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## **Photographers Rights: Public vs 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. Think of paparazzi stood waiting outside the celebrities house waiting to take their shots.

'Public' property is rather a loose term, because all land in the UK is owned, even if it's accessible at all times. Some public places do have bylaws preventing commercial photography, such as in Trafalgar Square, Parliament Square and the Royal Parks. So if you're carrying out a commissioned gig, you'll need to have a permit, if however you're just taking personal photographs, then you'll be fine. There are some 'prohibited places', which it is an offence to photograph (such as factories, dockyards and mines owned by the Crown). These often are signed to state that there is a "No Photography policy".

### **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,

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which would be classified as “Destruction of Property” and/or “Assault” if the force is deemed unreasonable. 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. 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. So for example... Shooting a field of flowers from the public road is fine, even though they’re on private property.

## **Photographers Rights: Taking Pictures of People in Public**

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

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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. They may be able to be sold for editorial use, however commercially they would need that all important model release form.

## **Photographing children in public (This one is always a hot topic)**

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. Fully be aware that schools, leisure centres and places where children and adults gather usually have their own photography restrictions, these are usually private property.

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 obvious reasons. For commercial images, you'll need to get a model release signed by the parents.

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### **Do I need a model release form?**

A model release is simply confirmation of consent given to a photographer by the person in the photograph that the image may be used for various purposes – and it is not a requirement of the law. There are currently no standalone ‘image rights’ in the UK, but please note that they may exist in other countries.

Currently, there’s no ‘industry standard’ model release form, and each agency or publisher will have his or her own requirements. If you know which agency you’d like to submit images to, visit their website, where you’re likely to find a printable copy.

### **Photographers Rights with Police**

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.

***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).
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- 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).

### **Photographers Rights with 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.

### **Security guards can...**

- Ask you to stop taking photographs if you're standing on private land without permission or a permit.
- Use 'reasonable force' to remove you from private property if necessary.

### **Security guards can't...**

- Prevent you taking pictures of private property if you're standing on public land.
- Take your camera equipment.
- Look at your photographs.
- Delete, or force you to delete, any of your shots.

### **Lastly**

I would always say, if you are a keen, amateur, budding professional or seasoned photographer, sign up to one of the registered and known photography associations like the BIPP (British Institute of Professional Photographers) or AOP, (Association of Photographers) they will have tones of resources that you can look into and some even have legal advice that they can assist with.

### **Advice from your club.**

Just carry on as you are and enjoy your photography but be respectful to people and try not to antagonise

anyone. If you do apologise and leave the area, tell them what you are doing and offer to show them your images. Don't let go of your camera though. If the object to one, delete it, you can always take it again when they have gone. If you want to take a person in the street ask first, if it is not possible to do that because the moment has gone or could not be easily repeated ie falling of a bike or something, you can always own up and show it to them, personally I would hightail it out of there.

Where children are concerned, don't make the child the object of the photo. If you are taking a beach scene or something then it would be hard to avoid children in the image