



The law relating to university
occupations in England and Wales

NCAFC
national campaign against fees & cuts

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Key Points

If you are acting as a peaceful occupier, it remains **entirely a civil law matter** until an injunction is sought by the property owner or until you commit a criminal offence.

This means that the police have no special powers of entry, arrest, or removal until such an injunction is granted, they obtain a warrant on the basis of suspected criminal activity within the property, or are allowed into the occupied premises (at which point they may use force on the property owner's behalf).

If the owner of the premises or their agents use or threaten force to enter property where "squatter's rights" are engaged, they are committing a criminal offence.

Reasonable force may always be used by the owner of the property or their agents to remove trespassers, as long as notice has been given and a reasonable time has elapsed for the trespassers to leave.

"Reasonable", in this context, means "appropriate to the situation, as assessed at the time." So lifting trespassers and carrying them out of the building is OK, beating peaceful occupiers with truncheons is not.

If unreasonable force is used, those subjected to it may have a claim against the agent and/or the owner.

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“Squatters rights”

Persons occupying premises have some legal rights against action to remove them without a court order under s.6 of the *Criminal Law Act 1977* – the so-called 'Section 6 rights'. As these relate to occupation of non-residential property:

As long as there is an individual present in the premises at all times,

Seeking to prevent the use of force by another to enter the premises,

And the person using or threatening to use force is aware of this,

Using or threatening force to enter the property is a criminal offence.

It does not matter that the person threatening or using violence has any rights in the property – it is unlawful.

You do not need to display any notice that those rights are engaged – the “Section 6” notices put up by squatters are merely intended to alert the landlord that the squatters know their rights. It is up to the group occupying whether they feel that this may deter any attempt at entry – however, they are not required.

This does not mean:

That physically removing occupiers is unlawful, merely that forcing entry to the occupied premises is a criminal offence. Note the distinction. Occupiers are therefore advised to entirely prevent access to the occupied area by agents of the owner of the premises.

“Force” applies to property damage as well – barricading or blocking entry points to the extent that force will need to be used to enter will provide protection. Note the points below on burglary and property damage, however.

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Injunctions

What an injunction means

An injunction entitles agents of the court (the police, in effect) to use force to prevent a breach of the civil law, or to end one that is ongoing. For individuals to ignore or resist an injunction may constitute contempt of court, which is a criminal offence.

An injunction will be granted unless the occupiers can demonstrate that their actions in trespassing and continuing to trespass are justified. This is unlikely to be the case in most occupations, as it will generally be taken to infringe the rights of the owner quite substantially. It is worth challenging an injunction if this can be done without threatening the occupation, but be aware that it will probably be granted.

Times outside of an injunction where force may be used to enter premises :

Aggravated trespass

This was introduced as part of the *Criminal Justice and Public Order Act 1994* (expanded by the *Anti-Social Behaviour Act 2003* to include trespass inside buildings).

If individuals are trespassing on property with the intention of disrupting or intimidating those taking part in lawful activity on that or adjacent property, they are committing the criminal offence of aggravated trespass, and as a result the police may use force to enter and detain occupiers.

It is sufficient that you are aware that the trespass would have this effect, irrespective of whether you deliberately sought to prevent it taking place.

Burglary

In English law, the offence of burglary includes 'trespassing on a property with the intention to cause criminal damage' under the *Theft Act 1968*.

This is relevant because it will allow police officers to use force prior to an injunction to enter a property and to arrest those present they believe to be intending or carrying out criminal damage (any damage to property, whether temporary or permanent – painting slogans on the walls, breaking windows, damage to files/paperwork...) and thus can be used as a way to avoid the squatter's rights issue.

Breach of the peace

A breach of the peace occurs where an individual is using or threatening violence, either against persons or property (in the presence of the owner), or where an individual is provoking or is likely to provoke others to use violence. NB this does include legitimate violence to reclaim occupied property – it is probable that most occupations constitute breaches of the peace based on the current case law.

