WRITTEN EVIDENCE SUBMITTED BY JUSTICE

(SSP0049)

Introduction

1. JUSTICE is a cross-party law reform and human rights organisation working to create a fair justice system within everyone's reach. We are the UK section of the International Commission of Jurists. In this submission to the Joint Committee on Human Rights ("**JCHR**") we set out our response to the call for evidence on "Security, safety and protest: the role of Human Rights" ("**the Inquiry**").[1] JUSTICE's response is based on several years of work in this area, most recently our report *Striking the Balance: Protest Rights and Public Order*[2] which sets out recommendations for numerous rights-based reforms to current legislation, wider statutory guidance and practice in relation to protest rights and public order.

Legal framework and existing legislation

1) Recent legislation such as the Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 have strengthened police powers to restrict protests and expanded the criminalisation of protest related activities. What has been the impact of recent legislation on the right to protest?

2. The Police, Crime, Sentencing and Courts Act 2022 ("**PCSCA 2022**") and the Public Order Act 2023 ("**POA 2023")** have expanded and created overlapping public order offences, introduced harsher penalties for non-violent protest activity, and lowered the threshold for the police to impose conditions on protests.

3. The expansive and vague nature of recent legislation has created a complex protest regime and overlapping police powers and offences, which is confusing for both the police enforcing the law and for protestors engaging with their fundamental right to protest. Sir Andy Cooke highlighted in oral evidence to the Inquiry that an overly complex and vague legal framework has led to the inconsistent enforcement of police powers.[3]

4. Human Rights Watch has reported protest organisers receiving confusing and sometimes conflicting messages and instructions from the police leading up to a planned

[1] JCHR, "Security, safety and protest: the role of Human Rights" (April 2026)

[2] JUSTICE, "Striking the Balance" (December 2025)

[3] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights, HC 1788 (April 2026)

protest.[4] For instance, during a three-day protest of an oil industry conference in London in October 2023 police arrested several protestors.[5] The circumstances of these arrests were reportedly confusing for protesters as they were receiving conflicting information from the police. For example, one protestor asked to quickly pick up their bag inside an area where protestors were being dispersed which one officer agreed to, yet, seconds later another police officer arrested this protestor. Westminster Magistrates Court acquitted five activists and the judge ruled that the Met Police had acted unlawfully when imposing conditions on the protest under section 14 of the Public Order Act 1986 (as amended by PCSCA 2022) ("**POA 1986**"), police could have imposed lesser restrictions on the protest, conditions imposed were not clear, and that protesters had no reasonable time to comply with police instructions.[6]

5. Further, as highlighted by Akiko Hart, Director of Liberty, there have been inconsistencies in the policing of certain protests, for example, at the point the proscription of Palestine Action was judged to be unlawful (February 2026), the Metropolitan Police decided not to arrest people expressing support for it,[7] yet in April 2026 more than 500 people were arrested during a demonstration against the ban on Palestine Action in central London.[8]

Escalation in the use of restrictions on static protest activity

6. Home Office data released in 2025 on police use of protest restrictions under sections 12 and 14 POA 1986. Section 12 and 14 give police powers to impose conditions on protests where a senior officer reasonably believes that serious disruption may occur.[9] Section 12 relates to public processions, which are non-static gatherings in a public place. Section 14 relates to public assemblies; an assembly is a static gathering. The data shows a contrasting trend in the use of sections 12 and 14. Conditions imposed on public processions by the Metropolitan Police (which accounts for 97% of the total recorded), dropped by around 96% between Q3 and Q4 of 2023.[10] Contrastly, the data demonstrates a general increase in the number of assemblies that have had conditions imposed on them under section 14. Between 1 April 2023 and 31 March 2024, 40 assemblies had conditions imposed compared to 132 assemblies between 1 April 2024 and 31 March 2025, a 230% increase.[11] The majority of processions recorded where the

[4] Human Rights Watch, "Silencing the Streets: The Right to Protest Under Attack in the United Kingdom" (2026)

[5] Ibid.

[6] Ibid.

[7] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights, HC 1788 (April 2026)

[8] BBC, "More than 500 arrests at Palestine Action demonstration" (2025)

[9] Public Order Act 1986

[10] Home Office, "Police protest powers, June 2022 to March 2025 - GOV.UK" (2025); 212 processions had conditions imposed by the Met from 01/07/2023-30/09/2023 vs 9 between 01/10/2023 – 31/12/2023

theme was known between 28 June 2022 and 31 March 2025 were categorised as "Environment" themed (89%).[12] Netpol hypothesises that the decline in deployment of section 12 conditions on processions is likely to be reflective of suppression and tactical exhaustion of the relevant movements, i.e., environment processions, due to prior intensive deployment of these powers.[13] It is, however, difficult to make a conclusive assessment given the Home Office data only records "themes of processions with conditions applied to them" rather than themes of processions in this time period more generally[14] (please see our answer to Q12 of the Inquiry for a more detailed analysis of the Home Office data).

7. Between 28 June 2022 and 31 March 2025 the force that imposed conditions most frequently was the Metropolitan Police Service which accounted for 67% of powers under section 14. Whilst this may not be surprising given that a large proportion of large-scale protests occur in London, it is notable that all assemblies with unknown triggers for the imposition of section 14 conditions were attributed to the Metropolitan Police. Specifically, 55 out of 175 assemblies (31%) had no recorded trigger, all of which were from the Metropolitan Police.[15] A lack of recorded trigger is concerning as it limits the ability to assess whether imposing conditions were justified (please see our answer to Q12 of the Inquiry for a more detailed analysis of the Home Office data).

8. Protestors have reported an escalation in the use of restrictions on previously lawful protest activity. For example, the approach taken to the Farmers' Budget Day protest in November 2025. Farmers' groups planned a Budget Day protest involving tractors in central London. The Met Police had initially engaged in supportive meetings for the weeks preceding the protests, and previous tractor protests had taken place with no reported incidents. For example, during the March 2024 Farmers 'go slow' protest, roughly 50–100 tractors converged in the Westminster area causing significant delays during rush hour and the police managed the disruption through traffic control rather than restrictions.[16] Conversely, on the Farmers' Budget Day 2025 protest, last minute conditions were imposed preventing the Farmers from driving tractors through Westminster which left no time to appeal or meet the new requirements.[17] Berkshire Farmers Group described the move as "appalling" and that it reflected a "malicious approach to preventing our right to protest."[18]

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[11] Ibid.

[12] Ibid.

[13] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026) `

[14] Home Office, "Police protests powers – Official statistics in development" (June 2022 – March 2025)

[15] Ibid.

[16] Yahoo News "Tractors bring rush-hour chaos to London as farmers stage protest" (2024)

[17] Farmers Weekly, "Met Police blocks farmers' Budget day IHT protest in London - Farmers Weekly" (2025)

Shutdown of protest activity / Restriction of assembly rights in places of worship

9. Recently, a meeting of six young women discussing the climate crisis and Gaza at a Quaker meeting house was shut down by 30 Metropolitan police officers. Some officers were armed with stun guns, and they smashed down the door of the building and arrested the young women inside,[19] including a journalist covering the meeting.[20] The raid was described as intelligence led, targeting the protest group Youth Demand. Those in attendance were arrested under suspicion of conspiracy to cause a public nuisance.[21] The Metropolitan Police attempted to justify their approach by referencing that Youth Demand had posted online that it was planning to "shut down" London daily in April, and that this would cause disruption to the public. Mal Woolford, an elder of the Westminster Quaker Meeting, who was present at the time of the meeting described the police response as "ridiculously heavy-handed" and Carla Denyer MP highlighted that the incident signifies an increasing stamp down on the right to peacefully protest.[22]

10. Further, as Paul Parker, Recording Clerk for Quakers in Britain, observed, no one in living memory has been arrested at a Quaker meeting house.[23] This is despite the Quakers' well-documented history of providing low-cost or free spaces to community groups, including those engaged in non-violent acts of civil disobedience.[24] This practice is not a recent development: Westminster Quakers have themselves described it as a tradition that "reflects over 350 years of Quaker witness, rooted in the belief that faith and action are inseparable."[25] Quakers operate robust vetting processes, requiring hirers to affirm a commitment to nonviolence as a mandatory part of their standard booking procedure.[26]

11. For many Quakers, the provision of space to such groups is not merely a civic act - it is itself an expression of Quakerism in action.[27] The restriction of this practice therefore raises concerns under Article 9 of the ECHR, which protects not only the holding of religious belief but its manifestation in practice and observance. Quakers in Britain's

[18] J. Thynne, "Breaking News: Budget Day protest in doubt as police issue tractor ban" Farm News, Farmers Guardian (2025)

[19] The Guardian, 'Why did 30 Met officers kick the door down at a teenage tea and biscuits meeting in a Quaker house?' (2025)

[20] pbi, 'British police raid Westminster Quaker Meeting House in London and arrest Youth Demand activists and journalist' (2025)

[21] The Guardian, 'Why did 30 Met officers kick the door down at a teenage tea and biscuits meeting in a Quaker house?' (2025)

[22] Ibid.

[23] Ibid.

[24] Westminster Quaker meeting "Second police raid at Westminster Meeting House (March 2026): *'It is a longstanding principle of Quakers to support those working peacefully for a more just world, including groups who might struggle to find space elsewhere'*

[25] Westminster Quaker meeting "Second police raid at Westminster Meeting House (March 2026)

[26] Policy on Letting Friends House; Tim Gee, "The police raid of a UK Quaker meeting house has backfired, not surprisingly" (April 2025) ; 14.27 | Quaker faith & practice

[27] Policy on Letting Friends House

submission to the Independent Review of Public Order and Hate Crime Legislation highlights that "for Quakers, faith and action are inseparable" and protest is not simply a civic activity, “it is an innately spiritual act."[28] The submission warns that the cumulative impact of expanded protest powers and vague legal thresholds has generated "a climate of fear and uncertainty" and refers to the raid as causing “significant disruption to worship and community life.” [29] Further, the Quakers report having been arrested at peaceful demonstrations which has created “fear and uncertainty among Quakers about exercising their right to protest, and by extension their right to put their faith into practice.” [30]

Increase in protest / protest related offences due to legislative expansion

12. Parallel to the increasingly restrictive approach taken to peaceful assemblies, legislative expansion has created many new protest offences, capturing an incredibly broad range of conduct, including that which is not at all harmful.

PCSCA 2022

Public Nuisance

13. Section 78 of the PCSCA 2022 establishes a statutory offence of intentionally or recklessly causing public nuisance and abolishes the common-law offence. The offence is much broader, where a person commits an offence if their act or omission causes or creates a risk of serious harm to the public or a section of the public. “Serious harm” includes damage to property, personal injury, disease, death, serious distress, serious annoyance, serious inconvenience, or serious loss of amenity. The offence also captures obstruction of the public, or a section of the public, in the exercise or enjoyment of a right available to all. Serious distress, serious annoyance and serious inconvenience are extremely broad definitions which risks the criminalisation of engaging in conduct which would previously have been considered as inherent to protesting.[31]

14. For example, in May 2023, three women’s safety volunteers were arrested on suspicion of conspiracy to commit public nuisance during the King’s coronation.[32] The police’s suspicion was attributed to the women carrying rape alarms, which they were going to hand out as part of their voluntary position.[33] They were then held in custody for 15

[28] Quakers “Submission to the Independent Review of Public Order and Hate Crime Legislation from Quakers in Britain”

[29] ibid

[30] ibid

[31] JUSTICE, “Striking the Balance” (December 2025)

[32] BBC News, Jess Warren & PA Media, “Women’s safety volunteers arrested ahead of Coronation” (May 2023)

[33] Ibid.

hours.[34] This example highlights a concerning trend of diminishing weight being given to Article 10/11 rights when considering whether action may cause a public nuisance. This and the example of the Quaker house raid above reflects a growing reliance on conspiracy offences in relation to protest policing,[35] which is concerning as conspiracy charges can justify criminalising collective planning and justify early and expansive surveillance into movements and networks.[36]

Section 75

15. Contributing to the widening of protest offences, Section 75 of the PCSCA 2022 lowers the fault element required for breaching protest conditions. Previously, an offence required a "knowing failure to comply" with a protest condition, whereas the amended provision applies where a protestor "knew or ought to have known" about a condition at the time that they failed to comply. Removing the requirement for actual knowledge of a failure to comply increases the risk of criminalisation for unintentional breaches, particularly in crowded and dynamic protest environments where effectively communicating conditions to participants can be challenging and where members of the public who are not protesting may also be present.

POA 2023

16. Sections 1 and 2 of the Public Order Act 2023 introduce new offences for "locking on" and being equipped to lock on. "Locking on" is so vaguely drafted that it could capture someone locking up their bicycle where it might impede more than one person walking down the street. The capacity to criminalise ordinary conduct was highlighted when six people were arrested on suspicion of being equipped to lock-on as they were carrying plastic ties on the day of King Charles III Coronation. The Metropolitan Police held the protestors for 16 hours before their release. The police later apologised to one of the protestors and expressed regret for these arrests.[37] However, by that time the Coronation – which was the focus of the protest – had already passed.

Excessive penalties

17. As well as an escalation in the use of restrictions against protest activity, the courts imposed excessive sentences in relation to non-violent protest action when Just Stop Oil supporters were convicted of conspiracy to commit public nuisance for planning a protest involving the potential blocking of the M25. The five convicted had spoken on a Zoom call, where they were attempting to recruit volunteers. A sentence of five years was imposed for Roger Hallam, while the other four were sentenced to four years each.[38]

[34] Westminster Extra, "Night Stars volunteer slams police over coronation arrest" (March 2023)

[35] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026)

[36] Ibid.

[37] BBC News, "Coronation: Met expresses 'regret' over arresting six anti-monarchy protesters" (May 2023)

[38] The Guardian, "Five Just Stop Oil activists receive record sentences for planning to block M25" (July 2024)

The Court of Appeal in Hallam held that these sentences were "manifestly excessive" and found that trial judges failed to give adequate attention to conscientious motivation and ECHR Articles 10 and 11 protections. All sentences were subsequently reduced on appeal.[39]

Broad nature and disproportionate application of suspicionless stop and search

18. Simultaneously, sections 10 and 11 of the Public Order Act 2023 expand stop and search powers through broadening the underlying offences which can trigger their use, therefore increasing the circumstances in which someone can be stopped and searched. Section 10 provides that where officers have reasonable grounds they may stop and search individuals or vehicles for items intended for use in a range of relevant public order offences. These offences include: (i) wilful obstruction of a highway (Highways Act 1980, s.137); (ii) public nuisance (PCSCA 2022, s.78); or (iii) locking-on, tunnelling, or interference with key infrastructure (POA 2023, ss.1, 3, 4, 6 and 7).[40] Taking the example of locking on, individuals could be subject to stop and search for simply carrying a bike lock, while for statutory public nuisance, carrying objects like megaphones, speakers, or even placards could also trigger such search powers.

