



BRIEFING PAPER

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Protests around Parliament

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Summary

This briefing paper provides an overview of the current provisions on protests around Parliament, including a background of previous legislation, and controversies and legal cases arising from different provisions over the years.

The current law

Provisions in the *Police Reform and Social Responsibility Act 2011* were designed to restore the rights to non-violent protests near Parliament whilst still protecting Parliament Square.

The controlled area

The 2011 Act introduced a “controlled area” around Parliament; this was then extended by the [Anti-social Behaviour, Crime and Policing Act 2014](#) to include a wider area. The full “controlled area” comprises:

- Parliament Square garden;
- The footways immediately adjoining the central garden of Parliament Square;
- Highways and gardens next to the Palace of Westminster.

Prohibited activities

Activities prohibited in the “controlled area” include:

- Unauthorised use of amplified noise equipment, like loudspeakers or loudhailers (applications for authorisation can be made to the relevant authorities);
- Erecting or using tents or structures for facilitating sleeping;
- Using or intending to use sleeping equipment, like sleeping bags or mattresses.

The police or authorised officers can direct people to stop these activities and leave the area; if they do not, property can be seized and the police can use reasonable force to do so. In addition, under the byelaws of the Greater London Authority (GLA), protestors must seek written permission to hold a demonstration on Parliament Square Garden.

Previous legislation

Previously, Sections 132 to 138 of the [Serious Organised Crime and Police Act 2005](#) (SOCPA) meant that demonstrations within a designated area of one kilometre from Parliament required prior authority. The police could impose conditions and loudspeakers and loudhailers were banned.

Before SOCPA, additional provisions for protests around Parliament took the form of Sessional Orders (in the House of Commons) and Stoppage Orders (in the House of Lords). The Procedure Committee concluded that these Orders gave no additional powers to the police.

The 2011 Act repealed sections 132 to 138 of SOCPA.

Controversies and legal cases

Brian Haw’s long-term demonstration contributed to calls for stronger legislation than Sessional and Stoppage Orders. The Tamil Protests in 2009 similarly highlighted the inability of SOCPA to respond to spontaneous protest. In 2014, the attempts by Occupy Democracy to hold long-term demonstrations in Parliament Square tested the definitions used in the 2011 Act and the enforcement of GLA byelaws.

1. Background

Parliament's unique context as both a workplace, heritage site, and natural focus for protests creates competing needs and demands. The question of whether or not Parliament requires different arrangements to control protests in its vicinity, and what form these special provisions should take, has generated controversy and comment over the years.

The arguments for special protection focus primarily on maintaining access to the estate to ensure democratic functions are unhindered. The Coalition Government in 2009 concluded that "the ability of Parliament to exercise its democratic functions provides the only possible grounds for distinct provisions to apply."¹ Other arguments include Parliament's security considerations and concerns over protecting a world famous heritage site.²

The arguments against focus on the fact that protestors want to demonstrate in locations where their protest will have the best impact, the historical significance of Parliament Square as a place to express views close to the seat of democracy, and the risk that draconian controls could cause democratic disengagement.³

For example, responses to a Government consultation on managing protest around Parliament in 2007 found that there was:

[...] a clear view expressed by members of the public that the area around Parliament is special in that it is the focus of political protest and that nowhere is the right to protest and voice one's views more important than at the seat of Parliament itself.⁴

The challenge in balancing these two points of view mean the way the law and authorities have approached protests around Parliament has fluctuated.

This briefing paper sets out the current law and gives a history of how it is has been approached in the past, including past and present commentary of the changes.

¹ [The Government Reply to the Seventh Report from the Joint Committee on Human Rights Session 2008-09 HL Paper 47, HC 320 Demonstrating respect for rights? A human rights approach to policing protest](#), Cm 7633, May 2009

² Home Office Press Release, [New reforms put public at the heart of policing](#), 1 December 2010

³ Home Office, [Managing Protest around Parliament](#), Cm 7235, 25 October 2007, para 2.5

⁴ Ministry of Justice, [The Governance of Britain – Analysis of Consultations](#), Cm 7342-III, March 2008, para 13

2. The current law

2.1 General legislative framework

The [European Convention on Human Rights](#) confers a number of relevant rights, including the right to freedom of expression (article 10) and the right of peaceful assembly (article 11). As such, the state is obliged to facilitate peaceful protest.

