

TP Legal Briefing: Big Blockade

The TP legal support team will be present throughout blockade. We will:

- record all arrests where possible;
- keep in touch with the police station during your detention;
- find you a lawyer if you need one;
- collect you from the police station on release;
- provide information about the court process.

Our telephone number is on the bust-card; please keep it with you, or write the number on your arm. Ask the police to ring this number if you are arrested. The bust card lists your detention rights.

Nonviolent direct action ALWAYS carries the risk of arrest

Even if you have been arrested before, please read this leaflet. If you need more information, please ask the legal support team.

What Could I Be Arrested For?

Military Lands Byelaws

The byelaws prohibit a number of activities on Ministry of Defence land including “obstructing a lawful user or any other person acting in the proper exercise of his duty”; causing “any nuisance, [or behaving in an indecent or obscene manner]”. These may be used to arrest blockaders. Charges against all persons arrested under the byelaws to date have been dropped. It is unlikely, but not impossible, that you may be arrested under the byelaws if you are blockading on MoD land.

Obstruction of the Highway

If you stand, sit or lock-on in a public road (including in a gateway) you may be arrested for obstruction of the highway. The police may first warn you that they will arrest you unless you move. They might remove you without arresting you. If you do not move or you are moved and return or are locked on you will probably be arrested. This is a minor (non recordable) offence; fine of about £50- £250, plus court costs (between £30 and £250) Obstruction is also an offence under the byelaws

Obstruction of a Police Officer in the course of his/her duty

This is more serious than obstruction of the highway. In law this charge should accompany a charge for another offence such as obstruction of the highway but the police will sometimes make an arrest just for this offence.

Section 14, Public Order Act, 1986

Previous TP blockades have been prevented when police decide they are an assembly which would be “likely to result in serious public disorder [they mean traffic jams], serious damage to property or serious disruption to the life of the community”. They will either try to give you a notice or order you to a designated protest area. It is an offence not to obey a S.14 order (for example, by refusing to go to the designated area or by leaving a designated area). Conviction can carry a fine of up to £1000; organizers of an “unlawful assembly” may also be arrested and face higher penalties.

Section 12, Public Order Act, 1986

S.12 places similar limitations on processions as S.14 does on assemblies. The police should produce an order specifying the restrictions, stating where you may “process” or march. Similar penalties as above.

Serious Organised Crime and Police Act 2005, Section 128 (SOCPA)

It is a criminal offence to enter “protected” areas inside Devonport, under s.128 of SOCPA as amended by s.12 Terrorism Act 2006, and applicable to Nuclear Licensed Sites (NLS). “Protected areas” are defined as land within the boundary of the NLS; that is INSIDE the INNER weld-mesh fence. This does not include the “sterile area” inside the perimeter fence. This definition follows the dismissal of a prosecution in August 2008 of a woman arrested at Aldermaston in March 2007. Maximum penalty: 51 weeks imprisonment and or a £5,000 fine; women at Menwith received a £50 fine; at Faslane defendants were admonished.

Other less likely possibilities include:

Breach of the Peace

Although violence or threat of violence must be offered, in practice BoP is used to prevent peaceful demonstrations. You can be bound over to keep the peace. BoP is not a criminal offence, but if you refuse, you may be detained until you agree to keep the peace.

Aggravated Trespass, Section 68, 1994 Criminal Justice & Public Order Act

If a blockade takes place on MOD land (for example, a gateway): you may be arrested for “trespass[ing] on land with the intent to disrupt or obstruct or intimidate someone going about a lawful activity on that land (or adjoining land)”. Under Section 69, you can merely be warned to leave the land if the senior police officer present “reasonably believes” that a S.68 offence has/is/will be committed.

Section 5, Crime and Public Order Act, 1986

This requires you to cause “distress alarm and harassment” to a reasonable person by using threatening or abusive behavior or language (including banners or placards) or disorderly conduct.

Criminal Damage

If you cut the fence, paint or chalk on the road, use red coloured water to symbolize blood, graffiti on MoD property, and in some circumstances, climb the fence, you can be arrested for criminal damage. Damage valued at under £5,000 will be tried in a magistrates court; if damage is over £5,000, or if you are arrested for going equipped to cause criminal damage, you may elect for trial by jury in the Crown Court. Penalties normally include a fine, which reflect the value of the damage, a compensation order for cost of the damage, plus court costs.

