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Criminal offences include:

- murder
- kidnap (abduction in Scots law)
- rape
- sexual assault
- assault
- drugs offences
- possession of weapons
- theft
- burglary (housebreaking in Scotland)
- fraud
- robbery
- criminal damage
- arson (wilful fire-raising in Scotland)
- firearms offences
- child abuse
- domestic abuse
- driving under the influence

Security operatives and other members of the public have powers of arrest for some of these offences as they are so serious.

The standard of proof in the criminal courts is 'beyond reasonable doubt'.

Civil and criminal law

The role of a security operative in the fight against crime is increasing. Because of this, and so that you can be effective in the workplace, it is important for you to gain a basic working knowledge of the law.

Laws are there to ensure that citizens abide by certain rules that are made to keep everyone safe. Laws tell us what people are and are not allowed to do and allow people to be punished if those laws are breached.

There are 2 main types of law in the UK, **civil law** and **criminal law**.



CIVIL LAW

Civil laws help govern our daily lives. They usually deal with disputes between people, companies or other organisations. They are there to right wrongs, and proceedings are usually started by the person or people who believe they have been wronged in some way.

They deal with things like money owed, family and matrimonial disputes, property disputes, breach of contract, employment law, personal injury cases, custody of children, adoption, libel and slander (known as defamation in Scotland). Cases are often remedied by way of compensation orders for loss or damage.

Civil cases are usually dealt with in the county courts, with more serious cases being heard in the High Court. In Scotland, civil cases are heard by the Sheriff Court with more serious cases being heard at the Court of Session. The standard of proof in the civil court is 'on the balance of probabilities'.



CRIMINAL LAW

Criminal laws, on the other hand, are there to prevent people from committing more serious offences, usually against people or property, and to punish people when those laws are breached.

Criminal laws come from either very old judicial decisions made in courts (common law) or can be found in Acts of Parliament (statute law).

Cases are normally brought by the state, often following an arrest, and prosecution is sought through the criminal courts. Guilty verdicts can result in fines, probation orders and terms of imprisonment.



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Trespassers

A trespass is committed by a person who is improperly on someone else's property without consent.

One of your duties as a security operative is to ensure that only suitable and authorised people are allowed into the premise. During the course of your duties, you may well have to ask people to leave the premises and as a last resort you may have to physically eject them if they refuse to leave when asked. This section explains the powers you have to deal with these types of situations.

Trespass is not normally a criminal offence. It is, however, an act of interference against the lawful occupier of any specific premises and can be actionable through the civil courts.

A 'lawful occupier' is someone who owns, occupies or has control over the property. In the case of private buildings like factories, shops, pubs or clubs, it means the owner, manager or person in charge of the property and includes any members of staff acting on their behalf, as well as any authorised customers or visitors. This would include security operatives, whose job it is to protect the premise.

Security operatives may ask people to leave a premise if they:

- have no right or reason to be there
- break criminal laws
- break licensing laws
- breach specific premise rules or conditions
- start to display unacceptable behaviour

When asking a member of the public to leave the premises, you should first ask them to leave and explain why, telling them why they are not allowed to be there, what law they have broken, what rule they have breached or how their behaviour has become unacceptable.

If they refuse to leave, you should repeat the request, informing them that if they refuse to leave they will either be physically removed or the police will be called.

If they still refuse to go, you should offer them one more chance to leave peacefully by saying something like, 'Is there anything else I can say to make you leave on your own?'. This gives them one more opportunity to change their mind and is also a good defensible statement that other people will hear that shows that you did everything possible to encourage the person to leave peaceably, before having to resort to the use of force to remove the person from the premises. If you are working with another security operative, it will also warn them that you are about to take action and will allow them to prepare themselves to assist with the ejection. If someone you have ejected from a site becomes violent or attempts to force their way back in, then you should call the police to assist.

It is also within the law that police officers can be called upon to assist with ejecting people who are refusing to leave, having been asked to by a lawful occupier, their employee or agent. They may use such force as may be required to effect their purpose.

