



National Public Order Legislation Guide

May 2004

National Crime and Operations Faculty

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Staffordshire Police

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Any comments. Queries or suggestions about this guide should be directed to National Crime and Operations Faculty Public Order Team on 01256 602698.

CONTENTS

NATIONAL PUBLIC ORDER LEGISLATION GUIDE	1
APRIL 2004	1
NATIONAL CRIME AND OPERATIONS FACULTY	1
Copyright	2
Acknowledgements	2
CONTENTS	3
INTRODUCTION	7
Legal Status.....	8
Human Rights Statement	8
Phrases and Caution	9
Health & Safety / Risk Assessment	9
HUMAN RIGHTS	11
USE OF FORCE	13
<i>Common Law</i>	13
<i>Section 3(1), Criminal Law Act 1967</i>	13
<i>Section 117, PACE Act 1984</i>	13
<i>Code of Conduct under the Police (Conduct) Regulations 1999</i>	13
SECTION 25, POLICE AND CRIMINAL EVIDENCE ACT 1984	14
PUBLIC NUISANCE	15
Common Law	15
BREACH OF THE PEACE	17
Common Law (R V Howell 1981).....	17
ASSAULT / OBSTRUCT / RESIST POLICE	18
Section 89, Police Act 1996.....	18
RIOT	19
Section 1, Public Order Act 1986	19
VIOLENT DISORDER	20
Section 2, Public Order Act 1986	20
AFFRAY	21
Section 3, Public Order Act 1986	21
FEAR OF VIOLENCE / PROVOCATION OF VIOLENCE	22
Section 4(1)(a), Public Order Act 1986	22
FEAR OF VIOLENCE / PROVOCATION OF VIOLENCE (SIGNS)	23
Section 4(1)(b), Public Order Act 1986 (Signs etc).....	23
INTENTIONAL HARASSMENT / ALARM / DISTRESS	24
Section 4A, Public Order Act 1986.....	24
DISORDERLY CONDUCT - WORDS OR BEHAVIOUR	25
Section 5(1)(a), Public Order Act 1986	25
DISORDERLY CONDUCT - WRITING / SIGNS	26
Section 5(1)(b), Public Order Act 1986	26
OBSTRUCTION OF COURT OFFICERS	27
Section 10, Criminal Law Act 1977.....	27
CIVIL TRESPASS	28
OBSTRUCTION OF THE HIGHWAY	29
Section 137, Highways Act 1980.....	29

INTERFERE WITH TRAFFIC EQUIPMENT / CAUSE DANGER TO ROAD USERS	31
Section 22A, Road Traffic Act 1988 & Schedule 2 Road Traffic Offenders Act 1988.....	31
PREVENTING PERSONS GOING ABOUT LAWFUL BUSINESS	33
Section 241, Trade Union and Labour Relations (Consolidation) Act 1992	33
PREVENTION OF HARASSMENT OUTSIDE HOMES	35
Section 42, Criminal Justice and Police Act 2001	35
THE PROTECTION FROM HARASSMENT ACT 1997	38
Section 1 - Prohibition of Harassment	38
Section 2 - Causing Harassment - Points to Prove.....	38
Section 4 - Putting People in Fear of Violence	39
IMPOSING CONDITIONS ON PUBLIC PROCESSIONS	41
Section 12(1), Public Order Act 1986.....	41
Section 12 Explanation	42
IMPOSING CONDITIONS ON PUBLIC ASSEMBLIES	43
Section 14(1), Public Order Act 1986.....	43
POLICE POWER TO STOP / SEARCH IN A LOCALITY	45
Section 60, Criminal Justice & Public Order Act 1994 (as amended by S.8 Knives Act 1997).....	45
REMOVAL OF DISGUISES	46
Section 60AA (1)&(2)(a), Criminal Justice and Public Order Act 1994	46
POWER OF SEIZURE.....	47
Section 60AA(2)(b), CJPO 1994	47
COLLECTIVE TRESPASS / NUISANCE ON LAND	49
Section 61, Criminal Justice and Public Order Act 1994.....	49
FAILS TO REMOVE VEHICLE UNDER SECTION 61	51
Section 62, Criminal Justice and Public Order Act 1994.....	51
POWER TO REMOVE TRESPASSERS: ALTERNATIVE SITE AVAILABLE	52
Section 62(A) Criminal Justice and Public Order Act 1994	52
FAILURE TO COMPLY WITH DIRECTION UNDER SECTION 62(A).....	53
Section 62(B) Criminal Justice and Public Order Act 1994	53
FAILURE TO COMPLY WITH DIRECTION UNDER 62(A): SEIZURE	54
Section 62 (C) Criminal Justice and Public Order Act 1994	54
RAVES	55
Section 63, Criminal Justice and Public Order Act 1994.....	55
RAVES DIRECTION TO LEAVE	56
Section 63(2), CJPO Act 1994	56
RAVES POWER TO ENTER LAND	57
Section 64(1) - (3).....	57
Section 64(4), Raves Power of Seizure.....	58
POWER TO DIRECT PERSONS AWAY FROM RAVES - 5 MILE RADIUS	59
Section 65, CJPO 1994	59
AGGRAVATED TRESPASS.....	60
Section 68, Criminal Justice & Public Order Act 1994	60
Explanatory Notes Section 68.....	60
DIRECTION TO LEAVE LAND.....	61
Section 69, Criminal Justice & Public Order Act 1994	61
OFFENCE OF FAILING TO COMPLY WITH DIRECTION TO LEAVE	62
Section 69(3) Criminal Justice & Public Order Act 1994.....	62

STOP AND SEARCH	63
Section 1, Police and Criminal Evidence Act 1984	63
OFFENSIVE WEAPONS.....	64
Section 1, Prevention of Crime Act 1953	64
BLADE OR SHARPLY POINTED ARTICLE	65
Section 139, Criminal Justice Act 1988	65
CRIMINAL DAMAGE	66
Section 1, Criminal Damage Act 1971	66
THREATS TO DAMAGE / DESTROY.....	67
Section 2, Criminal Damage Act 1971	67
POSSESSION WITH INTENT TO CAUSE CRIMINAL DAMAGE.....	68
Section 3, Criminal Damage Act 1971	68
VIOLENCE TO SECURE ENTRY.....	69
Section 6, Criminal Law Act 1977.....	69
MAIM / INJURY BY EXPLOSION.....	70
Section 28, Offences Against The Person Act 1861	70
RACIAL HATRED.....	71
Sections 17 - 23, Public Order Act 1986.....	71
LOUDSPEAKERS	72
Section 62, Control of Pollution Act 1974.....	72
DAMAGING HIGHWAY	73
Section 131, Highways Act 1980.....	73
UNAUTHORISED SIGNS.....	74
Section 132, Highways Act 1980.....	74
FIRE, FIREWORKS AND GAMES ON HIGHWAY	75
Section 161, Highways Act 1980.....	75
ROPE ETC. ACROSS HIGHWAY	76
Section 162, Highways Act 1980.....	76
STOP VEHICLE / CYCLE	77
Section 163, Road Traffic Act 1988	77
POLICE SIGNS.....	78
Section 67, Road Traffic Regulation Act 1984.....	78
HOLDING OR GETTING ON TO VEHICLE IN MOTION	79
Section 26, Road Traffic Act 1988	79
DRIVING OFF-ROAD	80
Section 34, Road Traffic Act 1988	80
COMPLYING WITH DIRECTIONS OF A CONSTABLE	81
Section 35, Road Traffic Act 1988	81
STOP PEDESTRIANS.....	82
Section 37, Road Traffic Act 1988	82
POSSESSION OF FIREARM / IMITATION WITH INTENT TO CAUSE FEAR OF VIOLENCE.....	83
Section 16A, Firearms Act 1968.....	83
CONTROL OF DOGS ORDER 1992 & ANIMAL HEALTH ACT 1981	84
SPORTING EVENTS (CONTROL OF ALCOHOL ETC) ACT 1985.....	85
THE FOOTBALL (OFFENCES) ACT 1991.....	85
ALCOHOL ON SUPPORTERS VEHICLES.....	86
Section 1, Sporting Events (Control of Alcohol etc) Act 1985.....	86

ALCOHOL ON CERTAIN OTHER VEHICLES	87
Section 1A, Sporting Events (Control of Alcohol etc) Act 1985.....	87
DRUNK AT FOOTBALL GROUNDS	88
Section 2, Sporting Events (Control of Alcohol etc) Act 1985.....	88
FIREWORKS ETC	89
Section 2A, Sporting Events (Control of Alcohol etc) Act 1985.....	89
THROWING OBJECTS	90
Section 2, Football (Offences) Act 1991.....	90
RACIAL CHANTS (SPORTING EVENTS)	91
Section 3, Football (Offences) Act 1991 as amended by the Football (Offences & Disorder) Act 1999.....	91
GOING ONTO THE PITCH (SPORTING EVENTS)	92
Section 4, Football (Offences) Act 1991.....	92
TICKET TOUTS	93
Section 166, Criminal Justice and Public Order Act 1994.....	93

INTRODUCTION

This Public Order Legislation Guide has been prepared as an aide-memoire to assist you. Its contents have been drawn from several sources and condensed into a single point of reference for the offences you are most likely to encounter whilst engaged on Public Order related duties.

The booklet summarises the key offences, their main evidential elements and the powers available to you. Where applicable, suggested warnings are included. These will make sure that certain defences can be negated and a consistent approach maintained. However at all times officers should remember that in everything they do they should be:

- Lawful
- Reasonable
- Necessary
- Proportionate

It is essential that you familiarise yourself with the necessary legislation and are conversant with the appropriate powers provided. If there is any doubt consideration should be given to contacting your own forces legal sections.

Public Order policing is a high profile duty, which will attract widespread attention. Be mindful when exercising any powers that your actions must be justified and may be subject to very close scrutiny. You should exercise your powers in a fair and non-discriminatory manner, at all times treating people with courtesy, decency and respect.

Remember:

- This guide does not dictate the offences officers should use or limit them in the full performance of their duty. Officers should take full responsibility for their actions.
- Where practicable: -
 - ◇ Use your Evidence Gathering Team;
 - ◇ Keep it simple;
 - ◇ Make a record of your decisions and actions.

It is intended that this aide memoire will be updated regularly with any changes in legislation. However it is up to the individual officer to ensure that they are aware of the legislation that is available and the implications of using it. For confirmation of any of the legislation consideration should be given to contacting your own force legal sections or checking the Police National Legal Database.

If you have any suggestions or queries contact the Public Order Team at the National Crime and Operations Faculty at Bramshill on 01256 602698.

Legal Status

As the title of this guide suggests it exists' for the guidance of all police officers involved in the policing of public order events to assist them in carrying out their duty and provide appropriate policies, training, planning and advice. Such guidance is required by the Police Service to ensure appropriate and proportionate response to Public Order Incidents as part of their operational duties.

The variable nature of public order policing is so diverse that it will never be possible to document guidance to cover every circumstance or eventuality. For this reason, there will always be occasions when individual officers need to be aware of any changes in legislation in order to be effective in the workplace.

In such circumstances, the actions of the officer will not necessarily be wrong or unlawful, provided that they acted reasonably and within the law. The organisation and individual(s) concerned must be prepared to account for their decisions and to show that they were justified in doing what they did. Similarly, Chief Officers may be required to justify any decision(s) or action(s) taken, when facing legal proceedings.

Human Rights Statement

In the application of any policies, strategy, tactics or operations contained within this Guide, the police service will not discriminate against any persons regardless of sex, race, colour, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth or other status as defined under Article 14 European Convention on Human Rights (ECHR).

Strategies and policies contained within this Guide which could interfere with an individual's rights, have been identified as necessary for the following reasons: - preventing crime and disorder, public safety; and protecting the rights and freedoms of others.

It is inherent within this Guide that there is potential to engage Articles 1, 2, 3, 5, 6, 8, 10 and 11 of the Human Rights Act 1998, thus interference with an individual's rights.

In each and every case where a recommendation has been made or good practice given, it is made with the strongest legal basis, with actions being proportionate, with the least intrusive and the least damaging option chosen.

Phrases and Caution

There are certain pieces of legislation that necessitate warnings to be given prior to arrest (e.g. Section 5 Public Order Act 1986). Where practicable, it is also considered good practice that additional warnings are given prior to any action being taken. Below is a phrase that could be used to fulfil this criteria:

Before Caution (where practicable):

“Is there anything I can reasonably say or do which would make you comply with my request to?”

Caution:

“You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence.”

Health & Safety / Risk Assessment

Officers should be aware of the generic risk assessments relating to the particular activity in which they are engaged. In addition, the following guidance should be followed:

Protective Clothing and Equipment:	Wear when instructed
Personal Hygiene:	Wash hands before eating
Accidents / Injuries:	To be reported before the end of duty
Cuts, open wounds:	To be covered with a plaster
Site safety (where appropriate):	Enter only when authorised

Use of CS Spray

It must be remembered that CS spray is not a crowd control agent or technique.

At all times consideration should be given to the perceived threat, the environment in which officers and colleagues are deployed and the limitations of the spray.

You will be briefed specifically on this issue.

Many protesters know the law and will test your resolve!

HUMAN RIGHTS

The Human Rights Act provides statutory protection of certain rights. Public order policing may particularly affect Article 10 'Freedom of expression' and Article 11 'Freedom of assembly'.

All officers have an individual responsibility for ensuring that they are properly educated and informed about the extent of their legal powers and the context within which those powers can properly be exercised. It is unacceptable for a police officer to claim ignorance of the law.

Officers' decision making about the use of police powers must include the following.

CONSIDERATIONS:

Do I have a lawful power?	Every action must have a legal basis.
What is my objective?	What is the proposed action intended to achieve? Is it relevant and is it necessary?
Is what I am doing proportionate?	Is there a reasonable relationship between the aim to be achieved and the means used?
Is there a less intrusive alternative?	Consider whether the objective can be achieved with less impact on the rights of the subject and any other person likely to be affected.
Do I need to act now?	Is the proposed action urgent or could it wait?
Is there a record of my reasoning?	Keep a record of the basis for your decisions whenever they affect someone's rights.

RECORD WHY YOUR:

Actions/decisions are	Proportionate Not arbitrary or unfair Strictly limited to what is required to achieve objective Balances 'individual' v 'community' rights
Actions/decisions are	Legal Prescribed by law (give Act & Section) In accordance with the law (Consider positive & negative obligations)
Actions/decisions have an	Aim (that is legitimate) as contained within the Article(s)
Actions/decisions are	Necessary as a democratic society is there a pressing social need?

	Non discriminatory Justifiable
--	-----------------------------------

PLAN TO MEASURE UP TO THE HUMAN RIGHTS ACT

Recording your responses to the ‘P.L.A.N.’ checklist will help to ensure your actions and/or decisions which might interfere with human rights are convention compliant.

Key Articles:

- Articles 2. Right to Life
- Articles 3. Prohibition of Torture
- Articles 4. Prohibition of Slavery & Forced Labour
- Articles 5. Right to Liberty and Security
- Articles 6. Right to a Fair Trial
- Articles 7. No Punishment without Law
- Articles 8. Right to Respect for Private & Family Life
- Articles 9. Freedom of Thought Conscience & Religion
- Articles 10. Freedom of Expression
- Articles 11. Freedom of Assembly & Association
- Articles 12. Right to Marry

Protocol 1, Article 1

Protection of Property

USE OF FORCE

Common Law

If you have an honest held belief that you or another are in imminent danger, then you may use such force that is reasonable and necessary to avert that danger.

Section 3(1), Criminal Law Act 1967

A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large.

Section 117, PACE Act 1984

Where any provision of this Act confers a power on a constable and does not provide that the power may only be exercised with the consent of some person other than a police officer the officer may use reasonable force, if necessary in the exercise of the power.

Code of Conduct under the Police (Conduct) Regulations 1999

Schedule 1

4. Use of force and abuse of authority:

‘Officers must never knowingly use more force than is reasonable, nor should they abuse their authority.’

SECTION 25, POLICE AND CRIMINAL EVIDENCE ACT 1984

Where a PC has reasonable grounds for suspecting that any offence which is not an arrestable offence (AO) has been committed or attempted, or is being committed or attempted, he may arrest the relevant person (RP) if it appears to him that service of a summons is impracticable or inappropriate because any of the general arrest conditions are satisfied i.e.: -

- Name of the person is not known to, and cannot be readily ascertained by the PC.
- The PC has reasonable grounds for doubting the correctness of the name given.
- The person has failed to furnish a satisfactory address for service of summons,

OR

The PC reasonably doubts whether the address furnished is satisfactory for service of summons.

- The PC reasonably believes arrest is necessary to prevent the person from:
 - ◇ causing physical harm to himself or another;
 - ◇ suffering physical injury;
 - ◇ causing loss or damage to property;
 - ◇ committing an offence against public decency (if members of the public going about their normal business cannot reasonably be expected to avoid the person arrested);
 - ◇ causing unlawful obstruction of the highway.
- The PC reasonably believes arrest is necessary to protect a child/vulnerable person from that person.

For the purposes of S.25 an address is a satisfactory address for the service of summons if it appears to the PC:

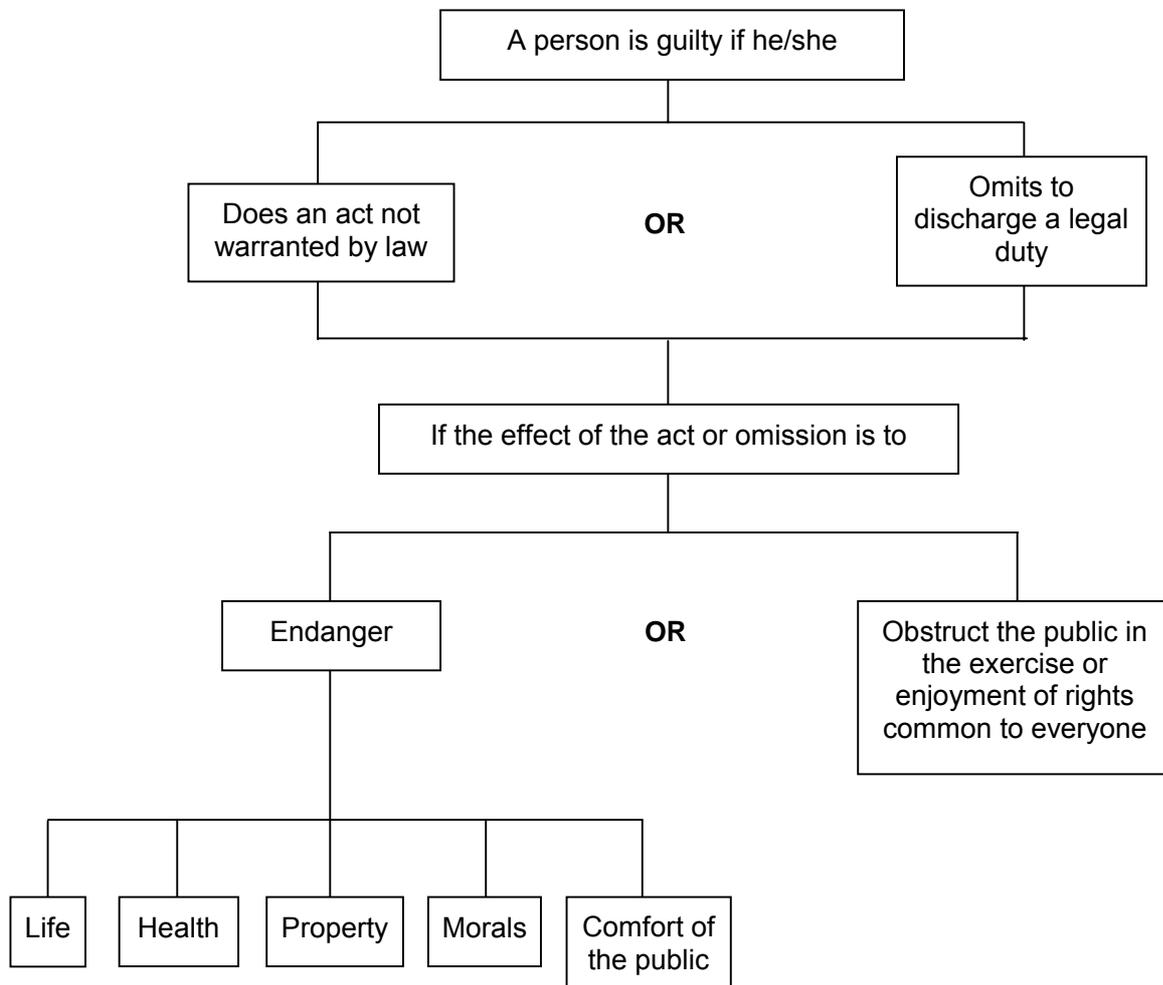
- ◇ The RP will be at it for a sufficiently long period for it to be possible to serve him with a summons,

OR

- ◇ That some other person specified by the RP will accept service of a summons for the RP at it.

PUBLIC NUISANCE

Common Law



Notes

The purpose that the offender has in mind when he/she does the act (or omits to do something) is immaterial if the probable result is to affect the public as described in the offence wording above.

Where some work is done by an employee in a way, which causes a nuisance, it is no defence for the employer to claim he did not personally supervise the work and that he had given express orders that the work should be carried in a different way.

The offence is still important because of its flexibility in adapting to those areas not covered by specific legislation. Glue sniffing, multiple nuisance phone calls and allowing 'raves' on one's property have all been held to be public nuisances. The offence may also be helpful if the penalty for a statutory offence is considered

insufficient in the circumstances. There is no limit to the penalty which can be imposed under common law.

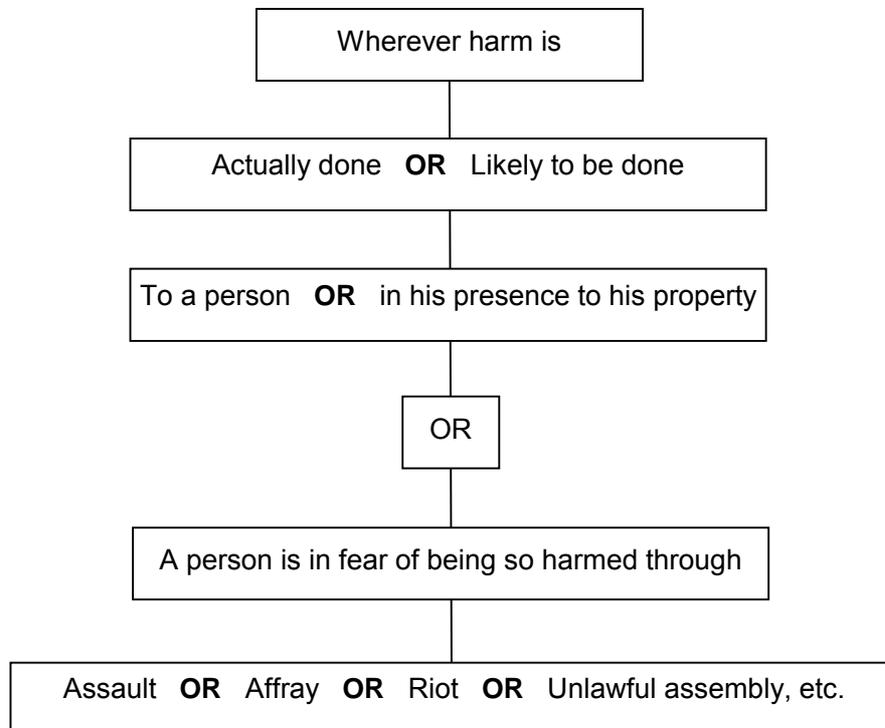
“Public place” means a place to which the public have access or a place which is visible to the public.

Note also, that if an individual is a public nuisance (e.g. drug dealing in a particular district or something of a similar, anti-social nature) it may be open to the Local Authority to take out an injunction against him/her. But if this idea may be one you wish to pursue, read the case of Nottingham City Council v Z (a minor) 2001 (a summary is in the Times 29.8.01) before going any further.

POWERS

Arrestable Offence

BREACH OF THE PEACE
Common Law (R V Howell 1981)



POWER OF ARREST

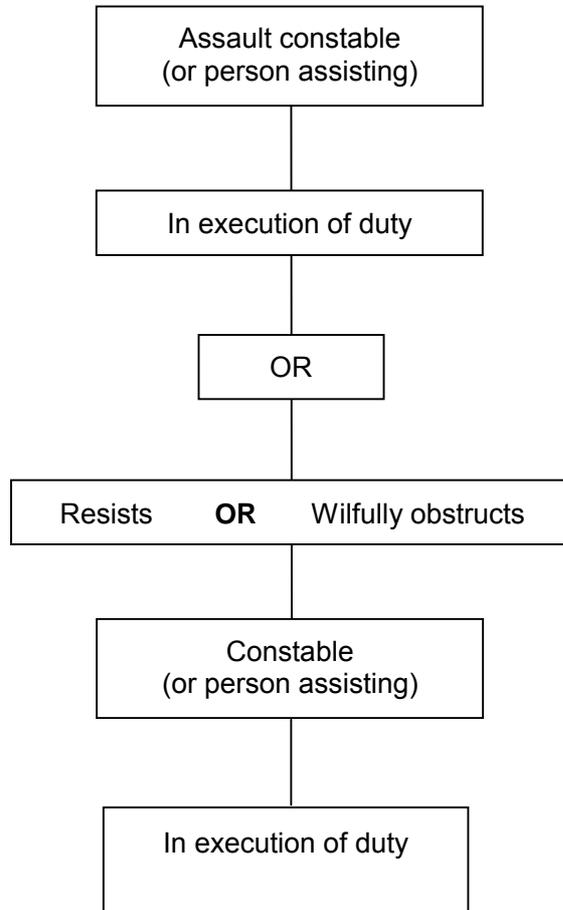
- 1) Found committing
- 2) To prevent a breach of the peace being committed in the immediate future
- 3) To prevent a renewal

N.B.

To be used only as a last resort. In almost all cases a public order offence will have been committed and will be more appropriate.