19. Section 11 creates new powers of suspicionless stop and search. When a senior officer believes that protest-related offences listed above may occur within a specified locality, they can authorise uniformed officers to search for objects intended for use in such offences, or objects connected to such offences that have already occurred. These searches can be carried out without suspicion if officers reasonably believe that such an offence may be committed. This provision replicates the elements of section 60 of the Criminal Justice and Public Order Act 1994, in a protest context, which requires no objective grounds where anyone within the area covered by an authorisation may be stopped and searched.

20. The expansion of these powers is concerning given that suspicionless stop and search practices already foster a deep sense of mistrust between communities and the police; and historically its overuse has been a recurring grievance leading to mass civil unrest.[41]

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[39] R v Hallam and others [2025] EWCA Crim 199

[40] Prior to this, the list of offences was limited to burglary, theft, fraud, vehicular theft, criminal damage; and prohibited objects were limited to stolen goods, offensive weapons and prohibited fireworks.

[41] Decades of research establish that the discriminatory and excessive use of, particularly suspicionless, stop and search powers has itself been a significant driver of public disorder, inflaming civil unrest preventing it. See for instance, S Scarman, Lord Justice (1981) *The Brixton Disorders 10-12 April 1981*, (Cmnd 8427, 1981) in which Lord Scarman identified Operation Swamp 81, in which nearly 1,000 people were stopped in Brixton under the suspicionless stop and search, or "sus" power, in s.4 of the Vagrancy Act 1824, as a "serious mistake" that fractured police-community relations and was a major cause of the Uprising. He condemned the "rigid, unimaginative" model of hard policing and called for a pivot toward fairness, accountability and community dialogue as the foundation for the maintenance of public order. The empirical record since has only reinforced that conclusion. See London Assembly Police and Crime Committee, *'Policing and the Control of Street Crime'* (Report), p. 12, states that discontent with the police›s use of stop and search was a "key factor" in 2011 August riots; see also Lewis, P. and others, *Reading the Riots: Investigating England's Summer of Disorder* (London School of Economics and Political Science/The Guardian, 2011), pp 4,19 & 24. While subsequent research on procedural justice has confirmed that perceived unfairness in the exercise of police powers

Additionally, recent years have seen a pattern of police disproportionately using existing stop and search powers to deliberately target people exercising their right to protest.[42] For example, researchers reported that, even when controlling for differing levels of coronavirus restrictions, the number of stops in central London was significantly higher on days there were protests compared to those without, even though the data shows demonstrators were no more likely to be arrested after a search than the general public.[43] Expanding police powers is likely to exacerbate these issues for people exercising their right to protest.

21. Further, there is a disproportionate use of stop and search powers on Black and minoritised communities, as of February 2026, Black individuals in London were 3.4 times more likely to be stop and searched than White individuals in London.[44] This increases to 5.3 times more likely for stops searching for weapons, points or blades.[45] From 1 January 2025 to 31 December 2025 approximately 73% of s.60 stop and searches were conducted on Black individuals with 88.2% of these stops leading to no further action.[46] Further, analysis of stop and search data by borough shows a noticeable spike in recorded stop and search activity in the boroughs of Kensington & Chelsea and Westminster in both August 2024 and August 2025.[47] This is likely to be linked to Notting Hill Carnival. In 2023 there were 798 recorded stop and searches at Notting Hill Carnival, 80% of these stops resulted in no further action. The use of these powers against Black children is particularly stark. Reviewing the Met's stop-and-search dashboard, of just under 2,000 Black people recorded as having been searched in central west London in August 2025, 724 were under 18, representing 40% of the total. Over 90% of those searches resulted in no further action.[48]

22. Further, Big Brother Watch analysis reported that since Section 11 suspcionless stop and searches came into force on 20 December 2023, they have been excessively used primarily against Pro-Palestine protestors.[49] The Metropolitan Police had used the

undermines police legitimacy and the public's willingness to cooperate during large public order event. See Hohl, K., Stanko, B. and Newburn, T. (2013) *'The effect of the 2011 London disorder on public opinion of police and attitudes towards crime, disorder, and sentencing'.* Policing: A Journal of Policy and Practice, 7(1), pp. 12 to 20 found that areas with lower confidence in the fairness of the police later saw more instances of disorder during the disturbances that followed the killing of Mark Duggan in 2011. The researchers found lack of trust and confidence undermined the perceived legitimacy of the police, and that anti-police riots, disorder and looting were seen as extreme forms of a lack of willingness to cooperate with the police.

[42] The Guardian, D. Gayle, "Police abuse stop and search powers to target protesters, suggests data" (2022)

[43] Ibid.

[44] London City Hall, "Largest-ever research project on police use of Stop and Search highlights how significant disproportionality in London can be addressed" (March 2026)

[45] Ibid.

[46] Metropolitan Police Service "MPS Stop and Search Monthly Report | Tableau Public" (2026)

[47] Ibid.

[48] Ibid.

[49] The Guardian, Haroon Siddique, "Met police accused of targeting pro-Palestine protestors for stop and search" (Sep 2025)

powers against 47 demonstrators, 40 of whom were attending a Gaza protest by Youth Demand in July last year, none of which led to arrests.[50] The expansion of stop and search powers in the protest context is therefore likely to have a discriminatory chilling effect in preventing Black and racialised people exercising their freedom of assembly, association and speech. When such powers are used in this way it undermines police legitimacy and the public's willingness to cooperate during large public order events, impairing, rather than supporting, the police's capacity to maintain safety and security at public events.

Conclusion

23. Overall, the above reflects the chilling effect of recent legislation on citizens ability to protest legally and peacefully.[51] The JCHR has previously warned that the combined measures of recent legislation would likely both cause a chilling effect and "threaten the overall balance struck between respect for the right to protest and protecting other parts of the public from disruption".[52] This has occurred in practice as explored in further detail in our answer to Question 4 of the Inquiry.

Recommendations

24. We reiterate our recommendation from our 2021 report, 'Tackling Racial Injustice: Children and the Youth Justice System,' that "the Home Office should immediately suspend any further section 60 authorisations until it has undertaken an independent evaluation of the impact and effectiveness of these searches, supported by a public consultation. In the meantime, while section 60 authorisations continue, we recommend that the changes made under the pilot scheme be immediately reversed and be subject to the prior review of Community Scrutiny Panels." Further, JUSTICE urges the Government to meet their commitment to publish annual data from 2025/26 about areas covered by Section 60 authorisations.

25. Restoration of pre-PCSCA *mens rea* for breach of conditions.

26. Simplify legislation: Repeal of POA 2023 sections 1–7 and 10–11, and PCSCA 2022 sections 73–80)

2) How does the National Security Act 2023 operate in relation to protest at, or in the vicinity of, a "prohibited place"? Are the thresholds for police powers and offences related to prohibited places sufficiently precise and proportionate?

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[50] Ibid.

[51] Labour Research Development, "Legislation has 'chilling effect' on ability to protest" (Aug 2025)

[52] House of Commons Library, Research briefing, William Downs, "Police Powers: Protests" (January 2026)

27. The National Security Act 2023 ("the NSA") introduces new offences and police powers to prevent harmful activity around prohibited places and address remote and electronic intrusion, including by drones.[53]

Overly broad definitions

28. Section 4 of the NSA 2023 makes it an offence, triable on indictment with a maximum sentence of 14 years' imprisonment, to access, enter, inspect, pass over or under, approach or be in the vicinity of a prohibited place, or causing an unmanned vehicle or device to so[54] for a purpose the person knows or ought reasonably to know is prejudicial to the safety or interests of the UK.[55] This includes by photography, video or other recording.[56]

29. The JCHR has previously identified concerns about the wording of this clause in respect to being sufficiently precise and proportionate. The term 'vicinity' is exceptionally vague and risks people committing offences without knowing they had done so.[57]

30. Further, the term 'safety or interests of the United Kingdom' is open to interpretation and could risk criminalising protestors who are 'in the vicinity of' Government land.[58] Section 6(1)(c) permits a constable to require any person "in an area adjacent to a prohibited place" to leave immediately where the officer reasonably believes this necessary to protect the safety or interests of the UK; non-compliance is a summary offence carrying up to three months' imprisonment.[59]

31. An "area adjacent to a prohibited place" is similarly vague, the Independent Reviewer of State Threats Legislation expressed concerns that "area adjacent is undefined and could encompass a significant patch of land."[60] Additionally, a subjective approach could be taken by police officers when considering what is "necessary to protect the safety or interests of the UK." This could be used in a way which impacts on ordinary rights and freedoms, especially given that the offence is committed even if it was subsequently found that there was no risk to the safety or interest of the UK but that the constable reasonably believed this to be the case.[61]

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[53] National Security Act 2023, ss 4–11; Home Office "A guide to the National Security Act 2023 for security professionals (accessible)" (Jan 2025)

[54] Including both in person and electronic or remote access.

[55] National Security Act 2023, s 4

[56] Ibid. s4(2)

[57] Joint Committee on Human Rights "Legislative Scrutiny: National Security Bill" (October 2022)

[58] Ibid.

[59] National Security Act 2023, s 6(1)(c), 6(3), 6(4)(5) (3 months on summary conviction; level 4 fine).

[60] Home Office "Report of the Independent Reviewer of State Threats Legislation (accessible)" (Updated Jan 2026)

[61] Joint Committee on Human Rights "Legislative Scrutiny: National Security Bill" (October 2022)

32. As highlighted by the Independent Reviewer of State Threats, "it would be wrong for protestors to be shooed away from prohibited places without adequate consideration being given to freedom of expression and assembly."[62] He notes that during the passing of the Bill, the Government promised to provide guidance to police. Guidance by the College of Policing has been prepared but remains unpublished.[63] It is therefore ineffective in assisting authorities to demonstrate that interference was in accordance with the law and cannot be consulted or relied upon by peaceful protestors.[64]

33. Section 7 defines 'prohibited place' as all Crown Land in the United Kingdom or the Sovereign Base Areas of Akrotiri and Dhekelia used for UK defence purposes, extracting any metals, oil or minerals for use for UK defence purposes or for the purposes of defence of a foreign country or territory; and any vehicle outside of the UK used for UK defence purposes.[65] This is a wide definition, the Ministry of Defence having confirmed that it considers "all UK Defence Supplier land or buildings used for the purposes described above" to be prohibited places under the act by default.[66] Therefore, offences and powers contained in sections 4-6 of the Act could attach to significant areas of the British countryside, for instance, Ministry of Defence land covered by public footpaths.[67]

34. A further issue with the definition of prohibited places is identified by the Independent Reviewer of State Threats who noted that "the law leaves it open to facilities to self-declare or not" with no obligation to obtain government permission or consider whether signage should be implemented to indicate a prohibited place.[68] This risks "over-claiming and inhibiting otherwise lawful protest."[69]

Inadequate protections for journalists

35. Given offences under the NSA 2023 explicitly include taking photographs, the lack of a public interest defence for journalists reporting on protests in the vicinity of the prohibited place raises significant concerns for press freedoms. In June 2024, an amateur photographer reported being "aggressively confronted by a security operative" from Elbit, a private defence company, who had tried to grab his camera.[70] He was reportedly later stopped by police, arrested under section 4 of the National Security Act

[62] Home Office "Report of the Independent Reviewer of State Threats Legislation (accessible)" (Updated Jan 2026)

[63] Ibid.

[64] Ibid.

[65] National Security Act 2023, s7

[66] Ministry of Defence, "ISN National Security Act 2023" (Issued 15/04/2024)

[67] Joint Committee on Human Rights "Legislative Scrutiny: National Security Bill" (October 2022)

[68] Home Office "Report of the Independent Reviewer of State Threats Legislation (accessible)" (Updated Jan 2026)

[69] Ibid.

[70] Netpol, "This is Repression" (2025), p 16.

and his home was raided. Police officers reportedly seized his camera, his mobile phone, his laptop, hard drives and storage devices. He was subsequently released under investigation.[71]

36. Section 17 of the POA 2023 states that "*a constable may not exercise a police power for the sole purpose of preventing a person from observing or reporting on a protest.*"[72] Without a similar carve-out in the NSA there is a risk of a chilling effect on press freedoms.

Sentencing Act 2026

37. The Sentencing Act 2026 increases the post-custodial consequences of a conviction under the prohibited places regime. Section 7 of the Sentencing Act 2026 amends provisions of the Sentencing Code for "Sentences for Offenders of Particular Concern" ("**SOPC**"), which previously applied only to terrorist offences, so that they now apply to "*certain* offenders of particular concern," including specified offences under the NSA 2023 and wider national security regime. The Act inserts a new Part 3 of Schedule 13 which lists offences, including section 4 of the NSA 2023.[73] Those with an SOPC are excluded from the new "earned progression model" for prisoners serving standard determinate sentences,[74] a model which serves the purpose of granting earlier release from prison. Additionally, whilst the Sentencing Act introduces a presumption that sentences under 12 months will be suspended, the Act explicitly prevents SOPCs from having sentences suspended.[75]

38. Given concerns that offences under the prohibited places regime under the NSA 2023 are so broadly drafted that they can capture a wide range of peaceful protest activity and risk disproportionate interference with the rights under Articles 10 and 11 ECHR, it is particularly worrying that offences under this regime are now included within the SOPC framework. Individuals, including journalists and those potentially engaged in legitimate peaceful protest, who are convicted under s.4 of the NSA 2023 will be subjected to a harsher post-conviction regime, amplifying the risk of overreach identified in the underlying offences of the NSA 2023.

39. Compounding these concerns, Netpol reports seeing some of the first uses of the NSA 2023 against protestors and reporters.[76] This highlights the need for scrutiny of the

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[71] Ibid.

[72] Public Order Act 2023, s17

[73] Sentencing Act 2026

[74] Ministry of Justice "Sentencing Act ensuring punishment cuts crime gets Royal Assent"

[75] Prison Reform Trust, "The Sentencing Act" (Jan 2026)

[76] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026)

measures set out in the prohibited places regime of the NSA 2023 otherwise risking normalising the use of national security powers in response to lawful, ECHR-protected, dissent.

Recommendations:

40. We reiterate the JCHR's 2022 recommendations that:

(a) To represent a proportionate interference with human rights and freedoms, places must only be prohibited where they are defined areas of "particular defence or national security sensitivity", and reasonable authorisation should be granted for protests to take place in the "vicinity" of prohibited places.[77]

(b) There should be an obligation to display notices on entrances to 'prohibited places' to inform the public that it is a prohibited place and that entry would be a criminal offence. [78] Consideration may need to be given to a caveat for genuinely covert sites once a review is completed by the Independent Reviewer.

