

## **Do you have to give the cops your Name and Address?**

On the recent anti-cuts demos the cops were up to their old trick of data gathering and intimidation claiming that protesters must give their name and address, particularly when in a kettle as a condition of leaving the kettle.

They firstly relied upon section 60 Criminal Justice and Public Order Act 1994. When this was challenged then they fell back on Section 50 Police Reform Act 2002.

### **1. Section 60**

Section 60 Criminal Justice and Public Order Act 1994 is a power search for weapons. There is also a power to demand the removal of masks under 60AA of the same act. Neither gives any power to demand a name and address, but as they have to fill out a stop and search form it makes it look more official and tricks many people into giving details they don't have to.

Kettling's legal basis is totally separate from stop and search being the common law duty to prevent a breach of the peace (*Austin v Met Police* 2009) and also gives no power to take people's name and address.

If you are stopped and Searched you don't have to give your name and address, whatever type of search is carried out.

### **2. Section 50**

Section 50 Police Reform Act 2002 is an Anti Social Behaviour power. If you are reasonably believed to be committing anti-social behaviour you can be required to give your name and address to a cop in uniform.

Anti social behaviour is defined as behaviour likely to cause Harassment Alarm or Distress, which is the same as the offence under s5 Public Order Act 1986. Given that, any prosecution should be tied to a s5 (or more serious) offence. A stand alone case seems to invalidate the "reasonable belief" as if the constable had reasonable belief (a higher standard than the reasonable suspicion he would require to arrest for s5) why wasn't an arrest for breach of s5 made?

This power is often cited by the police on demonstrations.

Her Majesty's Chief Inspector of Constabulary in the report *Adapting to Protest* acknowledged that:

"It is likely that wide-scale use of section 50 of the Police Reform Act 2002 by the police when dealing with peaceful protesters would be found to be unlawful."  
<http://www.statewatch.org/news/2009/nov/uk-hmic-adapting-to-protest.pdf> - see chapter 7

We know of no test case on section 50 but we would welcome one. The maximum penalty is a fine.

### **3. Conclusion**

The general position is that you do not have to give your name and address unless under a specific legal obligation to do so (*Rice v Connolly* 1966). Refusal to give

your name and address cannot amount to obstructing the police in the course of their duty under s89(2) of the Police Act 1996 (but giving a false name and address can - Ledger v DPP 1991 – although this is pre Human Rights Act and the case has been criticised by legal academics). In general you can use any name you like unless it is for an illegal purpose.