain why you did it. Your potential employer may decide you look like trouble. On the other hand they may see you as passionate about your issue and a potentially great new employee!

## Students

All universities and colleges have student disciplinary policies which cover the university's response to criminal offences committed on campus and convictions on or off campus, check your university website for details. Most disciplinary policies will allow the University to expel you, so its important to find out what the likelihood of disciplinary procedures being taken following protest really are. Ask other students at your campus who have taken action or have convictions what the impact has been, if any. If you think your tutor is likely to be sympathetic, consider telling them about your intended action/arrest as you may need to miss some course work to go on the action or to court.



## Applying for travel visas

There are potential difficulties in getting travel visas and entering certain countries for those with convictions. Australia and New Zealand have questions on their visa application forms requiring disclosure of convictions. We don't know what happens if you disclose your convictions, but we are aware that it is possible to obtain visas without disclosing convictions and then enter the country without any problem.

The US now requires you to attend for an interview at the Embassy if you disclose your convictions. We know that people with 'activist' convictions have been refused visas. People who have not declared their convictions, have obtained visas and entered the country without a problem. Others have obtained visas but have been deported at the point of entry, after failing to disclose their 'activist' convictions.

The requirement to disclose convictions includes spent convictions, unless the country you are visiting has an Act equivalent to the Rehabilitation of Offenders Act.

## Getting insurance and a mortgage

It may be harder to get household, business and other types of insurance if you have convictions. But its not impossible, you may just have to shop around a bit more. There is a question on most insurance proposal forms asking about convictions, as with employers there is a duty to disclose your convictions unless they are 'spent'. Failing to disclose a conviction, which the insurer then finds out about, could invalidate your insurance policy. It may also be harder to get a mortgage, again its not impossible but you may need to shop around.

## Foreign nationals

If you are convicted of an offence your embassy will be informed. Based on the past experience of foreign activists arrested and charged in the UK, the risk of deportation is slight, particularly if you come from an EU member state. In any case, the police have no power to deport you, only a court can sentence you to deportation. The people who are most at risk of deportation are those who are in the UK in breach of immigration rules eg overstayers. Conviction might also affect an application to extend your stay in the UK or for naturalisation.

## Should I get a solicitor?

One of the most important rights you have whilst in custody is the right to consult a solicitor. Though recent changes to the legal aid scheme mean that you will no longer receive free legal advice if you are not going to be interviewed and its a minor offence.

If the police are not going to interview you, and you've been arrested for a minor (non-imprisonable) offence (eg obstruction of the highway, disorderly conduct or minor road traffic offences) or for breach of bail then you will not get to speak to a solicitor of your choice (unless you agree to pay for the advice). Instead, you will be able to speak on the phone to a "legal adviser". This legal advisor is provided by the state through a scheme called Criminal Defence Services Direct - CDS Direct (think NHS direct). Whilst these advisers may know about the law, they will not necessarily be sympathetic or understand the needs of activists.

For more serious (imprisonable) offences, and where you are going to be interviewed for a minor offence, then you will still be entitled to free legal advice from a solicitor of your choice. When the custody officer books you in they will ask if you want to see a solicitor. If you are confident that you don't need a solicitor at this stage, you can still change your mind at any time later on. If you are in any doubt then speak to one as it always helps to have someone acting on your behalf whilst you are locked up.

The police will then ask if you want a particular solicitor. If you can't name a solicitor or a solicitor's firm then you will be offered the duty solicitor, a local solicitor who is on call that day. Some duty solicitors are fine, others not so good. Many don't really understand activists and why we do what we do and as a consequence may not give the best legal advice. You will get better advice if you contact your own solicitor if you have one or a solicitor recommended by other activists, in preference to the duty solicitor. But if the police can't contact your solicitor within two hours, you will be offered the duty solicitor.

If your chosen solicitor is too far away or unable to come to the police station, you will still be able to talk to them on the phone. If you would like to have a solicitor present at your interview, and your own solicitor can't be there, they will arrange for another more local solicitor to come instead.

You are entitled to consult your solicitor in private, this includes any telephone conversations, although in practice the telephone is often in the middle of the custody suite. Also don't assume that interview rooms are not bugged. To be safe, don't say anything to your solicitor at the police station that you don't want the police to hear as well.

The right to see a solicitor can be delayed, but only in serious offences and where the police can claim that they believe that allowing you to contact someone will lead to interference with evidence or alerting of other people involved in the offence.

Before you go on any action get the name and phone number of a solicitor recommended by other activists in your area or see the list below.