(c) The police must publish a clear code setting out how they will use the powers in section 6.

3) To what extent are restrictions on individuals taking part in protest, for example Serious Disruption Prevention Orders, compatible with Articles 10 and 11 in design and in practice?

Civil Orders

41. The growing use of civil orders to restrict protest, for example, public space protection orders ("**PSPOs**"), are increasingly being deployed to the protest context, beyond their original scope and purpose and having increasing cause for concern.[79] Civil orders are particularly problematic as they are imposed on civil standards, yet breach can either constitute a criminal offence or can attract a criminal justice response (e.g. contempt of court punishable by imprisonment for breaching an injunction). This results in criminalisation without fundamental criminal justice safeguards, including restrictions on certain types of evidence, the criminal standard of proof, full disclosure requirements, access to legal aid for legal representation, and arguably thereby the right to a fair trial, risking criminalisation via the backdoor.

Public Space Protection Orders (PSPOs)

42. PSPOs are applied in relation to specific geographic areas and impose restrictions and requirements on the activities that people can undertake in that area. A local authority may make a PSPO if satisfied on reasonable grounds that activities carried on (or likely

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[77] Joint Committee on Human Rights "Legislative Scrutiny: National Security Bill" (October 2022)

[78] Joint Committee on Human Rights "Legislative Scrutiny: National Security Bill" (October 2022), conclusions and recommendations 13 and 14 (paras 59, 61)

[79] Campaign for Freedom in Everyday Life "Campaigners defy council ban on campaigning" (2026); Campaign for Freedom in Everyday Life "Leicester Council denies political party right to campaign in city centre" (Jan 2026)

to be carried on) in a public place have had (or will have) a detrimental effect on the quality of life of those in the locality, and that effect is (or is likely to be) of a persistent or continuing nature, such as to make the activities unreasonable, and justifies the restrictions imposed. Breach without reasonable excuse is a criminal offence carrying a maximum fine of £1,000, or a fixed penalty notice ("FPN") of up to £100, increased to £500 by the Crime and Policing Act 2026.[80]

43. PSPOs are made by local authorities without any judicial oversight. Unlike other civil orders like SDPOs, there is no requirement for judicial approval before an order takes effect. Research by the Campaign for Freedom in Everyday Life found that half of councils that provided data had passed PSPOs through a single, often unelected, council officer.[81] There is no requirement for public consultation, no requirement for elected representatives to vote on orders, and no requirement to demonstrate in writing that less restrictive alternatives have been considered. This makes them particularly problematic as a protest control measure owing to their democratic deficit.

Serious Disruption Prevention Orders (SDPOs)

44. The prohibitions and requirements that can be imposed by SDPOs are extremely broad. Prohibitions can be in relation to being in a particular place, participating in a certain activity, associating with particular individuals, using the internet or possessing specified items. Such restrictions are not tailored to preventing specific or proven harm and create a broad-spectrum control on movement, association and expression. As highlighted by the JCHR previously, the conditions placed on individuals as part of an SDPO could make it extremely challenging to participate in further protests, thus preventing their legitimate exercise of Articles 10 and 11.[82]

Youth Diversion Orders (YDOs)

45. Concerningly, the Crime and Policing Act 2026 introduces new behavioural control orders, which could be misused in the protest context. For example, YDOs are civil behavioural control orders for the purpose of preventing extremist behaviour, designed to be imposed on children, as young as ten. Similar wide-ranging prohibitions and requirements can be imposed, such as curfews, restriction on movement, association and device use and electronic monitoring. YDOs are also imposed on the civil standard and can be imposed without notice, the test for imposing a YDO is alarmingly vague and could be triggered for behaviour falling far below the criminal threshold and relying on evidence that would be inadmissible in criminal proceedings. We are concerned that YDOs could also be used to prevent young people from participating in protest activity in contradiction with Articles 10 and 11, either through explicit conditions or through

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[80] Home Office, MOJ, "Crime and Policing Bill: antisocial behaviour (ASB) factsheet" (May 2026)

[81] Freedom in Everyday Life: PSPOs: "A Busybodies' Charter" (2016)

[82] Rt Hon Harriet Harman MP, Proposed government amendments to the Police Crime, Sentencing and Courts Bill, 29 November 2021

creating a broader chilling effect due to their draconian nature and stigmatisation of being subject to a YDO.[83]

Respect Orders

46. Respect Orders are an "updated version" of Anti-Social Behaviour Orders. Respect Orders can be obtained against anyone aged 18 or older whose behaviour "has caused, or is likely to cause, harassment, alarm, or distress." The orders are obtained on the civil standard in the County Court, but breach is a criminal offence punishable by up to two years' imprisonment for initial breaches, with repeat breaches carrying up to five years' imprisonment. This represents the same "double standard trap" as other civil orders: civil proof threshold, criminal consequences. Given the pattern of using anti-social behaviour orders to quell protest, and the confusion that has been demonstrated by Local Authorities and the Police about the purposes for which certain civil orders should be used, it is possible that Respect Orders will become the latest type of civil order to be used in this way.[84]

Issues[85]:

(a) **Pre-emptive in nature:** The imposition of a civil order is normally conditional on both a 'trigger event' and the role that order will play in achieving some outcome, for example, preventing an unwanted occurrence. For this reason, civil orders are often described as both reactive and pre-emptive.[86] For example, SDPOs can be imposed where a court is satisfied that a person has previously committed a "protest-related offence" (the reactive element) and that it is necessary to impose the SDPO to prevent them from undertaking future conduct that is "likely to result in" disruption (the pre-emptive element).[87] PSPOs can be imposed where a local authority considers it "likely" that activities will be carried on in a public place and that they will have a "detrimental effect on the quality of life of those in the locality"; that it is "likely" that the conduct is of a persistent or continuing nature and that it is "likely" that this would make the activities unreasonable."[88] This pre-emptive approach is fundamentally at odds with the rule of law principle that punishment should follow proven wrongdoing. The ECtHR has emphasised that while preventative measures may be justified, including in a protest context,[89] they must be proportionate and necessary in a democratic society.

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[83] JUSTICE, "Striking the Balance" (December 2025)

[84] Ibid.

[85] Ibid: See Chapter 3

[86] JUSTICE, "Lowering the Standard: a review of Behavioural Control Orders in England and Wales" (2023), p.25.

[87] Public Order Act 2023, s.20(10 - (3) and s21(1) - (4)

[88] Anti-social Behaviour, Crime and Policing Act 2014, s. 59(2)-(3).

(b) **Risk of disproportionality:** The lack of accountability mechanism implicit within the civil order framework increases the risk that orders can be used in ways that disproportionately impact or target certain groups, including in a protest context. For example, there are significant gaps and variations in data capture across enforcement bodies and in respect of different orders. Information obtained via interviews, as well as FOI data, shows worrying variation in the types of data collected, the quality of data collected, the means of inputting the data, the location of the data, and the ability for the data to be extrapolated and shared internally, as well as with relevant agencies where appropriate to do so.[90]

(c) **Privatisation of Public Order:** Private corporations have been able to utilise civil orders, specifically injunctions, to create their own protest restrictions through litigation, which leads to "private companies and public authorities...effectively create[ing] their own, bespoke public order offences - instead of relying on the criminal justice system."[91] For example, companies like HS2, National Highways, Shell, and Ineos have obtained sweeping injunctions to restrict activists and protestors which cover vast geographic areas - in some cases, the entire 170-mile HS2 route or the entire strategic roads network.[92] This exposes a concerning imbalance within the civil order regime in respect to protests, as well-resourced corporate actors who have access to specialist legal teams are able to obtain injunctions to prevent protests, they can then enforce orders through civil contempt proceedings that can result in individuals being imprisoned despite having never committed a criminal offence. The Court of Appeal in Canada Goose recognised this problem: "Private law remedies are not well suited" to "permanently controlling ongoing public demonstrations by a continually fluctuating body of protesters."[93] Yet such remedies continue to be granted within the civil order regime. In the PSPO context, where orders are imposed by local authorities, several authorities outsource the enforcement of orders to private companies, with nearly 200,000 FPNs being issued on this basis in 2021-2022.[94] Private companies can be paid commissions on a target basis, leading to concerns that orders are being issued for income-generating and commercial purposes rather than being used to tackle behaviour that is actually harmful.[95]

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[89] *Schwabe and M.G. v Germany (2012) 54 EHRR 20*.

[90] JUSTICE, "Lowering the Standard: a review of Behavioural Control Orders in England and Wales" (2023), p 88.

[91] Friends of the Earth, "Legal challenge against anti-protest injunctions goes to human rights court," (2024).

[92] *HS2 Ltd v Persons Unknown EWHC 3140 (KB); National Highways Ltd v Persons Unknown EWHC 3081 (QB); Ineos Upstream Ltd v Persons Unknown EWHC 2082 (Ch)*

[93] *Canada Goose UK Retail Ltd v Persons Unknown EWCA Civ 303,* p2804, para A.

[94] Freedom of Information data collated by Campaign for Freedom in Everyday Life, (January 2023); Campaign for Freedom in Everyday Life, "The Corruption of Punishment – Report," (2022).

[95] Evidence submitted by delegates to a JUSTICE Practitioner's Roundtable on ASB hosted in Spring 2025; see also Campaign for Freedom in Everyday Life, 'Campaign to End Fining for profit' (September, 2022); "The Corruption of Punishment – Report," (2022)

(d) **Layering of criminal and civil justice measures:** Over recent years, the Government appears to have established a practice of introducing new civil orders alongside new criminal offences – both of which target the same type of behaviour. This is particularly true in the protest context. For example, the Public Order Act 2023 created SDPOs,[96] new protest-related offences and powers for the Secretary of State to apply to court for an injunction (albeit that the injunction provisions are yet to be brought into force).[97] Further, the variation and overlap of civil orders and crimes leave too much open to interpretation and individual discretion, meaning that civil orders are imposed inconsistently and the number applied for differs greatly region by region creating enforcement gaps for the Government. Police and local authorities can experience confusion about when to use a civil order, which choice of order to use and when to instead pursue the investigation of a crime. The public have criticised civil orders as creating "personalised penal codes" or "ad hominem criminalisation,"[98] in other words the imposition of civil orders leads to recipients becoming subject to a system of restrictions and requirements limiting their Article 10 and 11 rights set out in an order that applies only to them, and not to society as a whole.

Bail Conditions

47. Pre-charge bail conditions which constitute an effective ban on participating in protest activity has been a growing concern over the last decade.[99] Recent reports highlight a pattern of bail conditions being used to prevent individuals from attending protests, for example Palestine protestors have reported receiving conditions which prevent them from attending any planned or spontaneous pro-Palestine protests.[100] Pre charge bail conditions restricting engagement with protest activity are imposed by the police rather than courts and they do not require any charge.[101] This pattern is concerning, as although people can challenge conditions, this often requires legal support and sufficient time, such conditions therefore often operate with limited scrutiny, as permitting substantive interference with Articles 10 and 11 without the need for a conviction and displaces the presumption of innocence with a logic of risk management.[102]

Recommendations:

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[96] Public Order Act 2023, ss. 20 -33.

[97] Public Order Act 2023, Injunctions ss. 18-19.

[98] A. Green, and J. Hendry, '"Ad Hominem Criminalisation and the Rule of Law: The Egalitarian Case against Knife Crime Prevention Orders," (2021)

[99] Hodge Jones & Allen "Protests and the misuse of bail conditions" (2015)

[100] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026)

[101] Ibid.

[102] Ibid.

48. In respect to civil orders, at Chapter 3 of our recent report 'Striking the Balance: Protest Rights and Public Order' we set out in detail our concerns about the growing use of civil orders to restrict protest in the UK has profound implications for justice, human rights and the expression of democratic freedoms.[103] We make the following recommendations which we reiterate here:

49. We recommend the repeal of Serious Disruption Prevention Orders ("SDPOs") and Youth Diversion Orders ("YDOs").

    (a) We recommend that legislation should explicitly clarify that Dispersal Powers, Respect Orders and YDOs may not be used to restrict protest activity.
    (b) We recommend that where local authorities seek to impose Public Space Protection Orders ("PSPOs") that may affect protest rights, judicial approval should be required before such orders take effect.
    (c) We further recommend that authorities should publish reasons for imposing PSPOs and for using dispersal powers. Reasons should include proportionality analysis and community impact assessments.
    (d) We recommend that where injunctions are imposed which restrict protest, consideration should be given to restricting the claimant's ability to recover costs from defendants.
    (e) We recommend that all authorities imposing civil orders must collect and publish comprehensive demographic data on a regular basis in a centralised location in order to ensure that discriminatory effects are monitored.
    (f) In respect to the imposition of PSPOs, SDPOs, and Respect Orders we recommend that legal aid is made available to challenge such orders. We also recommend that the deadline for challenging PSPOs is extended to 12 weeks and the ground of challenge should be expanded to include a lack of consultation.

4) Does the current legal framework adequately balance protest rights against the rights of others? Do further changes to the law proposed in the Crime and Policing Bill affect that balance?

Decreased tolerance towards disruption

50. Please refer to our concerns about the lack of definitional clarity and subsequent overly broad and inconsistent approach to categorising protest conduct in respect to "serious disruption" in our response to Question 6 of this inquiry.

51. Further, for the purposes of considering whether the current legal framework adequately balances protest rights against the rights of others, the definition of serious disruption in the POA 2023,[104] which triggers criminal offences (set out in our answer to Q1 of the Inquiry) including where individuals or organisations are by way of physical obstruction prevented or hindered to more than a minor degree, from carrying out "their day-to-day

[103] JUSTICE, "Striking the Balance" (December 2025)

[104] Public Order Act 2023 s34

activities"[105] is particularly problematic. No explanation of "day-today activities" is provided and the only example referenced is "making of a journey" which provides little clarity and could encompass almost any ordinary act of life. For instance, commuting, shopping, social interactions or leisure. Additionally, the vague definition risks capturing nearly all forms of public demonstration as most protests will inevitably hinder someone's "day-to-day activities" to more than a minor degree.