If you need to eject someone from the premises you are protecting, then it should be reported to the person in charge of your duty immediately. To safeguard yourself against any subsequent malicious allegations, it should also be recorded as an incident.

It is obviously always better to try to use tact and persuasion to get an unwanted customer to leave the premises, only using force as a last resort. Even then, you must use no more force than is necessary to remove the person.

R.E.A.C.T.

explains the best way to remove a trespasser:

- **R** request them to leave
- **E** explain the reasons for the request
- **A** appeal for them to leave, explaining what will happen if they do not
- **C** confirm that they still refuse to leave peacefully
- **T** take action (eject)

As a last resort, you may have to physically eject the trespasser from the site. The law allows you to do this, provided that:

no more force is used than is necessary to remove the trespasser from the premises.



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SCO

The Trespass (Scotland) Act 1865 makes it an offence under Scots law to trespass. The legislation was amended under the Land Reform (Scotland) Act 2003 which established universal access rights to most (but not all) land. These reforms do not apply (hence why trespass remains an offence) to:
houses and gardens and non-residential buildings and associated land, land in which crops are growing, land next to a school and used by the school, sports or playing fields when these are in use and where the exercise rights would interfere with such use, land developed and in use for recreation and where the exercise of access rights would interfere with such use, golf courses (you can cross a golf course provided that you do not interfere with any games of golf), places like airfields, railways, telecommunication sites, military bases and installations, working quarries, construction sites and visitor attractions or other places that charge for entry are exempt and as such unauthorised access would be trespass.



SCO

Trespass in Licensed Premises in Scotland

Under Section 116 of the Licensing (Scotland) Act 2005 it is an offence for any person to refuse to leave licensed premises as follows:

- a person on any relevant premises who behaves in a disorderly manner, and refuses or fails to leave the premises on being asked to do so by a responsible person or a constable, commits an offence
- a person on any relevant premises who, after the end of any period of licensed hours, refuses or fails to leave the premises on being asked to do so by a responsible person or a constable commits an offence

Where a person refuses or fails to leave any relevant premises, then the door supervisor may remove the person from the premises and if necessary for that purpose, use reasonable force.

A constable must, if asked by an authorised person to assist in exercising a power conferred by subsection 3 (above) and if the constable reasonably suspects the person to be removed of having refused or failed to leave as requested, provide the assistance asked for.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £1,000.

NI

In relation to trespass, the new criminal trespass law enacted under s128 of SOCPA, has made it illegal to trespass on certain designated military and nuclear sites in Northern Ireland. There is a common law offence of trespass against property and a criminal law offence of trespass/ harassment against the person, including assault.

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The Private Security Industry Act

The Private Security Industry Act 2001 was brought in specifically to regulate the UK's private security industry and to help raise the standards of the individuals and companies working within it. One of its main aims was to increase the public's confidence in the sector and to increase public safety.

The government formed a new corporate body called the Security Industry Authority (SIA) to do this.

The SIA now licenses security operatives, supervisors, managers, directors and company owners in the areas of door supervision, manned guarding, key holding, cash and valuables in transit, CCTV operations and close protection (and vehicle immobilisation in Northern Ireland).

This is to ensure that people employed within the industry are 'fit and proper' for their job roles.

The SIA also provides a public register of licensed individuals and maintains a list of its approved companies via the Approved Contractor Scheme (ACS).

The Private Security Industry Act also gives the SIA various powers of entry and inspection to ensure compliance, and lists specific offences and subsequent sentences for those caught breaching the act.

Equality and diversity in the workplace

As a security operative, in order to improve your image and level of professionalism, it is important that you are aware of and act correctly in relation to issues concerning diversity and equality. Security operatives provide a service and must provide the same quality of service to everyone. You must not **discriminate** against certain types of people when carrying out your duties. Discrimination is treating a person less favourably than another person.

Prejudice is having a hostile (or sometimes positive) attitude towards someone who belongs to a certain group, simply because they belong to that group and are therefore assumed to have all of the characteristics ascribed to that group.

Stereotyping is lumping certain groups of people together, assuming that they are all the same simply because they belong to that group.

