

Introduction:

The law regarding public nudity can easily be misunderstood or misinterpreted by the police and public alike. The Naurist Action Group has compiled this leaflet to help you understand the law as it currently stands in England and Wales. The law in Scotland and Northern Ireland is applied differently and the information contained within this leaflet cannot be relied upon in those countries.

Outraging Public Decency:

This is a criminal offence at common law; that is it has come into being and has evolved through the decisions of judges since the early Middle Ages and as a consequence, it has never been through the parliamentary process.

According to the Crown Prosecution Service (CPS) it: "... requires a person to commit an act in public that is seen by at least one [other] person and is of such a lewd, obscene or disgusting character as to constitute an outrage of public decency."

This definition is so wide however that the police, judges and magistrates interpret the meaning of outrage and what that constitutes according to their own personal moral standards, which may differ wildly from one person to the next and therefore provides little basis for consistency.

Public Order Act 1986:

The Public Order Act 1986 covers several offences but the one of most interest to naturists is in Part 1, Section 5, Harassment, Alarm or Distress.

It states that an offence is committed when a person uses words or behaviour or displays any writing, sign or other representation that is insulting within hearing or sight of another person and likely to cause harassment, alarm or distress in that person. It also states that the person offended cannot be in either the same or in another dwelling.

The Act provides a defence however, and it is for the accused to prove that:

- a. He (or she) had no reason to believe that a person was within sight or hearing and likely to be alarmed or distressed, or;
- b. That he (or she) was inside a dwelling and had no reason to believe that it would be seen or heard by a person outside it or any other dwelling, or;

Fighting a criminal charge based on nudity in public brings with it legal expenses and probably a lot of anxiety for the defendant. The outcome may be a financial penalty; imprisonment would only be in question for repeated offences.

While NAG does not have access to statistics there have been cases where the defendant has been acquitted; in 2006 for example, Welsh magistrates cleared a district nurse of doing anything wrong after she decided to sunbath naked in her back garden. While others have engaged lawyers who specialise in civil rights to defend them.

The Naurist Action Group aims to promote and advance naturism within the United Kingdom and is independent of other UK-based organisations.

NAG provides a platform for naturists to raise issues and campaign in the interests of UK naturism. NAG can help you to gather support from other naturists without the restrictions or the 'baggage' that are present with other naturist bodies. The Naurist Action Group works with many other naturist bodies in Great Britain.

NAG is funded entirely by donations and is staffed by volunteers. If you wish to donate money, you can do this through our website – www.naturistaction.org.uk – or you can send a cheque, made payable to the Naurist Action Group to:

PO Box 76
Ventnor
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PO38 9BJ

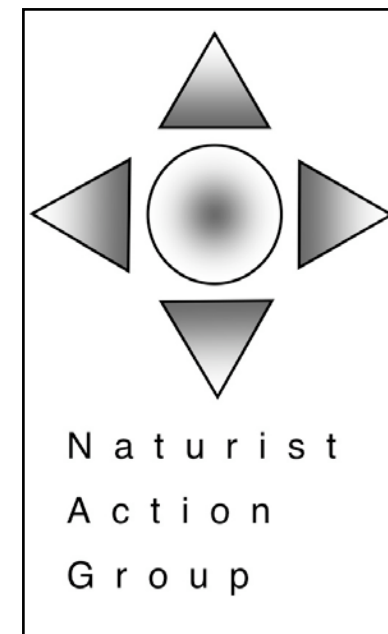
All donations will be acknowledged. And Thank You.

Please feel free to photocopy this leaflet and hand it to any individual, police officer or Police Community Support Officer (PCSO) who you feel will benefit from its contents. Or you may want to detach the inside right panel and handed it to the person concerned instead.

DISCLAIMER: The content of this leaflet is intended to inform rather than advise. Individual circumstances and situations will vary and the Naurist Action Group cannot be held responsible for the actions taken by any person as a result of this publication or any consequences that may arise.

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You And The Law

Public Order Act 1986 cont.

- c. That his (or her) behaviour had been reasonable.

Sexual Offences Act 2003:

The section in the Sexual Offences Act 2003 of most interest to naturists is Section 66 Exposure, which states that a person has committed an offence under the Act if:

- a. He intentionally exposes his genitals **and** that;
- b. He intends that someone will see them and be caused alarm or distress.