ASSAULT / OBSTRUCT / RESIST POLICE

Section 89, Police Act 1996

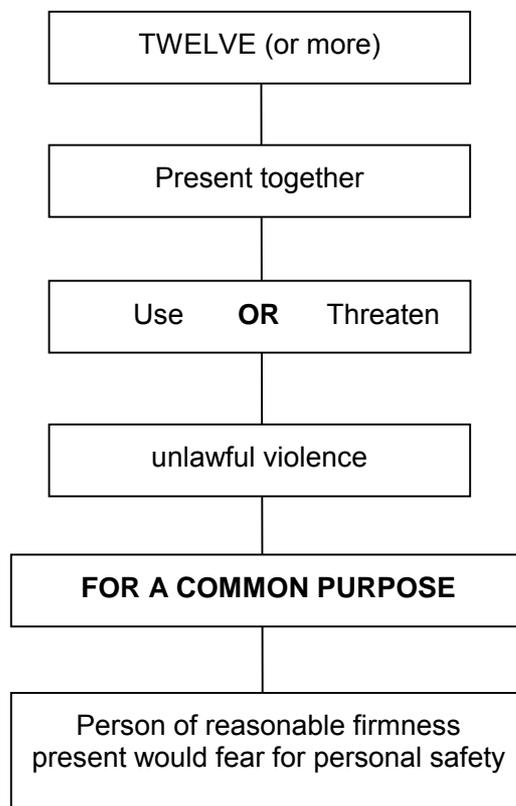


POWER OF ARREST

Arrestable Offence

RIOT

Section 1, Public Order Act 1986



POWER OF ARREST

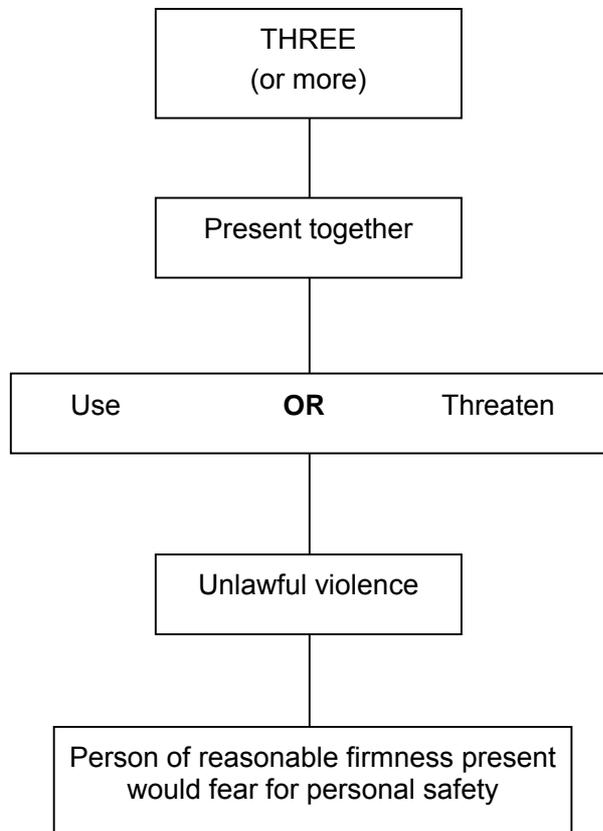
ARRESTABLE OFFENCE

N.B.

- 1) Persons need not use/threaten violence simultaneously
- 2) Each person using violence is guilty
- 3) Must prove intent - of use of violence
- 4) Includes violence towards property
- 5) 'Persons of reasonable firmness' need not be present.

The offence may be committed in private as well as in public places.

VIOLENT DISORDER
Section 2, Public Order Act 1986



POWER OF ARREST

ARRESTABLE OFFENCE

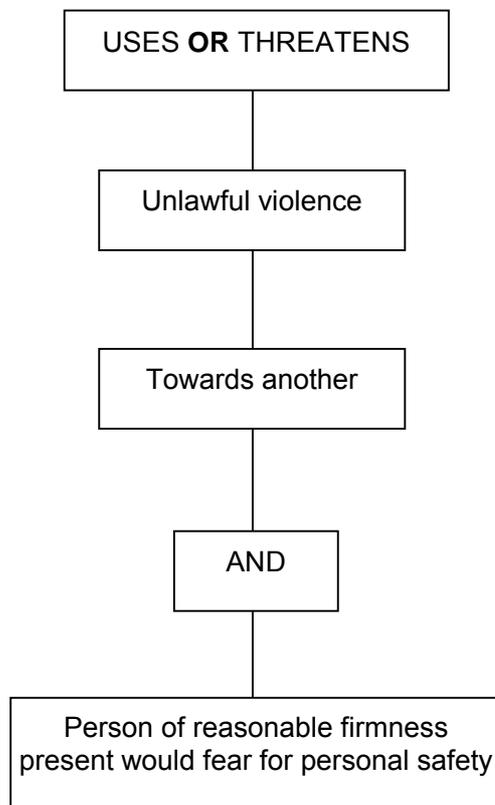
N.B.

- 1) Persons need not use/threaten violence simultaneously
- 2) Each person using or threatening violence is guilty
- 3) Must prove intent - of use of violence or threat of violence
- 4) Includes violence towards property
- 5) 'Persons of reasonable firmness' need not be present

The offence may be committed in private as well as in public places.

AFFRAY

Section 3, Public Order Act 1986



POWER OF ARREST

Constable may arrest anyone he/she reasonably suspects is committing affray.

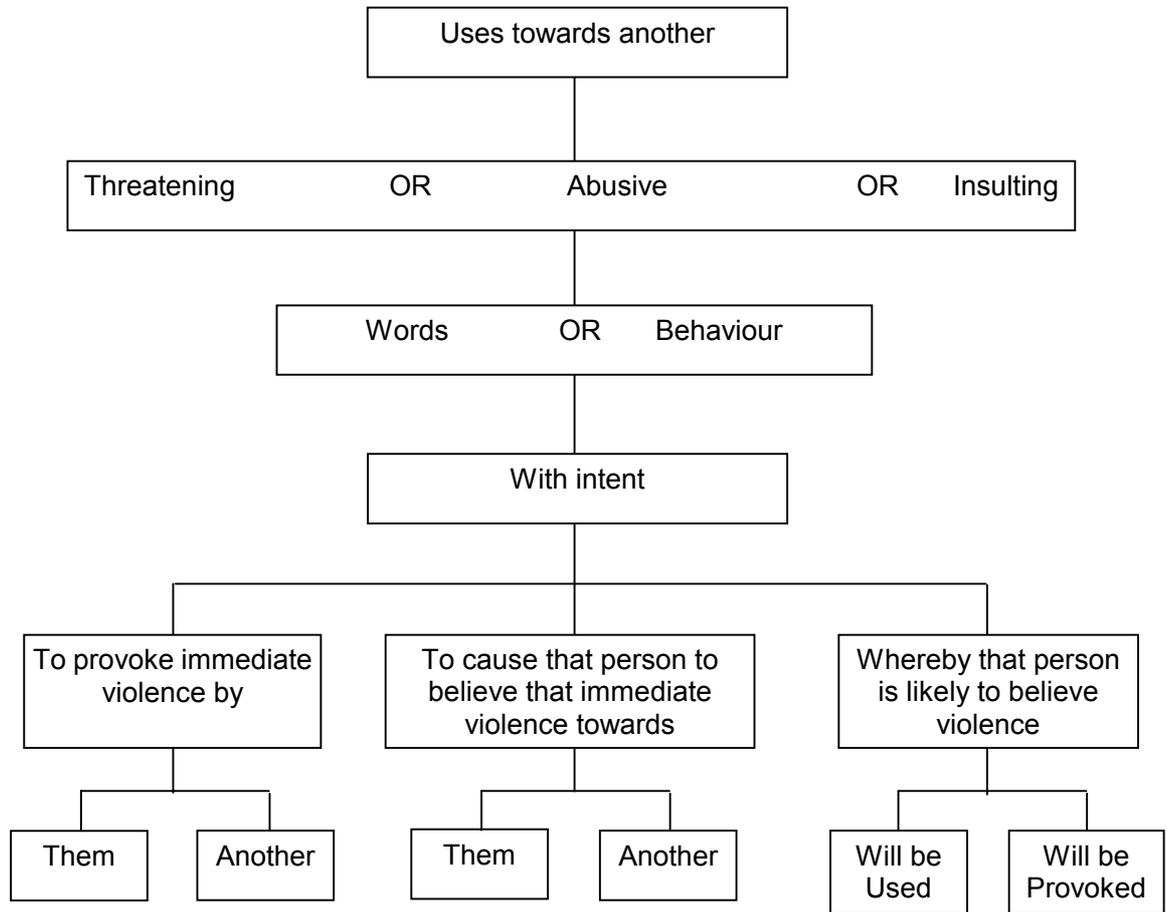
N.B.

- 1) Threat cannot be made by words alone (i.e. must be some physical threat, e.g. raising fist, some movement towards, etc.)
- 2) Violence must be towards a person
- 3) 'Person of reasonable firmness' need not be present

The offence may be committed in private as well as in public places.

FEAR OF VIOLENCE / PROVOCATION OF VIOLENCE

Section 4(1)(a), Public Order Act 1986



POWER OF ARREST

Constable may arrest on reasonable suspicion that person is committing.

N.B.

A person (other than the accused) must be aware of threatening, abusive or insulting conduct aimed at them (this person can be the constable).

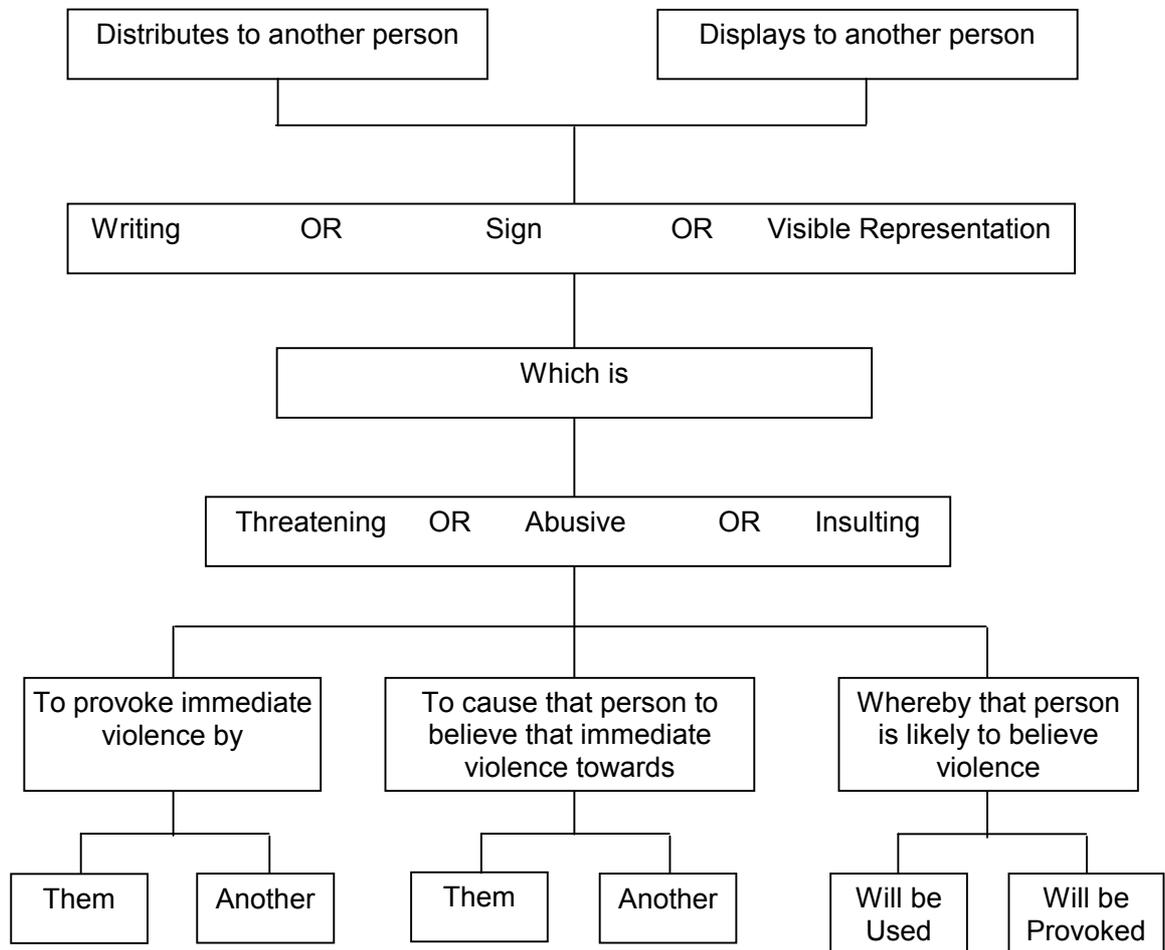
Includes violence towards property.

This offence can be racially aggravated.

Can be in public or private except where both parties are inside a dwelling (not necessarily the same dwelling).

FEAR OF VIOLENCE / PROVOCATION OF VIOLENCE (SIGNS)

Section 4(1)(b), Public Order Act 1986 (Signs etc)



POWER OF ARREST

Constable may arrest on reasonable suspicion that person is committing.

N.B.

A person (other than the accused) must be aware of threatening, abusive or insulting conduct aimed at them (This person can be the constable)

Conduct must be directed, not simply distributed or displayed e.g. by leaving leaflets about or by putting a poster on a wall.

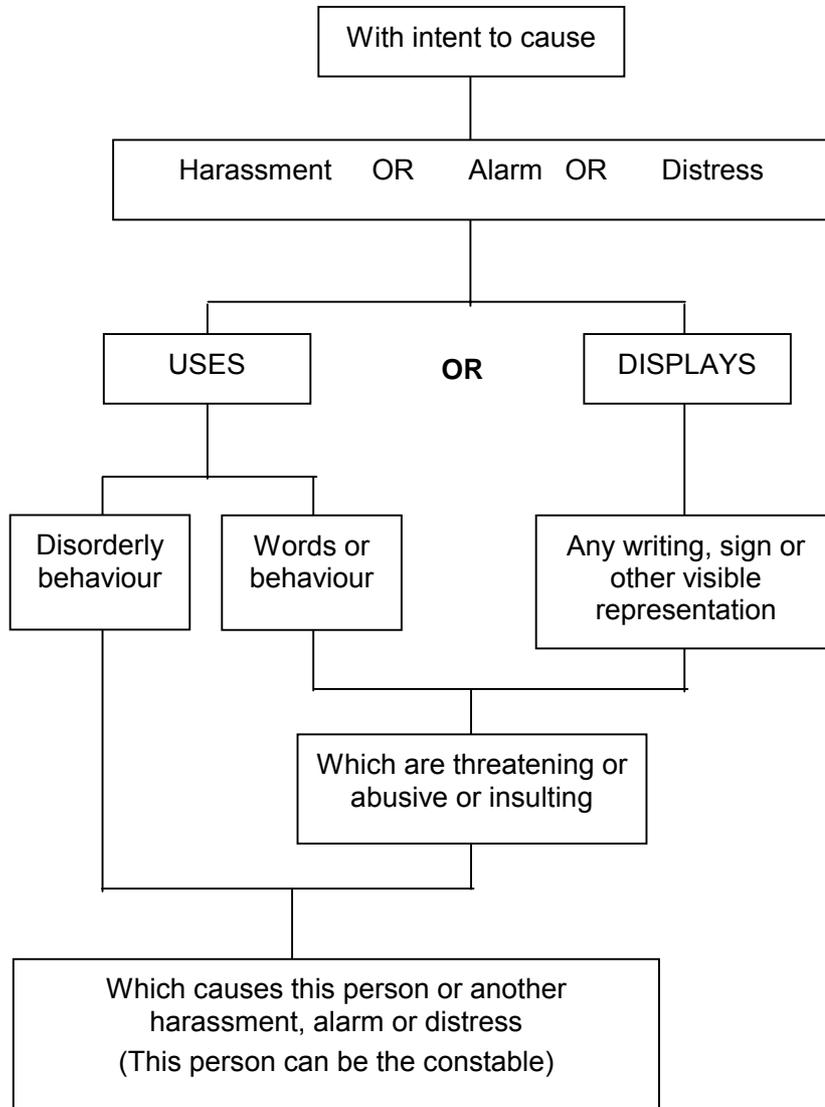
Includes violence towards property.

This offence can be racially aggravated.

Can be in public or private except where both parties are inside a dwelling (not necessarily the same dwelling).

INTENTIONAL HARASSMENT / ALARM / DISTRESS

Section 4A, Public Order Act 1986



POWER OF ARREST

Constable may arrest on reasonable suspicion that person is committing.

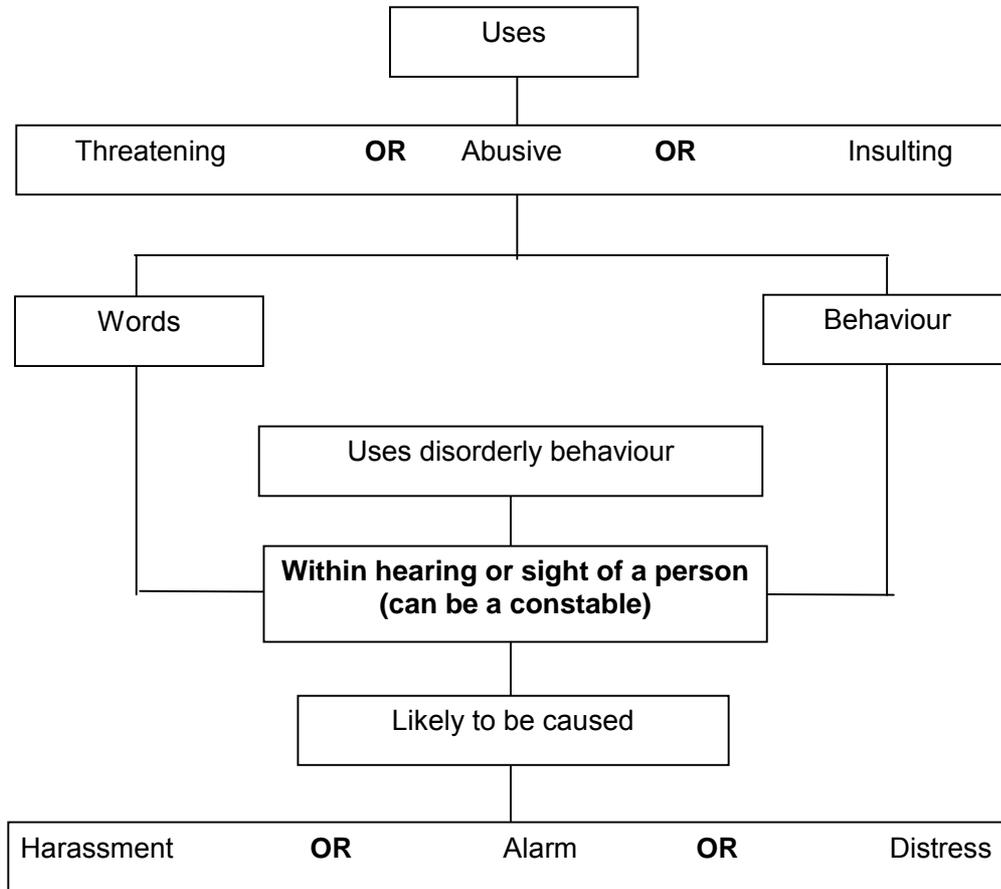
N.B.

This offence can be racially aggravated

Can be in public or private except where both parties are inside a dwelling (not necessarily the same dwelling).

DISORDERLY CONDUCT - WORDS OR BEHAVIOUR

Section 5(1)(a), Public Order Act 1986



POWER OF ARREST

Person engages in further offensive conduct immediately or shortly after being warned by a constable, then a constable may arrest.

N.B.

Offence is complete on first occasion (consider Section 25 PACE 1984 - if necessary).

Must intend or be aware that conduct was threatening, abusive, insulting or disorderly.

Warning must be given and ignored to give the power of arrest.

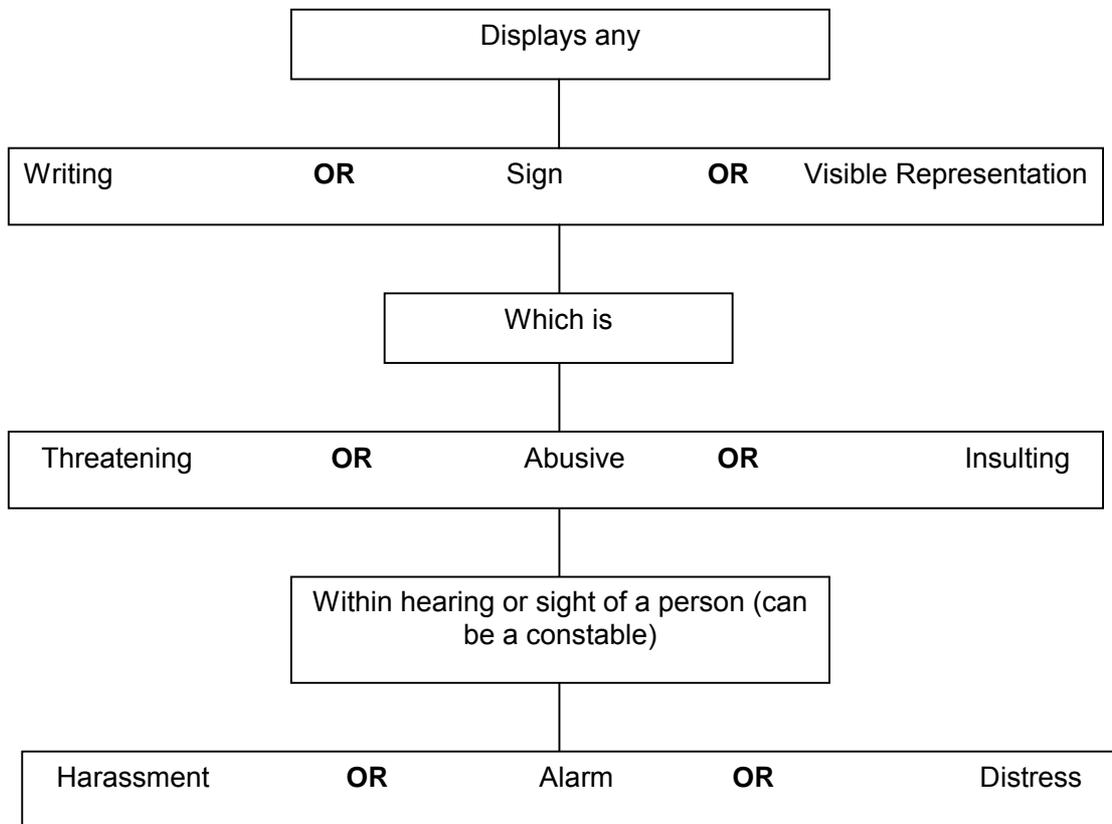
Initial warning can be given by a different officer but must be close in time and distance to the arresting officer.

Arresting conduct need not be the same as that which resulted in the warning.

This offence can be racially aggravated

DISORDERLY CONDUCT - WRITING / SIGNS

Section 5(1)(b), Public Order Act 1986



POWER OF ARREST

Person engages in further offensive conduct immediately or shortly after being warned by a constable, then a constable may arrest.

N.B.

Offence is complete on first occasion (consider Section 25 PACE 1984 - if necessary).

Must intend or be aware that conduct was threatening, abusive, insulting or disorderly.

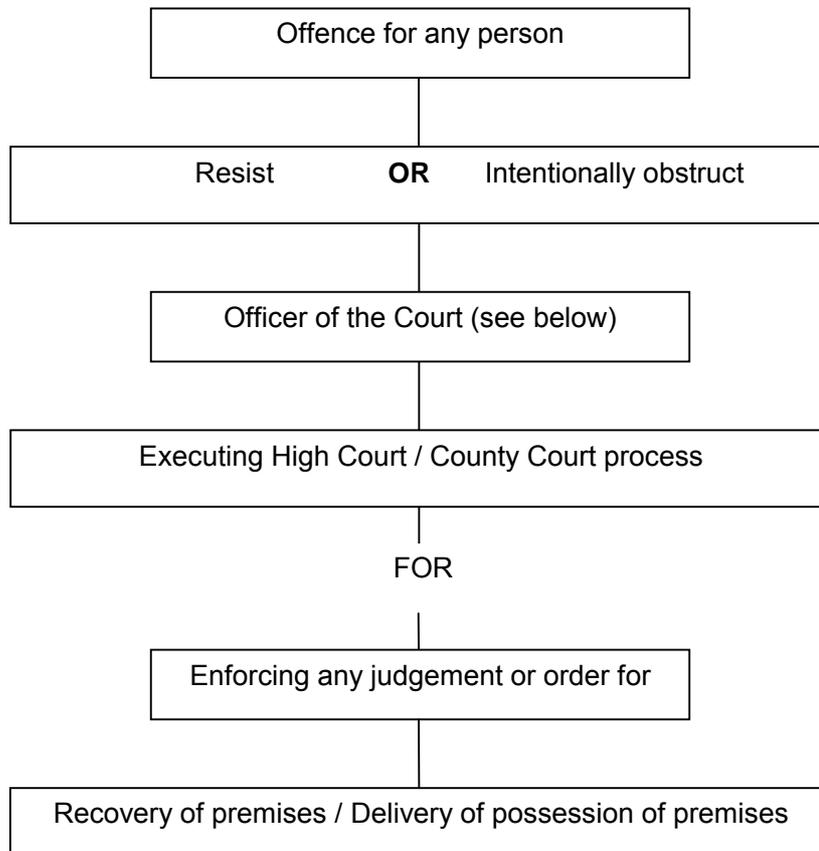
Warning must be given and ignored to give the power of arrest.

Initial warning can be given by a different officer but must be close in time and distance to the arresting officer.

Arresting conduct need not be the same as that which resulted in the warning.

OBSTRUCTION OF COURT OFFICERS

Section 10, Criminal Law Act 1977



POWER OF ARREST

PC in uniform (or Court Officer) may arrest (without a warrant) person who is, or whom he/she with reasonable cause suspects to be guilty of the offence (preserved power).

N.B.

‘Officer of the Court’: Any Sheriff, Under Sheriff, Deputy Sheriff, Bailiff or Officer of a Sheriff or Officer of the County Court.

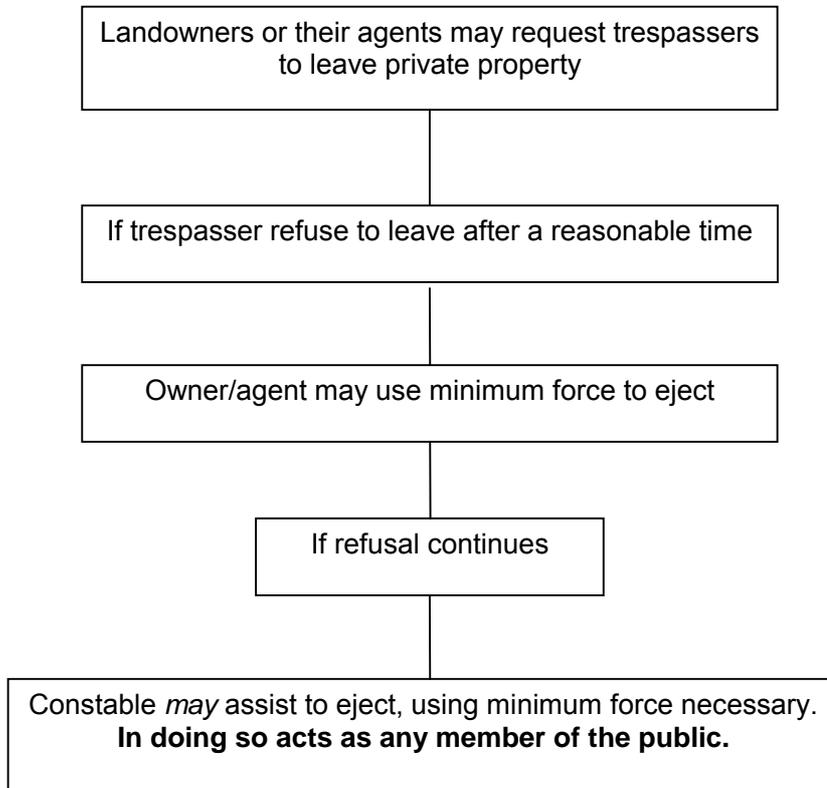
Warning to be given to Individual

“You have been requested to leave this area by an Officer of the Court who is executing process for possession which has been issued by a court. Is there anything I can reasonably say or do which will get you to comply with the instruction of the Court Officer. If you do not obey his direction it may make you liable to arrest.”

Give a short time, depending on the circumstances to allow the person to leave

“I am arresting you for the obstruction of a Court Officer executing process for possession”.