These rights are not absolute. The police have to balance competing interests when dealing with demonstrations. The rights of protestors have to be considered alongside those of the general public and, sometimes, the rights of those who are the target of protest or those holding counter-demonstrations.

At the national level, demonstrations in England and Wales are governed primarily by the [Public Order Act 1986](#). Part 2 covers marches (“public processions”) and static demonstrations (“public assemblies”).

Some of the most common offences at demonstrations⁵ include breach of the peace, obstruction of the highway,⁶ or obstructing a police officer in the exercise of their lawful duty.⁷

2.2 Special provisions for protests around Parliament

Until December 2011, protestors needed prior authority to demonstrate near Parliament under the *Serious Organised Crime and Police Act 2005*.⁸

The Police Reform and Social Responsibility Act 2011 repealed [sections 132 to 138 of the Serious Organised Crime and Police Act 2005](#), meaning demonstrations near Parliament are governed for the most part like other demonstrations in the rest of the country.

However, there are still some special provisions for what is called the “controlled area” around Parliament, and byelaws affecting Parliament Square Garden.

The Government said that the provisions in the 2011 Act were designed to restore the rights to non-violent protests, ensure that everyone can enjoy public spaces and prevent harm caused by encampments and disruptive activities in and around Parliament Square.⁹

⁵ See Crime Prosecution Service, [Public Protests: Annex A](#), (accessed 30 May 2017) for a list of common offences arising from public protests.

⁶ Section 137(1) *Highways Act 1980*

⁷ Section 89 *Police Act 1996*

⁸ Section 141, *Police Reform and Social Responsibility Act 2011*

⁹ Home Office, [Police Reform and Social Responsibility Act 2011 \(as amended by the Antisocial Behaviour Crime and Policing Act 2014\): Guidance on the provisions relating to Parliament Square and the areas surrounding the Palace of Westminster](#), 2014

The controlled area of Parliament Square and the Palace of Westminster

The 2011 Act defined the “controlled area” of Parliament Square as comprising:

- The central garden of Parliament Square; and
- The footways immediately adjoining the central garden of Parliament Square.

This controlled area was changed by a Lords Amendment of the [Anti-social Behaviour, Crime and Policing Act 2014](#),¹⁰ extending the area to also include the area in the vicinity of the Palace of Westminster:

- The highways Bridge Street, St Margaret’s Street, and Abingdon Street;
- Great College Street where it adjoins Abingdon Street Garden;
- Old Palace Yard (including the King George V Memorial);
- Abingdon Street Garden and pathways; and
- Victoria Tower Gardens.

Relevant authorities

The different parts of the controlled area are under the responsibility of various authorities. The three main authorities are the Greater London Authority (GLA), Westminster City Council (WCC), and the Secretary of State.

It can be important to know which authority is responsible for which area. There are different byelaws applicable and, importantly, it can determine which authority a person should apply to for use of a public space or for example, use of amplified noise equipment. Authorised officers from relevant authorities also have powers to enforce the law on prohibited activities in the controlled area.

