

A Timely Reminder on Protest Rights and Laws in the UK



Protests have become almost a daily aspect of life in the UK in recent times, but it's obviously not a new phenomenon. Protests go back as long as humankind has been on Earth and have been responsible for initiating changes globally. Historical protests were equally as contentious as current protests are now. Some of the historical changes protest brought about are now accepted to be for the right reasons. Even the use of activism causing disruption or criminal damage is not a new tactic. However, the rights of protest are not universally permitted throughout the world, and recent changes to UK law are also viewed with suspicion by activists and Human Rights organisations as potentially diluting their rights to undertake certain tactics.

So, this may be the time to take a breath, park the rhetoric and revisit what the current position is in the UK and how protest can effect business, daily life and how we deal with it. The right to protest in the UK is set by the European Convention of Human Rights.¹ The Human Rights Act, 1998 incorporates and makes the rights contained in the European Convention on Human Rights (ECHR) applicable to the UK.

The starting point is that there is no specific 'Right of Protest'. The Freedom of Expression and the Freedom of Assembly are the rights generally accepted as the right of protest. Whilst there has been a discussion within the Westminster Government about replacing ECHR with a UK Bill of rights, that has not happened to date. The right to peacefully protest, however, does not include unlawful behaviour such as violent acts or criminal damage.

The COVID 19 pandemic allowed Government to introduce regulations and concerns are that this way of introducing regulation, could also be used to restrict the right to protest, potentially making it unlawful for groups to assemble.

Public authorities such as the Police and Councils have a duty not to interfere with the exercising of the right of protest, and in terms of policing protests, law enforcement also have a duty to protect those who have an opposing point of view. It is a difficult balancing act as we have seen through the media.

The recently enacted legislation, the Public Order Act 2023, the Police, Crime and Sentencing and Courts Act 2022 and the Public Order Act 1986 (serious disruption to the life of the community) Regulations has introduced new measures that further affect and can be seen to respond to the current types of tactics used to protest

The new legislation has been met with criticism that the powers are overly restrictive and infringe on human rights such as freedom of expression.

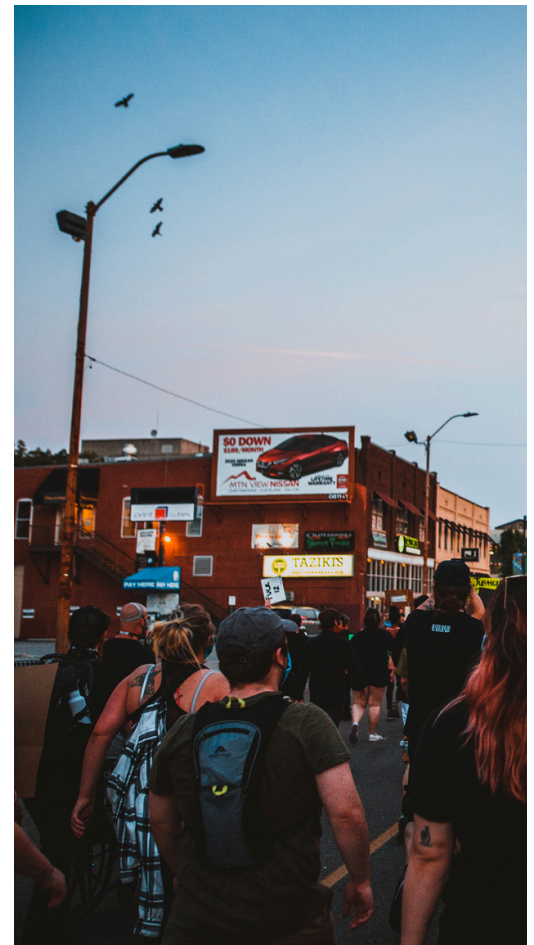
Controversial changes include:

- ▶ Increased police powers to add further conditions on a protest such as restricted noise levels, prevention or hindrance that is more than minor to the carrying out of day-to-day activities, and disruption to time sensitive or essential goods/services. It also defines what essential goods and services are as well as what a community can be (it can be any group of persons)
- ▶ Government is also able to create new regulations without going through Parliament where they consider there is a 'serious disruption to the life of the community' and/ or 'serious disruption to the activities of an organisation

It also enacts the various new offences of locking on, going equipped for locking on, interfering with key national infra structure and defines the meaning of serious disruption. Whilst the criticism of the new legislation is around restricting the right of protest, what it has also done is clarify meanings which to some extent has reduced the 'grey areas' when Law enforcement and Criminal Justice authorities become involved.

Public Order Act 2023 and the effect on the Private Security Industry

The Public Order Act 2023 enables the power to start civil proceeding to a civil injunction with attached power of arrest. This power is seen as a safeguard and should only be used to ensure the quicker enforcement against disruptive, protest activities such as trespass, obstruction of access to private land, slowing or obstructing traffic, and erecting structures in specified locations





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How can businesses prepare for protest or activism?

Conducting a Threat Assessment is the starting point for an organisation to determine if they are 'at risk' from protest and/or activism. This is a business risk and should therefore be part of their business continuity approach rather than solely a security responsibility. An organisation can then identify what people or assets are at risk and determine if training is required to mitigate that risk. How does your business monitor threat? The threat monitoring role may be the responsibility of the Security provider but if not, it may be worth discussing how the business monitors future threats specific to its own operation.

The preparation and implementation of policies and procedures for dealing with protest and/or activism will ensure your staff can follow pre-approved structures rather than dynamically dealing with an incident on the day. The exercising of these procedures, as part of a business's resilience plan is also recommended to ensure they are practical and understood by all staff.

Does the business own the land/property it operates from and if not, does it have landowner rights? These points are not exhaustive and Security providers or Facilities managers will have many other good practices in place, and this is when organisations can share good practice. In the world of increasing litigation and indeed increasingly unsuccessful criminal justice convictions, can we afford not to ensure our people are trained to deal professionally, legally and proportionately with the challenges of well trained and motivated activists.

In conclusion, while legislation changes and will likely change again, protest and activism and the challenges it brings to the security industry will remain. It is up to security professionals to ensure they are informed and knowledgeable in order to respond appropriately and safely when faced with a protest situation.

