



Creating a safer
Cambridgeshire



Cambridgeshire Constabulary

Cambridge City Council

Anti-Social Behaviour Act 2003

Part 4 (Sections 30 – 36): Dispersal of Groups

Operational Guidance

Alastair Roberts (Cambridge City Council)
Inspector Steve Kerridge (Cambridgeshire Constabulary)

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Preamble

The Powers to Disperse

1. The Powers to Disperse Intimidating Groups is set out in [Part 4, Sections 30 – 36](#) of the Anti-social Behaviour Act 2003. This Part of the Act sets out the powers of the police to authorise, in agreement with the Local Authority, an area referred to in the Act as “the relevant locality” within which, in defined circumstances, groups of two or more people may be given a direction by a police officer to leave an area for up to 24 hours. The Act came into effect in England and Wales in January 2004.

Note on terminology: Part 4 of the Act is commonly referred to as “section 30”. The area where section 30 powers can be used (the “relevant locality”) is commonly referred to as a “dispersal zone”, and the authorisation of a dispersal zone is commonly called a “dispersal order”. These common terms will be used throughout this document.

2. Cambridge City first used section 30 powers in April 2004 in response to behavioural problems exhibited by members of the street-life community in the Mill Road locality of the City. However, they can and have been more widely used over time.
3. This document deals with the use of section 30 powers and the way in which these are applied in the City. It is divided into three parts. The first part gives a general outline of what is contained in the Act and of the constraints the Act places upon the authorisation of, and the application of, these powers.
4. The second part of this document details the operational guidance agreed between Cambridgeshire Constabulary and Cambridge City Council for the purpose of making, or withdrawing, a dispersal order. It builds on the operational guidance agreed between the Constabulary and the City Council in March 2004 and is intended, in the light of experience, to update on how the powers granted will be applied by the Constabulary once any authorisation has been made.
5. The third part of this document is a flowchart which summarises the section 30 arrangements between the police and the City Council.

An appendix defines some of the key terms used in the Act and in this document.

Part One: The Act

(NB. What follows is not an authoritative statement of the law but a broad summary and commentary).

1.1 What is the intention behind section 30?

Government guidance states that people have the right to feel safe in their communities. It is unacceptable for anyone to be afraid to use public spaces, cash points, shops and parks because they feel threatened by groups of people. Powers under the Act enable police and local authorities to work together to identify particular problem areas that need targeted action to help local communities to remove intimidation and anti-social behaviour from their streets.

Dispersal orders are considered to be extremely effective and are being used across the country to tackle a range of issues. These include, amongst others, begging, vagrancy, underage drinking, street drinking, joyriding, noise nuisance and prostitution.

The section 30 power is intended for use as a short-term measure whilst other, more robust, initiatives are put into place. In this respect it treats the symptoms and not the causes of the anti-social behaviour. However, experience dictates that in certain circumstances a longer-term strategy for a location experiencing problems can take considerably longer to implement than the duration of just one order.

1.2 What is the definition of "anti-social behaviour"?

The Crime & Disorder Act 1998 defines anti-social behaviour as "behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person".

1.3 What powers does the Anti-Social Behaviour Act 2003 give to the police with regard to dispersal?

Section 30 creates a power for a senior police officer, with local authority agreement, to designate an area where groups can be dispersed.

The dispersal zone must be an area where there is significant and persistent anti-social behaviour and a problem where groups of two or more persons cause intimidation, harassment, alarm or distress. The dispersal order should be specific about the reason why it is in

place and be clear about the problem it is intended to prevent or reduce.

1.4 How long does a dispersal order last?

Up to six months. However, it can be authorised for a shorter period of time or brought to an end before the agreed term finishes if the problem no longer exists or has reduced to a point where the use of the powers can no longer be justified.

1.5 Can a dispersal order be renewed?

No. When an order comes to an end it ceases to exist. However, a new order can be issued based on any fresh evidence that problems continue in the area.

1.6 Can a dispersal order be used to cover an area where there is no demonstrable evidence that a problem exists i.e. where it is reasonable to anticipate a problem or where displacement is likely?

No. If an area is designated for an order where no demonstrable problem exists this would be a misuse of the power and could be challenged in a Court of Law.

1.7 What test is applied before making a decision whether or not to designate a dispersal zone?

The power to require people to leave a public place is a significant one which has the potential to challenge deeply-held beliefs about individual liberties and the rights of the citizen. In order to observe these rights certain tests need to be applied.