52. The current legal framework treats protest itself as a public order concern. See Q1 of our answer to the Inquiry for details about section 78 of the PCSCA 2022 which introduced a statutory offence of intentionally or recklessly causing public nuisance. A further example of this offence disproportionately interfering with protest rights is when a Just Stop Oil protestor, and a journalist who was filming her, were arrested for holding a banner on the pavement near the coronation route for conspiracy to commit public nuisance.[106]

53. Further, sections 73 (2)(ab) and 74 (2)(ab) of the PCSCA 2022 amend sections 12 and 14 of the POA 1986 respectively, which allows a senior police officer to impose conditions on a procession or assembly where they reasonably believe that the *"noise generated by persons taking part in the procession or assembly may have a relevant impact on persons in the vicinity and that impact may be significant."*[107] This is an extremely expansive measure, given the lack of clarity of "in the vicinity" and that discomfort or unease among those who disagree with the message of a protest is an inevitable feature of democratic expression. (Please see our answer to Q6 of the Inquiry for further details on provisions about noise in the context of protests).

54. A particularly stark example of the current legal framework failing to strike adequate balance between protest rights against the rights of others is the introduction of the power to impose conditions on 'one-person protests' where a senior police officer reasonably believes that noise created may cause "serious disruption" or "significant impact."[108] Though there has been no reports from police forces that this power has been used to apply conditions to one-person protests,[109] this provision risks encompassing any expressive act, regardless of the number of participants. One-person protests are inherently less likely to cause meaningful disruption and such powers risk

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[105] Ibid. Section 34(1)(a)(i)

[106] Human Rights Watch, "Silencing the Streets: The Right to Protest Under Attack in the United Kingdom" (2026); Rich Felgate on X: "Yesterday I got arrested whilst filming a @JustStop_Oil supporter holding a banner on the pavement near the coronation route. I'm a filmmaker and had my @BECTU press accreditation visible around my neck. Police deemed this to be "conspiracy to commit a public nuisance". https://t.co/obgLH8Qj42" / X

[107] Police, Crime, Sentencing and Courts Act 2022, s73 and 74

[108] Ibid, Section 79

[109] Home Office, "Police protests powers – Official statistics in development" (June 2022 – March 2025)

public order powers being deployed to regulate expression which is merely unpopular or controversial rather than genuinely harmful to the rights of others.

Crime and Policing Act 2026

55. The Crime and Policing Act 2026 adds further provisions to an already extensive framework of public order legislation.[110] These developments are proposed without taking a meaningful pause to review the understanding and impact of the existing framework. Additionally, the Act received Royal Assent on 26 April 2026, pre-empting the findings of this Inquiry and Lord Ken McDonald's Independent Review of Public Order and Hate Crime legislation being published.

56. We are particularly concerned by the following provisions within the Crime and Policing Act 2026:

57. **Concealing Identity:** The Bill criminalises the act of wearing or otherwise using an item (for instance a face covering) that conceals their or another person's identity when in an area that the police have designated.[111] We are concerned by the introduction of this new offence for several reasons:

    (a) **Interference with fundamental human rights.** As highlighted by the JCHR, the measure is so broad that it does not criminalise those using face coverings to intimidate or avoid arrest, it will also criminalise those exercising their right to peaceful protest but seeking to protect their privacy or wear a face covering for other reasons while they do so. This engages these innocent individuals' freedom of expression (Article 10 ECHR), freedom of assembly (Article 11) and right to privacy (Article 8 ECHR). To lawfully interfere with these rights, to protect public order and safety, interference must be necessary and proportionate. Yet, the drafting is not proportionate and criminalises peaceful protesters who may have legitimate reasons for wanting to remain anonymous while peacefully protesting.

    (b) **Defences are inadequate.** People may have very good reason for protecting their privacy in public, including at a protest. However, the provision only recognises three defences: wearing a face covering for religious, health or work reasons. These defences are exhaustive, and as the JCHR highlighted, do not cover all legitimate reasons. For instance, fear of family, community members or employers finding out their legitimate political or social views, fear of transnational repression when individuals or their families or associates in other jurisdictions face persecution for speaking out against foreign regimes, concern for racial profiling alongside the increasing police reliance on facial technology, or a parent who may wish to cover their child's face at a protest to protect their privacy or people simply trying to keep them warm.

    (c) **Overlapping powers.** Under section 60AA of the Criminal Justice and Public Order Act 1994, the police already have the power to designate a locality, either if a

[110] Crime and Policing Act 2026

[111] Home Office, Ministry of Justice "Crime and Policing Bill: public order offences factsheet" (May 2026)

police officer of or above an Inspector rank reasonably believes that activities may take place in any locality in his police area, that if the activities took place they are likely to involve the commission of offences and it is expedient to prevent or control the activities to give such an authorisation,[112] or where an authorisation under section 60 (powers to stop and search in anticipation of or after violence) are in force in relation to any locality for any period.[113] Police can thereafter seize or require individuals to remove any item reasonably believed to be worn wholly or mainly for the purpose of concealing their identity.[114] It is a criminal offence for a person not to remove the item when required.[115]

(d) **Pre-empting the current Home Office consultation on facial recognition.** The Home Office recently sought the public's views in a consultation about "a new legal framework fit for the 21st Century" for facial recognition and other biometric technologies. The consultation purports to seek the public's views in creating rules to protect individuals' human rights.[116]A criminal offence is a significant element of any legal framework, yet it was unmentioned in the Consultation. In practice, it fundamentally moves the goal posts, by imposing criminal consequences on those in a protest zone who do not wish for their biometric data to be processed. Dealing with it outside of the consultation, and irrespective of the public consultation responses, pre-empts the consultation exercise, and undermines its legitimacy and purpose.

58. **Conditions on protest in the vicinity of a place of worship.** The Bill provides the power to a senior police officer to impose conditions on protests in the vicinity of a place of worship that 'may intimidate' people of 'reasonable firmness' and deter them from accessing a place of worship and carrying out religious activities. We are concerned by the introduction of this new measure for several reasons:

(a) **Overlapping powers.** Under the Public Order Act 1986, a senior police officer can already impose conditions on protests where they reasonably believe that the procession may result in serious public disorder, serious damage to property or serious disruption to the life of the community,' or where the purpose of organisers is the intimidation of others.[117] This includes when a public procession may result in "prolonged disruption of access to... a place of worship."[118]

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[112] Criminal Justice and Public Order Act 1994

[113] Ibid s60

[114] Ibid. s60AA (3)

[115] Ibid. s60AA (7)

[116] Home Office, Consultation on a new legal framework for law enforcement use of biometrics, facial recognition and similar technologies, from 4 December 2025 to 12 February 2026.

[117] Equality and Human Rights Commission "Crime and Policing Bill House of Lords – Committee Stage Reading" (Dec 2025)

[118] Public Order Act 1986 S12 (2A)

(b) **Vague and broad conditions.** To impose conditions, the senior police officer must only consider whether a protest 'may' intimidate people. There is no requirement of intent or actual intimidation, leaving wide room for discretion.[119] It could almost always be argued that there is a chance, however small that a protest, or some people within a protest *may* intimidate. For example, LGBT Pride Marches, or other forms of lawful and peaceful protest could be impacted if individuals or groups may feel uncomfortable to encounter this when accessing a place of worship. Further, the term 'vicinity' is extremely broad and could capture protests almost anywhere in a village, town or city with any place of worship in it.

59. **Duty to take account of cumulative disruption.** Please see our response to Question 6 to the Inquiry which outlines our concerns with this measure.

Lack of scrutiny

60. In order to effectively strike the balance between protest rights and the rights of others, public order legislation must be subject to sufficient scrutiny. The rapid introduction of new laws, overlapping police powers and a heavy reliance on delegated legislation has made it difficult for Parliament to fully assess their impact on public order and fundamental rights. Parliamentary debate is often rushed, and party whipping can limit the open expression of different viewpoints. In JUSTICE's "Law for Lawmakers" guide (2024), we highlight that the rule of law "encompasses the need to have an effective law-making process, which includes providing the public with adequate opportunity to comment on new laws and ensuring that they are subject to proper debate and scrutiny by Parliament."[120] Post-legislative review is necessary before introducing and implementing further legislation into an already complex public order framework.[121]

Recommendations:

61. High quality scrutiny will help to ensure that laws respect citizens' rights while acknowledging protest as a legitimate and vital component of democratic participation. We therefore recommend that meaningful 12-week public consultations are mandated before introducing protest-related laws either by primary or secondary legislation. Any consultation should be accessible, be done in a way that genuinely informs policy and not as a "box-tick exercise", and consider the widest range of views possible which, at the least, must include affected protest and civil groups, lay participants, representatives from local authorities/Combined Authorities, and the Independent Office for Police Conduct. A Government response to the consultation should be published prior to the subsequent introduction of the new law.

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[119] Equality and Human Rights Commission "Crime and Policing Bill House of Lords – Committee Stage Reading" (Dec 2025)

[120] JUSTICE "Law for Lawmakers," (2024), p. 17.

[121] JUSTICE, "Striking the Balance" (December 2025)

62. We recommend that any further legislation regarding the policing of protest is paused pending the establishment of a Public Order Monitoring Authority to carry out the following:

(a) Collect data and set standards for the National Protest Policing database.

(b) Ongoing monitoring of the public order framework in practice to ensure compliance with organisers of protests and protestors ECHR rights.

(c) Recommend a framework for quashing unlawful protest convictions since 2022 and recommend levels of compensation for protesters wrongfully convicted under the 2023 Serious Disruption Regulations or due to police conduct and/or misapplication of laws

(d) Conduct a mandatory annual review of the operation of public order policing and legislation: An independent and evidence-led scrutiny of the operation of public order powers findings presented in a report to Parliament.

(e) Produce detailed reports that assess the application of specific powers and make recommendations for legislative reform or changes in practice which the government would be required to respond to.

(f) Report to the Joint Committee on Human Rights ("JCHR")

63. We recommend that all decision-makers, including constables, magistrates and local authority officers, must receive comprehensive training on human rights obligations and the structured proportionality assessments required by ECtHR case law.

Protest rights and community safety/disruption?

5) To what extent is the assessment that protest activity 'has become faster, more decentralised and more disruptive' accurate? What are the main issues police and public authorities face when managing protest?

64. Protest is a cornerstone of the rule of law and vital to a healthy society. Historically, civil disobedience groups have acted as a major catalyst for legal and political reform, for instance, the Chartists, the Suffragettes, Vietnam War protests, inner-city uprisings (including Southall, Brixton, Toxteth, Moss Side, Broadwater Farm), the miners' strikes, the anti-poll tax movement, and the Iraq War protests of 2003.

65. Many of the tactics used by protestors in recent years have been used across the history of protests, yet we have seen the criminalisation of protest activity which would previously have been considered routine.[122] For instance, the suffragettes commonly resorted to locking on, there has been a longstanding practice of tunnelling, tree-climbing and roadblocks by environmental protests[123] and "there is plenty of historical

[122] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights, HC 1788 (April 2026), Raj Chada p.8-9

precedent for tactics that are seen as particularly disruptive, such as sitting down, [and] slow marching."[124]

66. Professor Navickas highlighted in oral evidence to the JCHR that whilst protests have become faster to mobilise due to social media, decentralisation has been a feature of protest historically.[125] For instance, the new social movements of the 1960s and the anti-Vietnam war movement were deliberately decentralised.[126]

Lack of clarity over legal framework

67. As highlighted throughout our submission the scope of conduct treated as disruptive has widened through vague statutory definitions. Additionally, overlapping powers across the POA 1986, the Terrorism Act 2000, the PCSCA 2022, the POA 2023, the NSA 2023, and the Crime and Policing Act 2026 have caused extreme difficulties in the consistent application of public order powers by the police. Concern about the expansion of public order powers are shared amongst police officers, for instance, six former senior officers and police authority chairs expressed concern to the Home Secretary that the PCSCA 2022 contained "dangerously oppressive components that will increase the politicisation of the police, pile pressure on front-line officers, and risk the democratic legitimacy of British policing."[127]

68. Broad discretion under current laws, especially as amended over the past five years, places officers in an untenable position as "lawmakers"[128] opening the door to legal challenges. For instance, in Jones v Commissioner of Police for the Metropolis [2019] EWHC 2957 (Admin), the imposition of blanket restrictions on the Autumn Uprising Extinction Rebel lion protests was ruled unlawful given it would have amounted to an effective restriction on the ability of the public to exercise their rights across the entirety of London. Further, in 2023, hundreds of protesters were arrested under regulations later declared ultra vires by the High Court and upheld by the Court of Appeal.[129]

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[123] D. Feldman KC, "The Growing Complexity of a Human Right to Assemble and Protest Peacefully in the United Kingdom" 54 (1), Victoria University of Wellington Review, pp.155, 162.

[124] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights", HC 1788 (April 2026), Professor Katrina Navickas

[125] Ibid.

[126] Ibid.

[127] The Times, "The Policing Bill will leave officers in an impossible position", *The Times*, 7 July 2021, =

[128] All Party Parliamentary Group on Democracy and the Constitution, Police Power and the Right to Peaceful Protest: (An Inquiry into police conduct at the Clapham Vigil and Bristol Protests and the implications for the Police Crime Sentencing and Courts Bill (1 July 2021) paragraph 58

[129] Liberty, "Liberty defeats Government appeal as Court rules anti-protest laws are unlawful", (2025); Currently, there is no statutory or administrative mechanism to enable a collective review of those cases where defendants were convicted under these regulations.

Increasingly restrictive rather than facilitative approach

69. Protest policing in the UK is being undermined by structural problems and the influx of public order legislation introducing new and more restrictive police powers for the policing of protests. As law enforcement and public authorities more frequently frame crowds as inherently "dangerous and prone to disorder," policing strategies have shifted back towards a focus on controlling crowds through force and restrictions. This reflects a partial return to the philosophies underlying the "escalated force" model of policing, an approach widely discredited by crowd management experts and largely abandoned in Europe and the United States after the 1980s in favour of a more facilitative, dialogue-based approach.[130]

70. Overly restrictive measures imposed in the context of protests can lead to a decline in both cooperation and trust from the public and are often more resource intensive. Excessive restrictions on non-violent political expression undermine institutional legitimacy and can escalate tensions, creating material additional risks to both public and officer safety.[131] There is also well evidenced potential for declining police legitimacy to aggravate the risk of societal unrest.[132]

71. An example of a facilitative approach which worked well was in March 2011 when protests were held at the Liberal Democrat conference in Sheffield due to the party's failure to uphold their manifesto pledge on tuition fees.[133] South Yorkshire Police deploying a Police Liaison Team ("PLT") which recognised the value of pre engagement with protestors as it meant that they had been accepted by the crowd and could move through it without hindrance. Their approach included the use of physical markers like a distinct blue uniform and going on a pre-protest route tour with protest organisers.[134] This approach contrasts to the recent examples set out in our response to Question 1 of this submission.