This is unlikely to be used at present – the law on aggravated trespass is likely to both be of more use, and harder to challenge later, in the case of occupations.

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How to avoid the law being used to end an occupation

Avoid damaging property, using threatening/abusive language to those present on the property, or using force against anyone present. It may be incompatible with the aims of the occupation to avoid disruption to the day-to-day use of the property, but be aware of the law on aggravated trespass (above).

Make it clear immediately that you are occupying peacefully in relation to a specific issue or platform.

Prevent access to the area you are occupying by anyone not directly involved in the occupation, at least until the occupation is secure.

If access to professional legal services is available, **seek to engage a lawyer as soon as possible** – in the case of an emergency or interim injunction, very little notice needs to be given, so if you wish to challenge proceedings in court, it is important to be prepared.

If/when seeking to prevent access to others, or to control access to/from the occupied premises, be aware that causing damage while doing so may well be sufficient to allow the police to use force to enter. Padlocking doors open/closed is unlikely to be illegal, but be aware that the owner of the property is entitled to control access into the property, and can remove padlocks etc. intended to keep doors open (as this does not infringe the squatter's rights provisions above).

Other notes

In general, the police cannot demand your name and address – it's up to you whether you provide them. However, there are certain circumstances where failing to do so constitutes an offence and/or where the police can arrest you in order to obtain these details.

If the police reasonably believe that you personally have committed a criminal offence, they can demand your name and a contact address for the purposes of serving a summons (even if the offence is not one for which you could be arrested, under *s.25 of the Police and Criminal Evidence Act 1984*) and arrest you for not providing these.

If it is suspected that you personally are taking part in anti-social behaviour (behaviour likely to harass, alarm or distress members of the public) then *s.50 of the Police Reform Act 2002* entitles them to demand your name and address, and makes it a criminal offence not to provide them or to give false information. While it is unlikely that an occupation would be held to constitute anti-social behaviour in court, the police have used this provision to put pressure on activists – be aware of it.

However, you're not required to give them any other information, nor to pass on information about any other members of the occupation. The address in question need not be your own as long as the address given will allow a summons to reach you (If you've agreed in advance with a solicitor, you can use their address, for example).

The police may **not** demand your name and address when exercising stop-and-search powers unless they intend to bring charges against you.

Under *s.30 of the Anti-Social Behaviour Act 2003*, the police are entitled to move on groups of more than 2 people from a public place if their presence "has resulted, or is likely to result, in any members of the public being intimidated, harassed, alarmed or distressed".

This is relevant if an occupation has members outside leafleting/protesting/etc. It's unlikely that doing so peacefully will be sufficient to engage the Act, unless they are also seeking to put pressure on individuals from the organisation whose property is being occupied.

Owners of a property are under no obligation to allow individuals to return to a property under occupation once they have left, or to allow others to join the occupation. Where the area being occupied is only part of a larger building, or adjacent to other property owned by the same individual/company, they are fully entitled to stop you trespassing on their land to reach the occupied area, and to use reasonable force to do so.

Be aware of the *Protection from Harassment Act 1997* if your actions are aimed at or will impact on specific individuals, e.g. those working in and/or nearby the occupied premises. This states that:

Harassing others (i.e. causing distress or alarming another) or acting in a way that they know or ought to know constitutes harassment on two or more occasions, or causing others on at least two occasions to fear violence or acting in a manner that a reasonable person in the same situation would realise would cause the other to fear violence, constitutes a criminal offence.

Individuals who encourage, incite, counsel or procure others to carry out such a course of conduct will also be guilty of such an offence.

The first prosecutions under this Act were all against protesters, and it's been expanded to cover harassing different people under the same "course of conduct." As a result, it may well be used against individual members of an occupation if they can be identified.

In the event of legal proceedings being threatened or brought, or any person being arrested, get professional legal advice immediately

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