While, by definition, a naturist will be exposing his or her genitalia to the public, it will be for the police to find evidence that the intention was for another person to be alarmed or distressed by that exposure.

Police Caution:

On the advice of the CPS, the police have the power to caution someone for a serious crime, if:

- a. There is evidence that he (or she) is guilty of an offence, and;
- b. The person is 18-years of age or over, and;
- c. That the person admits to the crime, and;
- d. That he (or she) agrees to accept the caution.

The caution can be declined, if so the accused may be charged instead.

A caution is not a criminal conviction, but it will be recorded on the police database and can be used as evidence of 'bad character' or as part of an Anti-Social Behaviour Order (ASBO) application and it will appear in Criminal Records Bureau (CRB) checks. According to the Home Office website, a caution is an alternative method to 'address low-level crimes', but **Home Office circular 30/2005** (paragraph 28) states that the details of the person accepting the caution for a sexual offence under section 66, will be placed on the sexual offences register. It continues however:

"It is especially important that an offender is informed of the consequences of accepting a Simple Caution before accepting such a disposal for a sexual offence that makes them subject to these requirements. If the offender is not informed of this, they may, at a later date, have a case for having the Simple Caution removed."

Summary:

Naturists can come into conflict with the Criminal Justice System for the common law offence of outraging public decency or for an offence under one of the two statutes mentioned above. To be naked in public is not though, in itself, an offence either at common law or by statute. However, you should be aware there are places with a local by-law prohibiting public nudity, Bournemouth's beaches is one such example.

How to deal with the police in the event of arrest for being naked:

When people are taken into custody for matters, which in the prevailing climate in the Criminal Justice System are considered minor - or just too difficult to prosecute for whatever reason - the police may on the advice of the CPS offer the accused – YOU – a caution. This saves the system the trouble and expense of bringing the case to court. For the person in custody a caution offers them release and their liberty within half an hour. You will, however, be admitting to an offence and it will accordingly be recorded

Legal advice is available in the police station from solicitors or unqualified persons working for firms of solicitors. The quality of advice is variable and it is unlikely that the adviser will have experience of the law on nudity. Having said that, the advice is free and the police are obliged to offer access to that advice. If the person in custody knows of a solicitor with the appropriate experience, then the police will allow him or her to telephone that solicitor. In that event it is likely that the solicitor will charge a fee.

It is unwise to make any statement to the police under caution without first getting legal advice. The best policy is to only agree the basic facts of the case, if that is possible, but to insist that no offence has been committed.

For the reasons stated above in the section dealing with the police caution, NAG advises anyone accused of any of the offences involving innocent nudity to refuse the offer of a caution and to tell the police that you will plead not guilty to any charge they bring. The person will then be either charged or released on bail to return to the police station at a future date.

See back panel

To whom it may concern

A Statement

The law dealing with public nudity can easily be misunderstood by the law enforcement agencies and the public alike. Although the law in Scotland and Northern Ireland is similar to England and Wales, it is interpreted differently and the content of the attached leaflet has not been relied on in those countries.

There are three offences in either common or statute law to be considered:

- Outraging Public Decency;
- s5 Public Order Act 1986;
- s66 Sexual Offences Act 2003.

None of them prohibit naturism. To outrage public decency, the CPS has stated that the act must be of a lewd, obscene or of disgusting nature. Simple public nudity does not fall within this definition.

Although section 5 of the Public Order Act states that an offence is committed when behaviour is likely to cause harassment, alarm or distress, it also offers a defence if the individual believes that their behaviour was unlikely to do so.

For instance, a naturist practicing their naturism at a beach known locally to be frequented by other naturists in the past may lead them to believe that in this case, their behaviour was unlikely to cause either alarm or distress. In such circumstances, or one like it, naturism is reasonable.

For section 66 of SOA 2003 to apply, an **intent** to cause alarm or distress also needs to be shown in addition to public nudity. Again, public nudity by itself is not illegal.

I contend that no offence has been committed. A police caution will not be accepted by me and if charged, a plea of not guilty will be submitted. A statement will not be made by me unless accompanied by a solicitor.