72. Research into PLTs has found that building relationships with protestors, improving command decision-making, enhancing proportionality, constructing and maintaining

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[130] JUSTICE, "Striking the Balance" (December 2025); J. Drury, C. Stott, T. Farsides, 'The role of police perceptions and practices in the development of public disorder', (2003) 33(7) Journal of Applied Social Psychology, pp. 1480- 1500.; J. Hoggett, C, Stott, 'The role of crowd theory in determining the use of force in public order policing', (2010) 20(2) Policing and Society, pp 223-236.; C. Stott, S. Reicher, 'Crowd action as intergroup process: Introducing the police perspective', (1998) 28 European Journal of Social Psychology, pp. 509-530.

[131] Illan rua Wall, Law and Disorder: Sovereignty, Protest, Atmosphere (Routledge 2021) 106-107; Anthony Lee Johnson, 'Understanding Assaults against Police Officers: A study of conflict escalation in police encounters with the public'(Oscar Kilo 2025)

[132] For example, insurance firms explicitly price police legitimacy into their quantitative modelling for insurance against damage caused by civil unrest: Synthetik Insurance Technologies, srccQuantum: Modelling UK Strikes, Riots and Civil Commotion (February 2026) — names policing legitimacy as one of four discrete UK SRCC scenario triggers in the UK. Summarised here.

[133] BBC News, "About 5,000 march in Lib Dem Sheffield conference protest", 12 Mar 2011

[134] David, Waddington From 'iron fists' to 'bunches of fives': A critical reflection on dialogue (or liaison) approaches to policing political protest. European Police Science and Research Bulletin (1), p. 36. (2016)

police legitimacy and facilitating the 'self-regulation' of crowds appeared to result in "less confrontation, fewer arrests and less demands on resources."[135] This is supported by the Home Office's analysis of official statistics on the use of police protest powers between June 2022 and March 2025 which highlights that some police forces indicated "that engagement between Police Liaison Teams and protestors to outline what would be acceptable ahead of any event, with a threat of imposing conditions if this was compromised, had negated the need to use the powers outlined in this report."[136]

73. Communication between PLTs and protesters is fundamental to ensure that the role of PLTs is effective. However, as the function of PLTs in the UK is simultaneously as facilitators and intelligence gatherers, civil society monitors have raised concerns about engaging with them. When intelligence gathered by PLTs at protests is later used against the protesters, trust is undermined. It is essential that a more appropriate balance is struck for PLTs to fulfil their potential and promote a more dialogue-based approach.[137]

Recommendations:

74. We recommend reform of the protest policing model in the UK to one where the police adopt a more collaborative and facilitative model to protest policing. The approach should prioritise communication, negotiation and partnership with both organisers and participants of protests, rather than relying on enforcement and restrictive tactics.

75. We recommend an independent review of the role, powers and accountability mechanisms for Police Liaison Teams ("PLTs") in the context of protest policing in the UK.

6) Much of the legal framework for controlling public protest focuses on whether it causes serious disruption. Is some disruption a necessary feature of protest? How serious must disruption be to justify restrictions on protest?

76. There is a lack of clarity around the general definitions of 'serious disruption' in the public order legal framework. Additionally, as also explored in our response to question 4, there has also been a concerning trend in decreased tolerance towards disruption.

Definitional concerns

77. Protests, to be effective in drawing attention, must inherently involve some levels of disruption. The court recognised in *Tabernacle v Secretary of State for Defence [2009]*

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[135] C. Stott, Supt. O. West, Insp. R. Cawkwell, Supt. D. Lunn, Chief Insp. D. Hughes and Sgt B. Kemp, 'Public Order and Public Safety (POPS) Policing: An Exploratory Knowledge Platform for Policing: Exploiting Knowledge Assets, Utilising Data and Piloting Research Co-production', (University of Leeds, 2015).

[136] Home Office, "Police protest powers, June 2022 to March 2025 - GOV.UK" (2025)

[137] JUSTICE, "Striking the Balance" (December 2025);

EWCA Civ 23 that demonstrations and protests are "*liable to be inconvenient and tiresome or at least perceived as such by others who are out of sympathy with them."*[138] Yet, the current legal framework treats disruption as something that should attract sanction rather than recognising its presence as an essential element of protest. Further, public order legislation creates broad new offences which criminalise ordinary conduct and recent domestic case law reveals a growing tension in how the courts approach the relationship between disruption, protest offences and ECHR rights.

78. The term 'serious disruption' was introduced under the Public Order Act 1986 ("**the POA 1986**") as one of the triggers for the imposition of conditions on protests: sections 12 (imposing conditions on public processions) and 14 (imposing conditions on public assemblies), allow a senior police officer to impose conditions on protests / assembly if they reasonably believe that the protest / assembly may result in "serious disruption to the life of the community". However, until the PCSCA 2022, the term serious disruption was undefined.

79. Sections 73 and 74 PCSCA 2022 amended sections 12 and 14 POA 1986 adding in a non-exhaustive definition of 'serious disruption', which was defined to include, where it may result in:

(a) **significant delay** to the delivery of time-sensitive product to consumers; or
(b) **prolonged disruption** of access to essential goods or services.

80. The PCSCA 2022 also amended the POA 1986 to allow for conditions to be imposed where the noise generated by the protest / assembly may result in serious disruption to the activities of an organisation carried on in the vicinity of the procession. Defined as where an organisation is not reasonably able for a prolonged period of time, to carry on in the vicinity of the protest/ assembly the activities.

81. The PCSCA 2022 also introduced 'Henry VIII powers' which give the Secretary of State the ability to amend the meaning of serious disruption, both to the life of the community and to the activities of an organisation carried on in the vicinity of a protest / assembly.

82. The POA 2023 then introduced a range of offences which the term "serious disruption" is central to, including: locking on that causes, or is capable of causing serious disruption (section 1); causing serious disruption by tunnelling (section 3); and causing serious disruption by being present in a tunnel (section 4).[139] Section 34 of the POA 2023 provides a broad statutory definition of "serious disruption" for the purposes of the Act, which is different to the one that was introduced into the POA 1986 by the PCSCA 2022. The key test for the definition of serious disruption in the POA 2023 is whether individuals are prevented or hindered from doing various specified things, to *more than a minor* degree.[140]

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[138] *Tabernacle v Secretary of State for Defence [2009] EWCA* Civ 23, para 43

[139] Public Order Act 2023

83. In June 2023, the then Home Secretary introduced regulations to define serious disruption, for the purposes of section 12 and 14 of the POA 1986, as "*a more than minor*" hindrance to daily activities, making, delivering or receiving a 'time sensitive produce' or accessing essential goods and services.'[141] This was notwithstanding the fact that the House of Lords had voted down the same definition during the PCSCA 2022'spassage. Consequently, Liberty successfully challenged definition of "more than minor" in these regulations, arguing that it lowered the threshold below the ordinary meaning of "serious."[142]

84. There are therefore currently different definitions of "serious disruption" within public order legislation. A lack of definitional clarity on what "serious disruption" is risks arbitrary, inconsistent and chilling enforcement and confusion for those protesting as to whether they will be arrested or not.[143] The overbroad and vague concept of serious disruption within the public order framework ignores inconvenience and disruption as an inherent feature of any large-scale gathering in a public place. Such a danger has been recognised by Volker Turk, UN High Commissioner for Human Rights, who stated that there is uncertainty around what "serious disruption" means which risks chilling enforcement and "serious consequences for the effective ability of people of all political views to join demonstrations on issues that matter."[144]

85. As Paul Parker, the recording clerk for the Quakers, highlighted in oral evidence to the committee, that our society tolerates disruption for events such as football matches,[145] this is also the case for concerts, coronations, and running races, such as marathons. In contrast, the current approach to "serious disruption" is overly vague and broad and risks criminalising peaceful civic participation.

86. A principled statutory clarification must be established for "serious disruption" only if it is constructed in line with ECHR rights. Any definition must focus on concrete, measurable threats to public safety, health, or essential services rather than speculative concerns, economic loss, or subjective annoyance.

Noise

87. Generating noise, even when it causes disruption, must be recognised as a normal and integral exercise of the right to peaceful assembly. Noise is often the means in which

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[140] Public Order Act 2023, S34

[141] Public Order Act 1986 (Serious Disruption to the Life of the Community) Regulations 2023

[142] *R (Liberty) v Secretary of State for the Home Department* [2024] EWHC 1181 (Admin), para 10.

[143] Human Rights Watch, "Silencing the Streets: The Right to Protest Under Attack in the United Kingdom" (2025)

[144] Volker Turk, UN High Commissioner for Human Rights, 'The Public Order Act will have a chilling effect on your civic freedoms – it must be repealed' (May 2023)

[145] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights, HC 1788 (April 2026)

protestors communicate a message, both to participants and the wider public, and most protests are inherently noisy and intended to attract attention or challenge existing beliefs. Restrictions to protest must be "necessary in a democratic society," in relation to noise, the ECtHR has recognised that restrictions are not justified where such noise does not involve obscenity or incitements to violence.[146] Whilst the court has recognised that there should be a margin of appreciation, it also stresses that "it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.[147] Using noise as a justification for imposing conditions, as ss. 73 and 74 PCSCA 2022 currently do, risks restricting legitimate protest tactics.

Cumulative disruption

88. The Crime and Policing Act 2026 introduces a duty for the police to consider any cumulative disruption caused by past or future planned protests in the same 'area' when deciding whether to impose restrictions. The scope of this measure is exceptionally broad. The term 'area' is vague and could capture entire towns or large areas of cities such as London. Police would be required to consider any past or anticipated protests, even where they involve entirely different causes or participants. Further, the lack of clear timeframe means that protests held many months earlier could be used to justify imposing new restrictions. This measure is likely to unduly restrict the right to protest[148] and takes us further away from the starting point that protests will involve some level of disruption to be effective in acting as a democratic exercise of voice.[149] Sustained protests are central to achieving democratic change and should be protected.

Recommendations:

89. We recommend that any interpretation of serious disruption must focus exclusively on measurable threats to public safety, health or essential services – not mere economic inconvenience or temporary annoyance. Further, when assessing whether serious disruption is present, there must be an in-built requirement for police to consider objective evidence that relates to a genuine threat to public safety, clearly distinguished from the inevitable disruption that accompanies civic protest. Such considerations would frame any assessment and require transparent and recorded decision-making processes. In this way, the legal framework could better reflect the constitutional significance of protest as a cornerstone of democratic society, rather than treating disruption as an aberration to be suppressed.

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[146] *Case 26986/03, Galstyan v Armenia, (November 2007)*, para 116.

[147] *Case 74522/01, Oya Ataman v Turkey*, (December 2006), para 42.

[148] Ibid.

[149] Houses of Parliament, Joint Committee on Human Rights, "Uncorrected oral evidence: Security, safety and protest: the role of human rights, HC 1788 (April 2026); Akiko Hart: "starting point is that protest is an inherently democratic exercise of voice, and some of it will occasionally be disruptive."

7) What issues have been encountered by the police when protecting people from intimidation, harassment and hate at or around protests? Do the law and law enforcement do enough to provide this protection while safeguarding Article 10 and 11 rights for participants and counter protesters?

Two-tier justice

90. We explore issues encountered by the police in respect to the policing of protests in our response to Question 5 in further detail. Weaknesses of the current protest policing framework, such as broad discretion, inconsistent enforcement and inadequate oversight have fuelled criticism of protest policing from all sides. The then Shadow Justice Secretary, amongst other groups, have asserted a "two-tier" policing narrative, that police are disproportionately lenient towards left wing groups or racialised communities and white individuals are being treated unfavourably by the police.[150] However, for decades, independent reviews and contemporary data have highlighted persistent disproportionality in the policing of racialised groups.[151] Additionally, in the protest context, NetPol conducted in-depth qualitative research within protest movements, drawing on interviews, testimonies, legal observer notes, court records, police, government data, media coverage and Freedom of Information requests between July 2025-February 2026, they noted that interviewees consistently reported violence against minoritised people within public order policing logic.[152] Further, Home Office data shows that, for processions or assemblies where the theme was identified, restrictions were most commonly imposed on processions with an "Environment" theme (89%) and on assemblies with an "International" theme (83%). By contrast, restrictions were imposed in less than 1% of processions and 4% of assemblies where the theme was "Cultural nationalism."[153]

Lack of trust in the police from racialised communities

91. There are racial disparities within everyday policing, for instance, Black communities continue to face acute disparities in relation to both use of force and stop and search by the police.[154] Additionally, racialised communities are overrepresented within many stages of the criminal justice system.[155] In recent years, the relationship between law enforcement and minority communities has been characterised with tensions and

[150] Yahoo News UK, 'Jenrick: Two-tier sentencing is unfair against white men' (2025)

[151] See for instance, Baroness Casey of Blackstock, 'Final Report: An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service' (2023);

[152] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026)

[153] Home Office, "Police protests powers – Official statistics in development" (June 2022 – March 2025)

[154] Police Race Action Plan: Independent Scrutiny & Oversight Board, "Annual Feedback Report" (2024-2025).

[155] Ministry of Justice, 'Statistics on Ethnicity and the Criminal Justice System,' (2024)

mistrust.[156] This lack of trust is likely to be exacerbated by disproportionate public order policing for Black and racialised communities.[157] For instance, the APPG on Democracy and the Constitution documented concerns at the "Kill the Bill" protests, including disproportionate use of force.[158] Further, Netpol has noted that parallel to the expansion of imposing conditions on assemblies has been a political and media climate "in which the boundaries of acceptable speech and assembly are shaped by narratives legitimising hostility towards migrants and racialised communities."[159] Such narratives feed into the way that the police, police racialised communities. For example, the Casey Review concluded that Black communities remain "under-protected and over-policed"[160] and the 2025 BBC Panorama documentary which focussed on Charing Cross police station exposed a culture of misogyny, racism and abuse among officers and a tolerance of discriminatory behaviour.[161] This contributes to the mistrust racialised communities have in the police.[162]

Importance of protest and public order policing for public trust

92. Public order policing encompasses the policing and management of gatherings, protests, demonstrations, festivals, national events and sporting events. Such situations generate far higher volumes of police-public interaction than routine policing. This means that the quality of police encounters in this context is critical for policing legitimacy. For example, the IOPC Youth Panel Report found that many young people talked about the policing of protests as being a key issue that is currently affecting their trust in the police.[163] Further, the IOPC's Public Perceptions Tracker also highlights that

[156] Policing Tomorrow, 'An independent view: rebuilding trust and confidence in policing within minority communities'

[157] APPG, Bristol Clapham Inquiry — ICDR pp. 7, 41, 63.; NetPol, 'Britain is Not Innocent', (2020): Black Lives Matter protests: Reports on the policing of Black Lives Matter protests in 2020 found the "excessive use of force and the disproportionate targeting of black protesters." Whilst the policing at the hundreds of protests across Britain varied significantly "black-led protests disproportionality faced excessive interventions by the police."

