

# What happens if you are arrested?

## Grounds for arrest

The police can arrest you if they have a warrant for your arrest. They can also arrest you without a warrant in certain situation; for example,

- If they catch you actually committing certain offences.
- If they have reasonable grounds to suspect you have committed certain offences.
- If they have reasonable to grounds to suspect you are about to commit certain offences.

## What happens on arrest?

The police are only allowed to use reasonable force when arresting you and should tell you as soon as possible why you are being arrested. They should also caution you as soon as possible. *'You do not have to say anything. But it may harm your defence if you do not mention when questioned something, which you later rely on in court. Anything you do say may be given in evidence'*. Be careful what you say after this as it can be used in certain situations as a significant statement against you. You should then be taken to the custody centre as soon as possible after arrest.

# What happens when I get to the custody centre?

You will be searched, booked into custody and given certain rights. The police should tell you:

- You have the right to inform someone of your arrest.
- You have the right to free and independent legal advice.
- You have the right to look at the codes of practice.

Your right to speak to someone can be delayed if the police have reasonable grounds to believe that telling someone of your arrest would:

- Lead to interference with evidence
- Lead to other suspects being alerted
- Interfere with their ability to recover property

The custody officer will then ask you a series of questions; for example, have you taken drink or drugs in the last 24 hours or if you have any medical conditions.

The police will then ask whether you consent to samples being taken. The following samples are taken in every case and can be taken without your consent if you refuse:

- Fingerprints
- Photograph
- Mouth swab (DNA)

In some cases, other samples may be asked for but these require your consent; ie, blood and urine. If you refuse to give these samples, in some cases your refusal can be used against you if your case goes to trial.

In most cases you will then be placed in a cell until the police are ready to interview you. Be warned, this can be a long process as the police will be taking statements and may conduct searches of your home or car in certain circumstances.

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# What happens if I am under 17 or I am vulnerable?

If you are under 17 or mentally vulnerable you should not be interviewed without an appropriate adult present. For people under 17 this will usually be a parent or guardian. If you are mentally vulnerable this could be your carer or a responsible adult experienced in dealing with vulnerable people. The purpose of an appropriate adult is to ensure that your welfare is looked after and also to make sure that the police understand what you are saying and that you understand what the police are saying to you. An appropriate adult is not legally qualified and should not give legal advice. You should also ask for a solicitor.

# How long can I be kept at the police station before charge?

The police should not hold you for more than 24 hours before charge unless they get authority by an officer with the rank of superintendent or a magistrate to keep you longer.

A superintendent can extend your time to a maximum of 36 hours in certain circumstances.

Magistrates can in some cases authorise further detention in police custody up to total maximum of 96 hours.

In terrorist cases a Judge can extend your detention up to a maximum of 14 days.

In the vast majority of cases you should not be held for more than 24 hours.

# Legal advice

You have the right to free and independent legal advice whilst you are at the police station. Don't be put off asking for a solicitor because you think it will make you look guilty or because you think it will take longer. It doesn't and it won't.

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If you ask for a solicitor your request will then be passed through to the defence solicitor call centre.

In some cases; for example, drink driving; some minor public order offences; breach of bail or where you have been arrested on a court warrant and you are not going to be interviewed you will only be entitled to telephone advice from someone at the Criminal Defence Service Direct.

In most other cases you will be entitled to see either the duty solicitor or your own solicitor.

When you have asked for a solicitor, the defence solicitor call centre will contact your solicitor to tell them you have been arrested. Your solicitor will then telephone the custody centre and be told the basic facts about why you have been arrested. Your solicitor will then speak to you on the telephone. In most cases your solicitor will not attend the police station to advise you until the police tell them that they are ready to interview you. Once the police are ready to interview you, the solicitor will make an appointment to attend the police station. Before seeing you, the solicitor will usually do the following:

- Check your custody record (this is the log of your detention in custody)
- Get disclosure about your case from the police. The police do not have to tell your solicitor all the evidence they have against you and will often hold evidence back from the solicitor so that they can test the truthfulness of any account you may give in interview. They do have to give the solicitor enough information so that the solicitor can properly advise you.

The solicitor will then have a private consultation to discuss your case with you. Your solicitor will then tell you the disclosure they have been given by the police, they will advise you on the relevant law. They will then ask you to tell them what happened. The solicitor will then be in a position to advise you whether or not you should answer the questions in interview or stay silent. The solicitor will sit in the police interview with you to represent you.