Stop and search

The Ministry of Defence police may stop you and ask your name, address, what you are doing etc. You do not have to give them any

information, or give your name or any details, even though they will ask. Always ask what power they are using and ask them for a "Stop and Account" form, (stating why they stopped you).

If the police have "reasonable suspicion" that you (or your vehicle) have drugs, weapons, stolen property or tools to commit burglary or criminal damage they can search you. It is possible that orders under s.60 Criminal Justice & Public Order Act or will be in place, which allows searches for weapons or items which may be used for criminal damage where an inspector or above reasonably believes incidents involving violence may take place. s.44 Terrorism Act gives police powers "only for the purpose of searching for articles of a kind which could be used in connection with terrorism". You have the right to a written record of any search.

You do not have to provide your name, address or any other details, except if you are the driver of a vehicle which is being searched, in which case you do have to give them your details and driving documents. You can also be arrested for not giving your name under s.25 PACE, which covers non-arrestable offences (for which they would issue a summons)

Being Arrested

After arrest you will be taken to a nearby police station. Don't worry, stay calm, and stay non-violent. Detention is long and boring; take a book.

You will first be taken before the custody sergeant. You have to give a verifiable name and address. You do not have to give your date of birth, although refusal can lengthen detention.

They will tell you your basic detention rights, including:

- To have someone informed of your arrest. Please ring – or ask the police to ring – the legal support number;
- To see a doctor, if you are ill or injured;
- To see a copy of the police Codes of Practice (PACE) – which sets out your rights;
- If you are not a UK national, you can ask for an interpreter;
- If you are 17 or under you cannot be interviewed without a parent or legal guardian present;

You will be searched, your property taken away and you will be placed in a cell for at least six hours or longer, depending on the number of arrests. You have the right to hot drinks and meals at appropriate times.

Right to a solicitor: the law has changed.

For non-imprisonable offences (including obstruction of the highway) you no longer have the right to free legal advice from your own solicitor, but can speak on the phone to a "legal adviser" provided by 'Criminal Defence Services Direct.' If you have been arrested for a serious offence, or if the police want to interview you, then you have a right to speak to a solicitor of your choice free of charge, or the duty solicitor. We advise you to contact the solicitor on the bust card.

Interviews

The police sometimes record a taped interview to gather further evidence. You have the right to silence, and do not have to answer any questions, often the easiest and safest thing to do is say "no comment". If you choose not to speak, the police will tell you this may be viewed negatively. You can prepare a statement in advance, which you can read out; if you want it to be included in the evidence presented in court. If you make a statement, please talk only about yourself and your own actions – and not those of other people. After making your statement you can continue to say "no comment". If in any doubt about what to

say, say nothing!

You have the right to consult a solicitor if interviewed.

"Fishing interviews"

You may be invited to an intelligence interview with the MoD CID, where they "fish" for information about you, other people at the blockade, organizers etc. You do not have to be interviewed; if you do please speak only about your own actions, not about other people.

Before release

The police will take your fingerprints, DNA and photograph. They have the power to use "reasonable force" if you refuse. They will return your property.

Cautions, Bail & Police Bail

If this is your first arrest, you may be offered a caution and released without charge. A caution means that you will not go to court or receive a penalty but it is an admission of the offence and it will go on your record. You do not have to accept a caution.

If you are charged with an offence, you will almost certainly be released on bail. Bail conditions might, for example, prohibit you from going back to Devonport. Ask for a map of the area you may not enter.

If you do not want to accept bail conditions, ask for a solicitor. It is often difficult to challenge bail conditions at the police station, but people have been held overnight and successfully challenged them in court.

If you are NOT charged you may be bailed to report to the police station (police bail) up to 12 weeks later while the evidence against you is considered by the Crown Prosecution Service who decide if you will be charged. There should be no conditions attached. Relatively few people have been charged after answering police bail.

The legal support team will ensure that someone will collect you from the police station. Please tell the driver your name, whether you have been charged, and if so, with what offence, and the date you are required to attend court.

Going to court

Ring 07899983602 for post-arrest support.

Most people charged with obstruction of the highway at Devonport have been convicted. You are very likely to be convicted unless the police drop the charges. You are unlikely to be acquitted of "obstruction of the highway" with a defence based on international law.

If you plead guilty at the first hearing (usually a week after arrest) magistrates impose a lower fine and costs than if you plead not guilty. If you plead not guilty you will have to attend court to enter your plea and a date will be set (within a few months) for trial.

Don't worry, you will not be alone