[158] APPG, Bristol Clapham Inquiry - ICDR pp. 7, 41, 63.

[159] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026); Race Equality Foundation, *Understanding the Racist Riots of 2024 and what should be done* (2026) in response to the 2024 riots documents that "little has been done to confront the serious deeper issues the riots exposed: a climate of escalating racialised hate, Islamophobia spread by leaders and the media alike, anti-migrant rhetoric, economic marginalisation with the persistence of gendered violence, and institutional failures to prevent or respond effectively to such events. All these factors contributed to "a toxic environment in which violence against minoritised ethnic people and communities was inevitable

[160] Baroness Casey of Blackstock, "Final Report: An independent review into the standards of behaviour and internal culture of the Metropolitan Police Service" (2023)

[161] BBC, "Seventh Met officer sacked after BBC Panorama film" (2025): Independent, "Revealed: The 'sickening' messages Metropolitan Police officers swapped joking about rape" (2022): This included officers "calling for immigrants to be shot, reveling in the use of force, and being dismissive of rape claims". Charing Cross was previously linked to high profile misconduct cases, and the documentary demonstrated how cultural problems within a single station can undermine confidence in policing nationally. Its findings have intensified calls for independent oversight and reinforced the urgency of reform.

[162] Policing Tomorrow, 'An independent view: rebuilding trust and confidence in policing within minority communities'

[163] IOPC 'Youth-Panel-National-Survey' (2024)

the "public most frequently recall seeing news stories relating to the policing of protests." [164] It is therefore essential that the public order framework is applied consistently and fairly to strengthen trust and confidence among the communities it governs.

Accountability gaps in policing

93. The concealment of officer identification numbers during protest operations is concerning in respect to accountability. Visible identification is the most basic mechanism through which the public can hold individual officers to account for the use of force; without it, complaint and oversight processes are effectively blocked. Yet, officer identification is not statutorily required in the UK, it is to "the discretion of the individual chief constable who may provide force level guidance."[165] Further, whilst most UK forces do have policies on the wearing of individual identifiers when in uniform,[166] concerns about identity number concealment have been repeatedly raised over the years, particularly in Greater Manchester.[167]

94. On 18 April 2026, legal observers reported that a significant number of Greater Manchester Police ("**GMP**") officers were not wearing lapel identification numbers while deploying horses, dogs and PAVA spray against counter-demonstrators to a Britain First rally in Manchester.[168] Concerns about officer safety and privacy are legitimate, but even in higher-risk policing environments such as Northern Ireland, forces manage those risks through social-media guidance and uniform-travel restrictions rather than by removing visible identifiers.[169] In jurisdictions where name tags or identification numbers are mandatory and part of holding public office, there is no credible evidence that these requirements have led to increased reprisals against officers.[170]

Recommendation:

95. JUSTICE recommends national statutory guidance mandating visible officer identification at all protests, to enable accountability and complaints mechanisms.

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[164] IOPC, 'Public Perceptions Tracker Summary Report,' Financial Year 2024/25 March 2025.

[165] C. Stott, et al, 'International Norms: Governing Police Identification & the Wearing of Masks During Protest', (2019)

[166] Ibid.

[167] Greater Manchester Police ICRMU, *'Freedom Of Information Request Reference No 01/FOI/24/013055/A',* (4th September 2024); NetPol *'Missing in Action: Greater Manchester officers failing to wear identification numbers'*, (2014).

[168] Northern Police Monitoring Project, 'Britain First Demo & Counter-Protest – Manchester City Centre, 18 April 2026' (2026).

[169] C. Stott, et al, 'International Norms: Governing Police Identification & the Wearing of Masks During Protest', (2019) pp. 32-33.

[170] Ibid.

8) Are the thresholds and processes for proscription of groups concerned in terrorism sufficiently clear? To what extent do offences that concern encouraging support or creating a reasonable suspicion of support for proscribed groups interact with free expression and peaceful assembly?

96. Proscription is the banning of an organisation based on an assessment that the organisation commits or participates in, prepares for, promotes, encourages, or is otherwise concerned in terrorism.[171] The Terrorism Act 2000 grants the Secretary of State the power to put forward an order to Parliament to formally proscribe an organisation if they believe that the organisation is "concerned in terrorism."[172]

97. The Terrorism Act 2000 criminalises membership of a proscribed organisation (s.11), inviting support for such an organisation (s.12, other than provision of money or property under s.15), and wearing an item of clothing or wearing, carrying or displaying an article in public in a way or in circumstances that arouse reasonable suspicion of membership or support of a proscribed organisation (s.13). Since 2019, s.12 also criminalises expressing an opinion or belief that is supportive of a proscribed organisation and when doing so is reckless as to whether the person addressed will be encouraged to support a proscribed organisation.[173] Powers used under the Terrorism Act 2000 therefore carry exceptional penalties with the potential to substantially restrict freedom of expression and association.[174]

98. However, the current proscription procedure is insufficient in providing Parliament the ability to scrutinise proscription orders. Additionally, it creates procedural issues in preventing Parliament from examining the facts and evidence specific to each organisation on the proscription order.

99. The current procedure allows for multiple organisations to be added within a single proscription order. In these circumstances, Parliament must either accept the order and proscribe every organisation on the order or reject the order entirely. Parliament cannot scrutinise or vote on each organisation separately.

100. In July 2025 this issue became apparent. The Government bundled three organisations with fundamentally different ideologies and geographical locations into a single order.[175]

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[171] Home Office 'FACTSHEET: Proscription – Home Office in the media' (2024)

[172] Terrorism Act 2000

[173] Terrorism Act 2000: S. 12(1A) inserted (12.4.2019) by Counter-Terrorism and Border Security Act 2019 (c. 3), ss. 1, 27(3) (with s. 25(1)).

[174] For more, see E. Bechtold and G. Phillipson, "Glorification of censorship? Anti-terror law, Speech and Online Regulation", in The Oxford Handbook of Free Speech (Oxford University Press 2021); and Commissioner for Human Rights, "*Misuse of anti-terror legislation threatens freedom of expression*" (2018), Human Rights Comment.

[175] THE TERRORISM ACT 2000 (PROSCRIBED ORGANISATIONS) (AMENDMENT) ORDER (2025) No. 803;

The order included 'Palestine Action' a UK domestic group described as "a pro-Palestinian group with the stated aim to support Palestinian sovereignty by using direct criminal action tactics to halt the sale and export of military equipment to Israel," 'Maniacs Murder Cult (MMC)' described as "a white supremacist, neo-Nazi organisation that is transnational and predominantly online" and 'Russian Imperial Movement' described as "a Saint Petersburg based ultranationalist and pro-monarchist organisation."[176] In the debates that followed, speakers raised procedural objections to bundling itself including concerns that the three organisations had no ideological or geographical connection.[177] Further, even though 26 MPs[178] voted against the order and 16 peers[179] expressed opposition through a motion to regret, there is no mechanism to disaggregate whether opposition to the order was because of one or multiple of the organisations. This process lacks transparency by preventing each organisation from being examined on its particular facts and evidence.

101. Additionally, currently, Parliament is asked to vote on an order to proscribe organisations with minimal access to the evidence or reasoning behind the Government's decision to proscribe. For instance, in relation to the July 2025 proscription order described above, the Government provided an explanatory memorandum setting out general descriptions of each organisation and its activities. However, it did not provide any underlying intelligence assessments to Parliament or to an independent body to justify the decision to proscribe the groups. Lord Beamish, chair of the ISC, expressed "disappointment" that the Home Office did not provide the intelligence assessment behind the order to the ISC.[180] As a result, Parliament had to vote on all three organisations as a package and without access to intelligence information underpinning the decision.

102. Further, the definition of terrorism includes action which "involves serious damage to property."[181] As the Bingham Centre's Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice, identifies, this could include direct action

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[176] See: The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2025

[177] HC Deb, 2 July 2025, columns 347, 349, 355, 360, 364-5, 367-369, 374; HL Deb, 3 July, c947 Lord Hain confirmed he sought Table Office advice to separate Palestine Action from the order but was told this was "not procedurally possible." Additionally, Green Party spokesperson, Carla Denyer, stated: those "*who just voted no on the statutory instrument wanted to vote yes on the proscription of the Maniacs Murder Cult and the Russian Imperial Movement, but we were prevented from doing so by the cynical way in which the Government lumped together those two clearly terrorist organisations with Palestine Action, which we could not support.*" HC Deb, 2 July 2025, c374.

[178] Ibid, c371.

[179] HL Deb, 3 July 2025, c970.

[180] See HL Deb, 3 July 2025, c949. Lord Beamish chair of the ISC expressed "disappointment that the Home Office did not see fit to give the intelligence assessment behind this" to the ISC, and the committee "was quite angry" that "no attempt had been made by the Home Office to do so" before the order was laid. However, he noted that the ISC currently has no statutory right to the information.

[181] TA 200, s1(2)(b)

that aims to advance a political, religious, racial or ideological cause , for example the toppling of the statue of Edward Colston during the Black Lives Matter protests in 2020.[182]

103. We agree with the Bingham Centre that the current serious damage threshold is too low, creating wide discretion and a lack of certainty about when protests that cross over into criminal damage.[183] Further, we agree that a more precise definition would ensure greater foreseeability and that the extraordinary powers that are available to tackle terrorism are only used against the most serious threats to life, criminal law offences, such as criminal damage, would still be available for property that falls below a higher threshold.[184]

Recommendations

101. In order to provide greater clarity, ensure proper scrutiny of the specific circumstances surrounding the organisation and enable members to assess the particular facts and evidence relevant to that organisation, it should be required that an order to proscribe an organisation under section 3 of the Terrorism Act 200 relates to only a single organisation. Allowing one organisation per proscription order would still allow for efficiency in the proscription procedure as multiple orders could be laid on the same day and when urgency requires it, Parliament could consider orders in sequence during a single sitting. Additionally, considering organisations individually would enable uncontentious decisions to proceed quickly, while contested ones can receive focused scrutiny. This would also avoid the risk of unnecessary delays through Parliamentarians expressing procedural objections to the grouping of organisations.

102. We recommend that the proscription procedure be amended so that the Secretary of State is required to place a statement of reasons for the proposed proscription before the Intelligence and Security Committee ("ISC"), and for the ISC to publish a report on the proposed order prior to it being laid before Parliament. This would be with an 'urgency exception' to allow for retrospective reporting within seven days where the Secretary of State is of the opinion that, by reason of urgency, the reporting requirements "cannot reasonably be complied with" and the Secretary of State has made a statement to Parliament to that effect.

103. We endorse the Bingham Centre's recommendation for a narrower statutory definition of terrorism to ensure precision, proportionality, and protection for lawful protest. The definition should focus on acts causing "serious risk to life, national security, or public safety," or involving arson, explosives, or firearms. This recommendation aims to prevent the classification of legitimate protest activities as terrorism and to ensure that counter-terrorism measures are applied fairly and proportionately.

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[182] Bingham Centre for the Rule of Law, "Report of the Independent Commission on UK Counter-Terrorism Law, Policy and Practice" (2025)

[183] Ibid.

[184] Ibid.

9) How is the right to protest recognised and protected during prosecution and trial? Do "reasonable excuse" defences ensure the right to peaceful protest can be taken into account or create unacceptable uncertainty? Should sentencing be affected by a defendant's involvement in protest?

Criminal damage and the narrowing of "lawful excuse"

104. "Reasonable excuse" and "lawful excuse" defences are the principal textual gateways through which Articles 10 and 11 ECHR proportionality have been incorporated into protest-related offences at trial.[185] Where engaged, they require the court to consider whether a conviction would be proportionate on the facts of the case.[186]

105. Domestic appellate courts have progressively narrowed the scope of these defences in protest prosecutions.[187] Beginning with criminal damage, courts have increasingly withdrawn such defences from the jury's consideration, removing the primary means for proportionality analysis. This has resulted in a substantial narrowing of the circumstances in which defendants may explain their political, ethical, or scientific motivations to a jury.

106. In Attorney General's Reference No.1 of 2023 [2024] EWCA Crim 243 the Court of Appeal considered whether matters relating to the motivation behind the act of protest, for example, merits, the protest cause or urgency, could form part of the 'circumstances' of the destruction or damage under section 5(2)(a) of the Criminal Damage Act 1971. The court held that "explanation of C's views on climate change... lacked the necessary proximity to the damage."[188] The effect is that juries are often prevented from hearing the motivation behind protestors' actions.

107. This restrictive approach is now extending beyond criminal damage to other protest-relevant offences.[189] This trend has emerged in the context of the POA 2023[190] despite parliament having explicitly stated that "the 'reasonable excuse' defence will permit a fact-specific enquiry by the court and enable consideration of the exercise of Convention rights... the clause is proportionate as the court will take into account the specific facts" on the ECHR memorandum of the Act.[191]

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[185] R. Martin, "Convicting Peaceful Protesters: Proportionality's Proper Place at Criminal Trial" (Oxford University Press 2024).

[186] Director of Public Prosecutions v Ziegler and others [2021) UKSC 23.

[187] E.g., Attorney General's Reference No. 1 of 2023 - judgment

[188] Ibid. para 48.

[189] Per Rosalind Burgin's (Garden Court North) remarks at 'How Repression Became Routine: Protest Policing in Manchester and Beyond' (Manchester, 14 May 2026):in courts of first instance, there is now vast divergence in whether trial judges allow proportionality based lawful excuse defences.

[190] For instance: *R v Sarti and others (Appellants) [2025] EWCA Crim 61*

108. Yet, the Court of Appeal has also recognised that in respect of acts of civil disobedience there is a distinction to be made where "the protestor is engaged in a form of political action undertaken on moral grounds rather than in mere criminality."[192] Such distinction is extremely important, as failure to do so risks the law treating violent[193] and non-violent protest identically. Not only is this disproportionate, it diverts crucial policing resources away from where they are most needed: addressing violence and promoting safety.