There are three parts to the test:

1. Is it necessary? (This is a test based on evidence both factual and anecdotal).
2. Is it proportionate? (This is a test as to whether the imposition of an Order is proportionate to the problem being experienced).

These tests are important because the order can impose restrictions on the rights of individuals under the European Convention on Human Rights. Such rights include the right to liberty and security, the right to respect for private and family

life, the right to freedom of association and the right of children to play.

3. Is it appropriate? (This is a test of whether an order will actually contribute to reducing anti-social behaviour, that is, are there alternative, effective measures that could be taken which would have a lesser impact on personal liberty?).

1.8 Are there any other considerations in making a dispersal order?

Care has to be taken that a dispersal order does not act to exclude a person from their home, their workplace or from essential services such as their doctor's surgery.

1.9 How is the evidence test applied?

Police and City Council staff will usually be the first to identify a problem area. This can be as a result of personal observation, complaints from members of the public and calls for service.

Once evidence of a problem exists the police analysts will gather together the data from all the identified sources covering the previous six month period. This will be put into a detailed report which will contain recommendations.

The report is scrutinised by police and City Council staff before submission to the police 'relevant officer' and to the Executive Councillor for Community Development and Health (henceforth, "The Executive Councillor") for their consideration. Part of The Executive Councillor's remit will be to consider whether the implementation of an order is proportionate and appropriate to the problem being experienced.

1.10 How much evidence is needed?

This is not prescribed within the legislation. However, the police and City Council must have 'reasonable grounds' (see appendix) for imposing such an order. The level of evidence has to be considered alongside the other two tests of proportionality and appropriateness.

1.11 Is there consultation and how is it managed?

To date, consultation has taken place with interested parties at meetings, exchanges with complainants and by e-mail/letter with

Ward Councillors. However, for the future a more robust mechanism is proposed. This is described in paragraph 2.5 in this document.

1.12 Who has the authority to agree to designate an area?

Any authorisation must be initiated by a police officer of, or above, the rank of superintendent who is responsible for policing in the 'relevant locality'.

The Act does not specify the level, or the designation, of the local authority representative required to give formal consent to a dispersal order. In the case of Cambridge City, under the local operational guidance (see below), the agreement will be given by The Executive Councillor who has been given delegated authority from the City Council.

The Executive Councillor will usually consult with the Ward Councillors in the area to be designated. However, The Executive Councillor's decision must be scrutinised at the next available meeting of the Community Services Scrutiny Committee.

1.13 Who can use the powers?

Within the dispersal zone, uniformed police officers and community support officers can give directions to groups to disperse where their presence or behaviour has resulted, or is likely to result, in a member of the public being harassed, intimidated, alarmed or distressed. Individuals can then be excluded from a specified area for up to 24 hours.

1.14 What happens if someone fails to observe an officer's directions?

A person does not commit an offence because an officer has chosen to use the dispersal power. However, if individuals refuse to follow the officer's directions to disperse, or if they return to the area within the exclusion period specified by the officer, they may be committing a criminal offence which will be dealt with through the Magistrates' Court.

1.15 What about displacement?

Displacement can occur when the problem is pushed out to an area adjoining the dispersal zone. It could, for example, be a consequence of other measures or interventions. One of the key aspects of section 30 is to give immediate respite to an area suffering anti-social behaviour so some displacement may occur.

However, it is hoped that once the target of action is moved other preventative actions for reducing a recurrence come into effect.

1.16 What other powers are available to the police within the designated area?

Police officers and Community Support officers have the power to take children home after 9pm if they are not under the control of an adult. This is a discretionary power. It is not a curfew and does not require the police to act in relation to every child out at that time.

The Act says that the power to return a child to his home must not be used where the police officer has reason to believe that the child might suffer "significant harm" if returned.

1.17 Are there any other powers to disperse available to the police that do not require the designation of an area?

Powers to disperse also exist under section 27 of the Violent Crime Reduction Act 2006. This section allows a uniformed police officer to issue an individual aged 10 or over with a Direction to Leave a locality. The Direction prohibits their return to that locality for a period not exceeding 48 hours. The power allows the police to target particular problem areas that need action or early intervention to reduce the likelihood of alcohol related crime and disorder. It also allows the police to take a young person home or to a place of safety once an individual has been given a Direction.

1.18 What are the main differences/similarities between s.30 & s.27 powers to disperse?

ASB Act 2003 s. 30	Violent Crime Reduction Act 2006 s.27
Requires agreement with the Local Authority	No agreement necessary
Evidence based collated over previous 6 months	No requirement for previous evidence. Reasonable suspicion applies.

