

## Leafletting and petitioning



- You do NOT need to obtain a licence or certificate to hand out leaflets or to collect signatures for a petition.
  - However, the police may ask leafleters to move if they appear to be causing an obstruction.
  - A leaflet must have on it the name and address of the printer.
- Activities on the highway and in other public places such as parks and gardens and on common land may be restricted by local by-laws e.g. they may prohibit public meetings, putting up notices or having stalls. You might want to check your local bye-laws, though if for example you have seen other groups with stalls, giving out literature etc. in a particular place you should be OK. A copy of local by-laws will be available at the local town hall and on council websites.
- It is an offence to hand out leaflets that are threatening, abusive or insulting or those that are intended to stir up racial hatred.

## Holding public meetings

- A public meeting is one that is open to the public to attend, with or without payment, and is held in a public place (a place to which the public have access on payment or otherwise). Many private premises - e.g. town halls, church halls, pubs - become 'public places' when public meetings are held there.
- A meeting could be any number of people, it doesn't even need to have been advertised.
- If you are the organiser of a public meeting on private premises, you must ensure that you comply with the terms and conditions for the use of the premises, including all fire and safety regulations, and that the meeting is conducted in an orderly manner.

- You should provide stewards who should be easily identifiable, but they should not wear a uniform to promote a political objective.

- They are there to assist in the admission and seating of members of the public and in the control of disorder or to remove members of the public who go too far in their heckling.



- They must NOT however try to take over the functions of the police.

- Any meeting of two or more people that is wholly or partly in the open air is a 'public assembly' and subject to conditions imposed by the police under the Public Order Act (POA). (See below). NB: If such a meeting is attended by 20 or more people and held on land without the owner's permission it may be 'a trespassory assembly' and could be banned.

### **If you are attending a public meeting**

- Please note - It is an offence under the Public Meeting Act 1908 to try to break up a lawful public meeting by acting in a disorderly manner or to incite others to do so. This carries quite heavy penalties up to a custodial sentence.

- If there is serious disruption or aggression, and if the police believe that you are involved, they can ask you to leave the meeting, arresting you if you refuse.

## Protests and demonstrations (assemblies)

***The Public Order Act (POA) refers to all static demonstrations in a public space as assemblies.***

- Two people can constitute an 'assembly'.

- A public place is any highway (including the pavement) and any other place to which the public or a section of the public can have access.

- The law provides a specific right to use a public highway. This includes the right to pass and re-pass along the highway (including the pavement), and the right to make ordinary and 'reasonable use' of the highway.

- To hold peaceful assemblies that do not prevent other people from also using the highway is likely to be seen as a 'reasonable use' of the highway.
- Unlike marches (see later) there is normally NO requirement to give prior notice of an assembly but, under the Public Order Act, the police do have specific powers to control them.

### Police conditions on assemblies



- The senior police officer at the scene has the power to impose conditions - but ONLY if he or she reasonably believes that: the conditions are necessary to 'prevent serious public disorder, serious damage to property or serious disruption to the life of the community, or the purpose of the organisers is to intimidate others'.
- The ONLY conditions that may be imposed on a public assembly are on its location, the maximum number of people participating and the maximum duration.
- There is no power to ban a public assembly altogether, so if the conditions are so strict that they in effect prohibit the assembly from taking place in any meaningful way (such as if the conditions restrict the protest to 5 people, in a side street away from the public and for a maximum of 5 minutes), it may be that they amount to a ban, which is unlawful and also a breach of the protesters' rights to assembly under Article 11 of the Convention of Human Rights.

### The law on use of the highway

- While you have a specific right to make reasonable use of the highway; unreasonable obstruction of the highway is a criminal offence and the police have often seen this, in practice, as a licensing power over public gatherings, e.g. it is used by the police to remove sit-down demonstrators, to keep marchers from leaving the agreed police route, to control pickets.
- The offence is 'obstructing the highway', not other highway users. So it is NOT necessary to prove that any other person was actually obstructed - the 'obstruction' can be made out if you simply occupy a section of highway.