Proportionality

109. Recent domestic case law reveals growing tension in how the courts approach the relationship between protest offences and Convention rights that "raise questions as to the extent to which the courts will engage with rights in this context in the future and whether this will be in line with Strasbourg".[194] In *DPP v Ziegler*, the Supreme Court's reasoning required courts to consider whether a conviction interfering with Articles 10 and 11 was proportionate on the facts of the case.[195] However, later decisions have moved away from requiring such case-specific justification in every instance.[196] There is therefore a state of uncertainty within the field of protest law, which makes the job of the police more difficult when deciding how to use powers. It also makes the job of the courts more difficult when assessing whether powers have been exercised according to the law and prevents the public from understanding how the law may be applied to them.[197]

110. Individual proportionality tests are crucial to ensure the proportional application of the law at all stages (arrest, charge, conviction, sentence, post-sentence) as required by the Human Rights Act 1998. The court in *R v Hallam and others [2025] EWCA Crim 199* recognised this in the context of sentencing. After considering the specific facts of each appellant's case, the court held that it was clear that "Article 10 provides the right to freedom of expression; Article 11 provides the right to peaceful assembly. Sentences must not constitute a disproportionate interference with these rights."[198]

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[191] Government ECHR Memorandum, Public Order Bill (Updated August 2023) Para 20.

[192] Cuadrilla Bowland Ltd and others v Persons Unknown [2020] EWCA Civ 9, [97].

[193] Violence in this context refers to force against persons, whereas property dam age - especially when symbolic and carried out as part of protected political speech- is a form of non-violent civil disobedience. Yet domestic courts increasingly treat property damage as if it were equivalent to violence by holding that significant damage removes protest from the protection of Articles 10 and 11 altogether

[194] K. Hughes, S. Martin & S.Palmer, *Human rights Law in the UK: Themes and Principles*, Cambridge University Press 2026), p. 699.

[195] *DPP v Ziegler* [2021] UKSC 23.

[196] In *Director of Public Prosecutions v Cuciurean* [2022] EWHC 736 (Admin) the court held that "[I]t is impossible to read the judgments in Ziegler as deciding that there is a general principle in our criminal law that where a person is being tried for an offence which does engage articles 10 and 11, the prosecution, in addition to satisfying the ingredients of the offence, must also prove that a conviction would be a proportionate interference with those rights." [67] and in in Reference by the Attorney General for Northern Ireland - Abortion Services (Safe Access Zones) (Northern Ireland) Bill [2022] UKSC 32 the Supreme Court declined to find that courts are required to undertake a proportionality exercise when deciding whether to convict in circumstances where Articles 9, 10 and/or 11 are engaged [54-58]

[197] JUSTICE, "Striking the Balance" (December 2025)

[198] *R v Hallam and others [2025] EWCA Crim 199*. Roger Hallam had his sentence reduced by a year. Meanwhile. Shaw and

Recommendations:

111. We recommend consideration of whether greater use of lawful or reasonable excuse defences that explicitly include Articles 9, 10 and 11 components, could make the regime more effective and rights-compliant, by enabling courts to give appropriate and fact-specific weight to Convention rights in individual cases.

Surveillance

10) How important is police surveillance of protestors in ensuring public safety? How does it affect engagement in protest and comply with the right to respect for private life?

How important is police surveillance of protestors in ensuring public safety?

112. As recognised by the UN model protocol and toolkits on police use of digital technologies at protests, by UN Special Rapporteur on the rights to peaceful assembly and of association, Clément Nyaletsossi Voule, *Peaceful protests are fundamental to the health of functioning democracies. Protests should not be seen as opportunities for surveillance or the pursuit of separate law enforcement objectives, such as counter terrorism measures or the development of intelligence profiles. [...] Any use of digital technologies by law enforcement within the context of peaceful protests should be for the express purpose of facilitating the right to freedom of peaceful assembly and enabling and protecting other associated rights, such as the right to privacy and freedom of expression*.[199]

113. Involvement of law enforcement bodies, including using surveillance, should be in the form of "specific, supportive and protective efforts to facilitate the right to freedom of peaceful assembly of individuals or groups that may be in situations of vulnerability, that have been subjected to discrimination or marginalisation or that may face particular challenges in participating in assemblies."[200]

114. However, there are some technological measures which are incompatible with the state's duty to facilitate the right to peaceful assembly and must not be used in a protest context. These include but are not limited to: hindering or limiting Internet access or imposing Internet shutdowns, indiscriminate and untargeted surveillance, surveillance on the basis of group affiliation, and the use of spyware or other forms of equipment interference targeting the digital devices of participants.[201]

Lancaster had their sentences reduced by a year and Gethin and Whittaker De Abreu had theirs reduced by one and a half years.

[199] Principled-based guidance for the human-rights compliant use of digital technologies in the context of peaceful protests , component 2 of the technical and practical toolkit supplementing the Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests, A/HRC/55/60, March 2024, paras 6-9.

[200] Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests Para 15

115. JUSTICE is strongly advocating for a new legal framework for biometric technologies, with particular concern that live facial recognition deployed in the context of protests and peaceful assemblies poses a significant risk of indiscriminate and untargeted surveillance, and therefore a risk of substantial human rights infringements. We explain further details in response to Question 11.

How does it affect engagement in protest and comply with the right to respect for private life?

116. JUSTICE shares concerns of other human rights organisations that increasing digital surveillance, and remote biometric identification in particular, can cause a chilling effect and hinder free participation in the right to expression, peaceful protest, assembly and association. A UN global study published this month, May 2026, has now provided detailed evidence of this impact in practice.[202]

117. The forms of digital surveillance identified included:

(a) **compromised devices**, including commercial cyber intrusion tools (Spyware) such as Novispy, Pegasus and Predator, digital forensic tools including Celebrite, and use of International Mobile Subscriber Identity (IMSI) catchers to monitor mobile devices and owners' activities;

(b) **software and network-based intrusion**, including the compromise and infiltration of communication platforms such as WhatsApp and Signal, social media cyberpatrolling, email accounts, communication lines, and network manipulation, including Google DNS interference;

(c) **biometric identification technologies**, such as facial recognition technology (FRT), gait and behavioural analytics that are often combined with other datasets to identify and monitor people and activities;

(d) **adaptation of existing surveillance infrastructure** involving the creep of urban surveillance camera networks and the repurposing of "smart city" initiatives (both of which are often managed through public-private partnerships), aerial vehicles ('drones'), geospatial device tracking, and the leveraging of administrative data for surveillance purposes; and

(e) **state administered digital platforms** including service-provision apps that in some cases facilitate peer-to-peer reporting or serve as mechanisms for digital entrapment.

118. Researchers collected evidence from interviews, consultations and focus groups with 152 activists, human rights defenders, public defenders, and other lawyers, journalists

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[201] Ibid para 15.

[202] Gina Romero, Pete Fussey, and Daragh Murray, "Pushed into the Shadows": Evidencing digital surveillance chilling effects and the erosion of the rights to freedom of assembly and of association" United Nations Special Procedures, Human Rights Council (May 2026)

and civil society actors across all regions of the world. Notably, evidence of the chilling effect of digital surveillance was ubiquitous: interviewees in *every global region* expressed how the fear of being tracked, identified, and targeted meant individuals had become noticeably more hesitant to participate in socio-political activities perceived as controversial, and that mobilisation efforts involved considerably more resources, reducing support for associations and limiting attendance at demonstrations and other events.[203]

119. The study highlights expansive digital surveillance over civic space, physical and online, and highlights the following impacts:

(a) **Normalisation**: Digital surveillance is increasingly justified through broad "national security" or "crime prevention" arguments, leading to a pre-emptive policing paradigm. This extinguishes anonymity in public places, reverses the burden of proof and transforms civic space into a site of permanent suspicion and threat. For example, the study heard from a human rights defender who explained when biometrics surveillance such as facial recognition technology is paired with laws criminalising facial coverings at protest, it results in a chilling effect on legitimate and peaceful protesters from exercising their rights, including "*public officials [who] would have faced... dismissal from public service, also activists that didn't want to be identified*".[204]

(b) **Desocialisation in a shrinking civic space**: Chilling effects lead to a dismantling of activist networks and restrictions on the public visibility of civil society actors, associations, assemblies and journalists, directly limiting their ability to connect, act and communicate freely. A climate of pervasive mistrust induces self-censorship, limits information sharing, including by whistle-blowers and journalists' sources, and forces organisations to divert scarce resources toward digital security rather than their core advocacy objectives. "*We used to rely heavily on public communication - open calls, visible mobilisation, and transparent advocacy. Today, visibility carries enormous risk. Messaging is coded, limited, and shared only when necessary [...] We communicate less publicly, more in the shadows*".[205]

(c) **Systemic psychological health impact:** The constant state of hypervigilance required to operate under perceived monitoring exerts a severe mental health toll, crippling interpersonal trust and social relationships. The research documented cases of depression, burnout and PTSD among activists: "*It drains you mentally, physically and socially if you are monitored online, offline around the clock. So being drained, being exhausted, having to struggle with all sorts of mental and social issues, many of them quit activism*".[206] The impact of aerial drone

[203] Ibid, p 38.

[204] Ibid, p 40

[205] Ibid, pp 61-62.

surveillance was documented to harm children "*losing concentration, expressing anxiety and seeking refuge indoors upon hearing a drone*".[207] The impact is even more severe of individuals suffering intersectional harm due to added restrictions on their civil, economic, political, cultural or social rights.

120. The report highlights that digital surveillance of protest and activism in civic spaces has a compound *and cumulative* impact on several rights taken together: he rights to freedom of assembly, of association, of expression and privacy, which protect individuals' identity and collective development and the functioning of democratic society. As such, "chilling effects not only interfere with the underpinning rights, they also undermine individuals and collectives' ability to freely develop and express their identity and to participate in social, cultural and political life."[208]

11) The Government is currently consulting on "a new legal framework for law enforcement use of biometrics, facial recognition and similar technologies". Does the use of these technologies in respect of protest raise distinct human rights concerns and how best can they be addressed?

121. JUSTICE's primary concerns about the use of these technologies in the protest context relate to live remote biometric surveillance technologies, such as facial recognition. These concerns are heightened by the national roll out of these technologies,[209] and the legislative changes in the Crime and Policing Act 2026, including police access to the DVLA database of facial images and the power to ban facial coverings at protests.[210] These measures pre-empt the current consultation, the Government response to which is still pending. However, we also detail concerns about the use of retrospective and operator-initiated versions of the technology, and so called "inferential" technologies such as those claiming to have "emotion recognition" capabilities.

Live biometric identification technology

122. Live facial recognition by police is the most common form of live biometric identification technology, although other biometrics such as voice and gait exist and may be further integrated into policing tools in the future.

123. Biometric data by which someone can be identified is sensitive personal data[211] – like fingerprints or DNA – and thus the automated processing of this data is an interference

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[206] Ibid, p 72.

[207] Ibid, p 74.

[208] Ibid, p 77.

[209] Sky News, "Police to get 40 new live facial recognition vans and AI help in sweeping reforms," 26 January 2026.

[210] Crime and Policing Act 2026 Ss. 181 and 158 respectively.

with the right to privacy of individuals.[212] Its remote processing in public spaces, which would be impossible with fingerprints or DNA, but is now possible due to facial recognition technology, enables such privacy interference at a distance, and without the knowledge or consent of the individual.

124. The feature which distinguishes live biometrics surveillance is the indiscriminate nature of this privacy invasion. Unlike CCTV, which records footage but requires manual review with no automated processing of any biometric data, live facial recognition automatically processes biometric data of individuals. Furthermore, unlike retrospective facial recognition, which is targeted at specific individuals in CCTV footage which has been seized in the course of an investigation into a criminal offence, live facial recognition processes the biometric data of every single individual who passes a live facial recognition camera, including children, no matter who they are and whether they have any relevance to any police matter.

125. Such mass indiscriminate surveillance capacity goes further than its impact on privacy when deployed in a civic space. Further impacts on democracy and human rights include the loss of anonymity in public spaces and a chilling effect on freedom of expression and free participation in assemblies in public (see further below).

126. To be lawful, all biometric surveillance deployments must be a necessary means of achieving the legitimate aim and be proportionate to the rights interferences involved. The indiscriminate intrusion of live facial recognition on individuals' privacy, and its wider chilling effects on freedom of expression and freedom of peaceful assembly and association, require strong justification and it must be strictly targeted. As such, JUSTICE agrees with the UN Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests[213] and the United Nations High Commissioner for Human Rights,[214] that the use of surveillance techniques for the indiscriminate and untargeted surveillance of those exercising the right of peaceful assembly and association, both in physical spaces and online, should be prohibited. Their use at a protest or assembly, to categorise, profile or remotely identify individuals, constitutes a significant interference with privacy, freedom of expression and freedom of peaceful assembly which will be vastly disproportionate in all but the most exceptional of circumstances.

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[211] Article 9, UK GDPR.

[212] Regardless of how quickly it is deleted. See finding of the Divisional Court which was not challenged by either party or the court on appeal: *R (Bridges) v Chief Constable of South Wales Police [2020] EWCA Civ 1058*, [36].

[213] Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, 'Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests' UN General Assembly Human Rights Council Fifty-fifth session 26 February–5 April 2024 A/HRC/55/60, para 32.

[214] United Nations High Commissioner for Human Rights, 'Impact of new technologies on the promotion and protection of human rights in the context of assemblies, including peaceful protests' UN General Assembly, Human Rights Council Forty-fourth session 15 June–3 July 2020 A/HRC/44/24, para. 53 (f).

127. However, we do recognise that there will be exceptional circumstances which may make the use of the live biometric surveillance at protest or assemblies proportionate – namely where there is a specific, substantial and imminent threat to the life or physical safety of individuals at the protest or assembly.[215] In these cases, identification of individuals must be directly relevant to maintaining the safety of other individuals at the protest, and protecting their right to life, privacy, freedom of expression and peaceful assembly, and the use of the live biometric surveillance must be **targeted to these specific risks and individuals**. These decisions however must be exceptional, and subject to a high level of justification and robust and independent authorisation.

Retrospective biometric identification technology

128. Live biometric technologies pose a particularly significant threat to individual rights, however, retrospective biometric technology, such as retrospective facial recognition, can also be problematic when used in the protest context. Whilst it is not indiscriminate and population-wide in the way it initially scans the public – it is used to identify targeted faces in existing CCTV footage in the course of an established investigation - this does not mean its use will always be necessary and proportionate. This will depend on what kind of investigations it is used in and whether its use is necessary and proportionate to the seriousness of the alleged offence. JUSTICE is concerned that its routine use in all investigations would turn every CCTV camera into a facial recognition tool, enabling mass surveillance which is in fact more widespread *and* covert than any live facial recognition van or temporary deployment.

129. Again, in the protest context, this also requires justifying the interference with the rights to freedom of expression, assembly and association, given the risk of a chilling effect could be significant. For example, if all CCTV footage of protests was routinely processed for even the most minor of *suspected, not proven,* offences, this would not be proportionate to the level of interference with the privacy of protestors when taken together with the additional interference with their rights of assembly, association and expression at a protest.