CIVIL TRESPASS

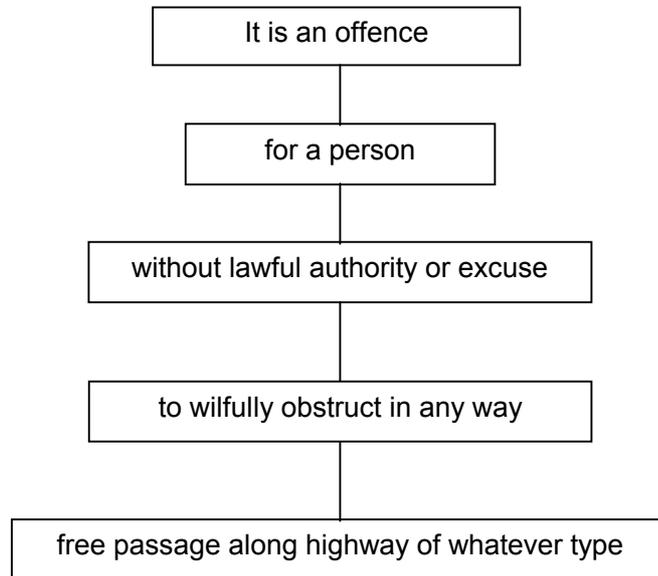


N.B.

If person being ejected violently resists, officer can consider powers under breach of the peace and/or public order offences.

OBSTRUCTION OF THE HIGHWAY

Section 137, Highways Act 1980



No Power of Arrest - Section 25 PACE may apply - see below for suggested form of words

N.B.

‘Wilfully’ must involve some deliberate act which is freely carried out.

‘Lawful excuse’ includes any lawful activity deemed to be reasonable.

Examples of ‘lawful authority’ are - street traders/collectors for charity.

The right to protest does not give the right to obstruct the highway, therefore there is no lawful excuse or authority, (if the use of the highway is unreasonable).

Warning to whole group obstructing the Highway:

“Your actions are such that you are wilfully obstructing the free passage on (*insert road, footpath, bridleway name*) which is a highway for the purposes of the Highways Act 1980. Unless you can tell me of any lawful authority or excuse that you have for causing this obstruction I would ask you to desist and allow free passage.”

If refuses to allow free passage or give a lawful authority or excuse for the wilful obstruction:

“I have informed you that you are wilfully obstructing the free passage on You have not told me of any lawful authority or excuse for causing this obstruction. I would again ask you to desist and allow free passage. Failure to do so may make you liable to arrest.”

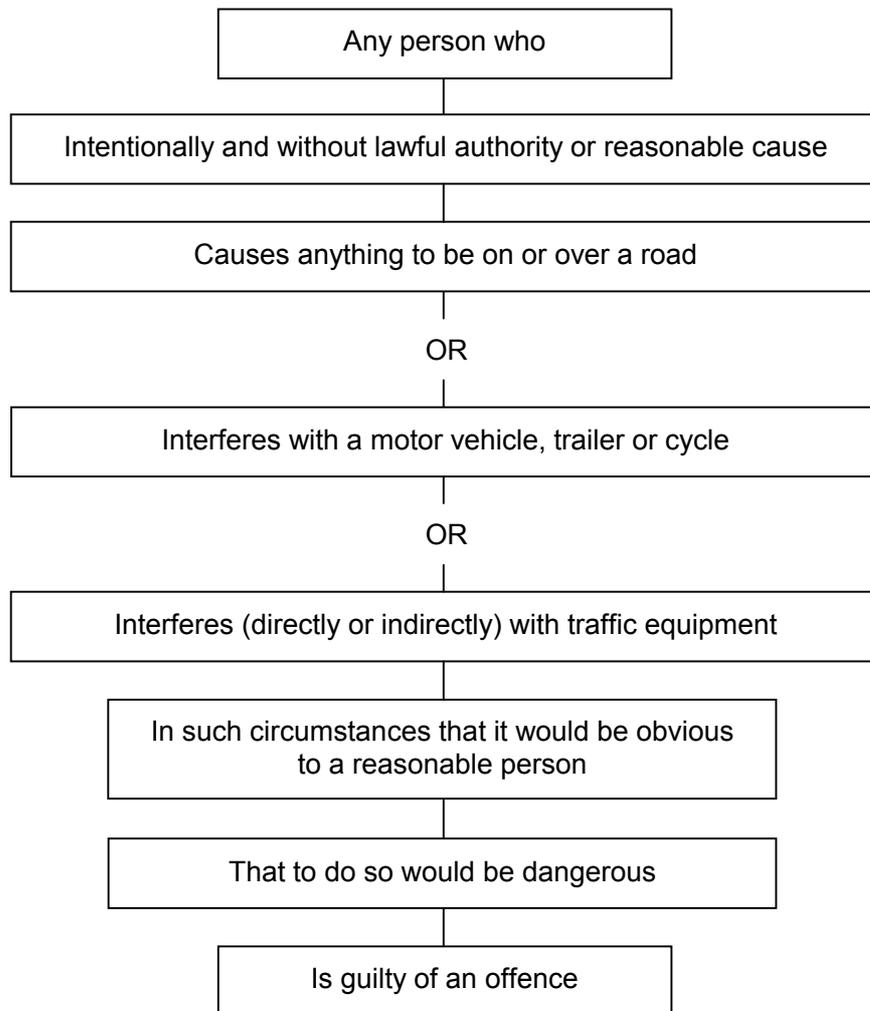
To a person who refuses to allow free passage:

“I have warned you that you are wilfully obstructing the highway. You have failed to furnish me with a lawful authority or excuse for this wilful obstruction. I am arresting you under Section 25 Police and Criminal Act 1984 as I reasonably believe that such an arrest is necessary to prevent you from causing an unlawful obstruction of the highway”

CAUTION

INTERFERE WITH TRAFFIC EQUIPMENT / CAUSE DANGER TO ROAD USERS

Section 22A, Road Traffic Act 1988 & Schedule 2 Road Traffic Offenders Act 1988



POWER OF ARREST

An Arrestable Offence

Can only remove person by arresting them. The police owe the person a duty of care once arrested. It is important therefore to swiftly remove the person from the dangerous position and then immediately give the person full reasons for the arrest and caution.

Notes

Regard should be had to the 'circumstances' that one could be aware of, and to those that the defendant can be shown to have knowledge of. It is however irrelevant that this person was unaware of any danger.

‘Dangerous’ means danger of injury to any person or serious damage to property while on or near a road.

Warning to whole group or Individual

“You are intentionally without lawful authority causing a danger to others by causing (*item*) / yourself to be on or over the (*name of road*). I require you to move so that you are no longer causing a danger. Please move now. Failure to move may make you liable to arrest.”

Second Warning

“You have been requested to move in order that you are no longer causing danger. Will you please move immediately”?

Once the Individual(s) have been removed or moved

“I am arresting you for the offence of causing danger to other road users by intentionally and without lawful authority or reasonable cause interfering with traffic equipment, a vehicle, a trailer or a cycle OR causing anything to be on or over a road.” Caution

Allow a short period between each warning to allow the person to move.

PREVENTING PERSONS GOING ABOUT LAWFUL BUSINESS
Section 241, Trade Union and Labour Relations (Consolidation) Act 1992

Any person who with a view to compelling a person

To abstain from doing any act which the person has a legal right to do

OR

To do any act which the person has a legal right to abstain from doing

Wrongfully AND without legal authority

a) Uses violence / intimidation towards the person, their spouse or children or injury to their property

OR

b) Persistently follows that person

OR

c) hides tools, clothes / other property owned / used by that person OR deprives / hinders the use of them

OR

d) watches / besets a home / place of business / any place where he is OR the approach thereto

OR

e) follows (with 2 or more others) through streets in a disorderly manner

POWER OF ARREST

A constable may arrest without warrant anyone he reasonably suspects is committing an offence under this section.

NB

A protestor who prevents workmen from progressing with construction work can be charged under Section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992 with wrongfully and without lawful authority hindering them in their work with a view to compelling them to abstain from work. The application of this section is not just confined to the context of trade disputes.

A person must be prevented from working or likely to be prevented, or intended to be prevented from doing an act that they are legally entitled to do (including working). It is vital that this evidence is obtained before arrest. Get a verbal statement on camera using the EGT from the person who is being prevented from doing such an act. A statement will be required afterwards.

Warning for Senior Officer to Protester(s)

“You are preventing, likely to prevent or deliberately trying to prevent (*name person*) from doing something which he / she has a legal right to do (*state action*). I require you to stop what you are doing. Failure to do so may make you liable to arrest.”

Arresting Officer to Individual

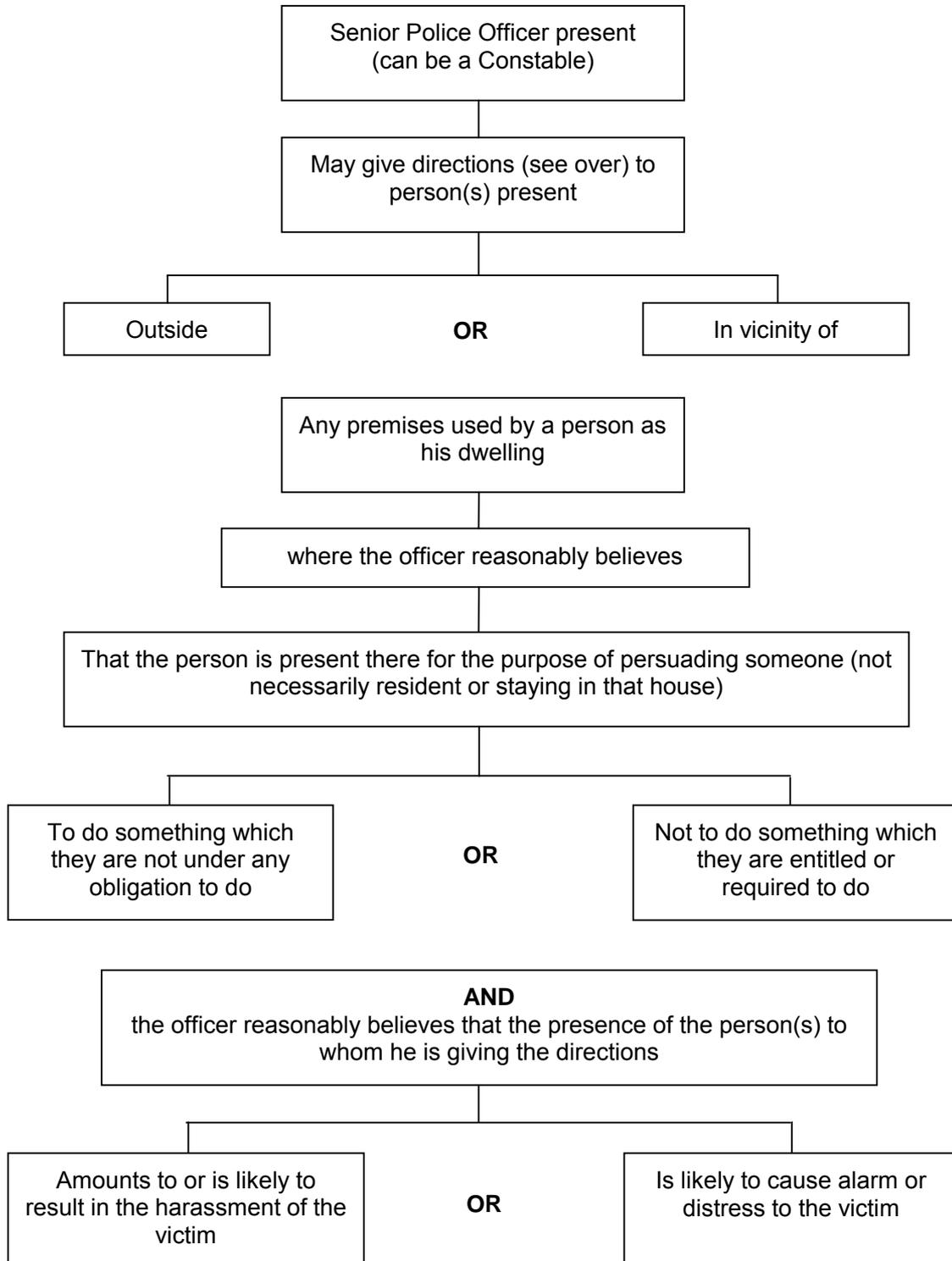
“You have been asked to stop what you are doing. Will you please stop.”

Give a short time to allow the person the opportunity to stop

“You are committing the offence of wrongfully and without legal authority hindering this person from working or specifically (*state act*) with a view to compelling him from abstaining from work. I am therefore arresting you.” Caution

PREVENTION OF HARASSMENT OUTSIDE HOMES

Section 42, Criminal Justice and Police Act 2001



SECTION 42 EXPLANATION

Points to Prove

- That the group or individual is outside or within the vicinity of a dwelling.
- That the constable has reasonable grounds to believe that the presence of the individual or group is causing, or likely to cause harassment, alarm or distress to a victim of the dwelling (no victim need actually be present, the likelihood of harassment etc is sufficient).
- That the constable has reasonable grounds to believe that the purpose of the individual or group is to persuade the resident or another person that they should not do something which he is entitled to do or to do something which they are not under an obligation to do.
- That any direction is given by the most senior officer, in terms of rank present.
- A direction can be given orally and can be to an individual, a group or to individuals in a group.
- The type of direction which can be given is extremely broad and can include all such things as the officer considers necessary to prevent harassment, alarm or distress for example.
 - ◊ Leave the vicinity of the premises immediately
 - ◊ Move a specified distance from the dwelling
 - ◊ Stop a particular activity such as use of amplified sound
 - ◊ Leave the vicinity of the premises after a specified period of time.

Offence:

Person who knowingly contravenes a direction given under this section shall be guilty of an offence.

POWER OF ARREST

Constable in uniform may arrest on reasonable suspicion any person they reasonably suspect has failed to comply with a direction given by an officer under this section.

Warning (To be given by Senior Officer present)

“I believe that your presence here (either alone or together with that of any other persons who are present) is causing, or likely to cause harassment, alarm or distress to the residents of this dwelling. Under Section 42 of the Criminal Justice and Police Act 2001, I now require you to leave the vicinity of these premises immediately. If you fail to do so you will be liable to arrest.”

Individual Warning (Any Officer to deliver)

“You have been warned that your presence here (either alone or together with that of any other persons who are present) is causing, or likely to cause harassment, alarm or distress to the residents of this dwelling. Under Section 42 of the Criminal Justice and Police Act 2001. You have been required to leave the vicinity of these premises immediately. If you fail to do so you will be liable to arrest.”

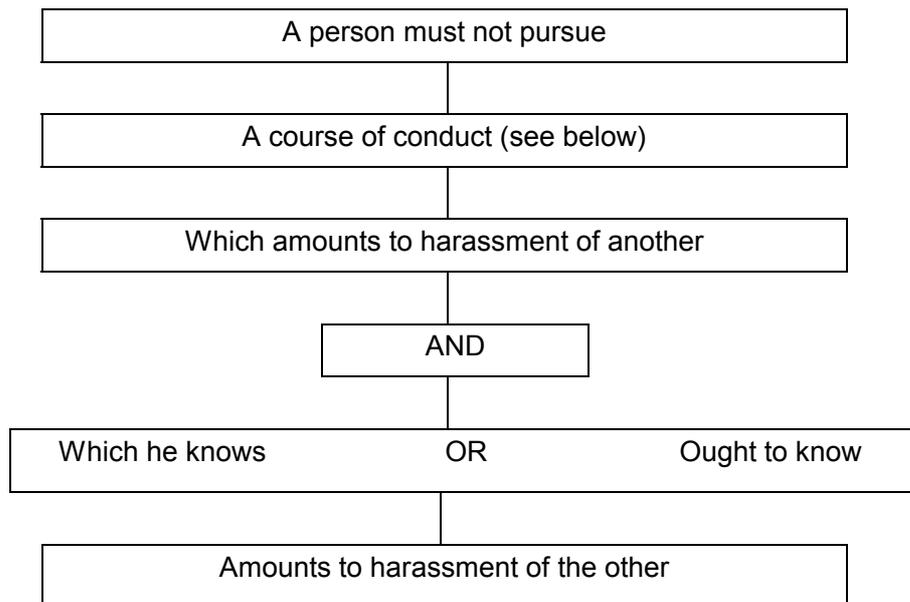
If the person fails to leave

“You are under arrest for failing to comply with a direction given under Section 42 of the Criminal Justice and Police Act 2001. Caution

THE PROTECTION FROM HARASSMENT ACT 1997

The main reason for the introduction of the Act was to deal with the problem of 'stalking' but it also covers a wide range of intrusive situations.

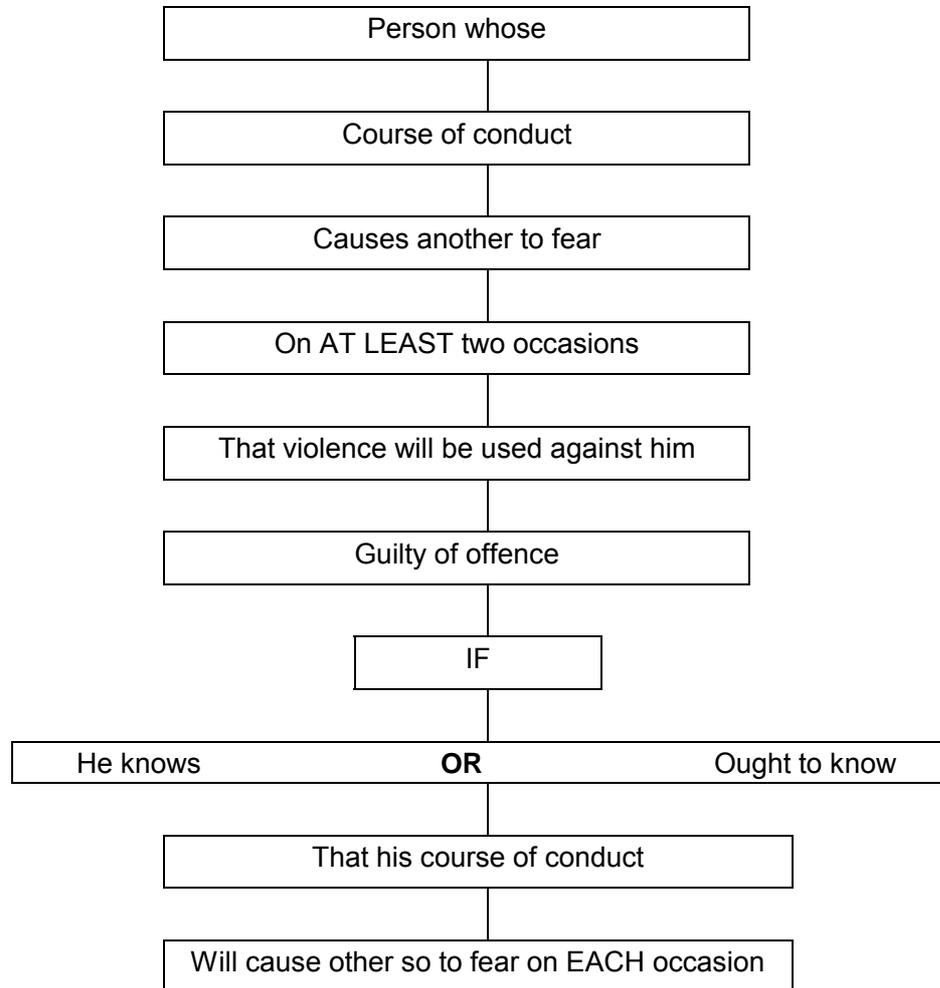
Section 1 - Prohibition of Harassment



Section 2 - Causing Harassment - Points to Prove

- The suspect has pursued a course of conduct on at least two occasions.
- The course of conduct amounts to a harassment of another.
- The suspect knows or ought to know the conduct amounts to harassment of the other.

Section 4 - Putting People in Fear of Violence



Points to Prove - Section 4, Putting People in Fear of Violence

- There is a course of conduct by the suspect.
- This course of conduct causes another person to fear, on at least two occasions, that violence will be used against him or her.
- The suspect knows or ought to know, the course of conduct will cause the other this fear on each of those occasions.

POWER OF ARREST

All offences under the Act are arrestable (causing harassment has now been added to S.24(2) PACE) which means:

- any person may arrest, subject to the consideration in S.24 PACE;

- the police powers under ss17 and 18 PACE (to enter and search premises) are available.

Initial Action

The offences may be committed anywhere, are arrestable, and there is no requirement to prove a specific intent but you do need to determine whether the complainant's allegation actually discloses an offence.

Course of Conduct?

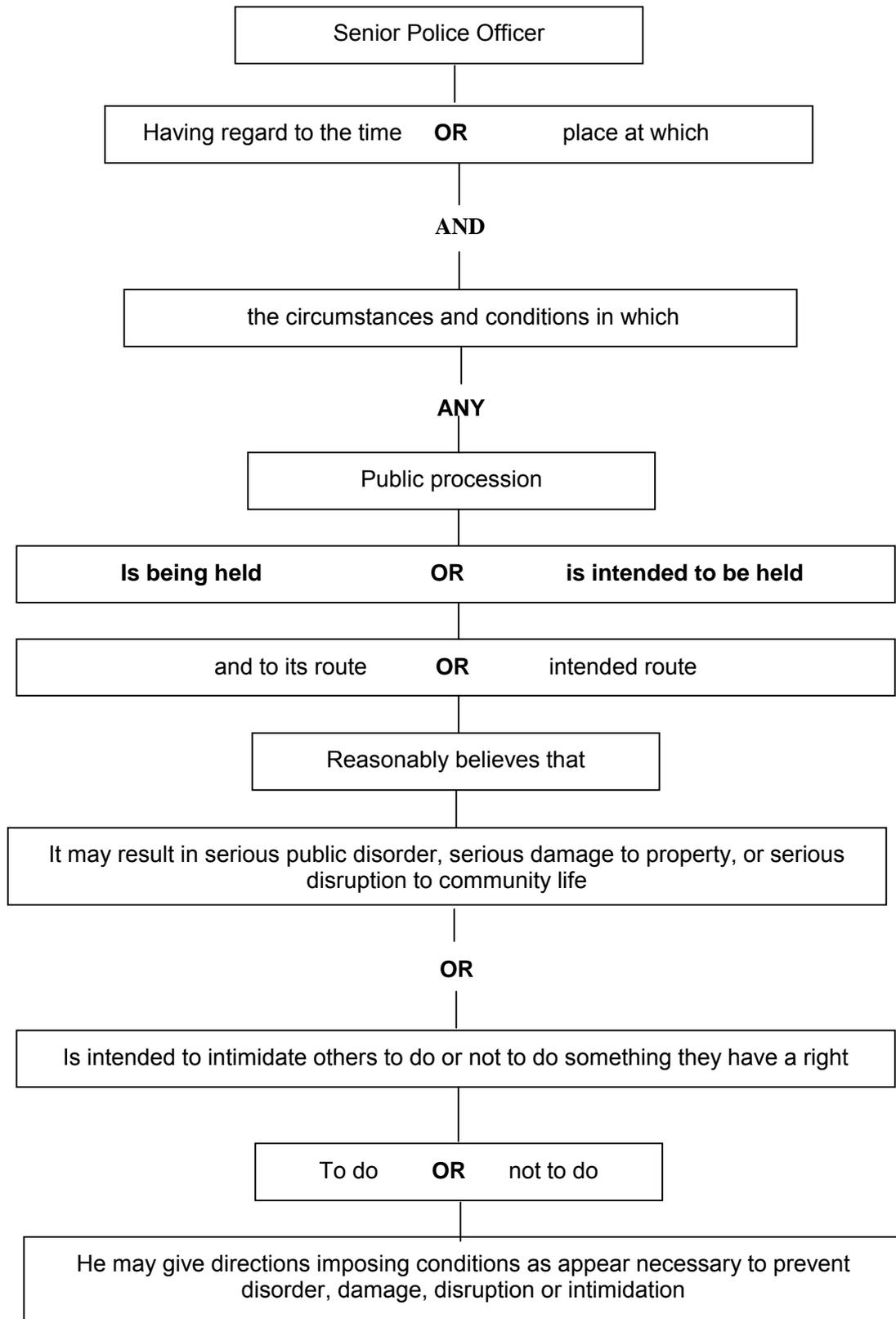
Must involve conduct on at least two occasions (includes speech).

Harassment

There is no definition of harassment but it does include alarm or distress and is measured by its affect on the victim.

IMPOSING CONDITIONS ON PUBLIC PROCESSIONS

Section 12(1), Public Order Act 1986



POWER OF ARREST

Constable in uniform on reasonable suspicion person is committing. Offence can be committed by organiser, participant or person inciting other to knowingly fail to comply with directions.

Notes

Senior police officer is the chief officer when prior notification is given or senior officer present at scene when no notification given (procession has begun/people assembling).

It is a defence for organisers and participant if they can show failure arose out of circumstances beyond their control.

Procession is not defined but may be regarded as a body of people moving together.

Section 12 Explanation

Verbal Warning Sec 12 (1) (a) Public Order Act

“Under Section 12 Public Order Act 1986, Superintendent / Chief Inspector has imposed a condition as to the route of this public procession in order to prevent disorder, or damage or disruption. You are currently on a road highway or public place in breach of this condition. I would ask you to return to the imposed route, failure to do so may make you liable to arrest.”

To a person who fails to return to the imposed route

“I have informed you that you are part of the public procession which is in breach of the route condition imposed by Superintendent / Chief Inspector I would again ask you to return to the imposed route. Failure to do so will make you liable to arrest.”

