FACILITATING PEACEFUL PROTEST

PUBLIC ASSEMBLY

NO advance written notice required for public assemblies

PUBLIC PROCESSION

Is the public procession intended to:
a. demonstrate support for or opposition to the views or actions of any person or body of persons; OR
b. publicise a cause or campaign; OR
c. mark or commemorate an event?

YES

Is the public procession commonly or customarily held? e.g. Annual Remembrance Day Parade

NO → NO advance written notice required [POA s.11(1)]

YES

EXEMPTION from notification requirement [POA s.11(2)]

NO → Written notice required **UNLESS** it is not reasonably practicable, e.g. spontaneous reaction to a political event [POA s.11(1)]

Has advance written notice been given?

YES

NO → Organiser of public procession may be guilty of an offence: POA s.11(7). Participants NOT guilty of any offence.

Are the intentions of those organising or participating in the public procession or public assembly peaceful?

A procession or assembly should be considered peaceful if its organisers or representatives have peaceful intentions. NB peaceful includes conduct that may annoy or give offence to persons opposed to the ideas or claims a particular procession is promoting.

YES

PRESUMPTION IN FAVOUR OF PEACEFUL ASSEMBLY: ECHR ARTICLE 11.
Police have a duty to:
1. refrain from preventing, hindering or applying unreasonable indirect restrictions upon the right to peaceful assembly (negative duty).
2. take reasonable measures to protect peaceful public processions and assemblies (positive duty).

Do you reasonably believe the public procession or assembly may result in
a. serious public disorder **OR**
b. serious damage to property **OR**
c. serious disruption to the life of the community **OR**
d. intimidation of others? [POA 1986, ss. 12 and 14]
Nb. Police must demonstrate a certain degrees of tolerance towards the protest and anticipate a level of public disruption.

NO → Peaceful public procession or assembly should be facilitated without the need to impose conditions or restrictions upon it.

If before or during the event, new information or intelligence indicates a change in circumstances, you should consider:

NO

Do you have compelling and demonstrable information or intelligence that those organising or participating in the protest will use, advocate or incite violence?

NO → Even if there is a real risk of a public procession or assembly resulting in disorder by developments outside the control of those organising or participating in it, such a public procession or assembly does not for this reason alone fall outside the scope of protection guaranteed by ECHR Article 11.

YES

FALLS OUTSIDE SCOPE OF PROTECTION OF ECHR ARTICLE 11.
Exercise of police powers must be lawful and proportionate. Any use of force by police should be the minimum necessary in the circumstances.

YES

Police can impose conditions or restrictions on the public procession or assembly provided such restrictions:
1. are **lawful** e.g. imposed in accordance with POA 1986 ss.12 or 14 **AND**
2. pursue one or more **legitimate aims**:
   a. national security
   b. public safety
   c. prevention of disorder or crime
   d. protection of the rights and freedoms of others **AND**
3. are **necessary and proportionate**.

CONSIDER THE FOLLOWING:
a. Is the purpose sufficiently important to justify the restriction?
b. Will the measures you propose to take achieve that purpose?
c. Are the measures you are taking the least restrictive measures you could take to achieve your purpose?
d. Do the measures maintain a fair balance between the rights of the protesters and the general interest of the community?

NO → **Restrictions may be unlawful and in violation of ECHR Article 11**

YES

Conditions or restrictions imposed on the procession or assembly under POA 1986 ss.12 or 14 to prevent serious public disorder, serious damage to property, serious disruption to the life of the community or the intimidation of others will be lawful.

Conditions that can be imposed on a public procession under POA 1986 s.12 include:
a. the route the procession can take
b. prohibiting the procession from entering a particular public area.

If particular circumstances exist and a Chief Officer reasonably believes that the powers to impose conditions will **NOT** be sufficient to prevent **SERIOUS PUBLIC DISORDER**, the Chief Officer may apply to the council for an order prohibiting the holding of public processions or a particular class of public procession in the force area or part of the force area for a period of UP TO 3 months [POA s.13(1)]. In the case of the Metropolitan Police Service or the City of London Police, the Commissioner applies directly to the Secretary of State [POA s. 13(4)]

The council must obtain the consent of the Secretary of State to any order prohibiting the holding of public processions [POA s.13(2)].

A person who organises, takes part in, or incites another to take part in a public procession the holding of which he or she knows to be prohibited is guilty of an offence [POA 1986, ss.13(7)-(9)].

Conditions that can be imposed on a public assembly under POA 1986 s.14 include:
a. the place where the assembly can take place (or continue to take place)
b. the maximum duration of the assembly
c. the maximum number of persons who can participate.

NO POWER TO BAN A PUBLIC ASSEMBLY UNDER THE POA 1986.

A person who organises or takes part in a public procession or assembly and knowingly fails to comply with a condition or restriction imposed under POA s.12 or s.14 or incites others taking part to fail to comply is guilty of an offence, BUT it is a defence to prove that the failure arose from circumstances beyond the person's control: POA ss.12(4)-(6) and ss.14(4)-(6).

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