

# Photography and the Law in the UK

An idle wander through the possible pitfalls  
facing a photographer in the UK today

# Overview

- The legal situation in brief
- In Public
- Commercial vs personal photography
- Public Transport
- Military Establishments
- The Terrorism Act 2000
- People
- Copyright
- Anti-social Behaviour
- Foreign Climes

There is no U.K. statute  
prohibiting photography in  
public

# There is no U.K. statute prohibiting photography in public

I seek your support in reminding your officers and staff that they should not prevent anyone from taking photographs in public. This applies equally to members of the media and public seeking to record images, who do not need a permit to photograph or film in public places.

# What's public?

- 'Public' property is rather a loose term, because all land in the UK is owned, even if it's accessible at all times.
- The high street, any named road not marked Private Road, the pavement; these are all public.
- You will sometimes see studs in the pavement that mark the edge of a buildings land. This could be deemed as not public property and it is not BUT it has public access.
- Shopping centres are not public BUT have public access.

# Public but not public

Some public places also have bylaws preventing commercial photography, such as in Trafalgar Square, Parliament Square and some Royal Parks.

But if you're not taking photos for commercial gain or causing an obstruction, you're unlikely to be restricted.

# Commercial vs personal photography

For commercial photography you need:

- permission
- permission
- permission
- permission
- permission
- Consent
- Model release forms

# What's the difference between commercial and non-commercial photography?

There's no real clear-cut photographic or legal definition between the classifications upon the point of image capture, and this is where the area becomes very cloudy.

- **NON-COMMERCIAL**

- Non-commercial photography is classed as any photograph taken or image you make for which you don't receive commercial reward or gain. This includes competition entries taken in good faith.

- **COMMERCIAL**

- Commercial photography is everything else, including advertising, T-shirts, commissioned work for corporate or private clients, flyers, shooting images to sell on your website digitally or sell on as prints.



# Public Transport

Public transport includes, for the purposes of this presentation, airports, railway stations and property, docks and buses.

From above: all land is owned.

If you are on their land its their rules.

But

Taking photographs from public land can't be stopped.

# TFL

## Private photographers<sup>1</sup>

- We get many requests from tourists, train enthusiasts, budding photographers and customers 'passing through' a station who may want to take photographs for their own personal use. We agree that this is acceptable, at the station's discretion, as long as additional camera equipment (including flash and tripods) is not used.
- However, images clearly promoting the London Underground brand/logos must not be published or broadcast without our permission ahead of time.
- Also, people filming or taking photographs for their own purposes on TfL's network are responsible for ensuring they comply with the privacy requirements of the [Data Protection Act 1998](#).

<sup>1</sup><https://tfl.gov.uk/info-for/media/filming-and-photography/filming-and-photography-on-tfl?intcmp=1594>

# Military Establishments

Military airfields or any establishment that has a military or government purpose should be avoided without express permission to photograph them.

# The Famous Mach Loop



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# The National Archives<sup>1</sup>

**Former Home Office minister, Tony McNulty has said:**

- *"There is no legal restriction on photography in public places, and there is no presumption of privacy for individuals in a public place."*

**Relevant areas of the law, described in more detail below, are:**

- **Child protection legislation** to prevent the taking, possession, distribution or publishing of indecent photographs of children under 16
- **Invasion of privacy** (the same law applies to adults and children)
- **Harassment** of a person by taking their photograph. It is only considered harassment if your actions cause them alarm or distress and amount to a course of conduct, not a single incident (for example, on at least two occasions).
- **Trespass**. The laws around trespass control access to private property for the purposes of taking photographs.
- **Prevention of terrorism and protection of national security**. This applies to taking photos around sensitive locations such as airports or government buildings.

