

FACT SHEET – STOP AND SEARCH

- **Can the police just stop me for no reason?**

The police have powers to stop and question you at any time

A police officer can ask you:

- what you're doing
- why you're in an area and/or where you're going

You don't have to answer any questions the police officer asks you- but remember they have the power to arrest you if they have reasonable grounds to suspect you're involved in a crime for which your arrest is necessary.

- **Can the police search me?**

A police officer has powers to stop and search you if they have 'reasonable grounds' to suspect you're carrying:

- illegal drugs, a weapon, stolen property
- something which could be used to commit a crime, eg a crowbar

You can only be stopped and searched without reasonable grounds if it has been approved by a senior police officer.

Before you're searched the police officer must tell you:

- their name and police station
- what they expect to find, eg drugs
- the reason they want to search you, eg it looks like you're hiding something
- why they are legally allowed to search you
- that you can have a record of the search and if this isn't possible at the time, how you can get a copy

A police officer can ask you to take off your coat, jacket or gloves.

The police might ask you to take off other clothes and anything you're wearing for religious reasons - eg a veil or turban. If they do, they must take you somewhere out of public view.

If the officer wants to remove more than a jacket and gloves they must be the same sex as you.

Being searched doesn't mean you're being arrested.

FACT SHEET – ARREST and INTERVIEW

- **Why might I be arrested?**

To arrest you the police need reasonable grounds to suspect you're involved in a crime for which your arrest is necessary.

The police have powers to arrest you anywhere and at any time, including on the street, at home or at work.

If you're arrested the police must:

- identify themselves as the police
- tell you that you're being arrested
- tell you what crime they think you've committed
- explain why it's necessary to arrest you
- explain to you that you're not free to leave

If you're under 17 the police should only arrest you at school if it's unavoidable, and they must inform your head teacher.

The police must also contact your parents, guardian or carer as soon as possible after your arrival at the police station.

If you try to escape or become violent, **the police can use 'reasonable force'**, eg holding you down so you can't run off.

You can also be handcuffed.

- **I've been arrested, I'm being held at the police station, I want to get out, should I wait for a lawyer?**

You have **the right to a lawyer – for free** - if you're questioned at a police station.

The duty lawyer should be with you **within 45 minutes** of being contacted.

You may be offered **legal advice over the phone** instead of a duty solicitor if you're suspected of having committed **a less serious offence**, eg being disorderly.

Once you've asked for legal advice, the police can't question you until you've got it - with some exceptions.

A lawyer will listen to what *you* tell them and advise you about what your options are – **they represent you and are independent.**

- **Can I tell someone where I am?**

You have the right to tell someone where you are

If you are under 18 or 'vulnerable' - **the police must try to contact your parent, guardian or carer**

They must also find an '**appropriate adult**' to come to the station to help you and be present during questioning and searching. An appropriate adult can be:

- your parent, guardian or carer
- a social worker
- another family member or friend aged 18 or over
- a volunteer aged 18 or over

- **What should I say when I am interviewed?**

The police may question you about the crime you're suspected of - **this interview will be recorded**. You don't have to answer the questions but there could be consequences if you don't. The police must explain this to you by reading you the police caution:

"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."

This is the most important thing your lawyer can give you advice on at this stage – ie whether to answer questions or not.

If you decide to follow legal advice not to answer questions - you or the lawyer can state on the record that you are following legal advice.

A lawyer may be able to help you put forward a short 'prepared statement' that deals with key aspects of your account.

Remember not all arrests lead to a charge, not all charges lead to prosecution and not all prosecutions lead to a conviction.

Having a lawyer may make the difference between getting convicted or not.

FACT SHEET – DETENTION AND CHARGE

- **How long can I be held in custody?**

The police can hold you for up to 24 hours before they have to charge you with a crime or release you.

They can apply to hold you for up to 36 or 96 hours if you're suspected of a serious crime, eg murder.

You can be held without charge for up to 14 days if you're arrested under the Terrorism Act.

- **Can I be released on police bail?**

The police can release you on police bail if there's not enough evidence to charge you. You don't have to pay to be released on police bail, but you'll have to return to the station for further questioning when asked.

You can only be bailed for up to 3 months by the police – any longer than that and the police have to get permission from the court. You can only be on police bail if it is 'necessary and proportionate'.

However:

- **I am 'under investigation' – what does that mean?**

The police can release you without bail conditions and tell you that you are still 'under investigation'. This means that they are still considering charging you.