[Home Office guidance on these provisions](#) includes a map which shows the extent of this controlled area and which relevant authority is responsible for each segment.¹¹

2.3 Prohibited activities in the controlled area

There are five prohibited activities. The first is operating amplified noise equipment without authorisation, the second and third are erecting and using any tent or any structure used to facilitate sleeping, and the fourth and fifth are placing or using sleeping equipment for the purpose of sleeping overnight.¹²

¹⁰ The amendment inserted section 142A of the *Police Reform and Social Responsibility Act 2011*. See s153, [Anti-social Behaviour, Crime and Policing Act 2014](#)

¹¹ Home Office, [Police Reform and Social Responsibility Act 2011 \(as amended by the Antisocial Behaviour Crime and Policing Act 2014\): Guidance on the provisions relating to Parliament Square and the areas surrounding the Palace of Westminster](#), 2014

¹² Section 143, *Police Reform and Social Responsibility Act 2011*

These activities are not prohibited if they are conducted by the emergency services or the relevant authority.¹³

Unauthorised use of amplified noise equipment

This means any device that is designed or adapted for amplifying sound. Typical examples include loudspeakers and loudhailers.

Under s147 of the 2011 Act, authorisation can be given for the operation of amplified noise equipment. If people wish to use loudspeakers and loudhailers near Parliament, they need to apply for permission to the relevant authorities. The authority can dictate conditions for use and has the power to alter these conditions or withdraw authorisation as long as it notifies the applicant in writing within 21 days.¹⁴

Westminster City Council, for example, asks for information on the reasons for the need for a loudspeaker, the full nature of its expected use, the number to be used, and what means will be provided to control the noise, before deciding whether to authorise the use.¹⁵ They generally charge a fee.

Tents, structures for facilitating sleeping, and sleeping equipment

It is an offence to erect a tent and keep it erected in the controlled area, as well as any “other structure” that is designed to help someone sleep.

The [Home Office guidance](#) suggests this was left purposefully ambiguous; authorised officers are required to use their professional judgement to determine what fits the description.¹⁶ The guidance suggests cardboard boxes and wooden boxes could fit, if they were storing camping equipment or food supplies.

Sleeping equipment means anything that is designed or adapted to facilitate sleep. Typical examples are sleeping bags and mattresses.

Enforcement and power to seize property

The 2011 Act empowers a police officer or authorised officer from the relevant authority to direct a person to stop doing, or not to start doing, any of the prohibited activities in the controlled area.¹⁷

Failure to comply with the directions without a reasonable excuse is a criminal offence, punishable by a fine and also potentially an order not to enter the controlled area for a specified period. However, for it to be an offence, someone must have been directed to remove prohibited items and have the opportunity to do so.

Palace of Westminster controlled area

The only prohibited activity in the Palace of Westminster controlled area is the operation of amplified noise equipment; Westminster City Council byelaws and [s4\(12\) of the Royal Parks and Other Open Spaces Regulations 1997](#) already prohibits camping and use of a tent or similar structure.

¹³ Section 143(3), *Police Reform and Social Responsibility Act 2011*

¹⁴ Section 147, *ibid*

¹⁵ Westminster City Council, '[Loudspeaker consent: application form for amplified noise equipment authorisation](#)'

¹⁶ Home Office, [Guidance on the provisions relating to Parliament Square and the areas surrounding the Palace of Westminster](#), 2014, p6

¹⁷ Section 144, *Police Reform and Social Responsibility Act 2011*

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Police or authorised officers can seize prohibited items in the controlled areas if someone does not follow their direction.¹⁸ Police are in addition permitted to use reasonable force when seizing these items. Enforcement for each area is led by the relevant authority in the first instance, although police officers can also support enforcement if no authorised officers from the GLA or WCC are present.¹⁹

2.4 Greater London Authority byelaws

In 2012, the GLA revised its Parliament Square Garden Byelaws.²⁰ The byelaws aim to secure the management of the Square, preserve order and prevent abuse.²¹ In Section 5, there is a list of acts in within the Square which require written permission. The most pertinent to protesting are:

(a) attach any banner or article to, climb or interfere with any tree, plinth, plant box, seat, railing, fence, statue or other structure whether permanent or temporary;

[...] (c) exhibit any notice, advertisement or any other written or pictorial matter;

[...] (j) organise or take part in any assembly, display, performance, representation, parade, procession, review or theatrical event.²²

Application forms for displaying a hand held placard or banner, or holding a public meeting, demonstration or rally, are available on the GLA's website.²³

