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KNOW YOUR
RIGHTS



BEING UNDER ARREST

What should you do if you're arrested?

If you've been arrested you should always politely insist that you have the chance to call a lawyer.

When can you be arrested?

A police officer can arrest you if they have reasonable grounds for suspecting you've committed an offence. It doesn't matter whether you actually did or didn't commit the offence. They can also arrest you if they reasonably suspect you're about to commit an offence, if you're breaching the peace or if you've breached your bail conditions. Usually the police don't need a warrant to arrest you.

Before arresting you a police officer must always first tell you that you are under arrest and also explain why you are under arrest. They must also caution you that you do not have to say or do anything, but that if you do, it may be used in evidence against you. You should not answer any questions without first speaking to a solicitor.

What about serious indictable offences?

If you're over 18 and the police want to charge you with a serious offence, refusing to answer questions may lead to a court forming an 'unfavourable inference' against you. (Unless you can prove you weren't 'of sound mind'.) However, before they can do this the police must always first give you a special caution in front of your solicitor and your solicitor must explain what this means to you. That means if you've been charged with a serious offence it's even more important for you to speak to a solicitor first.

Can a police officer use force against you?

A police officer can use reasonable force to arrest you, but no more. What constitutes reasonable force depends on the circumstances. A police officer is entitled to use handcuffs if you try to escape, or if they think you're

likely to attempt to escape. It is never the best option to resist arrest. Instead, always comply with a police officer's requests and directions. If you're concerned about how much force a police officer has used to arrest you, a judge or magistrate can rule on whether or not it was reasonable.

What happens if you resist arrest?

If you actively resist arrest, you can be charged with the offence of resisting arrest, even if the police are attempting to arrest you for something you didn't do.

When can the police search you?

The police can stop, search and detain you if they reasonably believe you're carrying something illegal or something that could be used to carry out an offence. This includes stolen goods, illegal drugs, dangerous items, weapons and even implements that could be used to carry out a burglary. It is up to a judge or magistrate to rule on whether or not police had reasonable grounds for searching you.

The police can pat you down, look in your pockets or bags and search your car. They can only strip-search when they believe it is serious and urgent, and there are strict rules that they must follow to ensure your privacy.

The police don't need a warrant to search you in any of these circumstances. When searching you, a police officer must always tell you their name and duty as well as why you're being searched.

Can police arrest you simply to ask you questions?

The police can ask you to voluntarily accompany them to a station for questioning but they can't force you to do so. Police may arrest you in order to investigate whether you have committed a crime. They cannot normally detain you for more than 4 hours to carry out their investigations.



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They must then either charge you or release you. If the police have asked you to answer questions you should always insist on calling a solicitor first so that you understand your rights before you speak.

Do you have to answer questions when you're under arrest?

Generally, unless your solicitor is present, you don't have to answer any questions other than giving your name, address and date of birth.

An exception to this general rule is where you were inside a vehicle that the police believe was used in an offence.

When the police arrest you in these circumstances, you must provide them with the names of the other people in the vehicle, if you know them. If you own the vehicle you must tell them who the driver was at any particular time if you are able to do so.

While the police may ask you to answer questions in a recorded 'record of interview' you don't have to agree to take part. You should also not sign any document provided to you other than a bail form, unless you've spoken to a lawyer first.

Do you have to submit to being fingerprinted and photographed?

You generally have to submit to having both your fingerprints and photograph taken. However, you can ask for these to be destroyed if you're subsequently acquitted of a charge. The police need a court order to fingerprint or photograph a child under 14.

You don't have to submit to being included in a police line-up. They can ask witnesses to identify you from a photograph instead.

How long can the police keep you in custody?

The police can initially detain you without charge for up to four hours. But this four hours won't include 'time outs', such as time waiting for recording facilities or time waiting for a lawyer or support person.

Once four hours has expired, the police can then apply for another eight hours to carry out further investigations. After that, they need to either charge you or release you.

If the police charge you with an offence you'll usually be released on bail, which sometimes has conditions imposed

on it. If you're not granted bail or if you can't meet your bail conditions, the police have to take you to court as soon as possible for a judge or magistrate to rule on whether to grant you bail.

When can a court refuse bail?

You have a right to be released on bail for minor offences dealt with under the Summary Offences Act or Young Offenders Act.

A court or other authorised bail authority can refuse bail only if satisfied that to do so would amount to an unacceptable risk that can't be mitigated by reasonable bail conditions.

Some things that a court will take into account when considering whether there is an unacceptable risk include:

- Your criminal history
- The seriousness of the offence
- Any history of violence
- Whether you've previously committed offences while on bail
- Any special needs you might have, and
- The need to be free for any lawful purpose, such as employment.

What happens if you don't comply with your bail conditions?

If you don't comply with your bail conditions a police officer may choose to take no action, warn you about the breach or arrest you and bring you before a court. The court will then reconsider your bail by either releasing you on the terms of your original bail, varying your bail or refusing bail altogether.

How can a solicitor help?

If you've been arrested you should always try to contact your solicitor before you do anything else. They can help in many ways including:

- Attending the police station with you (if they think it's in your interests)
- Advising you of your rights and what you should and should not do or say whilst in custody
- Applying for bail on your behalf
- Representing you in court.

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