

**Public Place Naturism
England and Wales
January 2019**



British Naturism
www.bn.org.uk

British Naturism has created this updated document to assist with explaining legal issues of relevance to the Naturist community.

There are only ever one or two incidents per year, sometimes none, but it is wise to be well informed in case you face a challenge or enquiry by any official ... sometimes, officials are not!

This Guide is applicable only to the law of England and Wales and has been created following Guidance from Director of Public Prosecutions and the Briefing Note of 2018 by The Police College.

If you require specific legal advice you should consult a solicitor.

If you encounter a problem please contact British Naturism immediately.

We cannot give legal advice but we can probably help you, your legal representative and any police or other official with information.

Immediate information is available for you, solicitors and the police at:

www.bn.org.uk/policing

Naturism is Lawful in England & Wales

Naturism and the law

Naturism and public nudity is lawful and is not a criminal offence. Nudity is legal in a much wider set of circumstances than is sometimes assumed and according to The Director of Public Prosecution's Guidance on Nudity in Public of September 2013 to Crown Prosecution Service (CPS) "a balance needs to be struck between the Naturist's right to Freedom of Expression and the right of the wider public to be protected from harassment, alarm and distress" According to CPS Guidance every case of nudity is considered on its facts. ***In practice no case brought against a Naturist exercising their naturism has been prosecuted since 2012.***

D

5. Unfold, cut off margins, fold up

Section 66 of The Sexual Offences Act 2003 was created to separate Naturists and others who are lawfully naked in private or in public from 'Flashers' where there is a sexual context and an intent to cause 'Alarm or Distress'.

The Briefing Note of 2018 from The Police College on Naturism no longer refers to Section 5 of The Public Order Act as Section 66 of The Sexual Offences Act was predicated on the basis that the human body itself is not a cause of 'Alarm or Distress' and would contradict this doctrine.

Section 4A of the Public Order Act (POA) 1986 - Intentionally Causing 'Harassment, Alarm or Distress'

To breach this section, a person must have used "threatening or abusive words or behaviour, or disorderly behaviour within the hearing or sight of a person likely to be caused 'harassment, alarm or distress'".

This section requires intentional actions undertaken against another using genitals in a threatening or abusive manner.

Simple dislike or belief of illegality is insufficient to meet these criteria.

Take care to be aware that when there are others around you that they may dislike your nudity and may misinterpret your appearance or behaviour as illegal or wrongful in some way.

British Naturism advises that practising Naturism in close proximity to vulnerable people, where it is possible to be aware of this, should be avoided.

Past erroneous allegations that have been made include:

1. **Outraging Public Decency** - committing in public any act of a lewd, obscene or disgusting nature. The reaction must be more than mere 'shock' or even 'disgust', it must be that decent members of the public feel 'outraged'.

2. **Public Nuisance** - to do an illegal act or omission that prevents the public from being able to enjoy their rights. CPS Guidance states that: ***'A naturist whose intention is limited to going about his or her lawful business naked will not be guilty of any of the (above) offences.'***

3. **Community Protection Notices (CPN)** - under Anti-Social Behaviour legislation 2014

The CPS has indicated that nudity may fit the anti-social rather than the criminal category. These may be issued by a Local Authority. In practice only two have been issued against one person undertaking maintenance at the front of his home since 2014, however 16 criminal charges for the same incidents were defeated in court in 2017.

A notice may be served as a CPN for 'Anti-social Behaviour' under the provision of 'Harassment, Alarm or Distress' in order to prevent a stated & identified harm in a community.

It is vital to immediately appeal such orders as there is only a 21 day period for an appeal. Members of British Naturism should notify BN HQ immediately. A breach of this notice may incur fines &/or imprisonment, however section 66 of The Sexual Offences Act was predicated on the basis that the human body itself is not a cause of 'Alarm or Distress'.

The law has not been fully tested in this area to date.

The Anti-Social Behaviour, Crime and Policing Act 2014 is comparatively recent and the provisions are designed to be simpler and more effective than the imposition of ASBOs. The Act allows the court to impose injunctions to prohibit or require specific behaviour(s). The Act also introduces the new Criminal Behaviour Order, which can be imposed on conviction of an offence of causing 'Harassment, Alarm or Distress'. Although the Home Office and government ministers have given various assurances, the full meaning of the Act will not be clear for some time. If any part of the Act is mentioned in the context of Naturism please contact British Naturism immediately.

Police Powers of Arrest

are set out in Section 110 of the Serious and Organised Crime Police Act 2005 which updated (PACE 1984) Codes of Practice.

