

When you might be at risk of charges of Public Nuisance:

Disruption to traffic needs to be widespread and indiscriminate and affect the reasonable comfort and convenience of a cross-section of the public. I.e a considerable number of people and a number of different businesses. This is likely to be road users in and around the blockade as well as businesses and residents located in the vicinity.

It doesn't need to be shown that campaigners intended to cause a public nuisance, it holds if people know or ought to have known that their actions were likely to cause a public nuisance, even if it was an unwelcome by-product of their actions.

Public Nuisance is a very expensive charge to bring. The police must find, and support to bring to court as witnesses, a lot of different kinds of people. This means it's not going to be the first offence they go for. But it might be something they try after a few hours if they're getting desperate. In our experience those activists arrested under it risk becoming culpable for the behaviour of others in the blockade if they can see what's going on and don't change what they're doing.

Public nuisance is an either way charge it can be heard in a magistrates or crown court. The CPS may request a crown court trial, but this may be refused by the judge/magistrates at the case management hearing if they decide that the case is not serious enough. A Crown Court trial with a jury may have a greater chance of acquittal (with a fair judge), but risks large costs if convicted.

It should no longer carry a custodial sentence for protest (:!) but if held in a crown court it can still wind you up with a two week long plus court case, massive court costs (many thousands of pounds) and a big chunk of community service (many hundreds of hours). So it's something the group should monitor and check in about if it looks like a threshold for it is going to be crossed and not everyone is up for the consequences.

Common Law is written on a case by case basis, not written by parliament so there isn't a set of easy guidelines that can be pointed to about how judges will run the case. There have only been two Public Nuisance cases that we know of in a protest context: 2012 Tower Bridge banner drop(not guilty) and the Frack Free Four truck surf (guilty). If a worst case scenario occurs, and convictions are made, the XR outcomes may have legal impacts on those taking future protest action far beyond XRs circles.

It would also be unlikely to give someone their 'day in court'. The judge wouldn't be obliged to let defendants run a necessity defence. Far more refuse, in recent experience, than allow it.

The Frack Free Fours judge didn't let them talk about the reasons for the action at all. There wasn't the remotest chance of a 'conscientious objector' defence. On the two occasions we

started trying to talk about the impacts of fracking on the area the jury were sent out and we were told the trial would be restarted with a new jury if we persisted.

Judge Altham was obviously a wrong un, and judges in London are generally the most progressive than in the country. But there is a real threat of worst case scenario outcomes for those who take obstructive action if they're already under investigation for public nuisance.

These attempts could be made to mitigate charges of Public Nuisance.

One of the tests of the level of nuisance is how long the inconvenience is in place, as well as the provision made to limit it's impact.

Monitor/ gather the following if possible (stewards or other assigned activists):

- How long an individual vehicle may be waiting in a traffic queue at a diversion at a given time.
- How many minutes the detour adds to their journey.
- Witness contact details for any friendly residents or businesses who are prepared to express that they aren't impacted by the protest.
- Details for friendly witnesses (people on buses, and drivers) who may be diverted by police along different routes but don't regard this as an inconvenience
- If bus routes are being diverted, trying to find friendly drivers/passengers who weren't bothered
- Logs of how emergency response vehicles are successfully navigating the blockade.

It might also be worth getting activists to monitor public reactions for people in particular difficulty, so that they can see if there's any offers that can be made to ease their situation. (if and when it's possible to log this sensitively). Ie, warning people waiting at bus stops that routes have been diverted. Getting frail residents access to their homes.

People need to remember that many members of the public might find them intimidating/difficult to approach, or be fuming out of sight of the main blockade. Pairs of activists going looking for such folk and trying to help might be a recipe for an earful, but might also provide an opportunity to work out ways of fixing some issues.