130. As such, JUSTICE concludes that only serious offences, for example those causing physical or sexual harm to others and imprisonable by 4 years or more,[216] should be deemed serious enough to be proportionate to the interference. This expressly would not include breaches of civil orders used to restrict protest, such as Public Spaces Protection Orders, Anti-Social Behaviour Injunctions, and Serious Disruption Prevention

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[215] The wording of "specific, substantial and imminent threat to life" is taken from the EU AI Act, which stipulates live biometric remote identification systems are prohibited, but "in so far as such use is strictly necessary" exempts use for the prevention of a "specific, substantial and imminent threat to life or physical safety of natural persons or a genuine and present or genuine and foreseeable threat of a terrorist attack". See Article 5 (1)(h)(ii).

[216] Again, inspired by the threshold suggested by the EU AI Act at Article 5(1)(h)(i), however the EU AI Act threshold relates to live biometric identification only; the EU AI Act does not mandate seriousness thresholds for retrospective biometric identification by law enforcement (see Annex III). It designates such systems to be high-risk, but leaves any thresholds to be defined by members states' domestic laws.

Orders, our wider concerns about which we have discussed elsewhere in this submission to the Inquiry.

Operator initiated biometric identification technology

131. The use of "operator initiated" facial recognition technology is not yet commonplace, but its emerging use presents further unique threats in a protest context. It occurs in real time, through the phone of the police officer to identify individuals with whom they are interacting. The lack of legal framework around this use case is worrying, given the power this technology gives to police officers to identify members of the public without consent when there is no suspicion of any wrongdoing. This would not be lawful at present – there is no general requirement to identify yourself to police. Therefore, using biometric technology in this way would radically change the police's power to interfere with the privacy of individuals. The anticipated use of such technology at a protest would undoubtedly have a chilling effect as discussed above, infringing on wider freedom of association, peaceful assembly and expression rights.

Inferential biometric technologies

132. Finally, JUSTICE highlights the risk of inferential biometric technologies being used in protest contexts. Recent reports have identified that biometric technologies are being developed to perform a wider variety of functions beyond their current mainstream use of identification, including so called "emotion recognition".[217] The suggested function of these tools is that they will be able to infer psychological information – i.e. someone's emotional state - from physiological traits.[218] The potential uses by law enforcement in protests might include surveillance of crowds to profile and monitor those flagged by the system as looking "angry". The key risk of such technologies is their dubious scientific validity, shared by any technologies which purport to be able to infer psychological truth from physiological information.[219] Any biometric processing of individuals' data for processes which are not scientifically valid would be a completely arbitrary interference not only with privacy but also with wider freedom of association, peaceful assembly and expression rights.

The legal framework: problems and solutions

133. Current police use of biometric technologies is governed by a disaggregated legal landscape of data protection, human rights and equality law, alongside police common law powers, and a variety of codes of practice and guidance documents. This current legal framework and the practical governance requirements and mechanisms therein are entirely inadequate to reliably and robustly protect privacy, freedom of association,

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[217] Sam Stockwell, Megan Hughes, Carolyn Ashurst and Nóra Ní Loideáin, 'The Future of Biometric Technology for Policing and Law Enforcement' (Centre for Emerging Technology and Security, Alan Turing Institute, March 2024).

[218] Kyriakos N Kotsoglou and Marion Oswald, 'Falling Behind the Pace: Lie Detectors, Policing and Lack of Foresight' (Northumbria University, 2023).

[219] The polygraph is another example, which is used by police despite widely contested scientific validity and its inadmissibility in criminal evidence. See Ibid.

peaceful assembly and expression rights from disproportionate interference, for the following reasons:

(a) There are no governance obligations to conduct a full human rights impact assessment prior to deployment, only a Data Protection Impact Assessment which inevitably focus on privacy and data protection risks.

(b) There are no national rules governing where these technologies can be deployed, nor any specific safeguards which prohibit, or at the very least require higher scrutiny, of deployments at locations such as protests, which engage greater expectations of privacy, where special category data is likely to be processed, or where additional rights and freedoms are engaged in addition to privacy, including freedom of expression, freedom of assembly and association, and freedom to manifest one's religion or beliefs. This includes, but is not limited to, schools, places of worship, health centres and polling stations, as well as protests and lawful assemblies.

(c) There are also no national rules on what types of threat, criminality or serious harm legitimately justify the use of retrospective facial recognition, or justify inclusion of a person on a "watchlist" for live biometric facial recognition against whom the biometric data of all scanned members of the public's faces are compared for a match.

(d) Both rules about where biometric technologies can be used, and to find whom ((b) and (c) above), are left to individual forces to decide and create their own policies. This risks a contradictory and confusing landscape, with a potential 43 different policies for 43 different approaches and inequality of rights-protection across the country.

(e) There are no quality management obligations in place to ensure the scientific validity, accuracy and equitability of the tools being used. Studies from the National Physical Laboratory have only tested current tools under limited circumstances, but still found that facial recognition tools produce statistically significant accuracy rates for different demographics.

(f) The live facial recognition tool used by the Metropolitan Police and by South Wales Police demonstrated such inaccuracies when used under a threshold setting of 0.6.[220] There is however no obligation for forces to use the tool at a setting of 0.6 or higher, nor any current oversight body tasked with enforcing such standards.

(g) The retrospective facial recognition tool (when CCTV footage or another image input is run through a facial recognition algorithm to identify whether a person in the input image matches a person on a reference database) showed vastly

[220] National Physical Laboratory (NPL), *Facial Recognition Technology in law enforcement equitability study,* (March 2023)

unequal accuracy rates, for example false positive rates 100-times higher for Black women (1 in 10) than for white women (1 in 1000).[221]

(h) There is no independent pre-authorisation process in place for live facial recognition, to review the lawfulness of the rights interference on a case-by-case basis, before the deployment takes place. Instead, the police are currently marking their own homework.

(i) There is no oversight body tasked with setting standards (such as thresholds, see above), systematically reviewing the police's use of facial recognition technology, or with the power to inspect or audit practices, or indeed step in to prohibit unlawful use.

134. JUSTICE has closely participated in the Home Office's consultation, and continues to advocate for the following proposals to create a robust, clear and rights-protecting legal framework for law enforcement use of biometrics and other similar technologies. **A specific provision to protect protest and similar highly rights-sensitive deployments is included in bold below.**

(a) All uses of live facial recognition should be prohibited except those strictly defined in a new Bill. It cannot be an optional legal framework which can be disapplied when relying on police common law powers. It also must not leave non-police public actors seeking to use the technology for law enforcement, such as local authority civic enforcement teams, unregulated.[222]

(b) The framework must stipulate the exclusive law enforcement purposes for which biometric technologies *may* be used, outside of which all use is prohibited. JUSTICE suggests:

(i) Prevention of a specific, substantial and imminent threat to the life or physical safety of natural persons or a genuine and present or genuine and foreseeable threat of a terrorist attack;

(ii) The localisation of an adult for whom there are reasonable grounds to believe they have committed a serious criminal offence (listed within the legislation) where the sought person could reasonably be expected to be sentenced to imprisonment for a term of no less than four years.

(iii) The targeted search for specific victims of kidnapping, trafficking in human beings or sexual exploitation of human beings, as well as the search for high-risk missing persons.

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[221] NPL, *Cognitec NPL Equitability Report* (October 2025).

[222] The latter is a real risk, given some local authority investment in facial recognition technology and even ambitions to use it in permanent cameras and drones. See London Borough of Hammersmith and Fulham, 'Report on CCTV and Artificial Intelligence – new innovations and improved infrastructure to help combat crime and anti-social behaviour,' 15 September 2025.

(c) Even if they fall into the above categories, deployments must also be shown to be necessary and proportionate in the deployment context on a case-by-case basis, taking into consideration the availability of other less invasive measures, wider rights-impacts including freedom of expression, association and assembly, and evidence of potential disproportionate impacts on vulnerable populations in the specific deployment context, including children. The analysis should be recorded in a human rights impact assessment for each deployment.

(d) A higher bar should be set for deployment of live biometric identification technology such as live facial recognition in protest and similar contexts. Except for in the case of specific, substantial and imminent threat to life etc in (i) above, use should be prohibited in locations engaging greater expectations of privacy, where special category data is likely to be processed, or where additional rights and freedoms are engaged in addition to privacy, including freedom of expression, freedom of assembly and association, and freedom to manifest one's religion or beliefs. This includes, but is not limited to, schools, places of worship, health centres, polling stations, protests and lawful assemblies.

(e) Each deployment of live biometric identification technology should be subject to prior authorisation by an independent body, either an independent administrative authority or judicial authority, whose decision is binding. In case of genuine emergency, retrospective authorisation can be sought up to 24 hours after an emergency deployment.

(f) Reference datasets for retrospective facial recognition should be limited to lawfully-held images by the police, in light of the Custody Images Review 2017 and the presumption of deletion for those not charged and/or not convicted of an offence. Access to population-wide databases of facial image data, such as the Passport database, must be exceptional, last resort, and subject to prior authorisation by an independent body.

(g) A separate oversight body must have adequate funding and powers to:

(iv) Set technical standards, requiring testing and validation; set deployment standards (including thresholds used for models); and set standards for performance, including accuracy and equitability.

(v) Audit, inspect, require information from forces, demand compliance with standards, and where standards are not complied with, apply for an injunction to prohibit use of a tool;

(vi) Report annually on the national use of biometric technologies, including the consistency of assessment of necessity and proportionality, and the impact on human rights.

135. Only by introducing the above legal framework will there be an adequately robust, clear and rights-protecting framework for all biometric use by law enforcement, including its use in protest.

Public Scrutiny

12) The Home Office recently published statistics on the use of police powers to impose conditions on protests under sections 12, 14 and 14ZA of the Public Order Act 1986. How useful is the available data on police powers and protest collected and published by the government?

136. The publication of the Home Office statistics is a welcome step towards meaningful scrutiny. Similarly, the Home Office decision to expand the report and accompanying data tables since the first publication in December 2024 following stakeholder feedback and confirmation that it will form an annual standalone releasee within the wider Police Powers and Procedures statistical series are positive developments. [223]

137. The collection covers all 43 territorial forces in England and Wales together with the British Transport Police and gathers structured information on the theme of each procession or assembly with conditions imposed in the specified time-period, the trigger for imposing conditions, the conditions applied, and the demographic profile of those arrested for breaching them. It is also positive that the Home Office is engaging with the National Police Coordination Centre (NPoCC), the National Police Chiefs' Council (NPCC) and the College of Policing to improve quality and consistency, has classified the series as official statistics in development under the Code of Practice for Statistics, and invites continuing user feedback.[224]

138. However, the dataset has the following limitations:

a. The police powers covered in the dataset are only a proportion of the powers the police have to restrict protest and the data set does not capture statistics on the use of police powers to impose conditions under the following:
    i. Section 13 POA 1986 (processions bans)
    ii. Sections 1–8 of the Public Order Act 2023 (locking on, tunnelling, key infrastructure offences, SDPOs) and s.11 POA 2023 searches
    iii. Section 137 Highways Act 1980; breach of the peace and common-law obstruction
    iv. Section 73 PCSCA Act 2022 public nuisance
    v. Section 60 CJPOA stop-and-search, and section 1 PACE searches
    vi. Section 60AA CJPOA powers to order the removal of face coverings
    vii. Civil orders, FPNs and injunctions

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[223] Home Office, Police protest powers, June 2022 to March 2025: Published 5 February 2026 (2026)

[224] Ibid.

viii. Counter-terrorism and national-security legislation (including proscription offences under the Terrorism Act 2000 and "prohibited places" offences under the National Security Act 2023);
ix. New powers under the Crime and Policing Act 2026.

Nor does it capture statistics on all processions and assemblies within the period, including the number and themes of each, rather than only those protests where conditions were imposed, protest offences, use-of-force tactics (such as, kettling, baton, taser, horse and dog deployments) or bail conditions, uses of biometric technologies such as facial recognition in protest contexts, including when in a designated protest locality in which wearing face coverings is criminalised,[225] pre-charge bail and post-charge restrictions. Given the expanding legal framework of complex and overlapping powers, it is essential that the cumulative impact of such legal developments can be meaningfully evaluated.

b. As referenced in our response to Question 1 of this inquiry, the Metropolitan Police did not disclose a trigger for imposing S.14 conditions for 31% of recorded assemblies and only supplied data from April 2023. Additionally, in almost half of the arrests made by the Met, the specific condition breach is not specified. The data records conditions imposed, and arrests made but does not provide sufficient data about whether arrests lead to charges or the reasons for de-arresting individuals. Civil society monitors have reported a growing trend of individuals being arrested, having their details taken and then immediately being de-arrested, which has raised concerns that arrest powers are being used for intelligence-gathering rather than prosecution.[226] Data about the reasons for arrest, charge or de-arrest would allow for this trend to be accurately analysed.

c. Demographic data is missing for a large proportion of cases. In the 5 February 2026 series, self-defined ethnicity is missing for 78% of subjects, 72% for officer-defined ethnicity, 69% for sex and 10% for age.[227] Equality-impact analysis is therefore impossible at the level required by the Public Sector Equality Duty and therefore transparency, oversight and accountability mechanisms are limited.

13) What data on the policing of protest should be collected and made public (for example use of specific powers, arrests, use of individual data, equality impacts) to enable effective scrutiny?

[225] Crime and Policing Act 2026 s.157-159

[226] NetPol, "How Repression Became Routine: The State of Protest in 2025" (2026) pp 18-20, 27-28.

[227] Home Office, "Police protest powers, June 2022 to March 2025 - GOV.UK" (2025) see tabs PP_18 -20

139. We recommend that a National Protest Policing Database is established, governed by an independent Public Order Monitoring Authority reporting annually to the JCHR. To provide comprehensive, disaggregated data collection on all aspects of protest policing, including:

(a) Protest theme, date, location, and estimated attendance

(b) All conditions or search authorisations imposed with reference to the legislation (including, e.g., Sections 12, 14, 60, dispersal orders, PSPOs) with written rationale and proportionality assessments explaining and justifying why the restriction was necessary and proportionate;

(c) Officer deployments: number, originating forces, and costs;

(d) Arrests: numbers, demographics (race, gender, age), offences, and outcomes (charges, cautions, no further actions (NFA), out-of-court disposal, prosecution, conviction, acquittal, appeal, withdrawal, compensation, IOPC referral, unlawful-arrest finding);

(e) Use of force: type, frequency, and circumstances;

(f) Injuries to officers and civilians;

(g) Complaints lodged, including anonymised unique officer references (URNs) and originating forces and

(h) Counter-protest responses and policing approaches.

(May 2026)