ASB Act 2003 s. 30	Violent Crime Reduction Act 2006 s.27
Applies within a clearly defined geographical boundary	Can be applied anywhere
Last for up to 6 months (can be renewed).	Not time restricted
Applies to groups (2 or more persons)	Applies to individuals and groups
Applies to any form of ASB (within the definition)	Applies where the person is, or may be the cause of, alcohol related crime & disorder
Applied by Police and Community Support officers	Applied by a uniformed police officer only.
Applies to any age and there are additional powers to take children under 16 home (subsection 6).	Age range between 10 – 15 years (including discretion to return home) and 16 or over
Active for up to 24 hours	Active for up to 48 hours
Verbal and written direction but easily understood with benefit of maps showing geographical area covered.	Less easily understood as direction given is verbal and written. Care to be exercised over use with vulnerable groups
Care taken not to exclude individuals from essential services/place of work etc.	Ditto

Part Two: The local operational guidance

2.1 What is the local operational guidance?

The local operational guidance is an agreement originally made in 2004 between Cambridgeshire Constabulary and Cambridge City Council about how the powers contained in the Act will be applied within the City of Cambridge.

2.2 Why is a local operational agreement thought necessary?

Section 30 provides the police with a power that can be used swiftly and decisively to deal with anti-social behaviour in public places. Section 30 is an important tool which, when appropriately used alongside other measures, can make an effective contribution to creating or maintaining communities where people feel safe.

Cambridgeshire Constabulary and Cambridge City Council are committed to trying to balance, as far as possible, the interests of community safety and personal liberty. Both organisations also want the process of authorising or withdrawing a dispersal zone to be one that is open and transparent.

The operational guidance will contribute to achieving these aims by making it clear how section 30 powers are to be used locally and how, in practice, the safeguards the Act contains will be applied.

2.3 Under the operational guidance, what broad principles will be observed when considering the authorisation of a dispersal zone?

The operational guidance supports the following broad principles:

- A dispersal zone will not be authorised if there is reason to believe another, less intrusive, approach would be an equally effective way to achieve the same objectives.
- The application of s.30 powers will relate to its intended purpose i.e. on the basis of the evidence as set out within the relevant police Intelligence Analysis document.
- Wherever possible, consultation will take place with relevant stakeholders prior to the implementation and/or withdrawal of a dispersal order.
- A dispersal zone will be continued only for as long as is necessary to deal with significant and persistent anti-social behaviour.

2.4 Under the operational guidance, what broad principles will govern the authorisation or withdrawal of a dispersal zone?

Under the operational guidance, a dispersal zone will only be sought by the police and agreed to by the city council if:

- there is strong and compelling evidence of significant and persistent anti-social behaviour in the area;
- the authorisation is accompanied by a statement showing the objectives intended to be achieved by the creation of the dispersal zone;
- the authorisation is accompanied by a statement showing what alternative actions have been considered, if any, and why these have been rejected;
- the authorisation is accompanied by information showing any measures which are to be used in combination with section 30 powers;
- the authorisation is accompanied by a statement justifying the period of duration of the dispersal order;
- the dispersal zone is shown to be restricted to the minimum area consistent with the achievements of the stated objectives;
- the authorisation is accompanied by a statement showing the arrangements for review of the authorisation during the period it is in force; and
- the authorisation is accompanied by a declaration that the dispersal order will be withdrawn (or, if an order has expired, will not be renewed) as soon as there is evidence that anti-social behaviour in the area has ceased to be significant and persistent.

2.5 How will consultation take place prior to consent to an order?

Cambridgeshire Constabulary and Cambridge City Council are committed to consulting as widely and as early as possible during the process of deciding whether or not a dispersal zone is suitable for an area.

The consultation process will, in effect, usually begin in advance of any formal consideration of a dispersal order in that councillors representing the ward, as well as local residents and stakeholders, will be alerted to any emerging problems through Neighbourhood Policing reports to the Area Committees. However, it should be

noted that this kind of advance warning may not be possible in a rapidly developing situation.

Where consultation takes place, the views of the ward councillors, residents and stakeholders will be made known to The Executive Councillor. However, given the need to act swiftly in certain circumstances, it may be necessary for authorisation to be made by The Executive Councillor exercising delegated powers with what might be only minimal prior consultation. In these cases Ward Councillors will be made aware of the proposal as soon as possible by e-mail and/or letter and their views sought, but a limit of 48 hours will be placed on the time to respond.