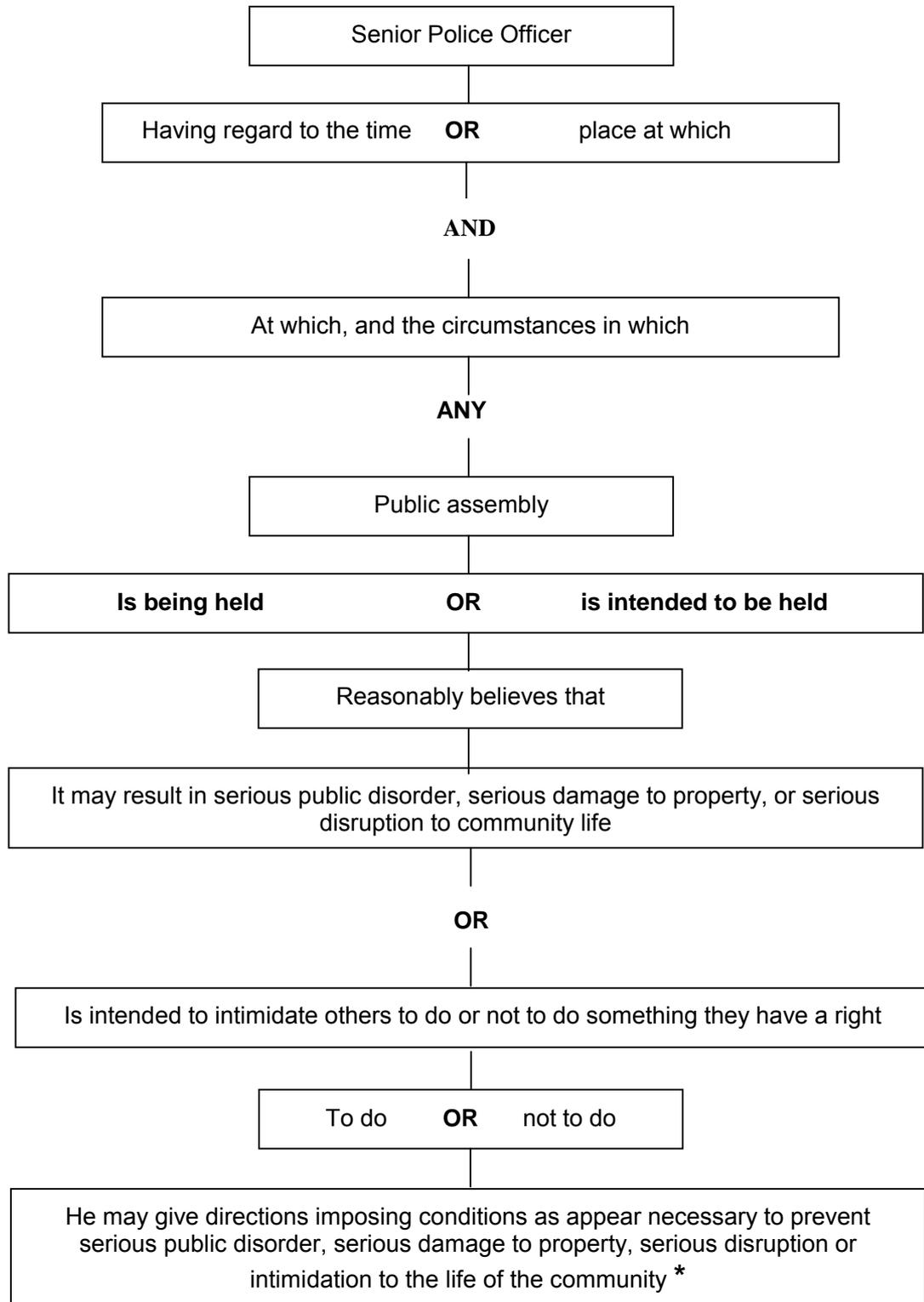
If the person refuses to return to the imposed route – power of arrest

A Constable in uniform may arrest without warrant an organiser, participant or person inciting another, knowingly failing to comply with directions.

“I am arresting you under Section 12 Public Order Act 1986 for participating in a public procession which is in breach of the route imposed by Superintendent / Chief Inspector.....” Caution

IMPOSING CONDITIONS ON PUBLIC ASSEMBLIES

Section 14(1), Public Order Act 1986



* Conditions of this section are restricted to place, duration, numbers present

POWER OF ARREST

Constable in uniform on reasonable suspicion person is committing. Offence can be committed by organiser, participant or person inciting other to knowingly fail to comply with directions.

Notes

Senior police officer is the chief officer when prior notification is given or senior officer present at scene when no notification given (procession has begun/people assembling).

It is a defence for organisers and participant if they can show failure arose out of circumstances beyond their control.

'Public assembly' is defined as 2 or more persons, in a public place wholly or partly open to the air.

Verbal Warning Section 14 Public Order Act

"Under Section 14 Public Order Act 1986,, believing that serious disorder, damage or disruption may occur, has imposed a condition as to the place where the.....may hold a public assembly. You are currently in breach of this condition. Please make your way to the(see map)....., the venue for the public assembly for the, failure to do so may make you liable to arrest."

To a person who fails to comply with your request:

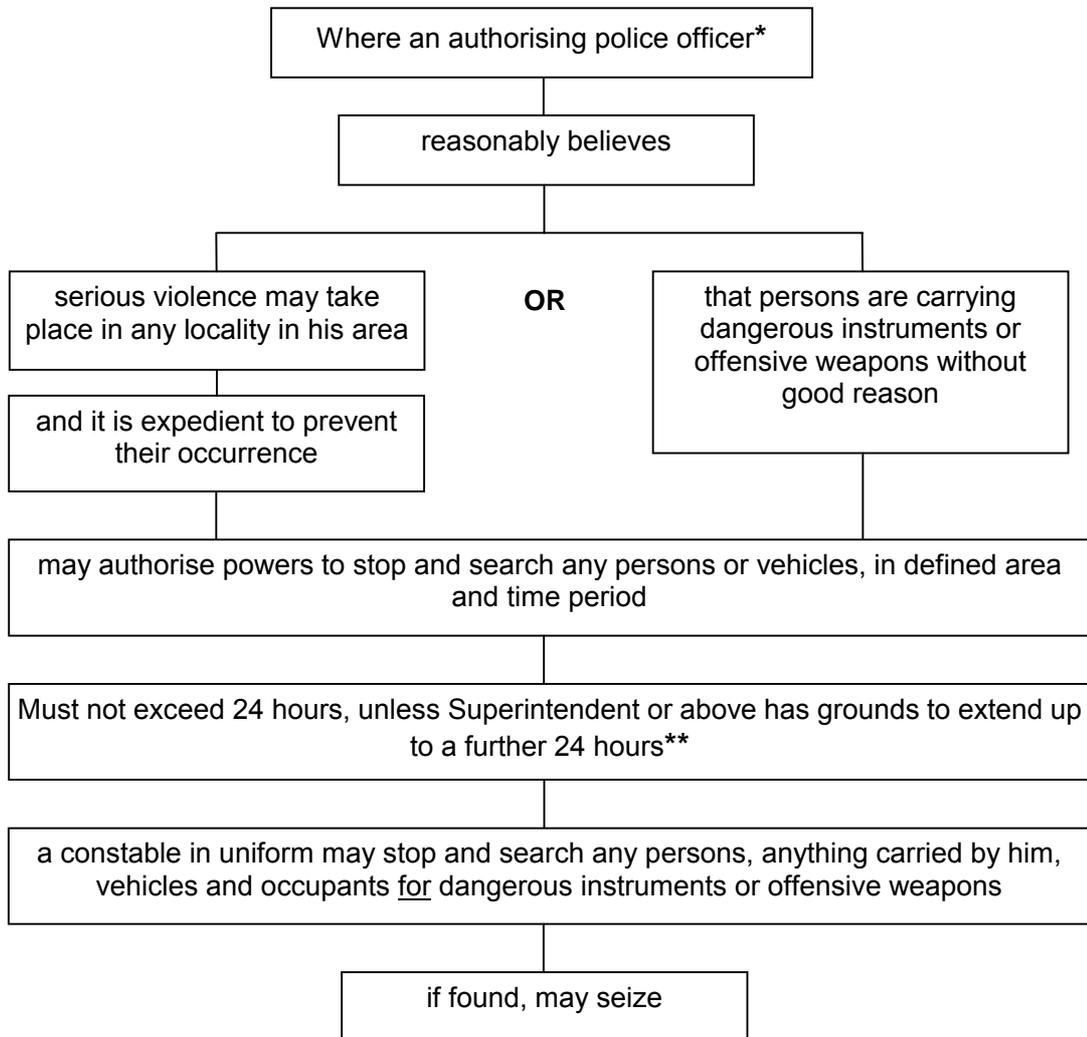
"I have told you that you are part of an assembly which is in breach of the condition imposed by.....I would again ask you to desist. Failure to do so may make you liable to arrest."

If the person fails to comply with your request a constable in uniform may arrest without warrant an organiser, participant or person inciting another to knowingly fail to comply with directions.

"I am arresting you under Section 14 Public Order Act for participating in an unlawful assembly." Caution

POLICE POWER TO STOP / SEARCH IN A LOCALITY

Section 60, Criminal Justice & Public Order Act 1994 (as amended by S.8 Knives Act 1997)



* Inspector or C/Inspector must cause a Superintendent to be informed A.S.A.P.

** Extension may only be authorised where violence or the carrying of dangerous instruments/offensive weapons has/suspected to have occurred.

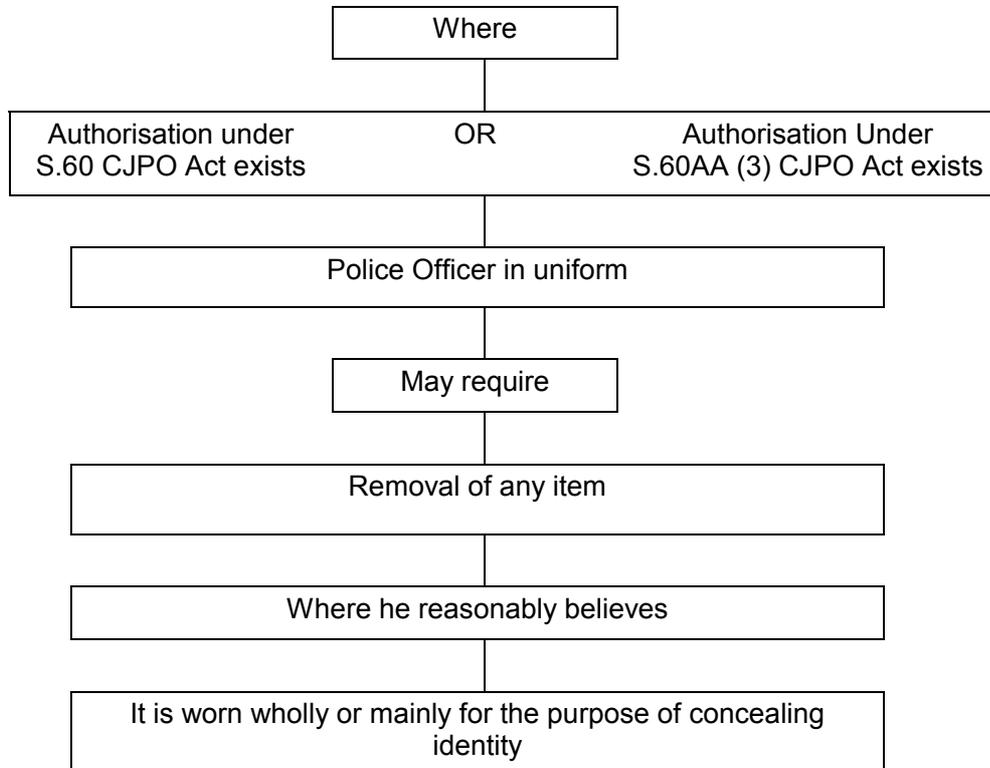
No POA - S.25 PACE 1984 may apply.

No need to suspect that the person or vehicle is carrying weapons or articles.

Offence to fail to stop.

REMOVAL OF DISGUISES

Section 60AA (1)&(2)(a), Criminal Justice and Public Order Act 1994



OFFENCE / POWER

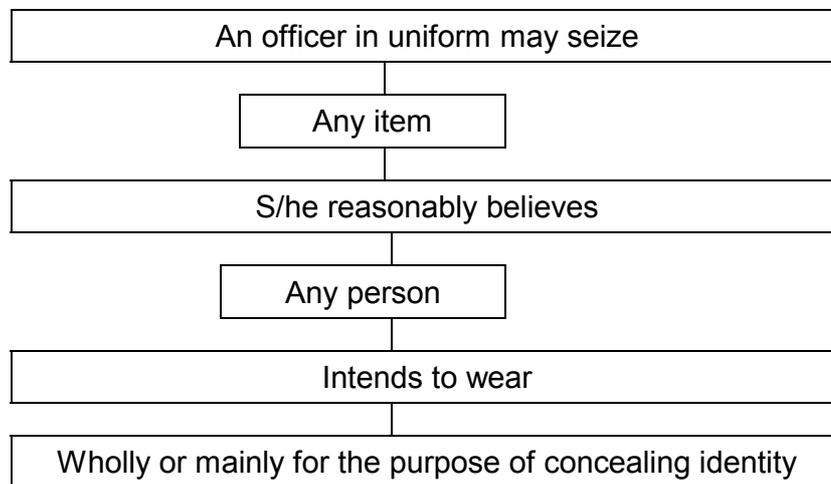
Failure to remove item is an Arrestable Offence

POWER OF SEIZURE

A constable may seize any item (See below)

POWER OF SEIZURE

Section 60AA(2)(b), CJPO 1994



N.B.

The authority to require and seize such items is provided by either Section 60 CJPO Act 1994 or under an amendment to the Act, Section 60AA(3). This allows an officer of Inspector or above who reasonably believes that activities may take place in any locality in his police area that are likely (if they take place) to involve the commission of offences, and that it is expedient in order to prevent or control the activities, to give an authorisation under the subsection.

This allows the powers conferred to be exercisable within that locality for a period of 24 hours.

The officer must notify a superintendent or above as soon as is practicable.

These powers only apply in the locality and for the period for which an authorisation under Section 60 or Section 60AA has been given.

There is no power to stop and search for items used to conceal identity.

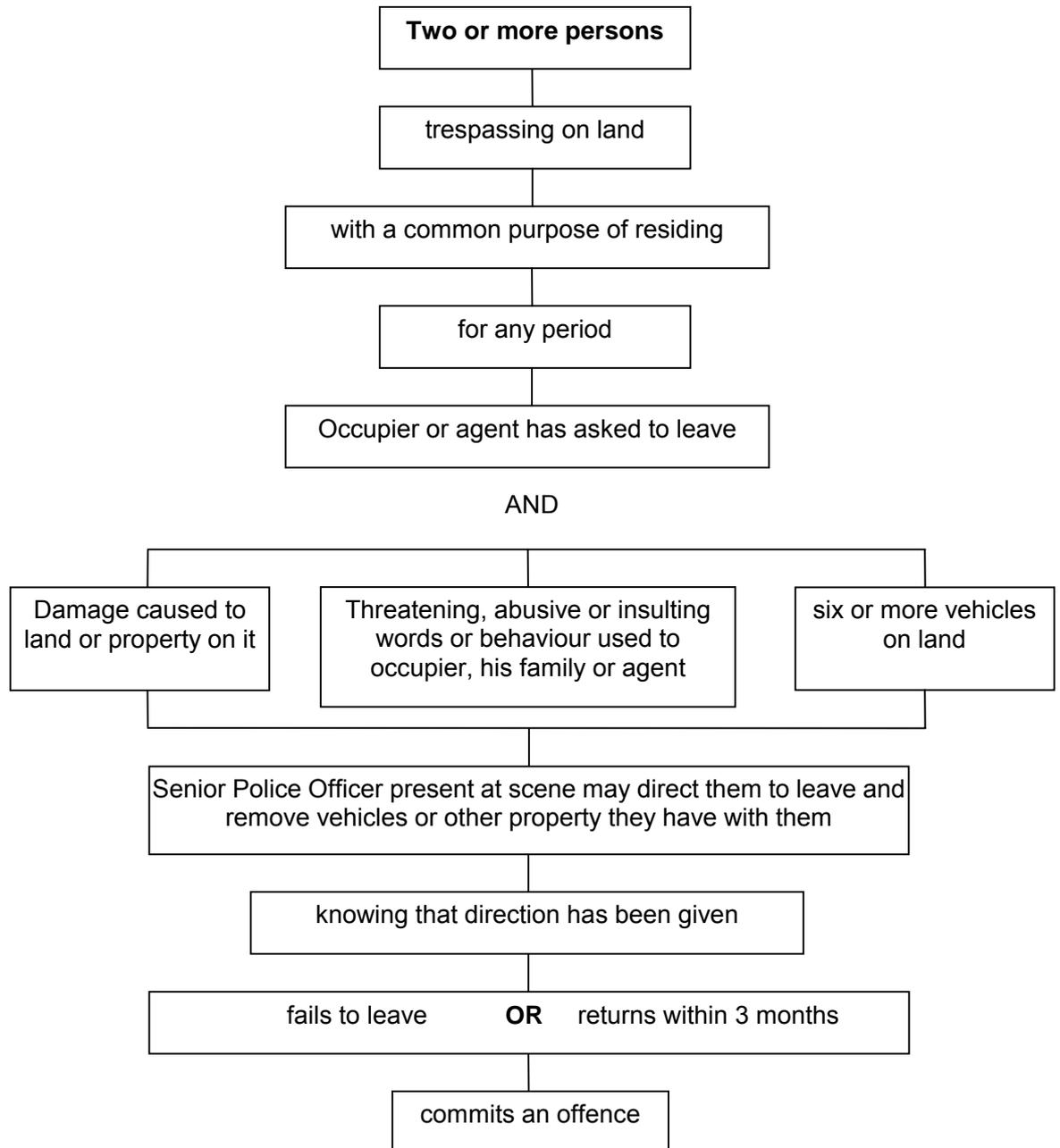
An officer may seize any such item which he comes across when exercising a power of search for something else, or which he sees being carried, and which he reasonably believes is intended to be used for concealing anyone's identity.

Where an item has been removed in accordance with the power in Section 60AA(2)(a), the officer should consider whether reasonable grounds remain to seize the item in Section 60AA(2)(b), that is whether he reasonably believes the person still intends to wear the item wholly or mainly for the purpose of concealing identity.

The officer must be satisfied in each case that the face covering is being worn wholly or mainly to conceal identity. Care should be exercised in considering items which may legitimately be worn for other purpose, e.g. a coat worn with a hood in winter. Whilst a court will decide on each case, it is unlikely that this power can be applied to substances

such as face paints which may not constitute an 'item' and which it may not be possible to seize.

COLLECTIVE TRESPASS / NUISANCE ON LAND
Section 61, Criminal Justice and Public Order Act 1994



POWER OF ARREST

PC may arrest without a warrant on reasonable suspicion is committing.

N.B.

Vehicle includes parts of vehicles and caravans whether or not fit to use on roads.

General Request for Group of Trespassers to leave Land

I am the Senior Officer present. You have been asked by the owner of this land to leave. If you do not leave and remove your property within .xx. minutes which is a reasonable time you will be arrested.

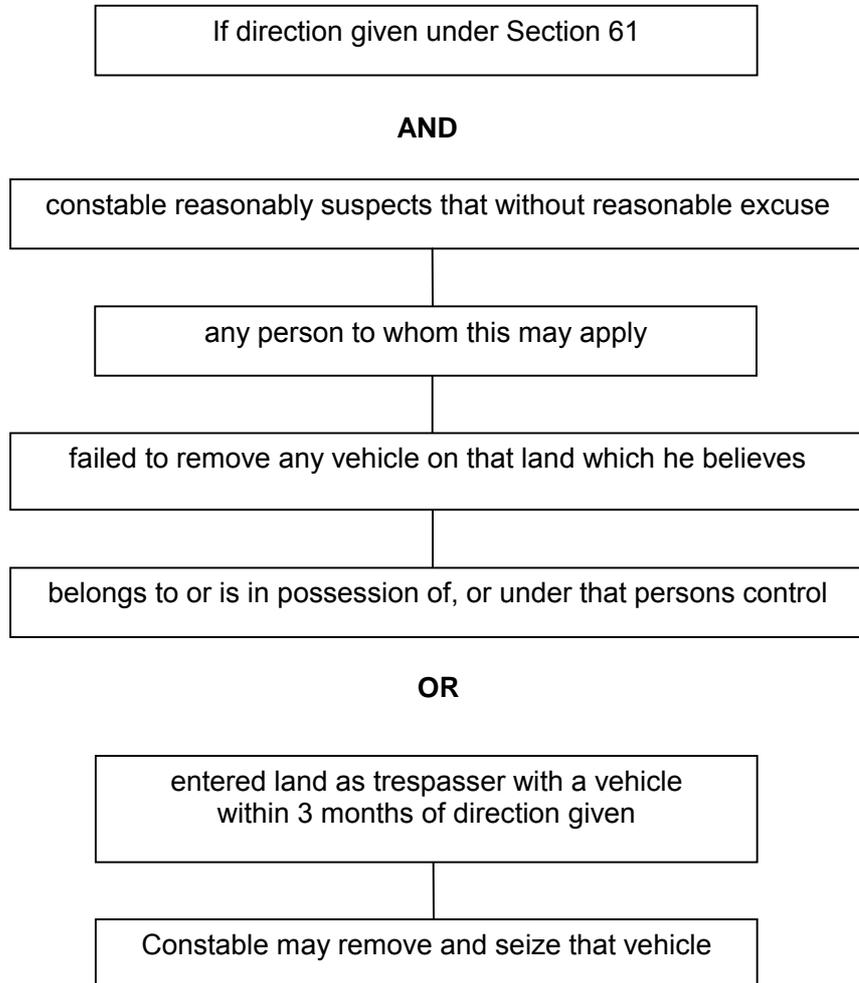
After Time has Elapsed

You have been asked to leave this land in accordance with Section 61 of the Criminal Justice and Public Order Act 1994. Is there anything I can say or do which will make you comply with the direction to leave the land?

Give short time, depending on circumstances

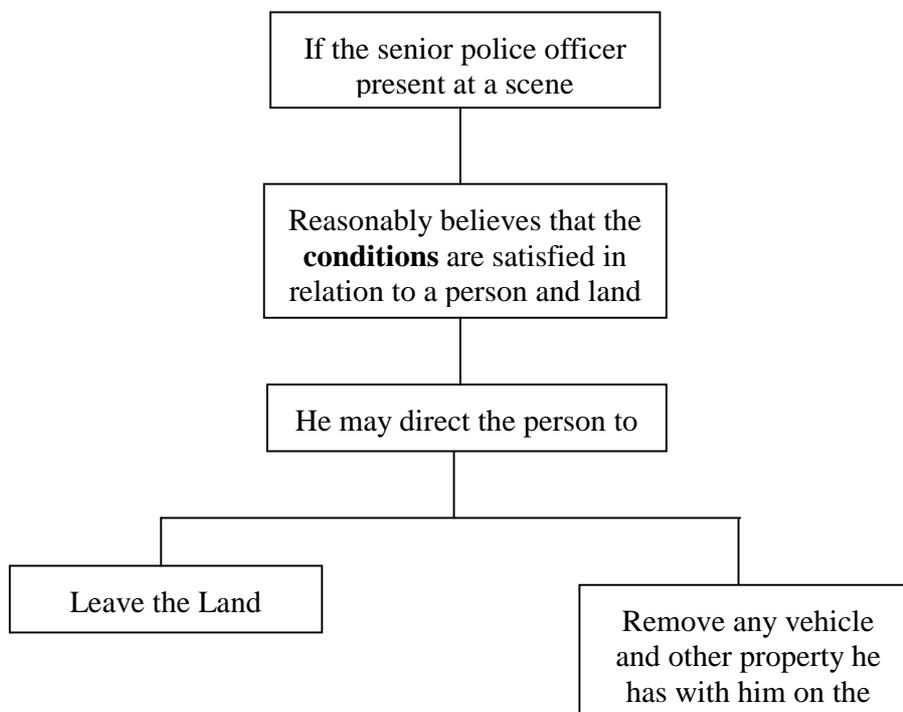
I am arresting you for failing to leave the land as soon as reasonably practicable. Caution

FAILS TO REMOVE VEHICLE UNDER SECTION 61
Section 62, Criminal Justice and Public Order Act 1994



POWER TO REMOVE TRESPASSERS: ALTERNATIVE SITE AVAILABLE

Section 62A Criminal Justice and Public Order Act 1994

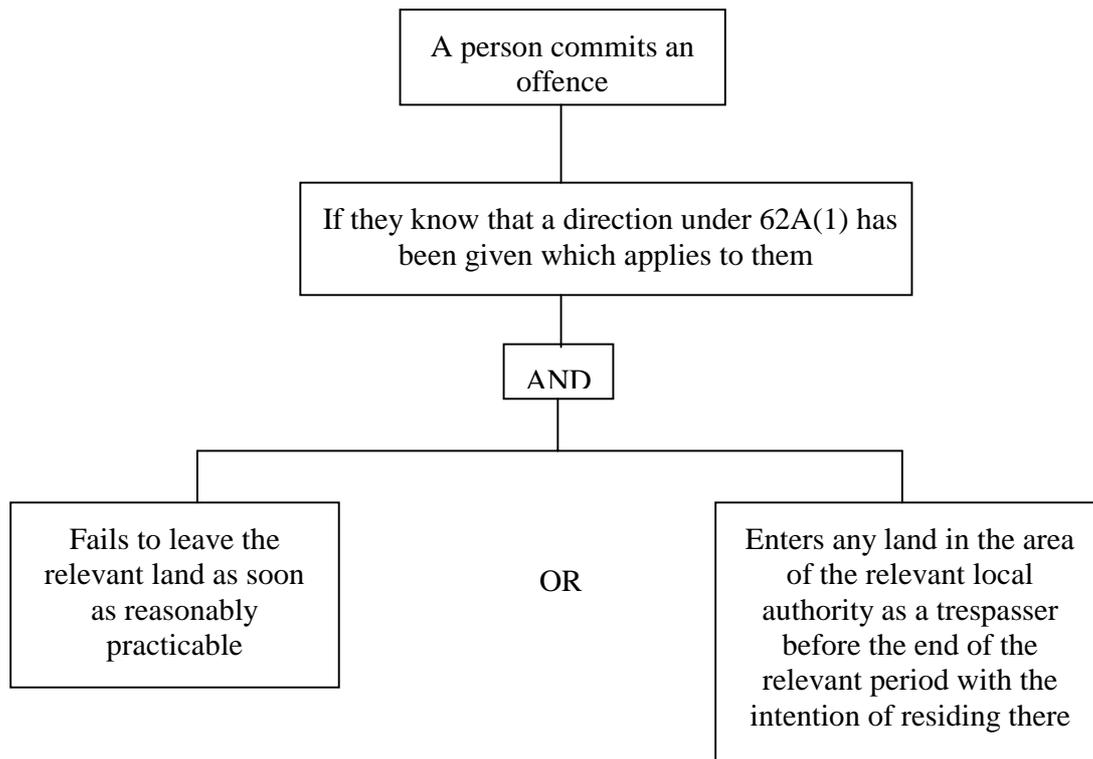


The conditions are-

- A That the person and one or more others (the trespassers) are trespassing on the land;
- B That the trespassers have between them at least one vehicle on the land;
- C That the trespassers are present on the land with the common purpose of residing there for any period;
- D If it appears to the officer that the person has one or more caravans in his possession or under his control on the land, that there is a suitable pitch on a relevant caravan site for that caravan or each of those caravans; (The Police must consult with every local authority where the land is situated)
- E That the occupier of the land or a person acting on his behalf has asked the police to remove the trespassers from the land.