In summary, the police can arrest without a warrant if they reasonably believe that an offence has been, is about to be, or is being committed and an arrest is necessary.

An arrest is only necessary if the specific arrest conditions apply.

The arresting officer must have an accurate understanding of the offence for which s/he is arresting and must give the reasons on arrest or as soon as practical thereafter.

An officer is entitled to establish your identity and address, but not to enter your home without a warrant.

As Naturism is lawful per se, there would have to be other attending circumstances to justify any arrest.

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F

3. Horizontal fold F on top of E

A

B

C

1. Vertical fold, B behind A

2. Vertical fold, C facing B

Searches

Police Powers of Search Part 1 of PACE and Code A set out Police Powers to Stop and Search. The police have powers to stop and ask questions but you are not obliged to answer. They only have powers to search you or your vehicle if reasonable grounds apply. They must give their reasons before carrying out a search.

Code B of PACE sets out the powers to search premises. The police have powers to Enter and Search your property without a search warrant only if certain circumstances apply. Powers of entry, search and seizure must be fully justified before use as they can significantly interfere with your right to privacy. The police must consider whether their objective can be achieved by less intrusive means. They have rights to search your home if you allow them inside; be polite but do not. Otherwise a search warrant will have to be obtained on sufficient grounds given to a court and stated on any warrant issued. Keep any and all paperwork.

Contact with the police

In any encounter with the police, British Naturism advises the following:

- Remain calm and be cooperative. The police are employed by us as well.
- Try to have witnesses present, and get their contact details.
- If told to get dressed do so, and remain dressed.
- If told to leave the area, do so.
- If asked for your name and address, give it.
- **crucially** - do not accept a caution, or pay a penalty, without getting advice first.

Accepting a Caution is actually the acceptance of a criminal offence without trial.

As this is an admission of guilt, appeal is not possible, the case is decided as a finality at that point.

Cautions have far reaching and highly damaging affects on people's livelihoods.

They are highly dangerous. They are not a convenient nor quiet way to discharge an allegation although they have been presented in this fashion by some police officers in the past.

If arrested and detained at a police station or interviewed under caution you are entitled to free legal advice. On arrest, the police are entitled to take DNA, fingerprints and photographs without consent. BN advises that you do not agree to an interview without a solicitor present and when questioned you deal with the facts and do not speculate about the attitudes of other people and the effect of nudity on them. Be aware that comments you make in the presence of police or anywhere within a police station at any point can be recorded, and anything you say can then be used against you.

Immediate information is available to you, police, and solicitors at: www.bn.org.uk/policing

Following any encounter with the police or officials please contact British Naturism promptly. The time limits for taking action following arrest may be short.

Photographs

Children (classed as people under 18)

It is an offence to take, permit to be taken, or make any *indecent* photograph or pseudo-photograph or to hold or distribute any of a child of this type. It may not be taken for any sexual purpose.

Photographs within a naturist or normal context should not contravene the law in this area.

Adults

Taking photographs of adults is permitted with consent.

Everyone has a right of privacy in their private and family lives and accordingly they should not be subject to observation or photographed without their consent.

Your Rights.

Article 10 of the European Convention of Human Rights states that everyone has the right to Freedom of Expression. This includes the freedom to do and say what you like so long as it does not provoke violence or the likelihood of it, to hold opinions and to receive and impart information and ideas without interference by public authorities. This right can only be restricted as prescribed by law. Naturism is a form of expression within the meaning of Article 10, of which prosecution is not prescribed by law.

Any interference with this right must be proportionate and the state has a positive duty to facilitate your Article 10 rights. The Equalities Act of 2010 was enacted to comply with the Conventions that were subsumed into UK law in 1998.

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Copies are also available in the 'Downloads' section of the BN website.

Similar documents will be prepared for other parts of the UK

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Conduct

Naturists don't need a formal code. In general:

- There is equality under the law for everyone, clothed or not.
- Avoid being a nuisance.
- Do not be an exhibitionist.
- Avoid confrontations or approaching non-Naturists; respect others personal space.
- Carry a cover up.
- Naturism is non-sexual. Sexual activity is inappropriate &/or illegal in public spaces.
- Take care to safeguard your valuables.
- Always report crime.

999 - Crime in progress or person in danger

101 - Non-urgent calls to the police

In England & Wales, Naturism is lawful.

Following the above should avoid legitimate complaints of unlawful conduct. Please tell us! If we don't know about it then we can't do anything about it.

Nothing in this document may be construed as legal opinion nor legal advice British Naturism 2019 v1.0
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