Prejudices and stereotyping can be harmful when they are used to openly discriminate against people. As a security operative, you are reliant on the public for support and confidence, so it is important that your conduct is seen to be impartial and reasonable at all times.





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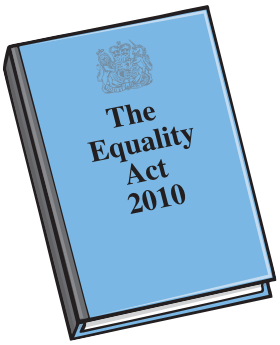

The Equality Act 2010

(Not applicable in Northern Ireland)

Previously, discrimination, equality and diversity were enforced by numerous separate pieces of legislation. Those laws were often confusing and some were outdated and ineffective.

The Equality Act received Royal Assent on 8 April 2010 and its core provisions came into force on 1 October 2010. The purpose of the Act is to provide a new legislative framework to protect the rights of individuals and to advance equality and opportunity for all. The new Act simplifies 9 pieces of legislation, bringing into existence a singular statute dealing with discrimination. Some of the old laws remain the same, while others have been changed or expanded. Some new elements have appeared for the first time.

The Equality Act prohibits discrimination on the grounds of:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion
- sex
- sexual orientation

These are known as the protected characteristics. It is illegal for employers, for example, to discriminate against any of these groups of people in the areas of recruitment, access to training, pay and benefits, promotion opportunities, terms and conditions, redundancy and dismissal.

Furthermore, employers now have to make reasonable adjustments to cater for the employment of disabled people.

Types of discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have, or because they associate with someone who has a protected characteristic.

Indirect discrimination occurs when a policy or practice that applies to everyone particularly disadvantages people who share a protected characteristic.

People's rights under this legislation can be enforced through the county courts, resulting in fines and/or compensation being awarded.

Discrimination can be hurtful, insulting and demeaning to the recipient, and is not acceptable from security professionals.

It is also made clear under the Human Rights Act that all people have the right to be free from discrimination.

NI

In Northern Ireland, discrimination is illegal under the following laws:

- The Race Relations (Northern Ireland) Order 1997
- The Sex Discrimination (Northern Ireland) Order 1976
- The Disability Discrimination (Northern Ireland) Order 2006

As a security operative, you cannot refuse entry or evict anyone on the grounds of sex, race, colour, disability or physical appearance. Should you refuse entry to or evict an individual for any of these reasons alone then you will be committing an offence. The individual who has been discriminated against has the right to make a formal complaint to the premises management requesting an apology, a commitment that such discrimination does not reoccur or even compensation. If the issue is not dealt with to their satisfaction, they may even take legal action against you and your employer.

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The Data Protection Act 2018

The Data Protection Act 2018 enabled the General Data Protection Regulation (GDPR). The legislations cover any information related to a person or 'data subject' that can be used to directly or indirectly identify them. It can be anything from a name, a photo and an email address to bank details, social media posts, biometric data and medical information. It will also introduce 'digital rights' for individuals.

The GDPR manages how personal and sensitive information can be used, stored and passed on. These laws give you rights as an employee and also require you to treat individuals' information responsibly.

The regulation ensures that organisations maintain the protection of data. It makes sure that personal data held by organisations is kept confidential, processed lawfully, used only for the purpose it was intended, not kept longer than necessary and is accurate. The regulation gives individuals the right to see the data and information held about them. It also promotes greater accountability and governance by organisations, as evidenced by the 'accountability principle', which requires organisations to demonstrate that they comply with the data protection principles.



The data protection principles

Under the GDPR, the data protection principles set out the main responsibilities for organisations. In short, Article 5 (1) of the regulation requires that personal data should be:

(a) Processed lawfully, fairly and in a transparent manner

(b) Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes

(c) Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed

(d) Accurate and, where necessary, kept up to date

(e) Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed

(f) Processed in a manner that ensures appropriate security of the personal data

Data protection rules often apply to the use of written records and notebooks, as well as the use of body-worn cameras.

You can find more information about the General Data Protection Regulation 2018 here:

https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/?q=digital