FAILURE TO COMPLY WITH DIRECTION UNDER SECTION 62A

Section 62B Criminal Justice and Public Order Act 1994



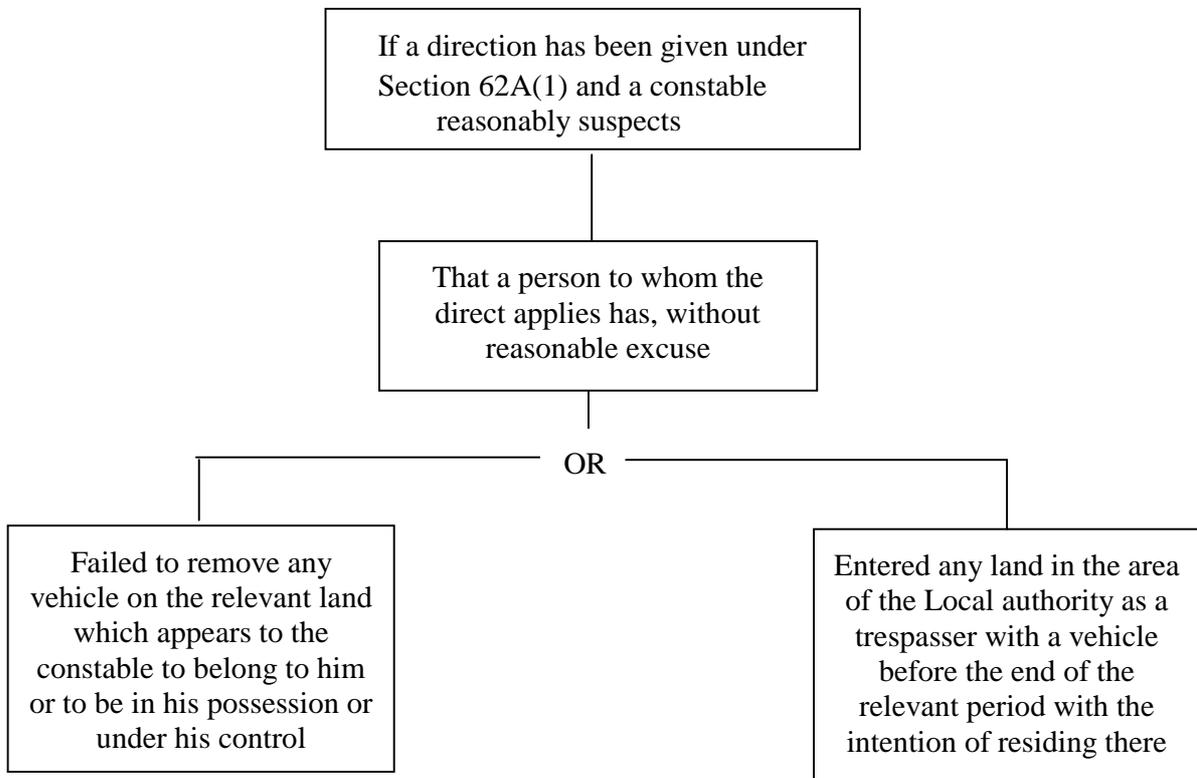
The relevant period is 3 months starting from the date the direction was given.

Power of Arrest

PC may arrest without warrant any person they reasonably suspect is committing an offence.

FAILURE TO COMPLY WITH DIRECTION UNDER 62A: SEIZURE

Section 62C Criminal Justice and Public Order Act 1994

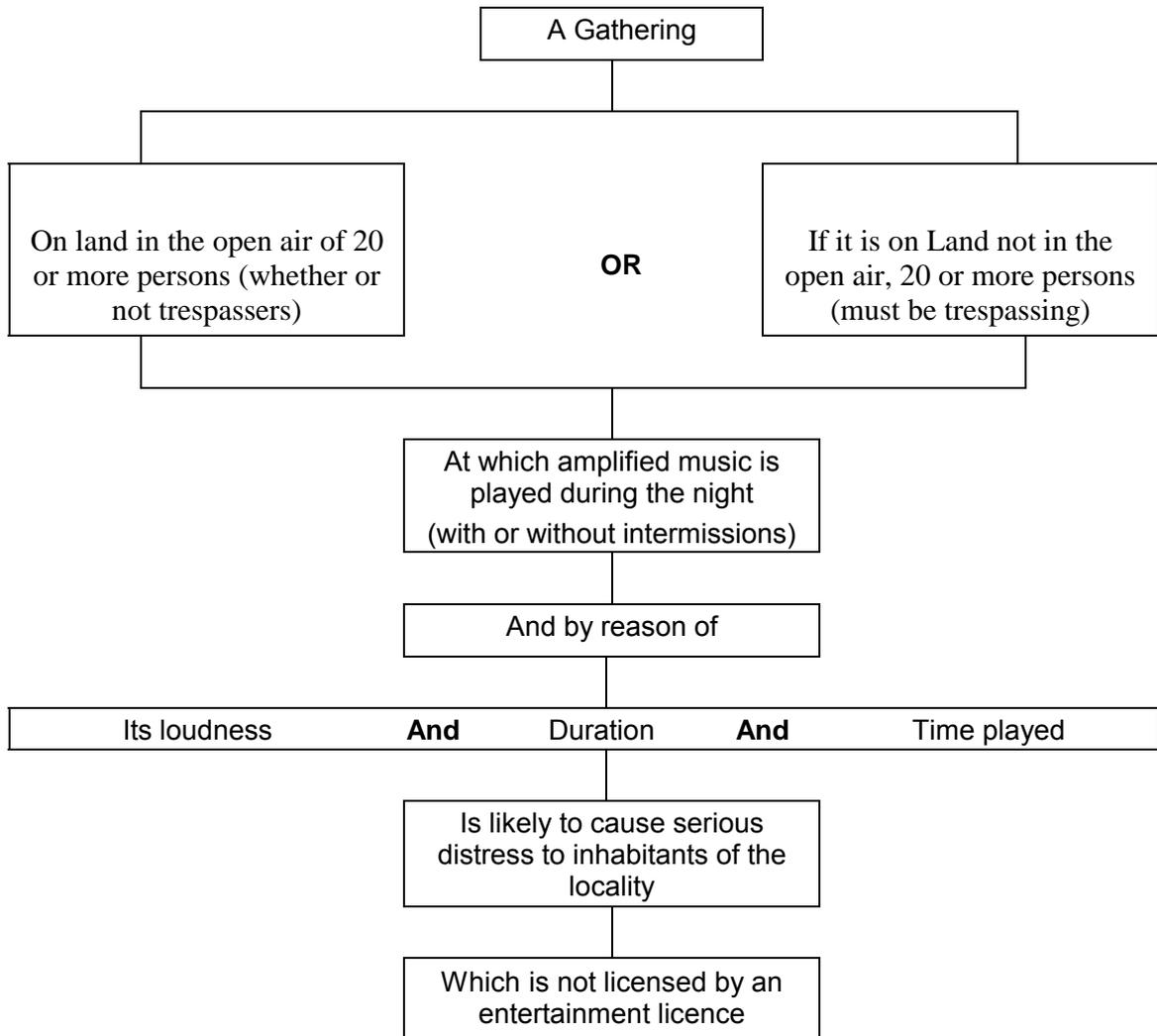


1, The relevant period is 3 months starting from the day on which the direction was given.

RAVES

Section 63, Criminal Justice and Public Order Act 1994

DEFINITION

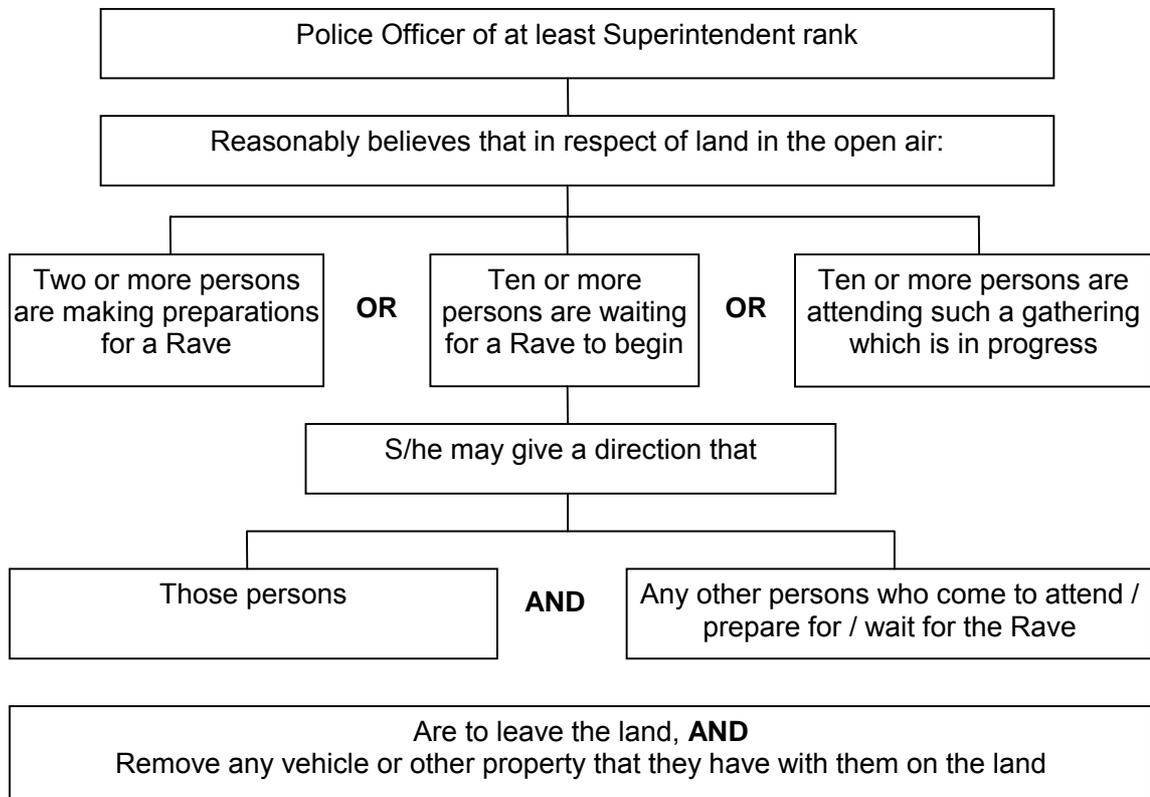


N.B.

Music is defined as sounds wholly or predominantly characterised by the emission of a succession of repetitive beats.

RAVES DIRECTION TO LEAVE

Section 63(2), CJPO Act 1994



POWER OF ARREST

Section 63(8) Constable, in uniform who reasonably suspects that a person is committing an offence under this Section may arrest without warrant.

N.B.

Any constable can communicate the direction. Persons shall be treated as having had the direction communicated to them if reasonable steps have been taken to bring it to their attention. Officer does not have to be in uniform.

If possible the direction should be given verbally and in writing.

Defence if accused to show that s/he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, for re-entering the land.

Occupier, member of his/her family or any employee/agent of him/her, and any person whose home is situated on land exempt from direction.

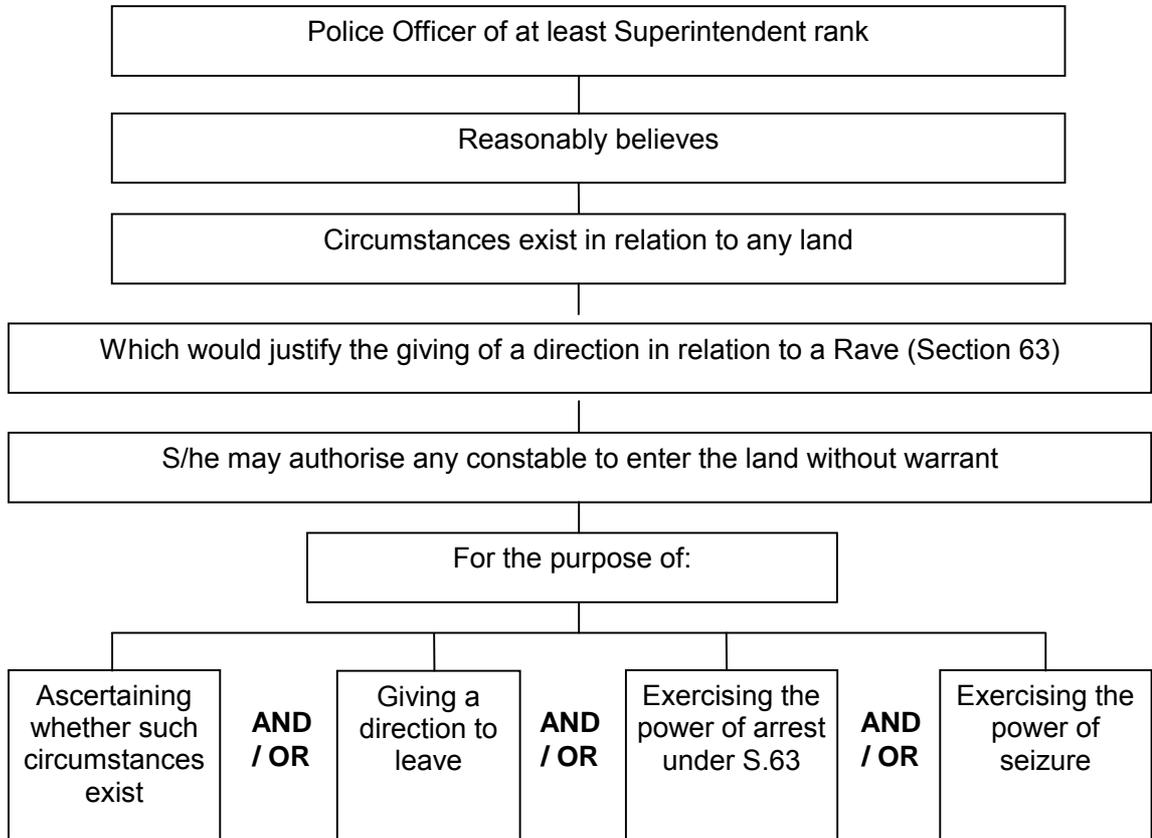
Offence: Section 63(6)

A person knowing that a direction has been given to him / her either:

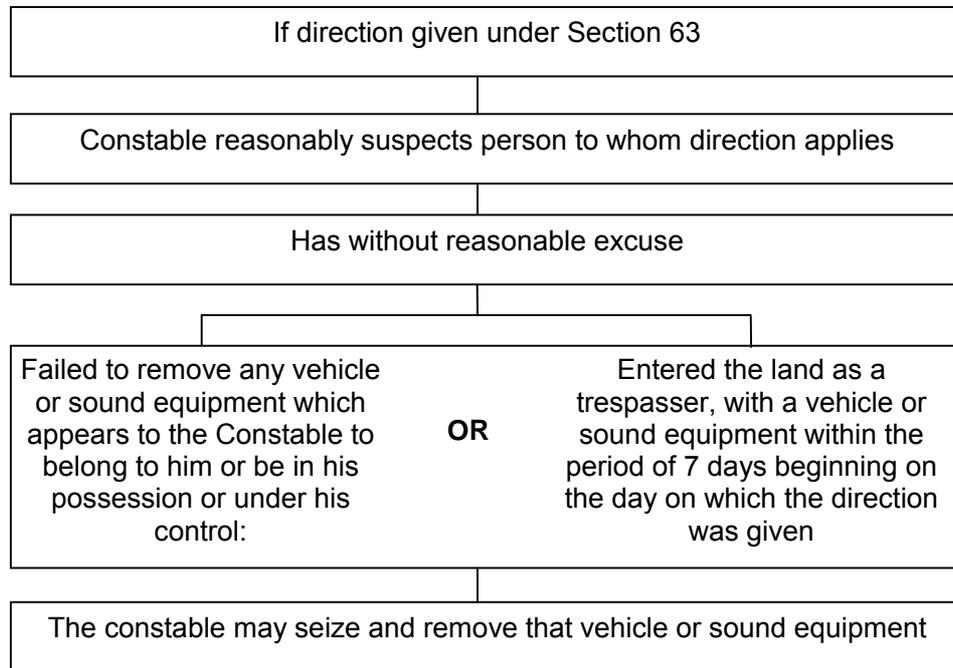
- Fails to leave the land as soon as reasonably practicable, or
- Having left again enters the land within the period of seven days beginning on the day on which the direction was given.

RAVES POWER TO ENTER LAND

Section 64(1) - (3)



Section 64(4), Raves Power of Seizure



N.B.

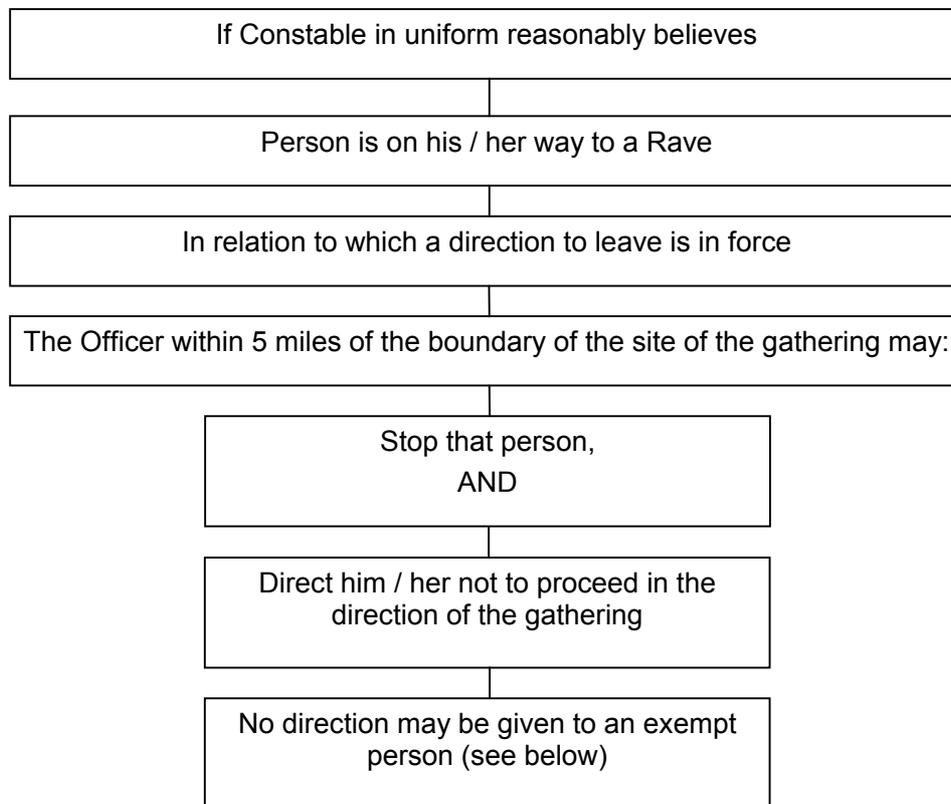
Consideration should be given regarding storage of equipment.

No power to seize equipment or vehicles from an exempt person even if that person is involved in the organisation of the rave.

Sound equipment is defined as equipment designed or adapted for amplifying music and any equipment suitable for use with such equipment.

POWER TO DIRECT PERSONS AWAY FROM RAVES - 5 MILE RADIUS

Section 65, CJPO 1994



POWER OF ARREST

Constable in uniform who reasonably suspects that a person is committing an offence under this section may arrest without warrant. Section 65(5)

Offence

If a person knowing that a direction has been given fails to comply s/he commits a summary offence. Section 65(4)

Considerations

A decision to direct persons should take into account the safety and welfare of persons in that vicinity.

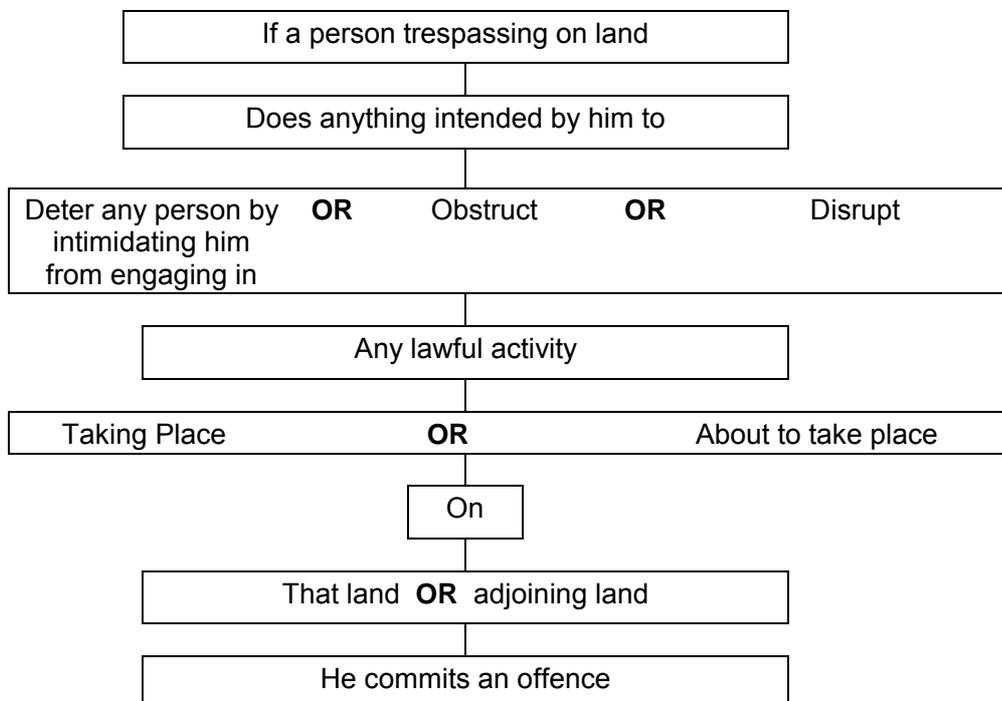
Exempt Persons

These are:

- the occupier,
- any member of his/her family,
- any employee/agent of his/hers, and
- any person whose home is situated on the land.

AGGRAVATED TRESPASS

Section 68, Criminal Justice & Public Order Act 1994



POWER OF ARREST

A Constable in uniform may arrest any person he reasonably suspects is committing an offence.

Explanatory Notes Section 68

The following are notes provided for guidance in respect of Section 68, but please also refer to Section 69 on the following pages:

General Request for Protesters to Leave Land

“You are now a trespasser on this land. I believe that your actions of *(name the actions)* are intended to intimidate, obstruct or disrupt any persons engaged in a lawful activity on this or adjoining land. If you do not leave this land you may be arrested for aggravated trespass.”

Arresting Officer to Individual

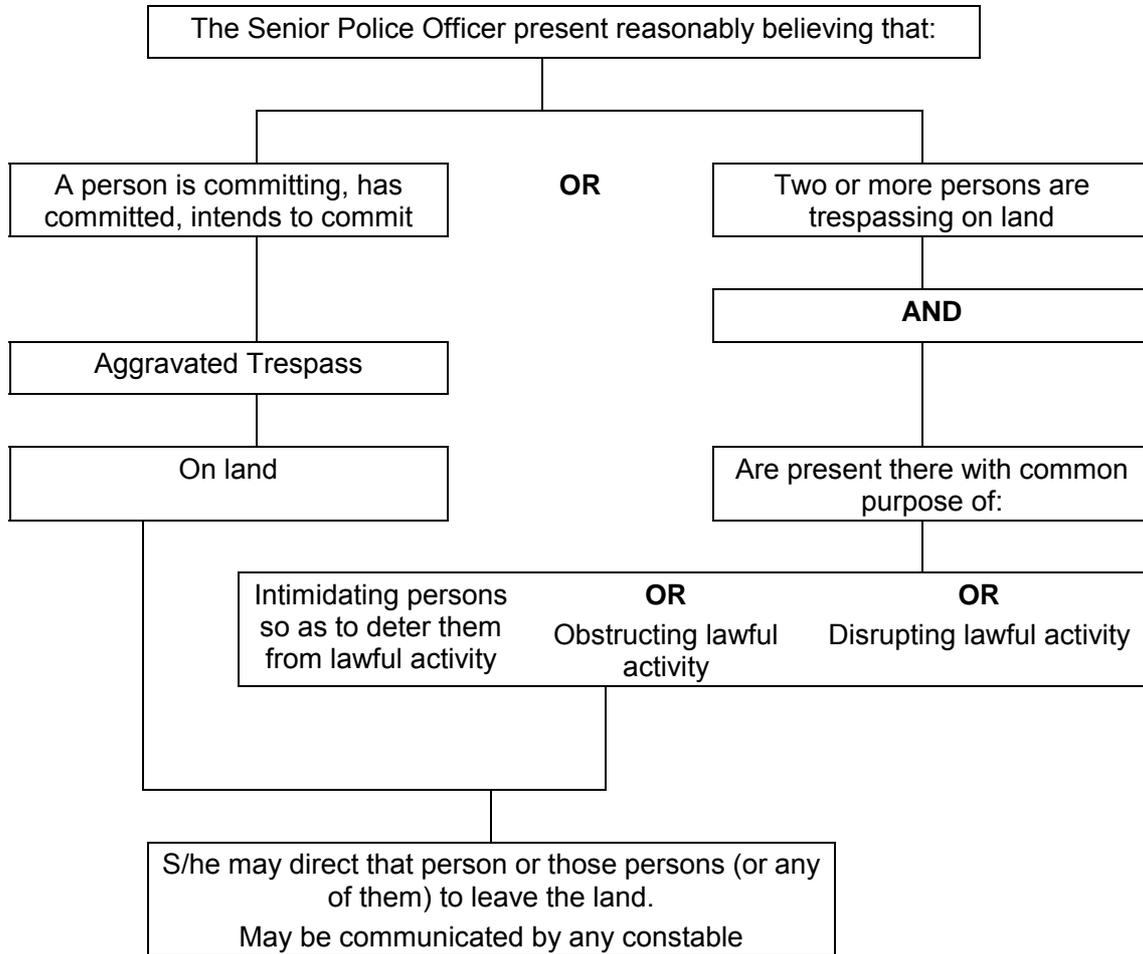
“You have been requested to leave this area, is there anything I can reasonably say or do that will make you comply with the direction for you to leave?”

Leave A Short Time, Depending on Circumstances

“I am arresting you for aggravated trespass.” CAUTION

DIRECTION TO LEAVE LAND

Section 69, Criminal Justice & Public Order Act 1994

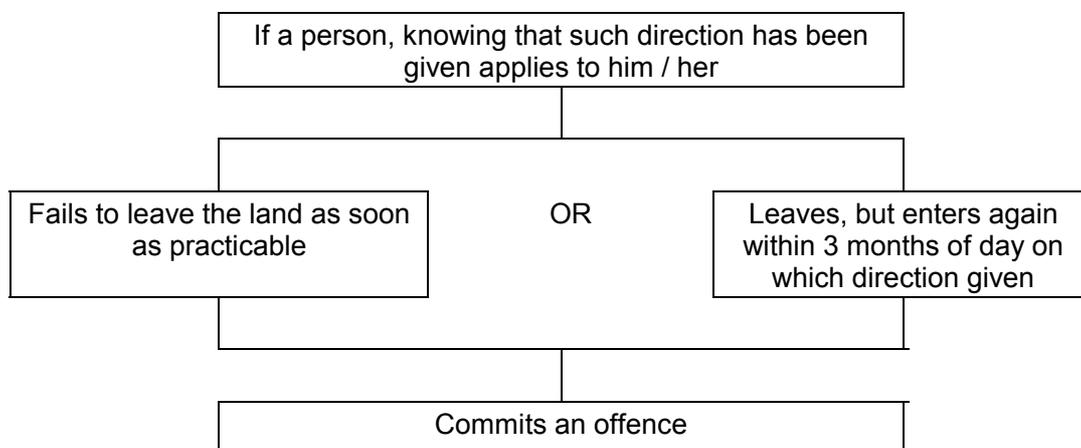


NB (i) An offence of Aggravated Trespass need not have been committed yet.

(ii) Following Changes to the legislation in January 2004, Aggravated Trespass can now be committed in Buildings and/or land in the open air.

OFFENCE OF FAILING TO COMPLY WITH DIRECTION TO LEAVE

Section 69(3) Criminal Justice & Public Order Act 1994



POWER OF ARREST

A constable in uniform may arrest without warrant on reasonable suspicion that a person is committing this offence.

Variations on form of words to use:

“I am the Senior Police Officer here. I believe that you are committing / have committed or intend to commit an offence of Aggravated Trespass (one person) OR (two or more persons) trespassing with the common purpose of deterring/obstructing/disrupting lawful activity and I require you to leave immediately. Failure to obey my direction may render you liable to arrest. Having left the land if you return on to it as a trespasser within 3 months you will also commit an offence for which you may be arrested.”