Demonstration applications must be submitted at least 7 days before the activity, although the GLA warns it may take up to 21 days to "determine an application".²⁴ There is no charge for "rallies, demonstrations and marches" but there is a time list of 3 hours and it must be during daylight hours.²⁵

¹⁸ Section 145

¹⁹ Section 148, *Police Reform and Social Responsibility Act 2011*; Home Office, [Guidance on the provisions relating to Parliament Square and the areas surrounding the Palace of Westminster](#), 2014, p9

²⁰ "[Confirmation of Byelaws for Trafalgar Square and Parliament Square](#)", *Greater London Authority*, 25 January 2012; Greater London Authority, [Parliament Square Garden Byelaws 2012](#)

²¹ Greater London Authority, [Parliament Square Garden Byelaws 2012](#)

²² Section 5, [Parliament Square Garden Byelaws 2012](#)

²³ "[Book Parliament Square Garden](#)", *Greater London Authority* (accessed on 09 May 2017)

²⁴ "[Application for public meetings, demonstrations and rallies in Parliament Square Garden](#)", *Greater London Authority*

²⁵ *Ibid*

3. History of special provisions

3.1 Sessional and Stoppage Orders

For many years, additional provisions for the area surrounding Parliament took the form of Sessional Orders (in the House of Commons) and Stoppage Orders (in the House of Lords). These Orders instructed the Metropolitan Police Commissioner to make sure that the passageways to and from Parliament were unobstructed.

The last such Sessional Order in the House of Commons was passed on 17 May 2005.²⁶ In response to the Orders, the Commissioner of the Metropolitan Police gave directions to constables under section 52 of the [Metropolitan Police Act 1839](#).

The Procedure Committee conducted an inquiry into the appropriateness of the Commons Sessional Order in light of complaints about recent protests. These complaints centred on the unattractiveness of long-standing demonstrations and the use of loudhailers.²⁷ The Committee concluded that directions under the 1839 Act gave no extra powers to the police, and recommended that new legislation was needed.²⁸

In a 2004 consultation paper on police powers, the Labour government indicated it was considering further legislation and consulted on whether powers were needed to impose conditions on demonstrations near Parliament.²⁹

3.2 The Serious Organised Crime and Police Act 2005

Sections 132 to 138 of the [Serious Organised Crime and Police Act 2005](#) (SOCPA) introduced new police powers regarding demonstrations near Parliament Square.

The Act created a new offence of demonstrating without authorisation in a “designated area.” This area was defined by order, but had to be within one kilometre of Parliament Square. Those organising a demonstration had to give 24 hours in writing, or six days’ notice if “reasonably practicable”.

The Metropolitan Police Commissioner had to give authorisation if requirements in legislation were met.³⁰ However, they could impose conditions on those taking part, if it was believed these conditions could help prevent serious public disorder, damage to property, or hindrance to the operation of Parliament, amongst other things.

²⁶ [HC Deb 17 May 2005 c28](#)

²⁷ Procedure Committee, [Sessional Orders and Resolutions](#), HC 855 2002-03, November 2003, para 17

²⁸ Procedure Committee, [Sessional Orders and Resolutions](#), paras 21-22

²⁹ Home Office, [Modernising Police Powers to Meet Community Needs](#), August 2004, p19-20

³⁰ Section 134, [Serious Organised Crime and Police Act 2005](#)

Loudspeakers and loudhailers were banned, apart from exceptional circumstances, such as use by emergency services.