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# The interview

In most cases, your interview will be tape-recorded using three tapes. There is nothing sinister about this; it is simply so there can be no dispute about what is said in interview. One copy will be for the police to use as a working copy, the second will be for you or your solicitor if you are charged with an offence and your case goes to court, and the third is a master copy.

At the beginning of the interview, the police will caution you again. They should then break the caution down to ensure you understand it. It is very simple;

- 1) *You do not have to say anything.* You don't. You can literally stay silent throughout the entire interview.
- 2) *But it may harm your defence if you do not mention when questioned something you later rely on in court.* This is basically a condition attached to the right to silence. It means that if you are charged with an offence and your case goes to trial and during that trial you give evidence and say something which you didn't say in interview, the court can in certain cases ask themselves, why didn't you say it in your interview and draw their own conclusions as to why you didn't, the most obvious one being that you have made it up having had time to think about and consider the evidence.
- 3) *Anything you do say may be used as evidence.* This simply means your interview can be used as evidence against you.

If you have a solicitor representing you, s/he will be able to tell you whether you should answer questions or not.

The interviewing officer will then ask you some introductory questions; ie, your name and whether you understand why you have been arrested. They will then ask you questions about the alleged offence/s. If you have decided not to answer questions, they will still ask questions anyway as they are required to put their case to you and to give you the opportunity to answer questions. If you do answer questions, remember it is your interview and it is important that you put your case across. If you do not understand the questions, make sure you say so. If at any time in the interview you want to stop it either to consult with your solicitor (if you already have

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one present) or to ask for a solicitor, you are entitled to do so. At the end of the interview you will be asked if there is anything you wish to add or clarify, if there is anything that you think hasn't already been covered in interview, this is your time to say it.

## What happens after I've been interviewed?

After you have been arrested you will usually be put back in your cell whilst the interviewing officer seeks advice about how your case should proceed. The interviewing officer will in most cases have to obtain advice firstly from a case director and in some cases, from the Crown Prosecution Service. Again, be warned, this process can take some time.

Once a decision has been made, you will either be:

- Released with no further action. This means it is the end of the case against you provided no fresh evidence comes to light at a later date.
- Bailed to re-attend the police station. This means the police have to make further enquiries (for example, an identification procedure) or obtain advice from the Crown Prosecution Service as to whether they have sufficient evidence to charge you.
- Charged with an offence/s and bailed to attend court.
- Charged with an offence/s and remanded in police custody. You will then be brought before the first available Magistrates' Court in custody.
- Cautioned or receive a conditional caution for an offence.
- Given a fixed penalty notice.
- Released with no charge but summonsed to attend court on a later date.

If you fail to attend the police station without reasonable excuse, you may be committing a separate offence under the Bail Act and even if

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the original case is dropped, you could still be charged with a Bail Act offence.

If you did not have a solicitor to represent you originally, you are entitled to either organise a solicitor to come back with you for your bail date free of charge, or request one when you are re-booked into custody.

If you were released on bail subject to conditions, it is important you abide by those conditions of bail as if you breach your bail conditions you are at risk of being arrested for breach of bail and kept in custody whilst the police decide if they now have sufficient evidence to charge you with the offence. If they do have sufficient evidence to charge you and you have breached your bail conditions then the police may then seek to remand you in custody to be brought before the first available Magistrates' Court. If they don't have sufficient evidence to charge you at that stage, but do in the future, then the fact that you have breached your bail could again be used by the police as a reason to remand you in custody. If you think your police bail conditions are unfair you should contact a solicitor who can apply to vary or remove them.

When you re-attend the police station, a number of things can happen:

- You can be re-bailed to attend on another date; ie, if the police are still making enquiries or need advice from the Crown Prosecution Service.
- You can be re-interviewed about the offence but only if the police have new evidence to question you about. They cannot just repeat the first interview. If you are in any doubts, you should ask for legal advice.
- You can be released no further action. This means it is the end of the case against you unless fresh evidence comes to light.
- You can be charged with an offence/s and bailed to attend the Magistrates' Court.
- You can be charged with an offence and remanded in police custody. You will then be brought before the first available Magistrates' Court in custody.

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