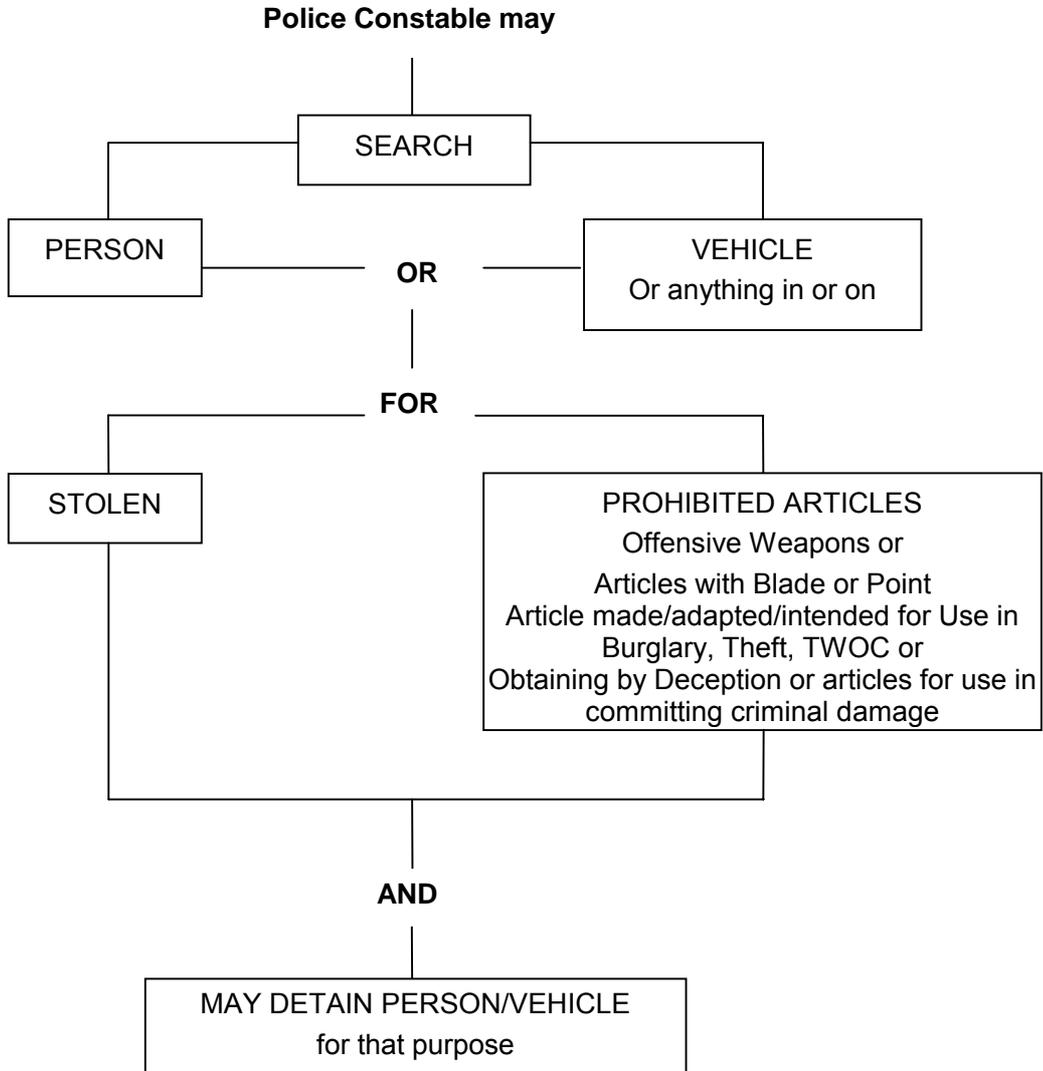
“The senior police officer present believes that you are committing an offence of Aggravated Trespass and has directed that you leave immediately. Failure to obey this instruction may make you liable to arrest. Having left this land, if you return within 3 months you will also commit an offence for which you may be arrested. Is there anything that I can reasonably say or do that will make you comply with that direction given for you to leave?”

Give a short time, depending on the circumstances to allow the person the opportunity to leave the land as soon as practicable.

“I am arresting you for failing to leave the land as soon as reasonably practicable having been directed to do so.” CAUTION

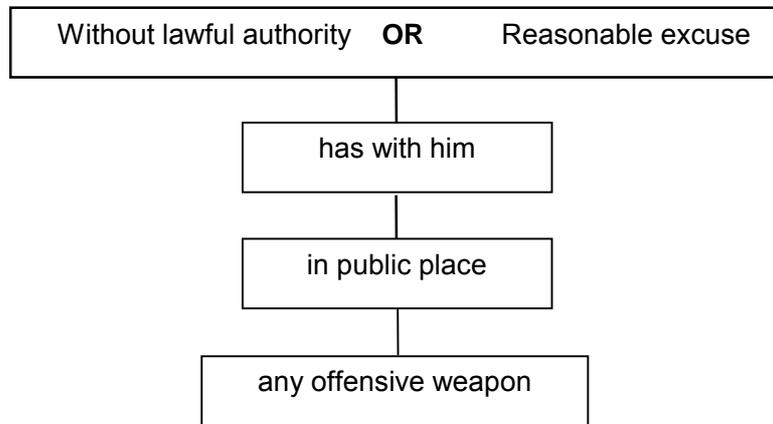
STOP AND SEARCH

Section 1, Police and Criminal Evidence Act 1984



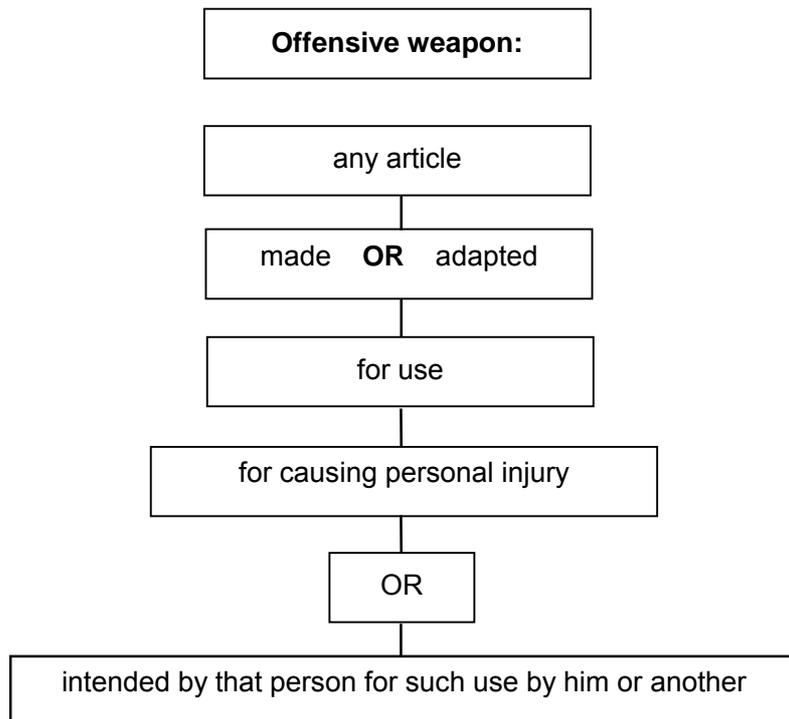
OFFENSIVE WEAPONS

Section 1, Prevention of Crime Act 1953



POWER OF ARREST

ARRESTABLE OFFENCE

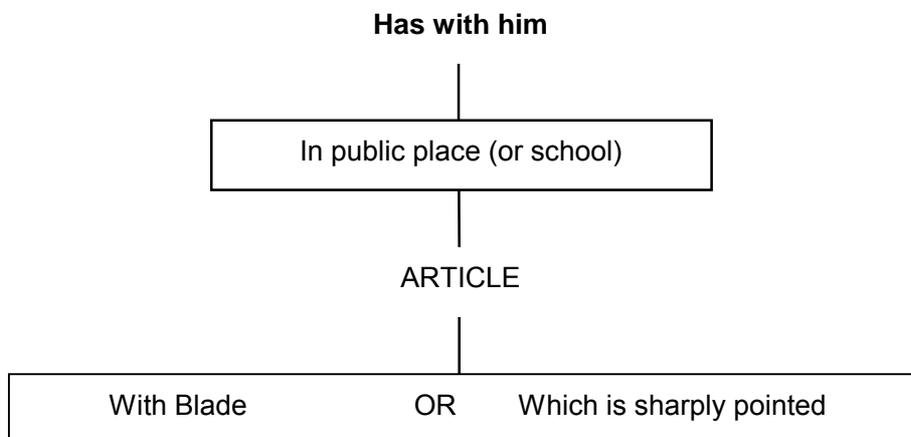


N.B.

Articles e.g. fireworks should only be regarded as offensive weapons where an officer has a reasonable belief they are intended for causing personal harm.

BLADE OR SHARPLY POINTED ARTICLE

Section 139, Criminal Justice Act 1988



POWER OF ARREST

ARRESTABLE OFFENCE

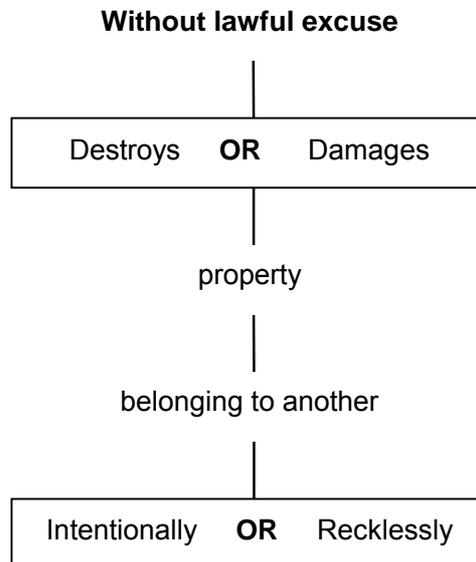
N.B.

- 1) DEFENCES:
 - (a) Lawful authority/reasonable excuse
 - (b) For use at work
 - (c) For religious reasons
 - (d) Part of a national costume
 - (e) For educational purposes.

Does not include blades - 3" (7.62 cm) or less - of a folding pocket knife

CRIMINAL DAMAGE

Section 1, Criminal Damage Act 1971



POWER OF ARREST

ARRESTABLE OFFENCE

N.B.

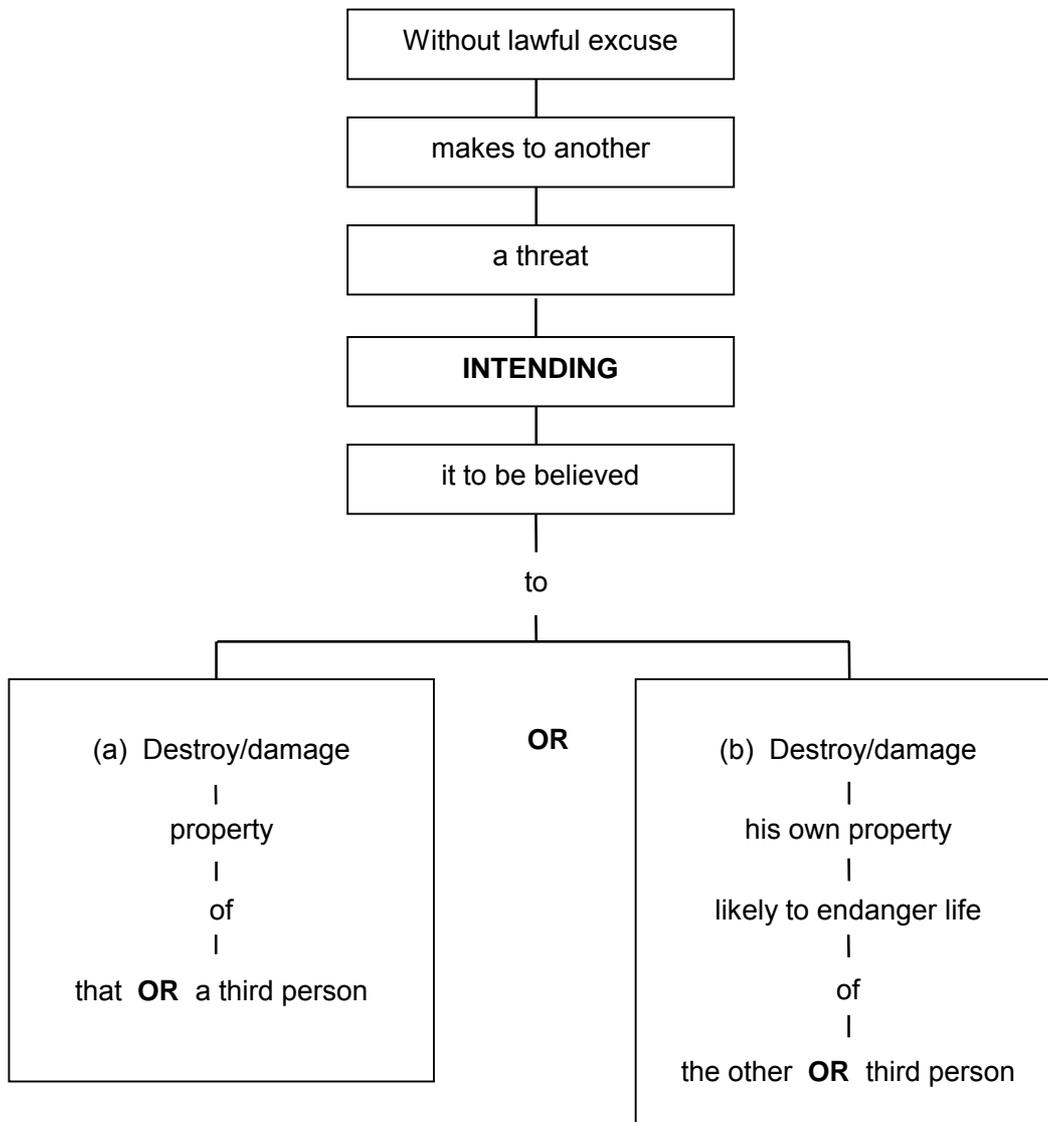
- (1) To damage or destroy any property (his own or another's) with intent to:-

Endanger **OR** Reckless of danger to life of another
Aggravated offence (life imprisonment)

- (2) Property includes land and things growing on it - trees (but **not** flowers, fruit or foliage or mushrooms).

THREATS TO DAMAGE / DESTROY

Section 2, Criminal Damage Act 1971



POWER OF ARREST

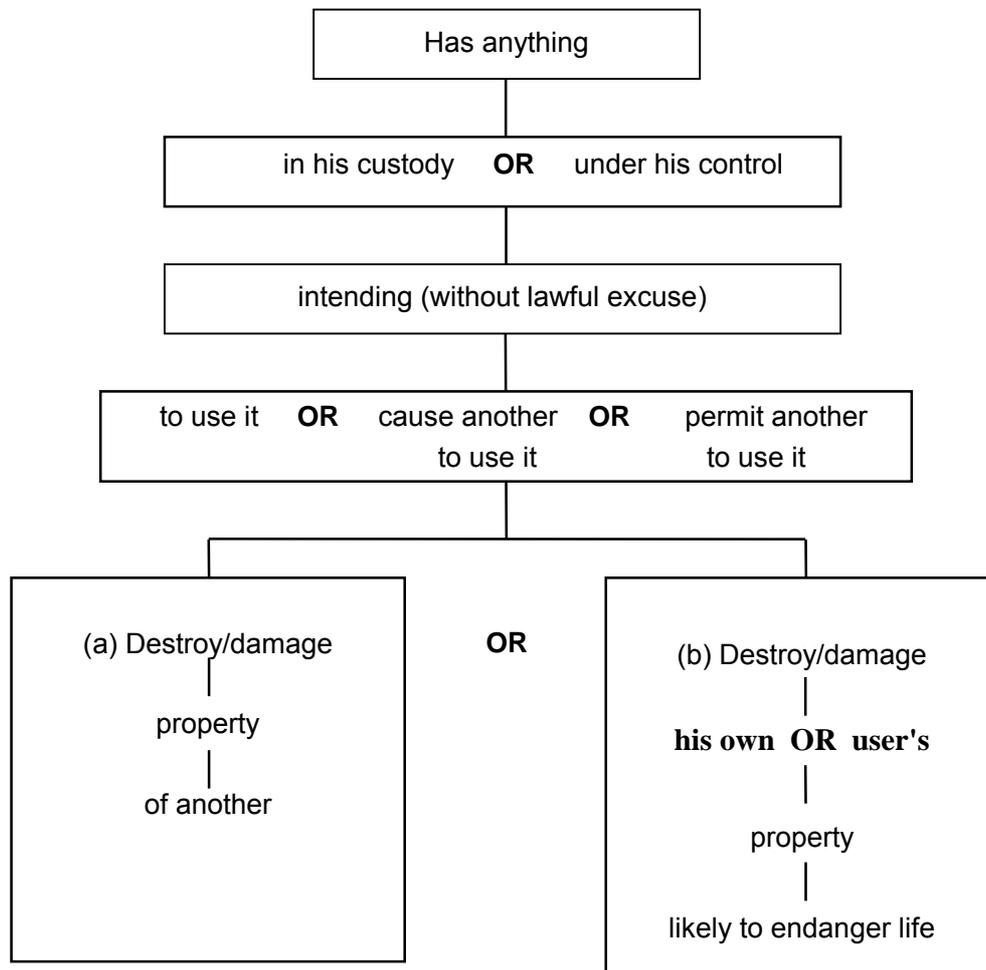
ARRESTABLE OFFENCE

N.B.

It matters not whether the threat is believed or not - the intent is the important part.

POSSESSION WITH INTENT TO CAUSE CRIMINAL DAMAGE

Section 3, Criminal Damage Act 1971

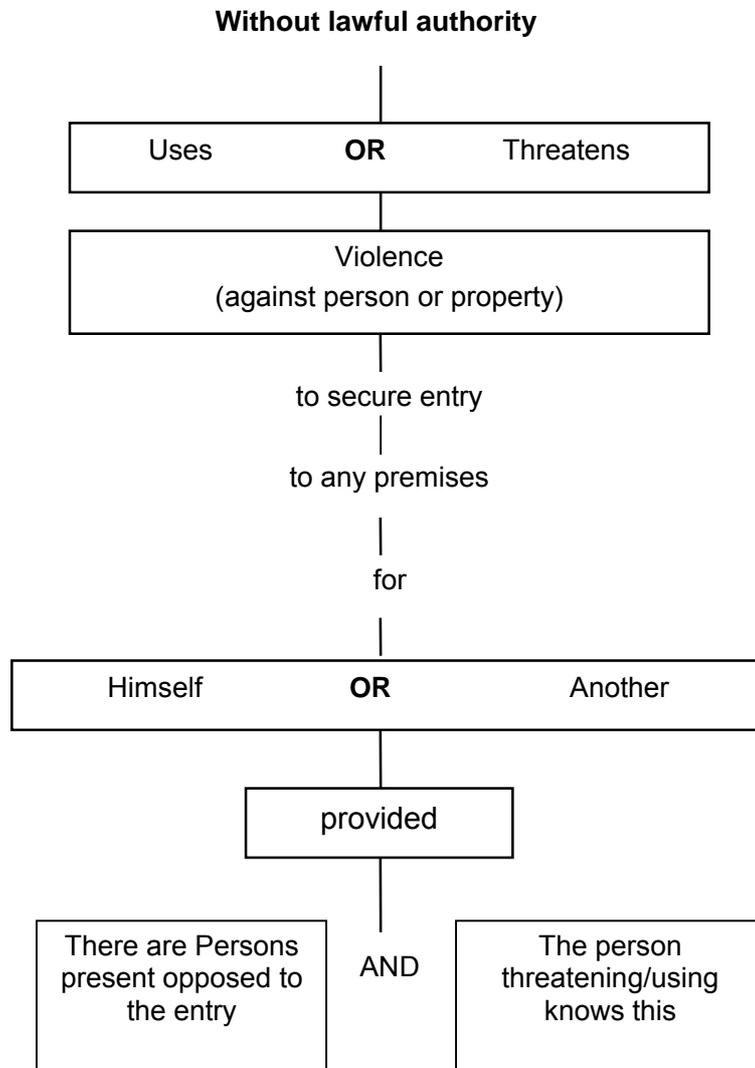


POWER OF ARREST

ARRESTABLE OFFENCE

VIOLENCE TO SECURE ENTRY

Section 6, Criminal Law Act 1977



POWER OF ARREST

PC in uniform may arrest person who is or whom he reasonably suspects to be committing.

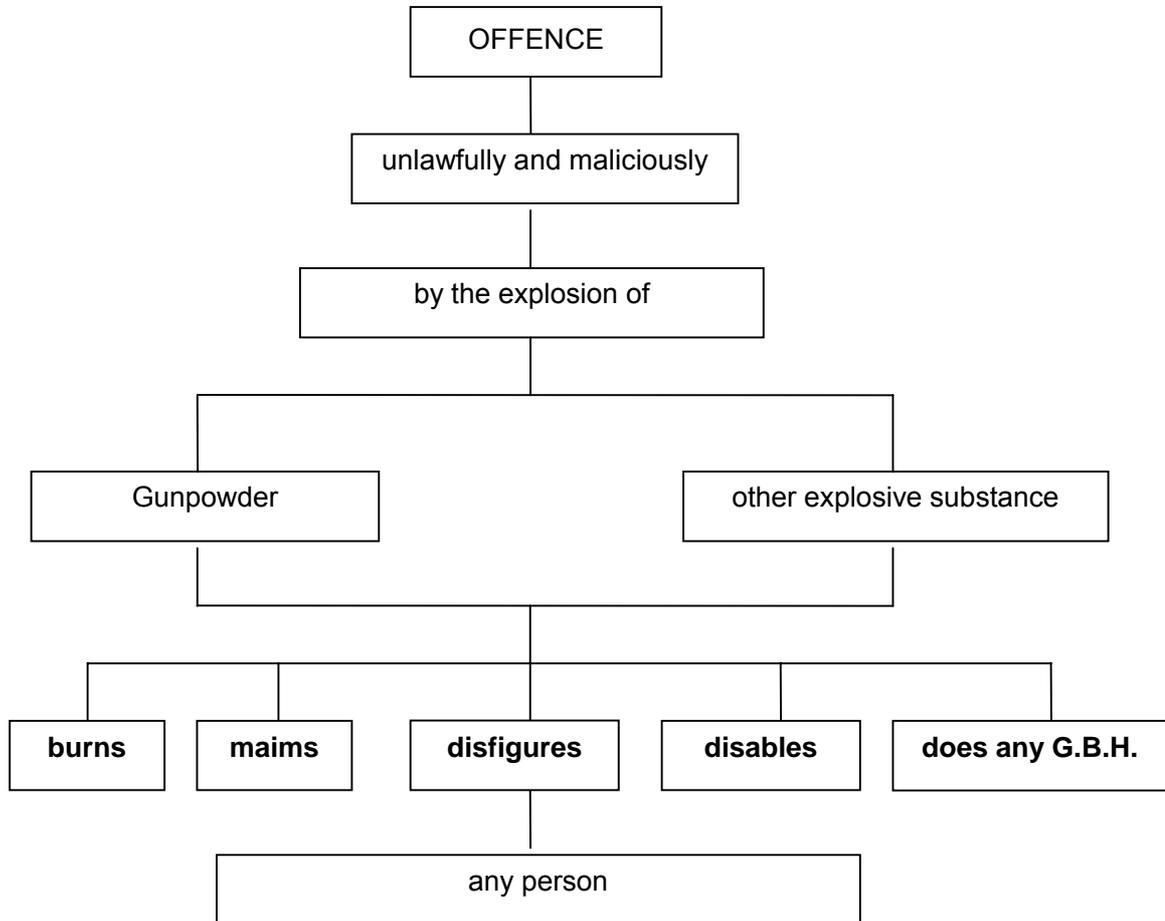
N.B.

Premises could include a bender, tree house, etc.

ERGO: Lawful authority is required.

MAIM / INJURY BY EXPLOSION

Section 28, Offences Against The Person Act 1861

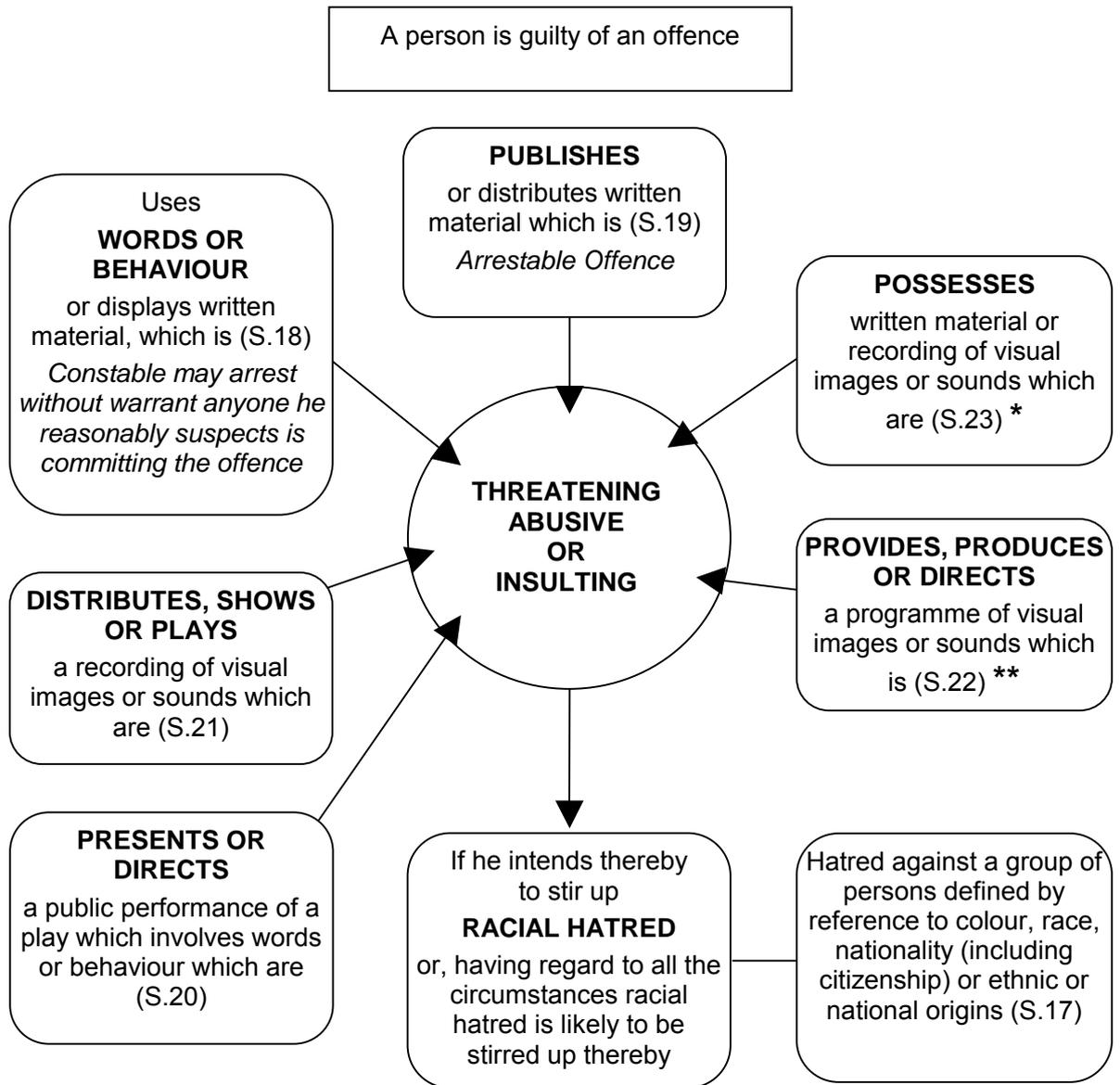


POWER OF ARREST

ARRESTABLE OFFENCE

RACIAL HATRED

Sections 17 - 23, Public Order Act 1986



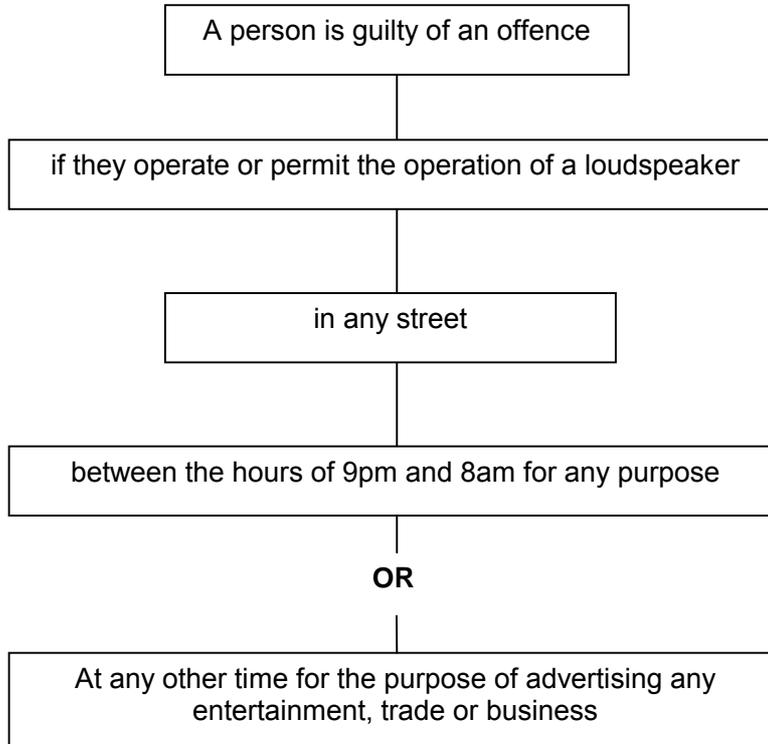
* Section 23(1)(a) & (b): Possession has to be with a view to displaying / distributing / showing / playing etc by self or another.