<sup>1</sup> <http://webarchive.nationalarchives.gov.uk/20100405140618/http://asb.homeoffice.gov.uk/article.aspx?id=12624>

# Chief Constables and the Prevention of Terrorism Act: Section 44<sup>1</sup>

4 December 2009

To: all Chief Constables and Commissioners Dear Colleague  
Section 44 Terrorism Act and Photography

From

Andrew Trotter OBE QPM Chief Constable Head of ACPO  
Media Advisory Group

<sup>1</sup>[http://www.bhattmurphy.co.uk/files/documents/Section\\_44\\_Terrorism\\_Act\\_Photos.pdf](http://www.bhattmurphy.co.uk/files/documents/Section_44_Terrorism_Act_Photos.pdf)

# Chief Constables and the Prevention of Terrorism Act: Section 44<sup>1</sup>

Stop and Search Section 44 gives officers no specific powers in relation to photography and there is no provision in law for the confiscation of equipment or the destruction of images, either digital or on film. On the rare occasion where an officer suspects that an individual is taking photographs as part of target reconnaissance for terrorist purposes, then they should be treated as a terrorist suspect and dealt with under Section 43 of the Act. This would ensure that the legal power exists to seize equipment and recover images taken.

These scenarios will be exceptionally rare events and do not cover instances of photography by rail enthusiasts, tourists or the media.

Officers should be reminded that it is not an offence for a member of the public or journalist to take photographs of a public building and use of cameras by the public does not ordinarily permit use of stop and search powers.

<sup>1</sup>[http://www.bhattmurphy.co.uk/files/documents/Section\\_44\\_Terrorism\\_Act\\_Photography.pdf](http://www.bhattmurphy.co.uk/files/documents/Section_44_Terrorism_Act_Photography.pdf)



# Section 43

Stop and search powers illegal, European court rules<sup>1</sup> (2010)

The Strasbourg court ruled it was unlawful for police to use the powers, under section 43 of the Terrorism Act 2000, to stop and search people without needing any grounds for suspicion.

<sup>1</sup> <https://www.theguardian.com/world/2010/jan/12/stop-and-search-ruled-illegal>

# Andrew Trotter: Chief Constable Chair of ACPO Communication Advisory Group

Dear National Police Chiefs Council,  
In 2010 Andrew Trotter published the following on behalf of ACPO

.....  
Dear Colleagues  
Guidance for Photographers

I am writing to you in my capacity as Chair of the ACPO Communications Advisory Group which sits in the Presidential Business Area.

There have been a number of recent instances highlighted in the press where officers have detained photographers and deleted images from their cameras. **I seek your support in reminding your officers and staff that they should not prevent anyone from taking photographs in public. This applies equally to members of the media and public seeking to record images, who do not need a permit to photograph or film in public places.** ACPO guidance is as follows:

There are no powers prohibiting the taking of photographs, film or digital images in a public place. Therefore members of the public and press should not be prevented from doing so.

We need to cooperate with the media and amateur photographers. They play a vital role as their images help us identify criminals.

We must acknowledge that citizen journalism is a feature of modern life and police officers are now photographed and filmed more than ever.

Unnecessarily restricting photography, whether for the casual tourist or professional is unacceptable and it undermines public confidence in the police service.

**Once an image has been recorded, the police have no power to delete or confiscate it without a court order.**

# Guidance issued to MPS officers and staff re stop and search photo policy 14th December 2009.

John Yates, Assistant Commissioner Specialist Operations, has today reminded all MPS officers and staff that people taking photographs in public should not be stopped and searched unless there is a valid reason.

"Whilst we must remain vigilant at all times in dealing with suspicious behaviour, staff must also be clear that:

- *there is no restriction on people taking photographs in public places or of any building other than in very exceptional circumstances*
- *there is no prohibition on photographing front-line uniform staff*
- *the act of taking a photograph in itself is not usually sufficient to carry out a stop.*

"Unless there is a very good reason, people taking photographs should not be stopped."

