

The Governance of Britain

A Response to the Consultation on Managing Protest around Parliament

January 2008

INTRODUCTION

Mishcon de Reya is a firm that takes pride in being a member of the wider UK community and believes that as such, it is proper for it to take a close interest in and make a contribution to the nation's affairs. This paper is in response to the consultation paper published by the Government on 25 October 2007 regarding the management of protest around Parliament (the "Consultation").

Below we outline Mishcon de Reya's proposals in relation to this Consultation.

Q1 – The Government believes peaceful protest is a vital part of a democratic society, and that the police should have powers to manage public assemblies and processions to respond to the potential for disorder. Should the powers generally in relation to marches and assemblies be the same?

Yes – they are both means of public protest with the same potential to both raise awareness and create a conflict situation.

Q2 – Do you agree that the conditions that can be imposed on assemblies and marches should be harmonised?

Yes – for the reason given above. The conditions that should be imposed are as follows:

1. The notice provisions of marches should apply to both marches and assemblies, to give the police the possibility of planning for / managing any disorder or violence in line with their duties to keep the peace. The process of travelling to / from an assembly could be seen as tantamount to a march in any case.
2. The police should not have the power to ban a march (as with an assembly). Both are essential liberal democratic right.
3. The power of the police to impose conditions on a march or assembly if they reasonably believe that it may result in '*serious disruption to the life of the community*' should be removed, as it is an arguably dangerous enhancement of police power which could be used to stifle the effectiveness and impact of even a peaceful and legitimate protest. The police right to impose conditions should only be used to the minimum extent possible where necessary to preserve public order and protect the rights of non-demonstrating individuals.
4. Even where the police have the right to impose conditions, those conditions should only be as to the place of the march, and its duration. To impose limits on the maximum number of persons who may demonstrate may seriously detract from the impact of the demonstration, as solidarity represented by the largest possible number of protesters can add valuable weight to the point being made.

Q3 – Is special provision needed for static demonstrations and marches around Parliament and, if so, what?

The current prior notification provisions are appropriate, as is the requirement for authorisation (which must be given to anyone applying for it in the correct way).

The ability of the Commissioner to attach conditions to static demonstrations and marches around Parliament where he believes it necessary to prevent *'hindrance to the proper operation of Parliament'* should be removed. Parliament's status as the forum of our democracy means that it is, and should be, a focus for demonstrations. Elected representatives need to be able to hear the concerns of the electorate and should not be sheltered from the voice of protest groups.

The ability of the Commissioner to attach conditions to static demonstrations and marches around Parliament where he believes it necessary to prevent *'disruption to the life of the community'* should be removed for the reasons given in our answer to question 2 above.

The conditions that the Commissioner may impose should be limited to the duration of a protest and the place at which it may take place only. In addition, the right to protest in Parliament Square, which was historically a common site of protest against government action or inaction, should be revived.

It should not be an offence for the protest-organisers to use a loud speaker, as this may provide clarity and focus for the protest.

Q4 – Are there any other considerations the Government should take into account?

Our recommendations are laid out above.

Q5 – Do you have views on the model that should apply for managing demonstrations around Parliament?

Our recommendations are laid out above.

Q6 – Do you consider that a prior notification scheme should apply to static demonstrations in the vicinity of Parliament? Should any scheme only apply to static demonstrations over a certain size? If so, what size of demonstration?

A prior notification scheme is advised for all demonstrations around Parliament (regardless of size), to enable the police to minimise security risks and to protect the safety of the demonstrators and the general public.

Q7 – Do you agree that conditions in order to prevent a security risk or hindrance to the operation of Parliament should remain in relation to demonstrations in the vicinity of Parliament?

We agree that conditions in order to prevent a security risk are appropriate, as Parliament is an obvious target for violence. However, we do not believe that there should be conditions set in order to prevent hindrance to the operation of Parliament, for reasons given in our answer to question 3 above.

Q8 – Do you have a view on the area around Parliament that any distinct provisions on the right to protest should apply to?

The current regime seems appropriate (affecting one square kilometre around Parliament).