3.3 Scrutiny, consultation and efforts to repeal

Consultation on repeal

On 3 July 2007, the then Prime Minister, Gordon Brown, published his proposals for constitutional reform in a Green Paper, *The Governance of Britain*.³¹ The Green Paper stated the Government was aware of “strong views” on the issue of restricting protests around Parliament, and that it would be consulting on changes.³² The Home Office published a consultation document in October 2007.³³

The vast majority of respondents were in favour of a straightforward repeal of the relevant provisions of SOCPA.³⁴ The White Paper stated that the provisions would be repealed, but that Parliament would be consulted on maintaining safeguards.³⁵

In a July 2008 report, the Joint Committee on the Draft Constitutional Renewal Bill agreed that SOCPA provisions should be repealed in view of the widespread opposition. Whilst strongly endorsing “the general presumption that protest must not be subject to unnecessary restrictions”, it acknowledged the need for this to be balanced against safeguarding the proper functioning of Parliament.³⁶

Constitutional Reform and Governance Bill

The *Constitutional Reform and Governance Bill* contained provisions to repeal sections 132 to 138 of SOCPA.³⁷ However, the relevant provisions were dropped during the ‘wash-up’ period before the general election and do not appear in the *Constitutional Reform and Government Act 2010*.

Police Reform and Social Responsibility Bill

The Coalition Programme of May 2010 included a commitment to “restore rights to non-violent protest”.³⁸ When the *Police Reform and Social Responsibility Bill* was published, the then Home Secretary, Theresa May, commented:

We fully support the public’s right to peaceful protest; however this does not mean allowing individuals to take over a public space, particularly a historic site like Parliament Square, and prevent others from enjoying it.³⁹

³¹ Ministry of Justice, [The Governance of Britain](#), Cm 7170, July 2007

³² Ibid, page 48

³³ Home Office, [Managing Protest around Parliament](#), Cm 7235, 25 October 2007

³⁴ Ministry of Justice, [The Governance of Britain – Analysis of Consultations](#), Cm 7342-III, 25 March 2008

³⁵ Ministry of Justice, [The Governance of Britain: Constitutional Renewal](#), Cm 7342-I, 25 March 2008, p14

³⁶ Joint Committee on the Draft Constitutional Renewal Bill, [First Report](#), HL 166/HC551 2007-08, July 2008, para 24

³⁷ Clause 35, [Constitutional Reform and Governance Bill](#)

³⁸ The Rt Hon David Cameron and The Rt Hon Nick Clegg, [The Coalition: our programme for government](#), 20 May 2010, p11

³⁹ Home Office Press Release, [New reforms put public at the heart of policing](#), 1 December 2010

4. Controversies and legal cases

4.1 Brian Haw

Brian Haw began a long-term demonstration in Parliament Square on 2 July 2001, initially against Government policy in Iraq. Legal action was taken against Mr Haw in 2002 on the grounds that he was obstructing the pavement, but the High Court ruled that the obstruction was not unreasonably hindering pedestrians.⁴⁰

His demonstration continued despite the new legislation. In July 2005, Mr Haws won an application for judicial review by successfully arguing that the notice and authorisation scheme did not apply to him because his demonstration had begun before section 132 of the 2005 Act had come into force.⁴¹ This was overturned on appeal in May 2006.⁴² He was authorised to continue his demonstration as long as his placard display was no more than three metres wide; when he did not comply, police removed the majority of the placards on 23 May 2006.

There were accusations of heavy handedness in a number of press articles.⁴³ Mr Haw was prosecuted, but magistrates ruled that the Metropolitan Police Commissioner's powers could not be delegated to more junior officers, and that the conditions lacked clarity.⁴⁴ In August 2007, the High Court overturned the first of these findings on appeal, but upheld the second.

Mr Haw's demonstration lasted for a decade.

4.2 Tamil protests, 2009

In April 2009, Tamil protestors staged a demonstration in Parliament Square, which ended up lasting several weeks. Initially the protestors did not obtain permission, but they subsequently sought and received authorisation for a 50 people to protest under the name of British Tamil Students in the north-east corner of Parliament Square. On occasion, the numbers exceeded that amount by several thousand, and other Tamil organisations joined the protest. The Joint Committee on Human Rights revisited its enquiry on policing protest at this time, concluding:

The careful management of the Tamil protest in our view struck an appropriate balance between protecting the right of the Tamils to protest in Parliament Square and the need to maintain access to Parliament for Members, staff and the public. It is notable that we received no evidence from individual Tamils or their organisations complaining about how their protest was