** Section 22: The persons who can commit this offence are -

- (a) the person providing the programme services,
- (b) any person by whom the programme is produced or directed, and
- (c) any person by whom offending words or behaviour are used.

LOUDSPEAKERS

Section 62, Control of Pollution Act 1974



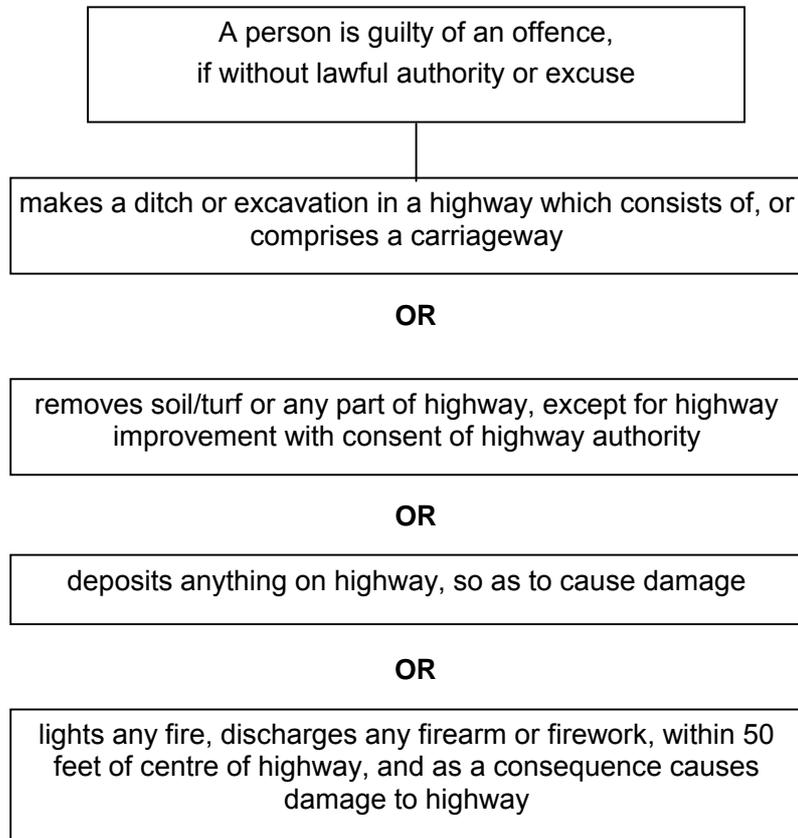
No POA - Section 25 PACE may apply.

N.B.

Ice cream vehicle or vehicle used for conveyance of perishable goods exempt between 12 noon and 7pm.

Exemptions, police, fire, ambulance, local authority, Environment Agency, showmen at pleasure fair etc.

DAMAGING HIGHWAY
Section 131, Highways Act 1980



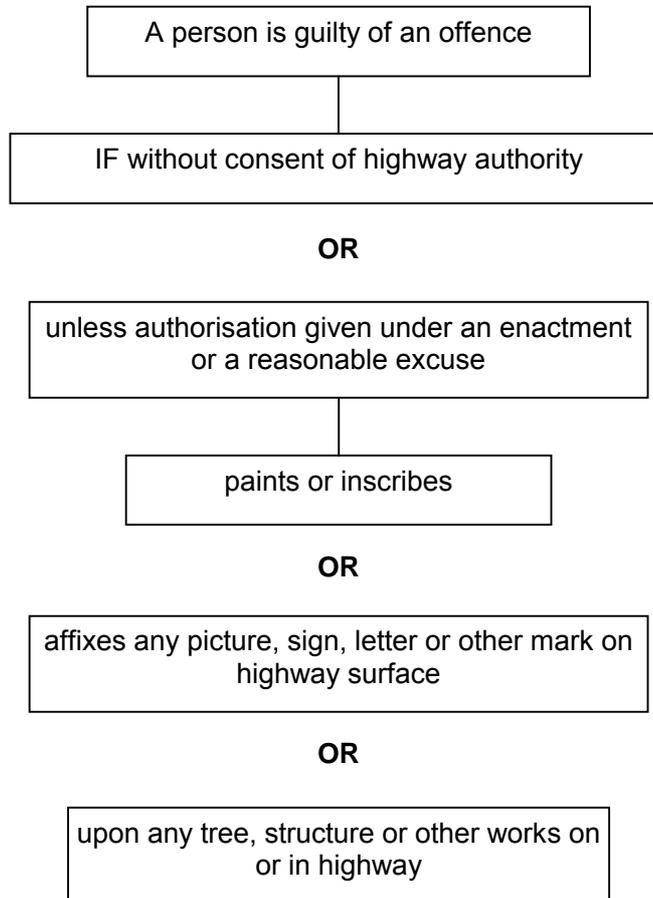
No POA - Section 25 PACE may apply.

N.B.

This also applies to the pulling down or obliterating a traffic sign on or over the highway or any milestone or direction post placed upon the highway.

UNAUTHORISED SIGNS

Section 132, Highways Act 1980



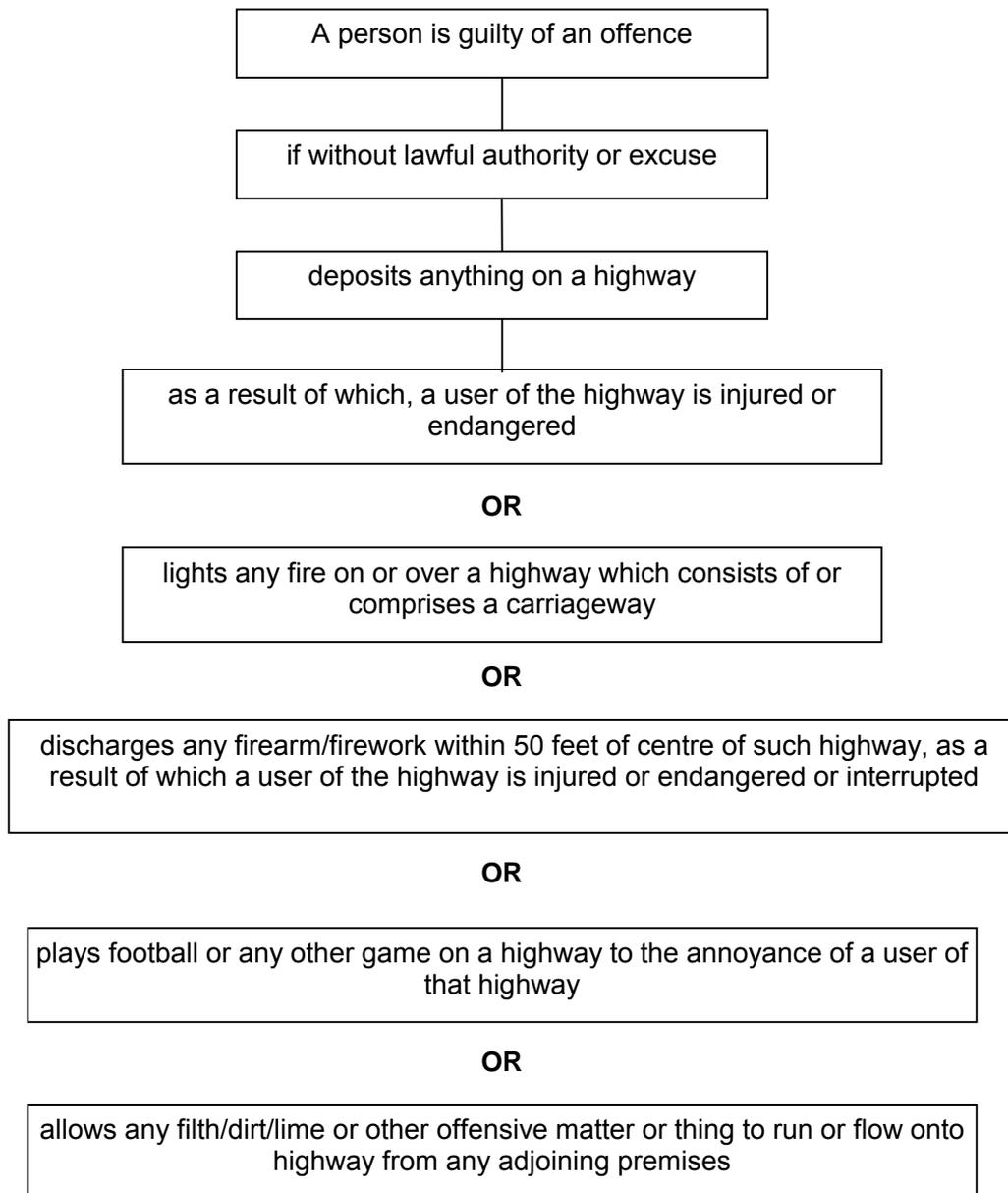
No POA - Section 25 PACE may apply.

N.B.

Also applies to banners fixed on or to hedgerows or road signs.

FIRE, FIREWORKS AND GAMES ON HIGHWAY

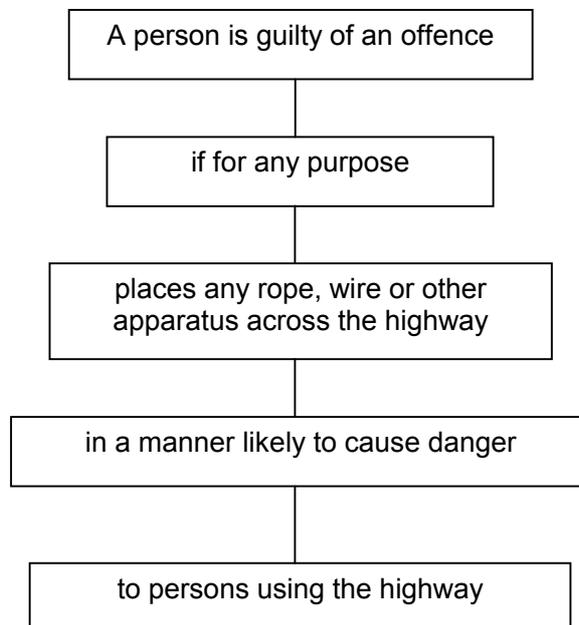
Section 161, Highways Act 1980



No POA - Section 25 PACE may apply.

ROPE ETC. ACROSS HIGHWAY

Section 162, Highways Act 1980



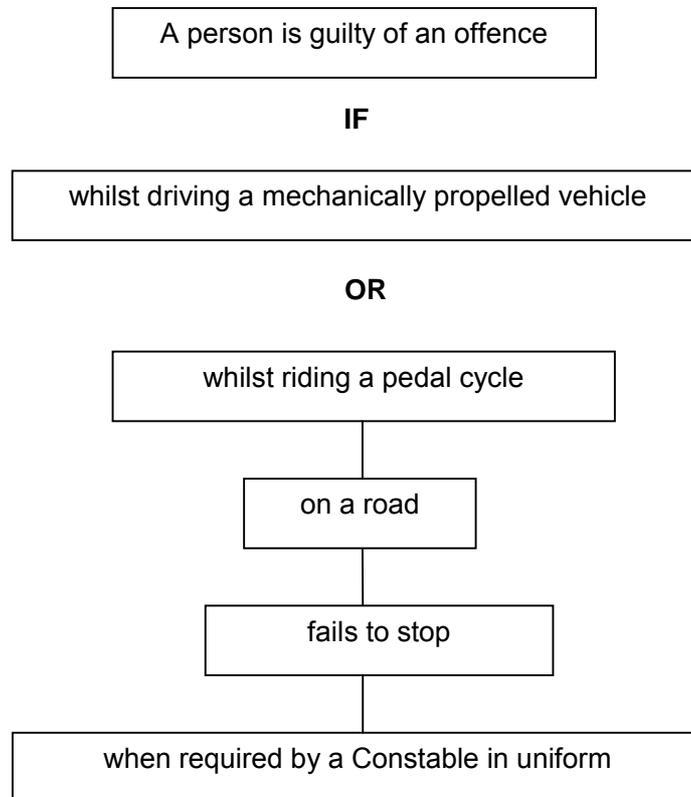
No POA - Section 25 PACE may apply.

NB.

The onus is upon the defendant to prove that he had taken all necessary means to give adequate warning of the danger.

STOP VEHICLE / CYCLE

Section 163, Road Traffic Act 1988

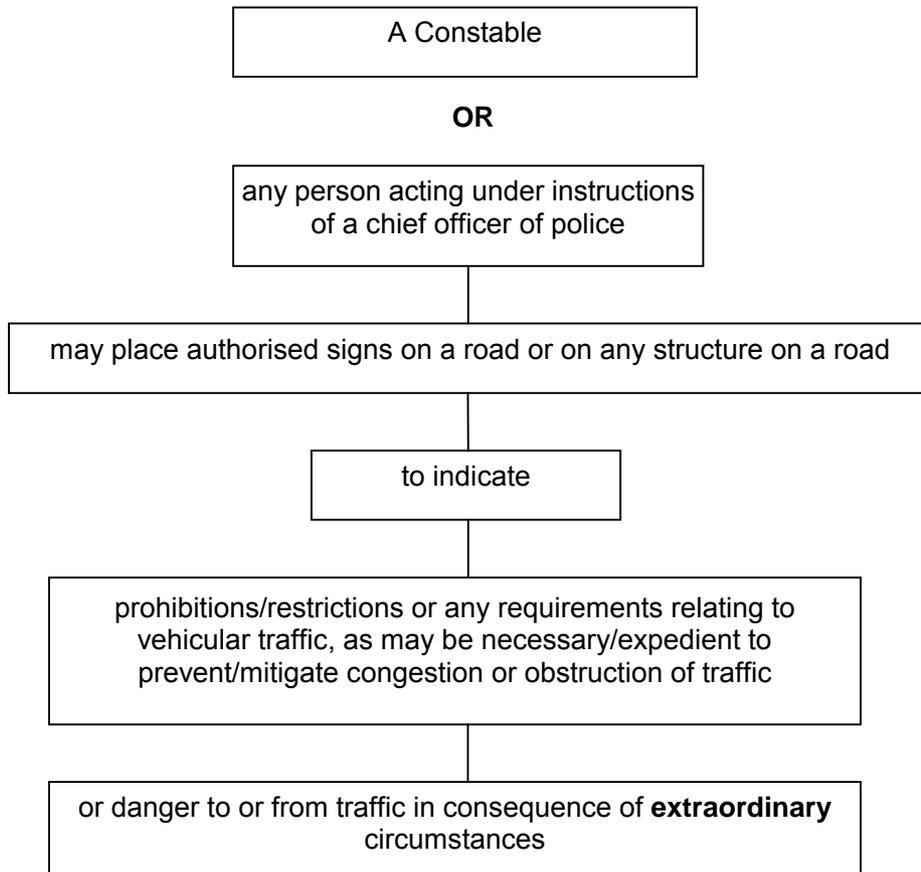


POWER OF ARREST

A Constable in uniform may arrest without warrant if he has reasonable cause to suspect the person has committed an offence under this section (S.163[4] inserted by Police Reform Act 2002.)

POLICE SIGNS

Section 67, Road Traffic Regulation Act 1984



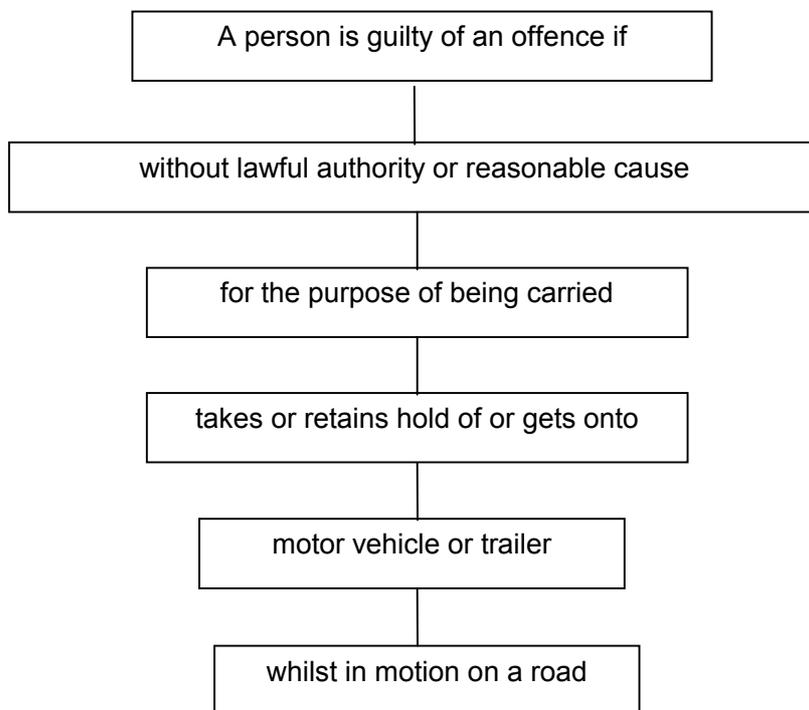
N.B.

Signs may be maintained for a maximum period of 7 days.

Drivers must comply with such signs (S.36 RTA 1988 applies).

HOLDING OR GETTING ON TO VEHICLE IN MOTION

Section 26, Road Traffic Act 1988

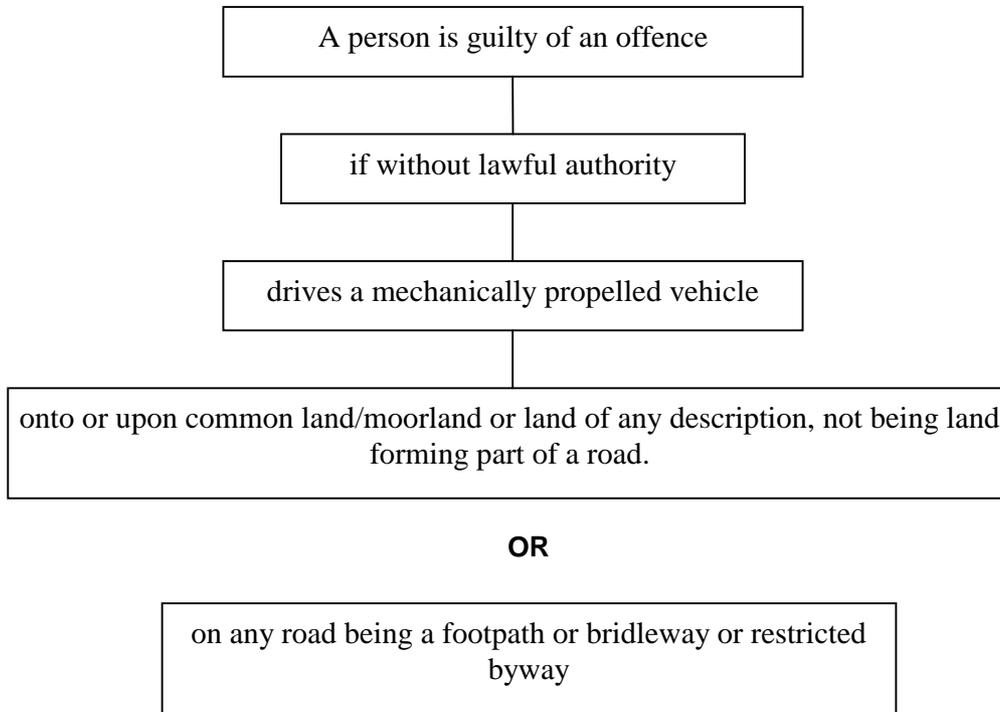


No POA - Section 25 PACE may apply.

N.B.

Offence is complete even if person obtains consent from driver drawing vehicle.

DRIVING OFF-ROAD
Section 34, Road Traffic Act 1988



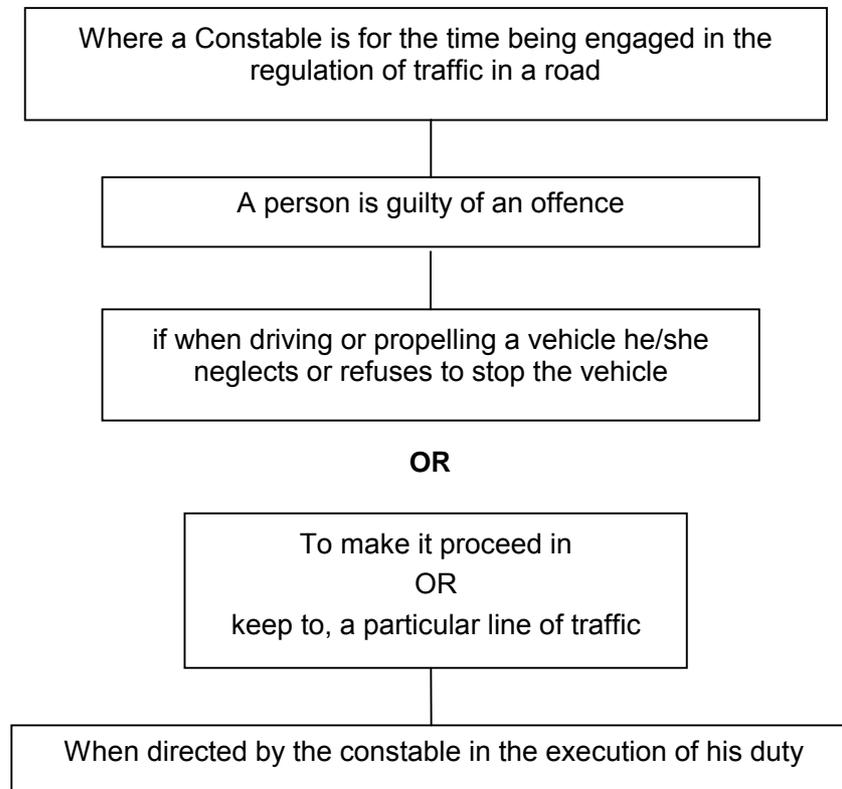
No POA - Section 25 PACE may apply.

N.B.

Not an offence if within 15 yards of road (being a road on which a motor vehicle may lawfully be driven), for the purpose of parking, or for the purpose of saving life, extinguishing fire, or other like emergency, or where certain bye-laws may apply.

COMPLYING WITH DIRECTIONS OF A CONSTABLE

Section 35, Road Traffic Act 1988



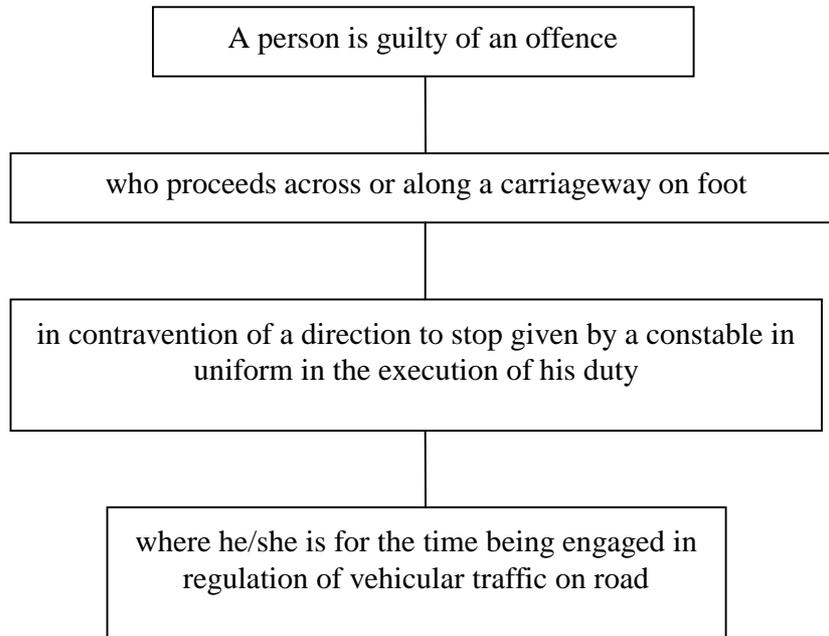
No POA - Section 25 PACE may apply.

N.B.

Does not have to be mechanically propelled vehicles.

STOP PEDESTRIANS

Section 37, Road Traffic Act 1988



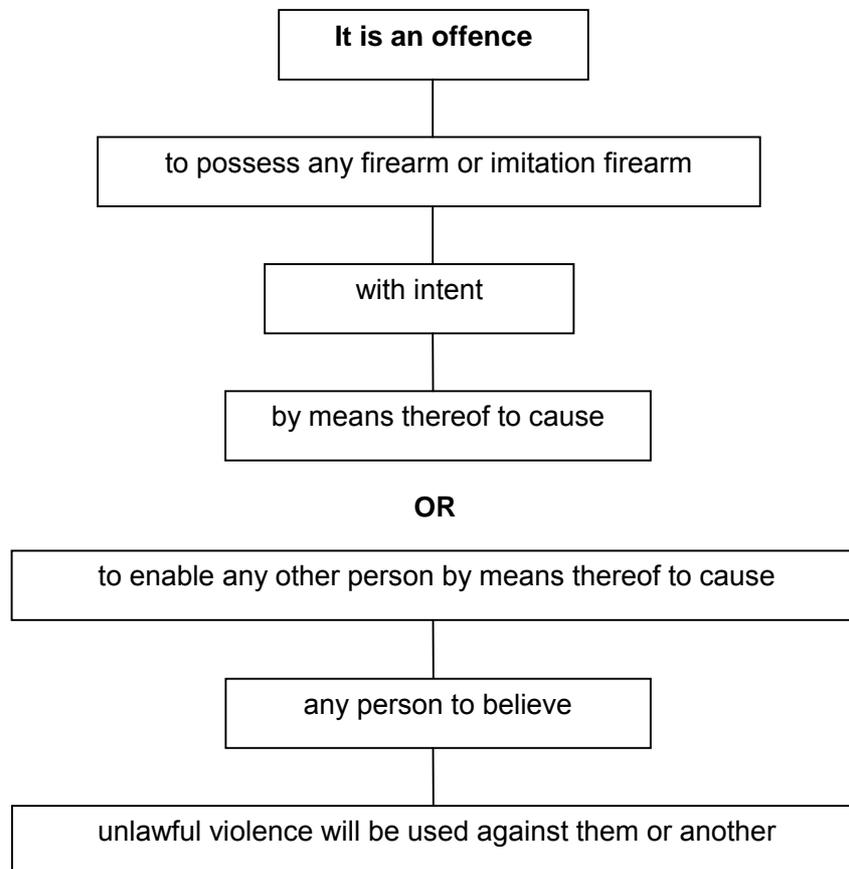
No POA - Section 25 PACE may apply.