- In practice the offence turns on whether a particular obstruction was reasonable rather than whether there was, in fact, an obstruction. The test of reasonableness is always objective. Was there an actual obstruction? If there was, how long did it last? Where was it? What was its purpose? In practice, it is often very helpful to have photographs to show just how extensive - or limited - a particular obstruction was.
- Often the police will give a warning to move before making an arrest, but there is no legal requirement to do so. However, if you were not given a warning that you were causing an obstruction, it will be easier to show that you were not making unreasonable use of the highway.
- As stated above, there is a right to use the highway for reasonable purposes, so the test of reasonableness can very often be argued successfully in demonstration cases, particularly where the police have taken no action in the past, or where the actual obstruction was trivial. Also there is a right to peaceful assembly in Article 11 of the Convention of Human Rights.
- The offence can be tried in the Magistrates' Court only and there is no power to send a person convicted of highway obstruction to prison.

## Marches (processions)

### ***The Public Order Act (POA) refers to marches as 'processions'***

- A 'procession' is simply defined as people moving together along a route. There isn't a minimum number, so even a handful of people going to a Town Hall to hand in a petition will constitute a procession.
- There is no legal definition of an organiser. For a big procession an official organiser should be selected well in advance. For an informal event the organiser could be anyone who takes the lead. Some spontaneous events will have no organiser.

### **Do we need to get permission?**

- Organisers of MOST processions MUST give advance notice to the police.
- Specifically, notice should be given of any procession if it is intended to: 'demonstrate support for or opposition to the views or actions of any group, publicise a cause or campaign or mark or commemorate an event'.



- Notice need not be given if it is not reasonably practicable to do so in advance. This is intended to allow for a completely spontaneous procession, for example, when a meeting turns itself into a march. (However, a last-minute telephone call to the police is advisable to show you are prepared to follow the spirit of the law. A record should be kept of the call.)

- Notice is also not required if it is a funeral procession or a procession commonly or customarily held.(but this doesn't concern us here).
- Notice must be in writing and include details of the date, start time, proposed route and name and address of the organiser.
- The written notice must be delivered to a police station in the area where the procession is planned to start, either by hand or by recorded delivery six clear days in advance, i.e. a full week in advance.
- If a procession is planned at short notice (less than one week), the written notice should be delivered by hand as soon as reasonably practicable.

### **Can we get into trouble?**

The organiser commits an offence if notice was not given as required or any of the details, including the route, differ from that given in the notice. But **don't worry**, prosecutions are VERY rare. And it is a defence if you can show you were not aware that notice had not been given or not given in time; or the different date, starting time or route was due to circumstances beyond your control or was changed with the agreement of the police or by direction of the police.

### **Police Conditions on Marches**

- The police have extensive powers to impose conditions on marches including about the route, number of marchers, types of banners or duration, or to restrict entry to a public place. (In limited circumstances they can have them banned – though this is highly unlikely to apply to anything organised by Napo). These conditions must be in writing

- After the procession has begun the most senior officer on the spot can impose similar conditions, which do not have to be in writing. The Public Order Act says that conditions can be imposed only if the senior officer 'reasonably believes that the procession may result in: serious public disorder; serious damage to property; serious disruption to the life of the community; or if he or she reasonably believes that the purpose of the organisers is to intimidate others'.
- The conditions must be ones that the officer believes are necessary to prevent disorder, damage, disruption or intimidation.
- If you are ever in the situation when organising a 'procession' where you are faced with conditions in advance that you think unreasonable or in the unlikely event it is banned you should get in touch with Napo Head Office.
- Warning - failure to comply with a valid condition, properly imposed, is a criminal offence with different penalties for organisers and other participants.

### **Demonstrations in the vicinity of Parliament**

The Serious Organised Crime and Police Act 2005 (SOCPA) introduced a new set of criteria for demonstrations in the vicinity of Parliament. The designated area is a large area around parliament that includes all of Whitehall, some parts of the Southbank, as well as Westminster and Parliament Square itself.

What is a 'Demonstration' is not defined in this context but it is possible for one person to carry out a 'demonstration' on his or her own.

If you find yourself in the position of organising anything that could fall under this, please seek advice from Napo Head Office.