# THE PHOTOGRAPHER, THE POLICE AND THE LAW

**Below are listed the current legal rights between “Photographers” (amateur or professional) and The Police of the UK. All of the following matters where thoroughly discussed and agreed between numerous photographic organisation and “The Association of Chief Constable Officers (ACPO).**

## Photographers Rights: Public V Private

- Members of the public do not need a permit to shoot in public places and, apart from some notable exceptions, you can shoot private buildings or property as long as you're standing on public land.
- 'Public' property is rather a loose term, because all land in the UK is owned, even if it's accessible at all times. There are some 'prohibited places', which it is an offence to take photos of (such as factories, dockyards and mines owned by the Crown).
- Some public places also have bylaws preventing commercial photography, such as in Trafalgar Square, Parliament Square and some Royal Parks. But if you're not taking photos for commercial gain or causing an obstruction, you're unlikely to be restricted.
- That's not to say you won't draw some attention. Stake out a street corner with an SLR, long lens and tripod, and you might be approached by over-zealous security guards, keen to see what you're up to. Be courteous and polite, but be aware of your rights.

## Private Property

- It can be hard to discern if you're on public or private property, as a lot of private property isn't clearly marked. Unless you're absolutely sure that you're on the public highway, it pays to be cautious.
- If you're on private land and the owner asks you to leave, failure to do so will be classed as trespass. They can use reasonable force to make you leave the land, but this doesn't include grabbing or smashing your kit.
- Also note that it's a criminal offence to commit trespass on railway or military property, and some politicians' and Crown property in the UK.
- Be careful when you're out and about in the country with your camera, too. Most fields, and all farmland, in the UK are privately owned. If shooting within the boundaries of a farmer's field without permission, you'll risk trespassing, **unless you're on a designated and marked public footpath.**
- Shooting a field of flowers from the public road is fine, even though they're on private property.

## **Photography On Public Transport**

- You can take photographs at train stations for personal use. Any commercial photography requires prior permission from the train operator or Network Rail.
- Personal photography is fine. If you want to spend longer than 15 minutes taking pictures, or you want to sell the pictures, you need to apply for a permit.
- Airports are private property, so restrictions apply. Generally, only photos for personal use can be taken in the terminal lounges. Most civil airports have viewing areas outside the boundaries, from where you can shoot aircraft.

# Photographers Rights: Taking Pictures of People in Public<sup>1</sup>

Are you breaking any law when you're taking pictures of people in public?

Probably not, but the position under UK law is uncertain.

- There are currently no general privacy laws under UK law, but the UK courts must take into account the European Convention on Human Rights, which gives everyone the right to respect for their private and family life. As this is an area of law that has been developing rapidly over the last few years, it is hard to be certain what will constitute an infringement.
- The key issue is whether the place the image is taken is one where a person would have a reasonable expectation of privacy. For example, it has been suggested that the right of privacy of a child could be infringed by publishing a photo of them with their parents in a public street.
- It is therefore advisable to be careful when taking photos intended for publication, even where the subject matter is in a public place. Failure to obtain a model release for the use of an image will certainly make it harder to sell the picture to stock libraries.

<sup>1</sup> [http://www.paulreynolds.com/articles/photography\\_and\\_law/Photography%20And%20The%20Law.pdf](http://www.paulreynolds.com/articles/photography_and_law/Photography%20And%20The%20Law.pdf)



## **Photographing Children?**

- The same laws apply to adult and child subjects, but a child does not have the legal capacity to consent and a parent or guardian must therefore do so on their behalf. Be aware that schools, leisure centres and places where children and adults gather usually have their own photography restrictions.
- Although decent photos of children taken in a public place may be fine for non-commercial use, seek permission from the child's parents or guardians and don't shoot covertly with a long lens. For commercial images, you'll need to get a model release signed by the parents.