NOTE

Direction to stop can have been given either to persons on foot, or to persons on foot and other traffic.

POSSESSION OF FIREARM / IMITATION WITH INTENT TO CAUSE FEAR OF VIOLENCE

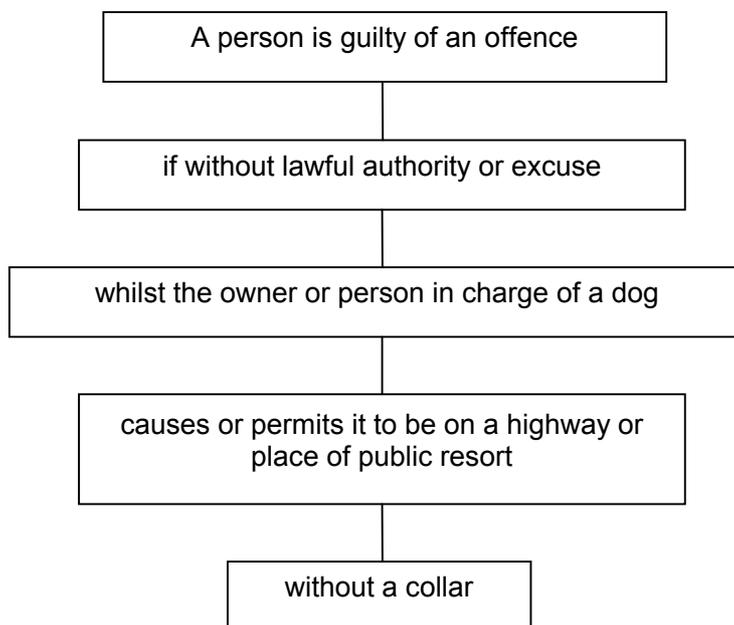
Section 16A, Firearms Act 1968



POWER OF ARREST

ARRESTABLE OFFENCE

CONTROL OF DOGS ORDER 1992 & ANIMAL HEALTH ACT 1981



No POA - Section 25 PACE may apply.

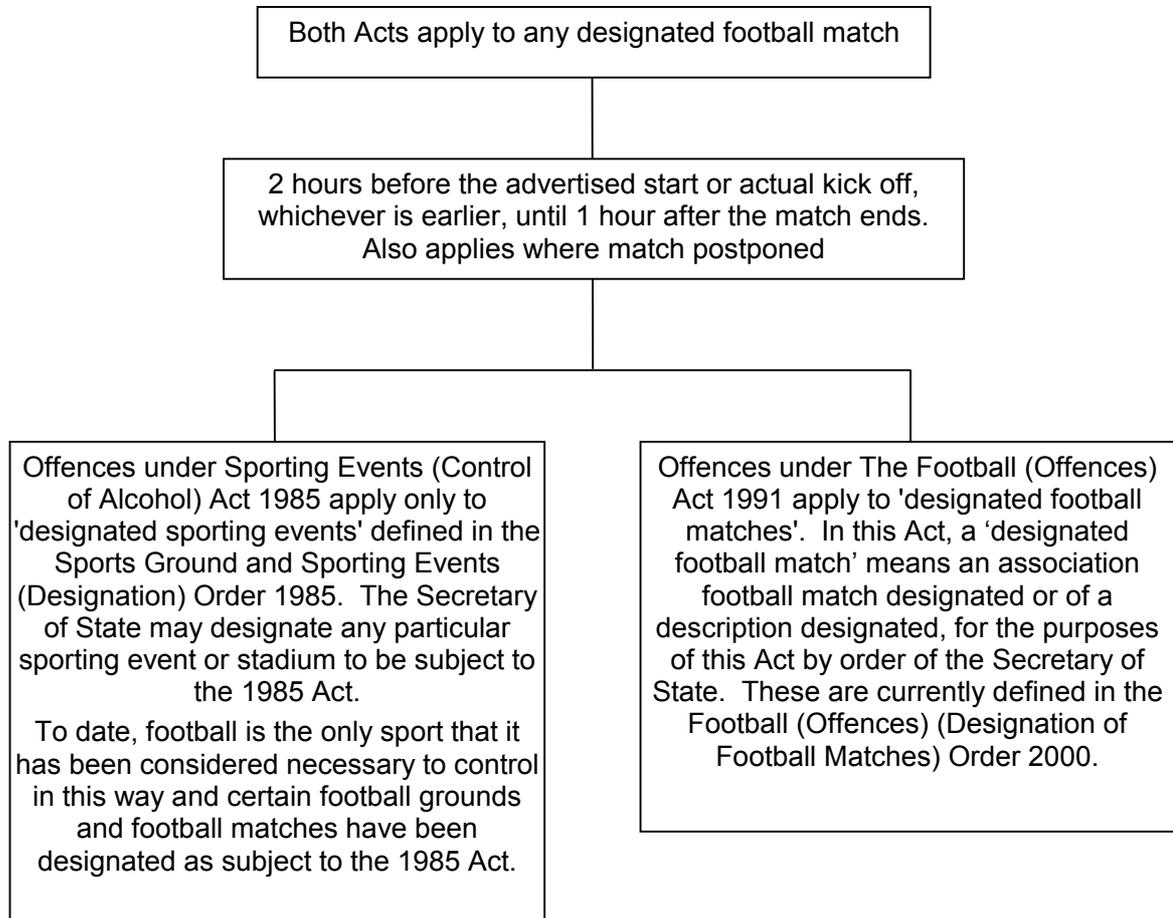
N.B.

Collar must have details of owners name and address upon it.

Exemptions -

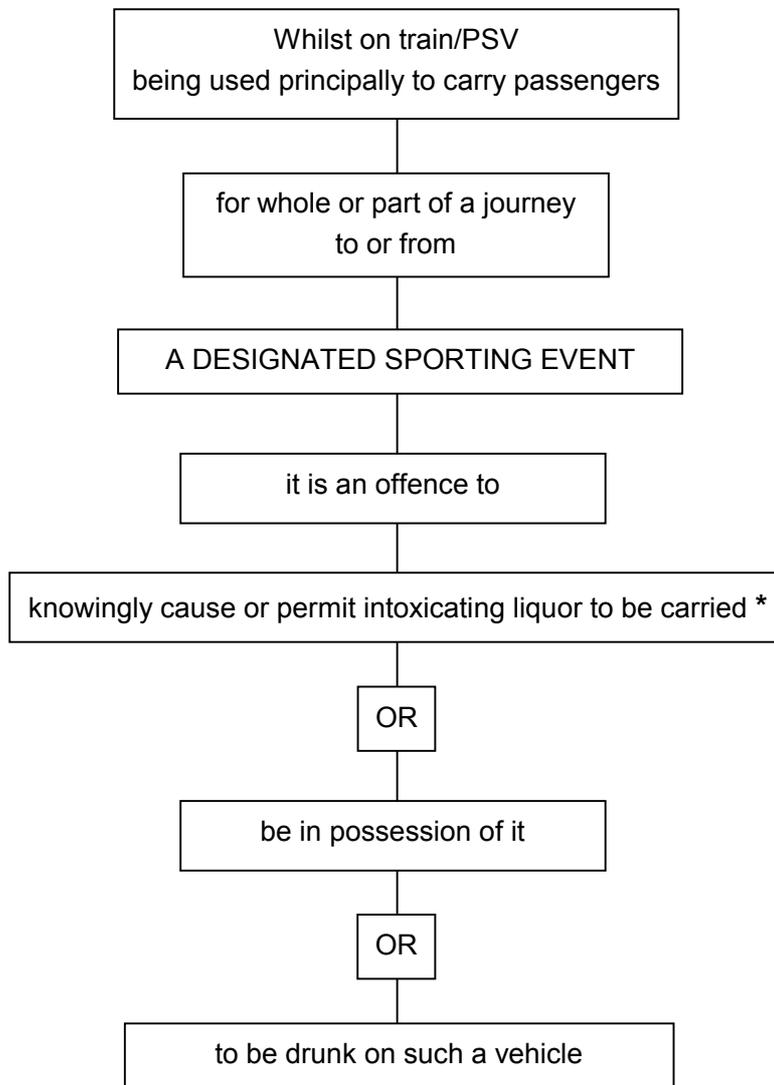
- ◇ a pack of hounds,
- ◇ any dog whilst being used for sporting purposes, or for the capture or destruction of vermin or for driving/tending of cattle/sheep,
- ◇ Guide Dogs for the Blind Association registered dog.
- ◇ dogs used on official duties by members of armed forces, Customs & Excise of police
- ◇ dogs being used in rescue work..

SPORTING EVENTS (CONTROL OF ALCOHOL ETC) ACT 1985 THE FOOTBALL (OFFENCES) ACT 1991



ALCOHOL ON SUPPORTERS VEHICLES

Section 1, Sporting Events (Control of Alcohol etc) Act 1985



POWER OF ARREST

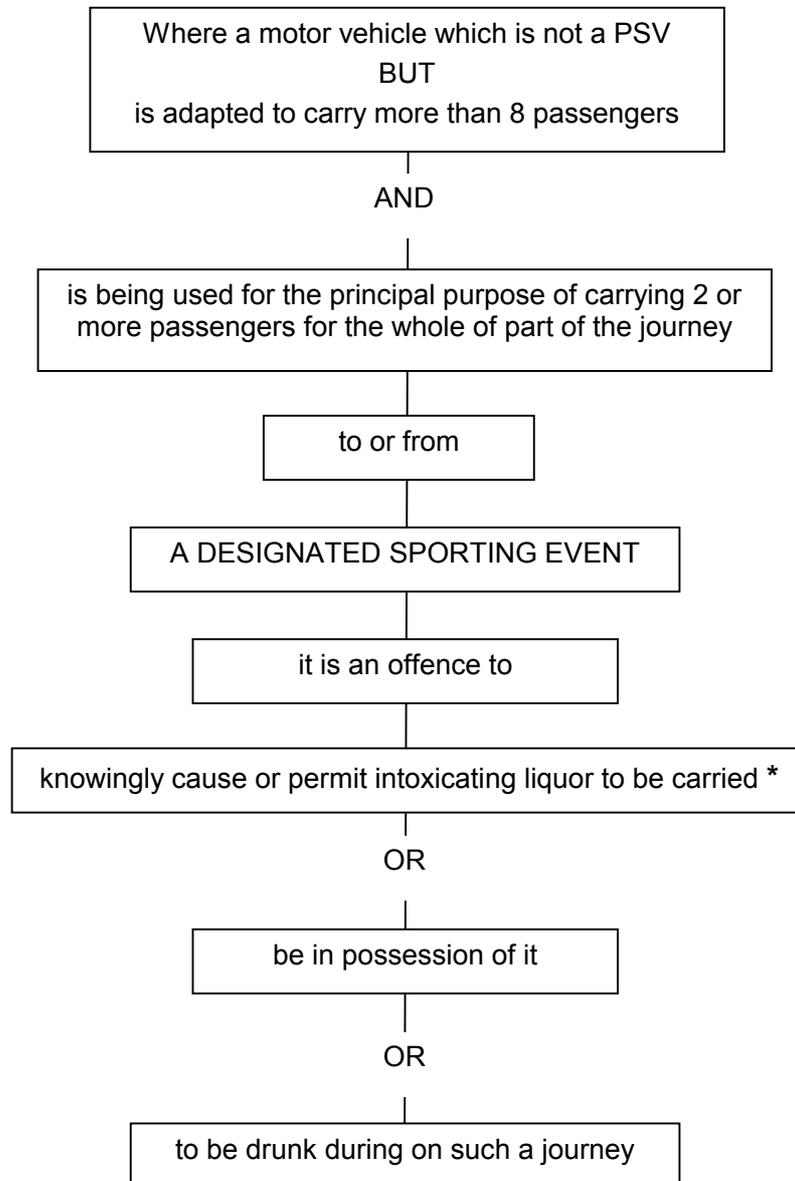
Constable may arrest any person he/she reasonably suspects has/is committing.

* If a PSV this element can be committed by the operator[♦] / servant or agent of operator.
If a hired vehicle - committed by person to whom it is hired or their servant / agent.

[♦] (operator = driver)

ALCOHOL ON CERTAIN OTHER VEHICLES

Section 1A, Sporting Events (Control of Alcohol etc) Act 1985



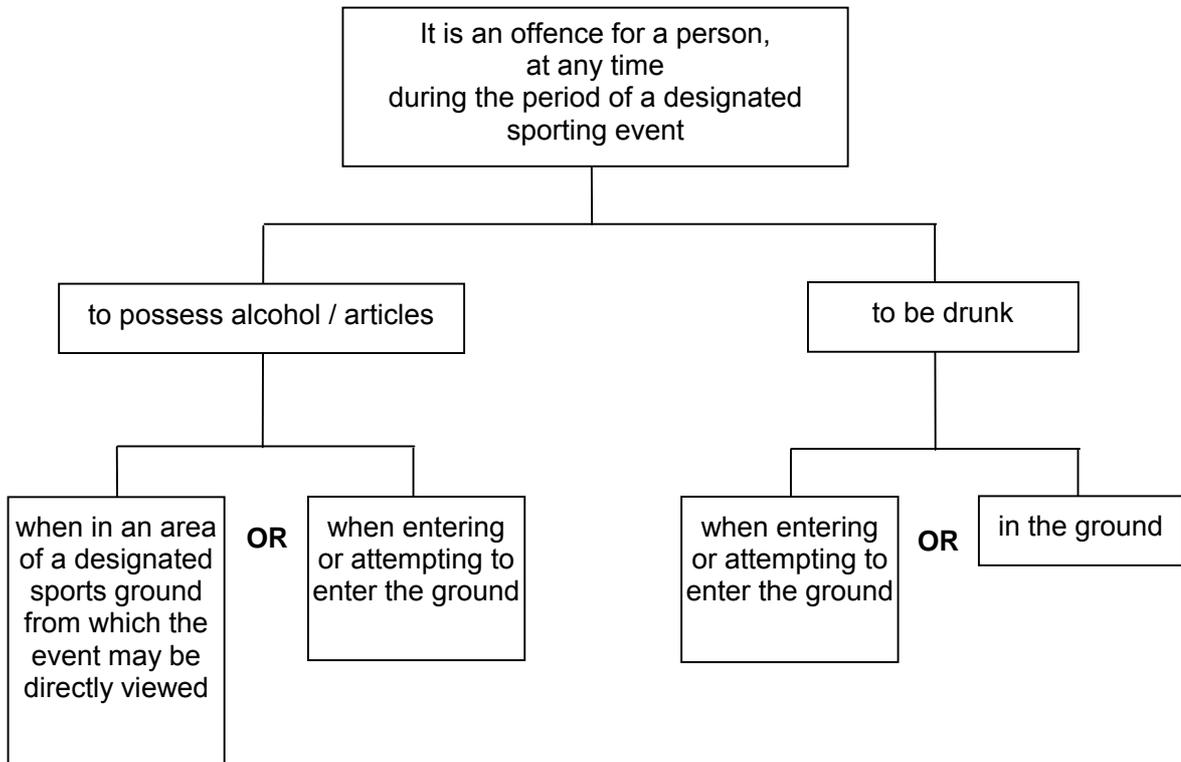
* This can be committed by the driver or if he is not the driver, the keeper / servant / agent, person to whom it is hired, loaned or otherwise made available by its keeper / servant / agent or the servant / agent of a person to whom it is so made available.

POWER OF ARREST

Constable may arrest any person he/she reasonably suspects has/is committing.

DRUNK AT FOOTBALL GROUNDS

Section 2, Sporting Events (Control of Alcohol etc) Act 1985



POWER OF ARREST

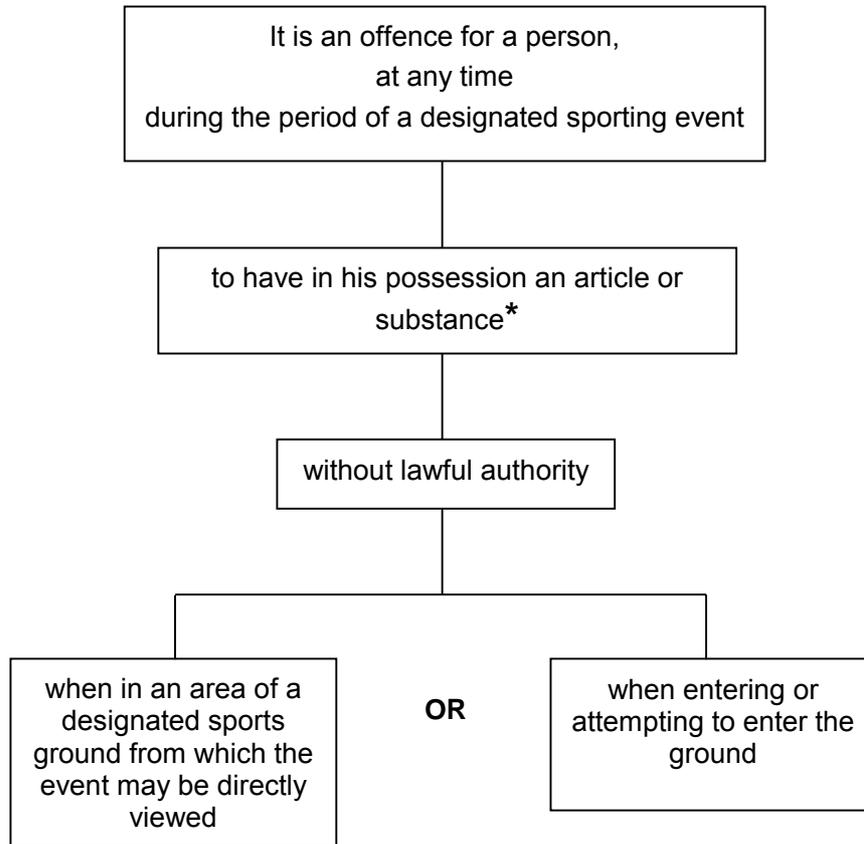
Constable may arrest any person he/she reasonably suspects has/is committing.

N.B.

'Article' includes bottles and cans for holding drink even if damaged or crushed (excludes medicine bottles).

FIREWORKS ETC

Section 2A, Sporting Events (Control of Alcohol etc) Act 1985



* Article or Substance

This section applies to any article whose main purpose is the emission of a flare for purposes of illuminating or signalling (as opposed to igniting or heating) or the emission of smoke or a visible gas; and in particular it applies to distress flares, fog signals, and pellets, and capsules intended to be used as fumigators or for testing pipes, but not to matches, cigarette lighters or heaters.

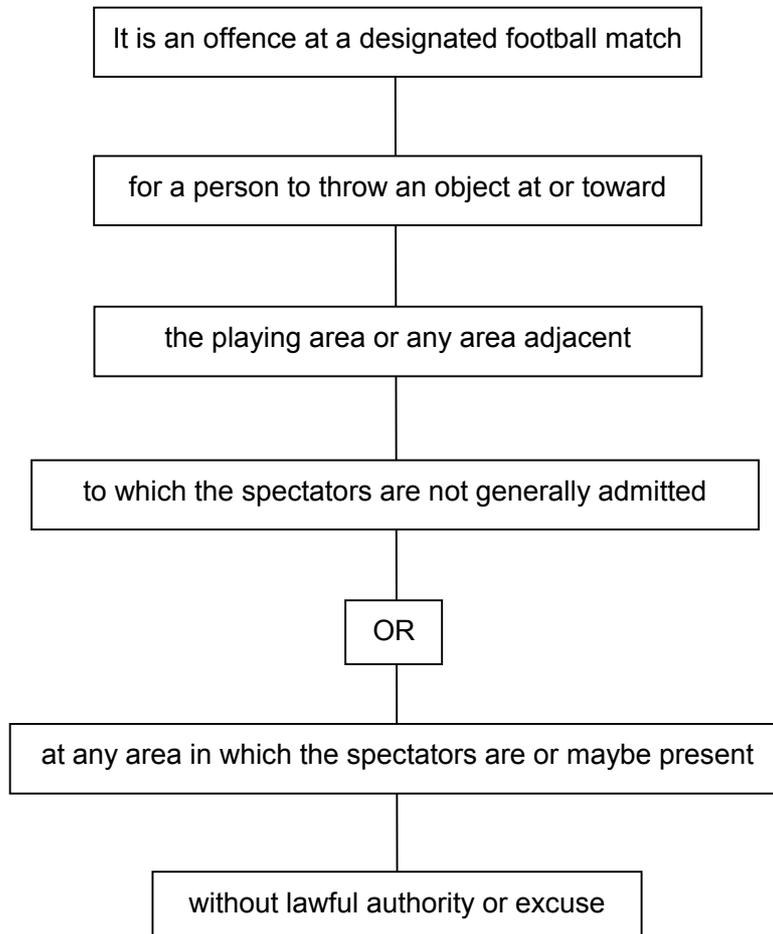
Also applies to any article which is a firework.

POWER OF ARREST

Constable may arrest any person he/she reasonably suspects has/is committing.

THROWING OBJECTS

Section 2, Football (Offences) Act 1991

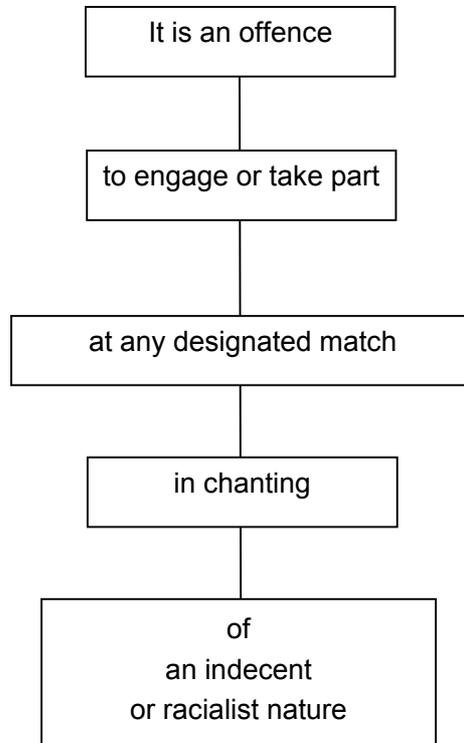


POWER OF ARREST

ARRESTABLE OFFENCE

RACIAL CHANTS (SPORTING EVENTS)

Section 3, Football (Offences) Act 1991 as amended by the Football (Offences & Disorder) Act 1999



POWER OF ARREST

ARRESTABLE OFFENCE

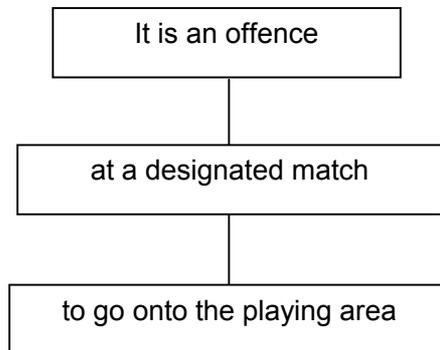
N.B.

'Chanting' means repeated uttering of any words or sounds whether alone or in concert with one or more others.

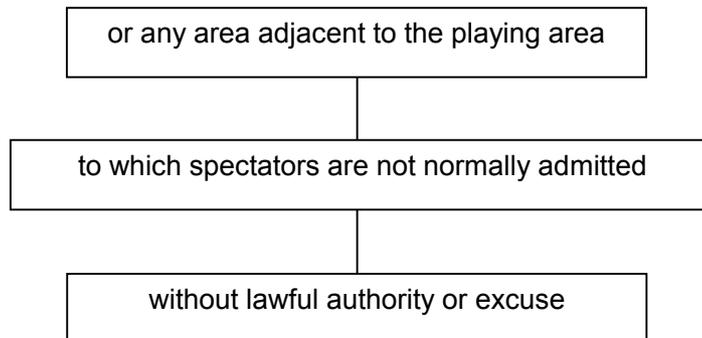
'Of a racist nature' means consisting of or including matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins.

GOING ONTO THE PITCH (SPORTING EVENTS)

Section 4, Football (Offences) Act 1991



OR

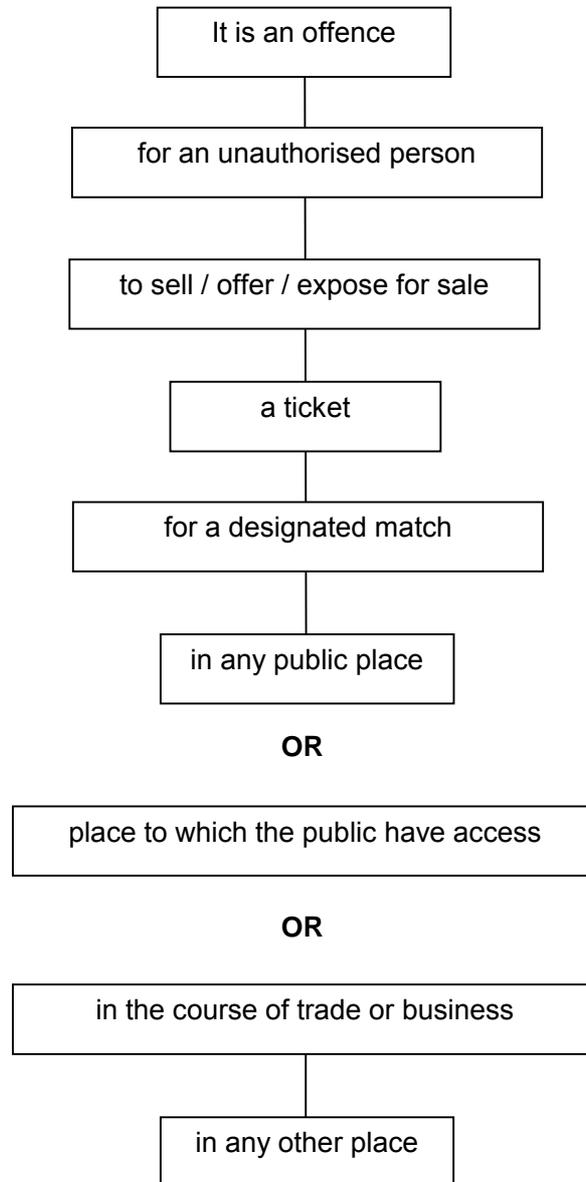


POWER OF ARREST

ARRESTABLE OFFENCE

TICKET TOUTS

Section 166, Criminal Justice and Public Order Act 1994



POWER OF ARREST

ARRESTABLE OFFENCE

N.B.

A person is unauthorised unless they have an authority in writing from the home club or the match organisers.