### **Recommended Criminal Solicitors (from [freeBeagles.org](http://freeBeagles.org))**

#### **Birds Solicitors**

Tim Greene, 1 Garratt Lane,  
Wandsworth, London, SW18 2PT.  
Tel: 020 8874 7433  
Out of hours arrests: 07966 234994  
Email: earlshall2003@yahoo.co.uk

#### **KieranClarke & Co**

Kevin Tomlinson, 36 Clarence Road,  
Chesterfield, Derbyshire, S40 1XB.  
Tel: 01246 211006 Fax: 01246 209786  
E: kevin.tomlinson@kieranclarke.co.uk

#### **Walkers Solicitors**

Tim Walker, 2 Bouverie Road, Stoke  
Newington, London, N16 0AJ.  
Tel: 020 8800 8855 Fax: 020 8800 9955  
Email: info@walkerssolicitors.co.uk  
Web: www.walkerssolicitors.co.uk

#### **Kellys Solicitors**

Lydia Dagostino & Teresa Blades,  
Premier House, 11 Marlborough  
Place, Brighton, BN1 1UB.  
Tel: 01273 674 898  
24hr pager: 0800 387 463

#### **Birnberg & Pierce**

Gareth Pierce & Alistair Lyons,  
14 Inverness Street, Camden, London,  
NW1 7HJ.  
Tel: 020 7911 0166

#### **Christian Fisher & Co**

Louise Christian, 42 Museum Street,  
Bloomsbury, London, WC1A 1LY.  
Tel: 020 7831 1750 Fax: 020 7831 1726

#### **Christmas & Sheehan**

78 Grand Parade, Green Lanes, London,  
N4 1DX  
Tel: 020 8880 2558 Fax: 020 8880 2599  
E: mail@christmasandsheehan.co.uk  
Web: www.christmasandsheehan.co.uk

#### **Bindmans**

Michael Schwarz, 275 Grays Inn Road,  
London, WC1X 8QB  
Tel: 020 7833 4433 Fax: 020 7837 9792  
Email: info@bindmans.co.uk  
Web: www.bindmans.co.uk

#### **Harrison Bunday**

219-223 Chapeltown Road,  
Chapelton, Leeds, LS7 3DX.  
Tel: 0113 200 7400 Fax: 0113 237 4685  
(Cover Leeds & surroundings only)  
Web: www.isonharrison.co.uk/  
htm/bunday.htm

## **Legal Support**

Providing legal support is a vital role on any action, the aims of the legal support group are to ensure that everyone going on the action is prepared for arrest, that activists who are arrested have appropriate support whilst in custody and that once they are released they get the emotional and practical support they need.

The number of people involved in the legal support group will depend on the size of the action and the number of arrests that you expect, but whatever the size there are some essential roles that need to be filled:

- Preparing and distributing 'bustcards' to people going on the action. Bust cards are pocket sized cards which have vital information about rights on arrest together with the phone number of the solicitor on call for the action and the legal support number (see back cover for a ready to use example).
- Preparing and updating a definitive list of who has been arrested and whether they have been released. If there are likely to be many arrests it may be helpful to create a large chart with columns that can be filled in as information is received.

- Staffing a phone line (the legal support number), waiting for calls from detainees at police stations and from legal observers. Preferably this should be a landline. But you could install yourself in a cafe close to the action/police station with a mobile phone.
- Organising vehicles and drivers to collect and possibly accommodation to house people released from police custody.
- Giving support at the police station(s) to arrestees, liaising with solicitors at the police station(s) and meeting detainees on their release from custody.
- Dealing with enquiries from concerned friends and relatives of those arrested.

For more details on how to set up a legal support group see the ALP briefing 'How to set up a legal support group'.



## Legal Observers

Everyone on a demonstration or action is a legal observer with responsibility for witnessing and recording events that take place, but there is also a specific support role for legal observers on actions and demonstrations.

The role of the legal observer is to get close to the action and watch and record details of activist arrests and injuries on the action and to pass this information to the legal support group. The presence of legal observers helps to deter police misconduct and helps to keep people safe and if there are any incidents then the observer has information that may be useful in later court proceedings.

To be most effective legal observers need to remain as independent as possible so that they can concentrate on observing what's happening in what can be a very fast moving situation. Legal observers are not immune from arrest. Staying close to the action, especially after you have been asked to move by the police means that you risk arrest. Better to move away so that you can continue doing your job rather than ending up in the police van.

For more information on legal observing see the ALP briefing 'Guide for Legal Observers'.