# UK Police Force

- Police in the UK have no powers to stop you taking photos in a public place, but there are other laws you could be arrested and imprisoned for, such as the Official Secrets Act. An officer may wish to search you in connection with the 'stop', but they can only do this if they suspect you're carrying drugs, weapons, stolen property or items that could be used to commit a crime, an act of terrorism or cause criminal damage.
- Searches carried out under Section 44 of the Terrorism Act 2000 have been banned for individuals, but an officer can still stop and search you if they have a 'reasonable suspicion' that you're a terrorist, under Section 43.

# Security Guards

- Unlike police officers, security guards have no powers to stop and search. They are members of the public, and as a result they can't obstruct you from taking pictures if you're standing on public land, nor can they ask you to delete any shots.
- Anyone who demands you should, and uses threatening behaviour, could be committing assault.
- Similarly, if they use force to take your camera or memory card then not only could they commit assault, but also the civil tort of trespass to goods and trespass to person. If they withhold your camera or memory card then it's theft and a criminal offence. In this situation, call the police.
- You do need to make sure that you haven't accidentally strayed onto private land owned by their employers, though. Even if you simply lean over a wall or a fence to take a photograph, this can be classed as trespass.

# Police Can...

- Stop and search you if they reasonably suspect you to be a terrorist under Section 43 of the Terrorism Act 2000.  
View images on the camera you're carrying if you're being searched under Section 43.  
Seize and retain your camera if the police officer reasonably suspects that it may contain evidence that you are a terrorist.
- Question you if you appear to be taking photos of a member of the police force, armed forces or intelligence services.
- Arrest you for taking pictures of the police, armed forces or intelligence services under Section 58A of the Terrorism Act 2000, if they have a reasonable suspicion that the 'information' is designed to provide assistance to a person committing or planning an act of terrorism.

# Police Can't...

- Stop and search you under Section 44 of the Terrorism Act 2000 (which doesn't require any suspicion of an offence having been committed).
- Prevent you taking pictures on the public highway (although you could be charged with obstruction or a public order offence – breach of the peace, for example).
- Delete or ask you to delete digital images at any point during a search under Section 43 (although they can do this following seizure if there is a court order or similar that permits it).
- Arrest you for photographing police officers involved in the course of normal police duties and incidents (unless they have a reasonable suspicion that the pictures will be used for assisting terrorist activities).

# Copyright

Copyright How do you know you're not breaching copyright while out on the streets?

When we think of copyright some of us assume it's there just to protect our rights as photographers and stop people stealing our work. That's true, but copyright is very far reaching and not only protects your images, but the rights of many other people's work.

The law governing Copyright is the Copyright, Designs and Patents Act 1988 and it applies to almost all artistic work, irrespective of artistic quality.

Copyright exists in almost anything that has been produced as a result of a person's skill, labour and judgement.

That's important to know because almost all man-made objects in the world around us that we photograph could potentially be covered by copyright. Does that mean you can't photograph an everyday object as a still life, such as a wine bottle? Although copyright may exist in such a design, most mass-produced items are unlikely to cause copyright problems. In the case of things like jewellery, fabric, glassware, porcelain and pottery, all of these are subject to copyright. The same applies to photographs, paintings, drawings, etchings, lithographs, tv images and even theatrical performances - although a single photograph from a performance is unlikely to breach copyright. So what's not covered? Well, there's no copyright in a person's appearance, ideas or news; although copyright would exist in a photograph of a news event, as it's a body of artistic work, even though the news content isn't. In photographic terms, an 'idea' can be more abstract in meaning. Attitudes in the photographic and legal communities are constantly changing. For example, if a photographer places a blonde model on a blue chair outside the London Eye and another uses a brunette model on a pink chair at the same location with the same pose then surely it's an original work of art by his or her skill and labour? Well, it used to be seen that way in the eyes of the law and the photographic community, but attitudes are beginning to shift. If the case went to court it would be up to a judge to decide if the similarities were accidental or whether the photographer deliberately set out to copy the image. If all this seems to be worryingly restrictive as you wander around town with your camera then rest easy as incidental inclusion of a copyright work, for example a street scene with a shop sign or trademark in the background, isn't an infringement of copyright. The same applies to buildings or sculptures that are permanently situated in a public place or in premises that offer open access to the public. How long does copyright last? In the UK copyright begins at the initial creation and lasts for 70 years after the creator's death, beginning 1st January the following year. Once this time has elapsed, the work falls into the public domain and may be used freely. For more information on copyright law visit [www.copyrightservice.co.uk](http://www.copyrightservice.co.uk)