Although there are no conditions of bail- as there is still an investigation underway – any 'interference' with the investigation would be a serious offence (such as any inappropriate contacting of a potential witness in the case). [The maximum sentence for perverting the course of justice is life imprisonment!]

Being under investigation can go on indefinitely. It is a very frustrating time.

Ask your solicitor to keep in regular contact with the police to ask what is happening with your case.

- **What happens if I am charged?**

If you are charged with a crime you will be given a 'charge sheet'. This sets out the

details of the crime you are being charged with.

The police will decide if you:

- can go home until the court hearing (police bail)
- are kept in police custody until you are taken to court for your hearing (remanded)

Your first court hearing after you are charged with a crime will be at a magistrates' court or a virtual court using video technology - even if your trial will be at a Crown Court later on.

If you're under 18, your first hearing will usually be at a youth court.

If you haven't been given bail and you're under 17, the police must arrange for you to be held in local authority accommodation, if possible, before you go to court.

If you haven't been given bail and you're aged 12 to 16, the police can decide to keep you at the police station if they think it will protect the public.

- **I'm only 10 can I be charged with a crime?**

The age of criminal responsibility in England and Wales is 10 years old. This means that children under 10 can't be arrested or charged with a crime.

Children under 10 cannot be charged with committing a criminal offence. However, they can be given a:

- Local Child Curfew
- Child Safety Order

Children under 10 who break the law regularly can sometimes be taken into care, or their parents can be held responsible.

Children between 10 and 17 can be arrested and taken to court if they commit a crime.

They are treated differently from adults and are:

- dealt with by youth courts
- given different sentences
- sent to special secure centres for young people, not adult prisons

Aged 18?

Young people aged 18 are treated as an adult by the law.

If they're sent to prison, they'll be sent to a place that holds 18 to 25-year-olds.

- **Should I accept a caution or a warning?**

The police or Crown Prosecution Service can give you a caution or a warning if you commit a minor crime.

You have to admit an offence and agree to be cautioned. You can be arrested and charged if you don't agree.

Although a caution is not a criminal conviction, it could be used as evidence of bad character if you go to court for another crime.

Cautions can show on standard and enhanced disclosure and barring service checks. I.e. it is on your record.

Before agreeing to a caution or a warning ask to speak to a lawyer.

FACT SHEET – COURT

- **Do I have to pay for a lawyer if my case goes to court?**

For all but the most minor offences if you are of low means you can apply for legal aid and you will get a good lawyer for free.

- **Should I plead guilty or not guilty?**

Your lawyer will advise you about your plea.

If you do decide to plead guilty the earlier that you enter the plea the lower your sentence is (called 'credit').

As a rough guide - pleading guilty at the first hearing means you get 1/3 off your sentence. Pleading guilty on the day trial means you may only get 1/10 th off.

Pleading guilty means you accept committing the offence. The conviction will be on your criminal record and be kept there, for some purposes (such as for the police to see), forever.

Whether you have to declare a conviction for work depends on what the work place asks you and the nature of the offence.

If you plead not guilty there will be a trial.

- **Where and when will my trial be?**

Your trial can take place in a magistrates court, a youth court or, if the offence is serious enough in a Crown court with a jury.

It will depend on the nature of the offence whether you will have a jury. Your lawyer can advise you about that.

When the trial will be will depend on the nature of the case, how busy the court is and whether you are on bail or not.

If you have been remanded (ie don't have bail) then your case must be heard more quickly – roughly within 6 months.

If you are on bail some cases can take more than a year before the trial is heard.

- **What happens if I am found guilty?**

If you are found guilty (or plead guilty) you will be sentenced by a judge.

A sentence can be anything from simply being told to stay out of trouble for a certain period, a fine (£), an order in the community (unpaid work in the community, requirement to attend a course), a curfew (electronic tag to an address), or a sentence in a young offenders institution.

Judges are under a duty to consider your age and there are specific guidelines for sentencing young offenders.

If you are over 18 a prison sentence can be 'suspended' which means that if you do what you are told to do (usually by probation) and stay out of trouble you will not be sent to prison. But if you break any of the conditions you will have the sentence 'activated' and you then have to go to prison.

If you plead guilty or are found guilty you can be asked to pay a contribution to the cost of prosecution.

If you have anyone to support you at court (relative, friend, key worker) this can help your lawyer and the court and can sometimes lead to a better sentence for you.