## Resources

### Legal

**Activists Legal Project** has lots of resources on various topics including offences, the arrest process and your rights, police powers to stop and search, trial procedure in the magistrates court, coping with prison, setting up a legal support group, guide for legal observers.

[www.activistslegalproject.org.uk](http://www.activistslegalproject.org.uk)

**FreeBEAGLES Legal Resource Centre** has a very comprehensive guide to dealing with the law, 'Legal Advice for Activists' includes info on stop and search powers, powers to seize and retain property, suing the police and making complaints, also some case law relevant to activists.

[www.freebeagles.org](http://www.freebeagles.org)

**Liberty** - web-based guide to the Human Rights Act 1998, explaining its relevance and impact in many different areas of law ranging from rights of privacy to rights of peaceful protest.

[www.yourrights.org.uk](http://www.yourrights.org.uk)

**The Court Service** - Information about using the civil and criminal courts, and a database of court of appeal judgements since 1996.

[www.courtservice.gov.uk](http://www.courtservice.gov.uk)



**Stationary Office** - Acts of Parliament (statutes) 1996 to date and statutory instruments 1997 to date.

[www.hmsso.gov.uk](http://www.hmsso.gov.uk)

**Legal Services Commission** (which has replaced the Legal Aid Board) - information about getting legal aid, finding a solicitor etc.

[www.legalservices.gov.uk](http://www.legalservices.gov.uk)

**Prison Service** - Information on prisons including visiting hours and how to get there and 'prison life'. You can also download a copy of The Prisoners Information Handbook, written jointly with the Prison reform trust.

[www.hmprisonservice.gov.uk](http://www.hmprisonservice.gov.uk)

## Direct Action

**Seeds for Change** - lots of resources including Preparing for action, Campaign strategy, Action planning, Quick consensus decision making, Dealing with the media.  
[www.seedsforchange.org.uk](http://www.seedsforchange.org.uk)

**Practical Protest Techniques** - includes ideas for using your body and a few simple tools including D-locks, armtubes, tripods to create effective blockades. [www.activistslegalproject.org.uk/practicalprotest.pdf](http://www.activistslegalproject.org.uk/practicalprotest.pdf)

**Delia Smith's Basic Blockading** - very useful guide to blockading tactics with arm tubes, D-locks and tripods and lots of essential safety advice.  
[www.geneticsaction.org.uk/resources/delia.pdf](http://www.geneticsaction.org.uk/resources/delia.pdf)

**Activist Trauma Support** - offers information on dealing with the effects of police brutality, burnout and post traumatic stress disorder.  
[www.activist-trauma.net/](http://www.activist-trauma.net/)

**Guide to Public Order Situations** - a basic guide to staying safe and surviving a public order situation, including info on policing tactics and how to deal with them.  
[www.earthfirst.org.uk/manchester/porder.pdf](http://www.earthfirst.org.uk/manchester/porder.pdf)

**Peace News** - tools section of the website includes articles on dealing with fences, organising mass actions, making giant puppets and 'improving' billboards. [www.peacenews.info/tools/index.php](http://www.peacenews.info/tools/index.php)

**Black Cross Health Collective** - basic first aid information for activists including preparing for a demo, tear gas and pepper spray, aftercare. <http://blackcrosscollective.org/firstaidinfo/>



<ul style="list-style-type: none"> <li>• Tell the police if you want to see a <b>doctor</b> or need medication</li> <li>• They can take your <b>photograph</b> without your consent at any time.</li> <li>• They can take your <b>fingerprints</b> before you've been arrested, but only if they have reasonable suspicion that you've committed or attempted to commit an offence and they cannot ascertain your name and address or they believe you've given a false name and address.</li> <li>• After arrest they can take your <b>fingerprints</b> and a <b>DNA sample</b>, without your consent, but only for a 'recordable offence' (not obstruction of the highway or breach of the peace). They can use 'reasonable force'.</li> </ul>	<ul style="list-style-type: none"> <li>• Please authorise the police and your solicitor to reveal information about your detention and welfare to legal support. When you are released tell legal support.</li> <li>• <b>If you witness an arrest:</b> Write down the name of the person arrested, where they were arrested and any other relevant information and let legal support know.</li> <li>• <b>If you are injured or witness an injury:</b> Get emergency medical help from one of the first aiders at the action</li> <li>• <b>If you are injured by police or security:</b> Ask for an independent doctor to examine and photograph the injuries.</li> </ul>
<p><b>Legal Support:</b> _____</p> <p>If you need a solicitor call: _____</p> <p>Solicitors on: _____</p>	

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