# Anti-social behaviour

Anti-social behaviour covers a wide range of unacceptable activity that causes harm to an individual, to their community or to their environment. This could be an action by someone else that leaves you feeling alarmed, harassed or distressed. It also includes fear of crime or concern for public safety, public disorder or public nuisance.

- Examples of anti-social behaviour include:
- Nuisance, rowdy or inconsiderate neighbours
- Vandalism, graffiti and fly-posting
- Street drinking
- Environmental damage including littering, dumping of rubbish and abandonment of cars
- Prostitution related activity
- Begging and vagrancy
- Fireworks misuse
- Inconsiderate or inappropriate use of vehicles

NB Photography is not mentioned

# Breach of the Peace

What is a breach of the peace?

- Breach of the peace is a common law concept which is used to prevent unlawful violence against people or property. 'Peace' in this context refers to the Queen's peace, and should be taken to mean 'the opposite of war.'

What constitutes a breach of the peace?

It is now widely accepted that the correct definition for breach of the peace is that which was given in the case *R v. Howell* (1981), ie, that the behaviour of the person involved caused the police officer (or private citizen) to believe that:

- a breach of the peace had or would occur; and that
- it related to harm which was actually done or likely to be done to a person or, in his/her presence, their property.

Since breach of the peace is **not** a criminal offence, it is not punishable either by a fine or imprisonment and proceedings for breach of the peace do not give rise to a conviction.



# Copyright & Cambridge Market

- I have seen a sign on a tee shirt stall prohibiting photographs of the stall and its merchandise.
- The question this brings to mind is whether this is this an enforceable injunction?
- I would suggest that it is not if:
  - The photograph is not for commercial use
  - You do not intend copying the designs for sale on your own tee shirts (but how would they know?)

# Foreign Climes

- Be wary
- Be very, very wary.
- Research before you go!

What is good for a citizen of a country does not necessarily apply to visitors.

<sup>1</sup> <https://www.theguardian.com/uk/2001/nov/12/helenasmith>

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## Plane spotters face spy charges

Advertisement

The perils of plane spotting abroad will be highlighted today when 12 Britons, accused of espionage, appear in a Greek court to answer charges of spying on military airstrips around the country.

<sup>1</sup> <https://www.theguardian.com/uk/2001/nov/12/helenasmith>

# Other references

<http://www.sirimo.co.uk/wp-content/uploads/2009/05/ukphotographersrights-v2.pdf>

This is a handy “All in One” Guide to  
photography and the law in the UK

# Further reading

## **Photographers Rights: the ultimate guide**

<https://www.techradar.com/how-to/photography-video-capture/cameras/photographers-rights-the-ultimate-guide-1320949>

This one has a useful chat with a police inspector

<https://www.diyphotography.net/photographing-streets-law-uk/>

6 ways photographers break the law

<https://photographyfarm.co.uk/blog/six-ways-that-photographers-may-break-uk-laws/>

# You Tube

Ken Livingston

<https://www.youtube.com/watch?v=9TuxOUGV6hE>

Practical Photographer From 6 minutes

<https://www.youtube.com/watch?v=raX9Rr29O2c>

<https://www.youtube.com/watch?v=Rh9iHfKv4N4>

amateurphotographer.co.uk

<https://www.youtube.com/watch?v=RvlgLgA4L5I Xbk>