As soon as the police have completed their analysis of reported incidents this will also be sent to ward councillors and made more widely available through the Police and City Council websites.

2.6 Once authorised, how will a dispersal order be monitored and reported on?

For the duration of a dispersal order, the numbers of directions to disperse given by police officers will be logged along with the reasons for these directions, and these will be reported to area committees through the neighbourhood policing reports. In addition to providing the local community with information about how well any dispersal order is working, this will strengthen the consultation process as the figures will indicate whether a problem is diminishing (implying that the order will be withdrawn or a new order not sought) or continuing (implying that a new order may be sought).

2.7 In the case of the withdrawal of a dispersal order, how will the necessary consultation with Cambridge City Council be conducted?

A dispersal order may be brought to an end in one of two ways. First, it may end automatically with the ending of the period of authorisation - this would happen when there was no longer any "significant and persistent" anti-social behaviour. Because this is not a withdrawal of the order, there would appear to be no section 31(7) **duty** for the police to consult the local authority. However, under the local operational agreement the police will always consult with the Council and, wherever possible, with stakeholders in these situations.

The second way that a dispersal zone may be brought to an end is by a withdrawal of the section 30 order before the end of the fixed

term. Consultation with the Authority is obligatory in this case and this will be carried out with ward councillors and the leader of the Council in the same way as would be the case for an authorisation.

N.B. Under the Act, the Council's **consent** is not required in order for the police to withdraw a dispersal order.

2.8 Does the operational guidance place any other limits on the use of section 30 powers?

Section 30 (6) allows the police and community support officers, in a public place within the dispersal zone, to take children under the age of 16 to their home between the hours of 9pm and 6am where they are not under the control of a responsible adult. The police may take the person home provided that in doing so the person is returned to a place of safety. This is a discretionary power, it is not a curfew, and does not require the police to act in relation to every child out at that time. Where this power is exercised the police must notify the local authority. Local agreement determines that this power will rarely be exercised and only where the officer considers the child to be vulnerable and at serious risk of harm if not returned to their home.

2.9 The section 30 process should be open and accountable. How will this be achieved?

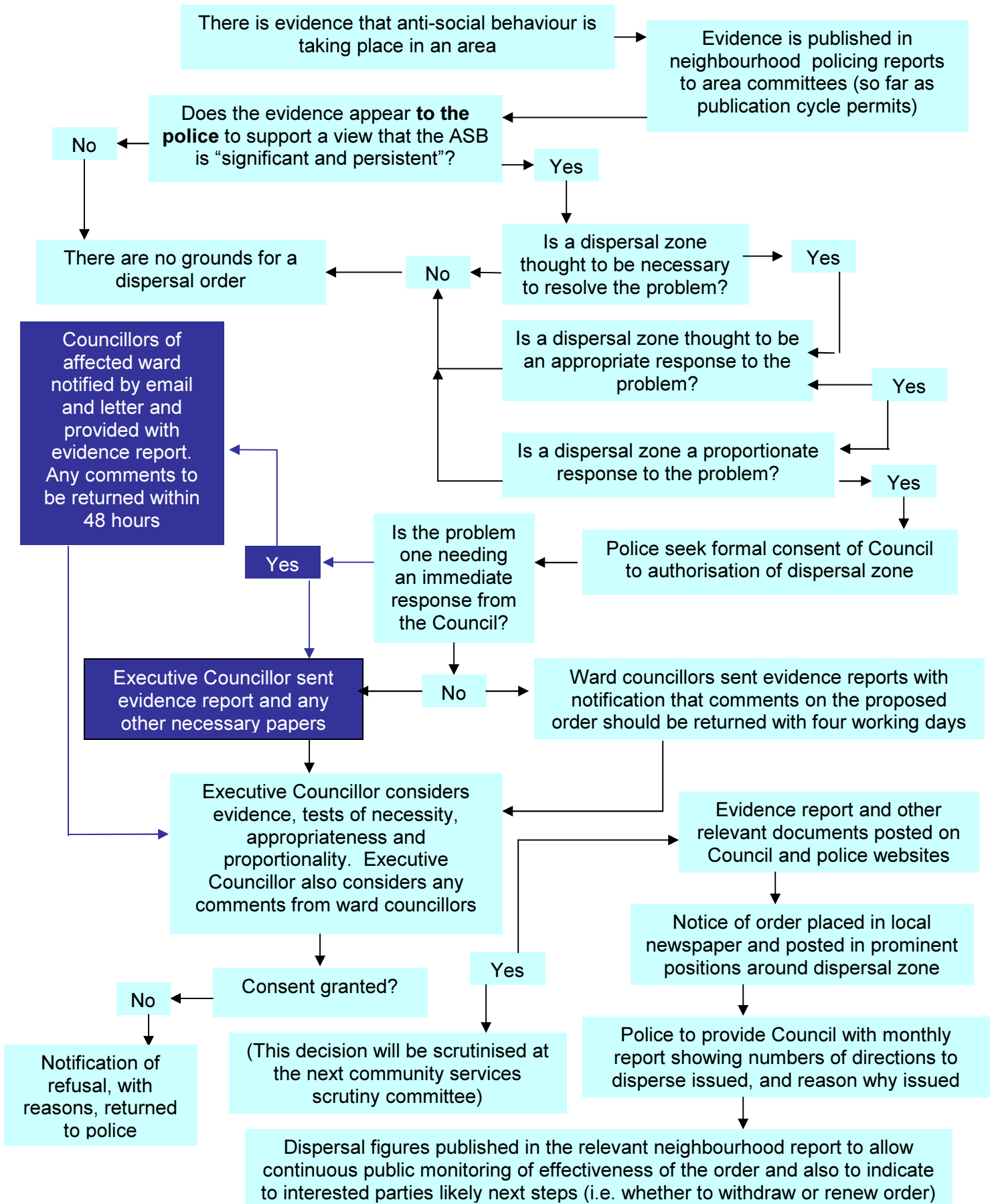
The Act requires that, as a minimum, an "authorisation notice" is published in the local press or is posted in a conspicuous place within the dispersal zone. In addition to these actions, to the fullest extent compatible with the protection of personal data and police operational security, Cambridgeshire Constabulary and Cambridge City Council will make public on their respective websites papers relating to the authorisation or withdrawal of a dispersal zone. Information posted will include:

- the evidence of anti-social behaviour supporting the authorisation;
- the objectives the order is intended to achieve;
- any papers relating to the choice of geographical limits to the proposed zone; the duration of the order and any measures that will be used in conjunction with the order;
- any papers relating to the consultation process; and
- any papers relating to the review of an authorisation.

The City Council will also publicise the authorisation of a dispersal zone with the internal and external agencies responsible for the care and welfare of groups which may be affected by it. Individuals

who are the subject of dispersal on more than one occasion will be identified and referred to the appropriate City multi-agency Problem Solving Group.

Part Three: Simplified dispersal zone authorisation process (NB. Dark blue boxes = fast-track process)



Meaning of terms

<p>“Relevant officer”</p>	<p>Means a police officer of or above the rank of superintendent.</p>
<p>“Reasonable grounds for believing”</p>	<p>The criteria for reasonable grounds to believe or suspect is the legal threshold for the exercise of almost all the coercive powers available under PACE and other relevant legislation and for the non-coercive powers also contained in the Police and Criminal Evidence Act 1984 such as delaying a detained person's right to consult with a solicitor. Senior police officers who may authorise the exercise of certain powers need to be satisfied there are reasonable grounds to believe that the exercise of those powers is justified. In the absence of reasonable grounds to believe or suspect, the exercise of those powers is not permitted and any consequential interference with the freedom of an individual is unlawful.</p> <p>Whether or not a constable has reasonable cause to suspect or believe is for a court to decide. The different formulations seek to impose a higher threshold for powers requiring "reasonable grounds to believe" which involve the invasion of a person's privacy, continued detention etc and decisions which require more mature reflection and consideration. In contrast, powers which are frequently exercised, for example stop and search and arrest powers are conditional upon the existence of "reasonable grounds to suspect. This is a much lower standard than "believe". In legal terms "reasonable grounds to believe" requires something close to certainty.</p> <p>It is not necessary to have substantial proof before one can be said to "believe" but the existence of a belief implies that there is more information available. For example in the offence of handling stolen goods the mental element is "knowing or believing" that the goods are stolen.</p> <p>If there are ten steps from mere suspicion to</p>

	certainty or accepting the fact that something is true, then reasonable suspicion may be as low as step two or three, whilst reasonable belief may be as high as step nine. A police officer may receive information from various sources, some of it anonymous, stating that a person is responsible for an offence; he would have reasonable grounds to "suspect" but certainly not "believe".
"Public places"	(a) any highway, and (b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
"Constable"	Constable in this case includes special constables and police community support officers (PCSOs).