⁴⁰ *Westminster City Council v Brian Haw (2002)* [2002] EWHC 2073 (QB)

⁴¹ *R (on the application of Brian Haw) v (1) Secretary of State for the Home Department (2) Commissioner of Police of the Metropolis (2006)*, [2006] EWHC 2061 (Admin)

⁴² *R (on the application of Brian Haw) v (1) Secretary of State for the Home Department (2) Commissioner of Police of the Metropolis (2006)*, [2006] EWHC Civ 532

⁴³ "[Met criticised over cost of removing Iraq placards](#)", *Independent*, 26 May 2006

⁴⁴ *Director of Public Prosecutions v Brian Haw (2007)* [2007] EWHC 1931 (Admin)

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handled by the police. The protest did cause inconvenience to some, but this is a small price to pay for living in a vibrant democracy.⁴⁵

Concern about the inconvenience caused to Members and the public led to a number of questions in the Commons and the Lords. On 13 May, the then speaker, Michael Martin, announced that he was in talks with relevant authorities.⁴⁶

The Tamil protests highlighted the weaknesses of the *SOCPA* in the face of spontaneous, large-scale protest outside Parliament. The Labour government concluded:

As the recent Tamil protests have demonstrated, a compulsory prior notification scheme is impractical when communities feel very strongly about an issue and want to make their views known quickly.⁴⁷

4.3 Occupy Democracy protests, 2014

On 17 October 2014, protesters from a group called Occupy Democracy established a camp in Parliament Square.⁴⁸ In response to these attempts to establish long-term demonstrations, the police directed protestors to leave and seized sleeping equipment.⁴⁹

The Guardian reported on controversy over protesters complaining about the police's definitions of tarpaulins, backpacks and pizza boxes as "sleeping equipment", and the definition of umbrellas as "structures to facilitate sleeping".⁵⁰ It was also reported that some Occupy protestors managed to stay longer by sleeping on piles of newspapers.

The Greater London Authority (GLA) later put up fences around Parliament Square Garden to prevent further attempts to set up a long-term demonstration. A judicial review challenged the GLA's decision to erect and maintain these fences. The judge ruled that the action by the GLA was as "the very definition of a proportionate response":

The interference in the instant case was prescribed by law: the scope of the local authority's powers to manage and regulate the square were broad and more than sufficient to permit the erection of fences. The interference also pursued the legitimate aims of the care and maintenance of the physical space, the prevention of disorder and the protection of the rights of others. It was also proportionate: the local authority had adopted a measured and graduated approach to the threats of periodic occupation of the square. Alternative responses, including polite

⁴⁵ Joint Committee on Human Rights, [Demonstrating Respect for rights? Follow-up](#), HL 141/HC 522 2008-09, 28 July 2009, para 44

⁴⁶ [HC Deb 13 May 2009 c857](#)

⁴⁷ [The Government Reply to the Seventh Report from the Joint Committee on Human Rights Session 2008-09 HL Paper 47, HC 320 Demonstrating respect for rights? A human rights approach to policing protest](#), Cm 7633, May 2009

⁴⁸ It was also reoccupied in November and December 2014.

⁴⁹ "[Police move to clear Occupy protestors from Parliament Square](#)", *Guardian*, 19 October 2014; "[Occupy Parliament Square protest camp prevented](#)", *BBC News*, 22 November 2015

⁵⁰ "[Occupy protestors forced to hand over pizza boxes and tarpaulin](#)", *The Guardian*, 24 October 2014

requests, removal, arrest and prosecution had been tried without success. The square was first roped off, then part of it was fenced off, then most of it was fenced off. The response waxed as the threat increased and waned as it subsided. It was the very definition of a proportionate response.⁵¹

⁵¹ *R (on the application of Barda) v Mayor of London on behalf of the Greater London Authority* [2015] EWHC 3584

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