

## ARREST

### BEFORE THE TRIAL.

Every policeman has his number on his shoulder tab, if you are unhappy about the way you are treated ask the police man his name and note it down with his number. There is an official Police Complaints department if you feel you have a grievance.

### CUSTODY OFFICER:

The Custody Officer, usually a Sergeant, looks after the suspects who are being questioned by the police. The Custody Officer must be sure that there is good reason for detaining the person.

### SUSPECT:

A suspect is a person thought to have committed a crime but not yet been charged with it. “Helping the police with their enquiries,” means exactly what it says, it does not mean that the person is about to be charged with the crime.

### PACE:

PACE stands for Police and Criminal Evidence Act. This act came into being in 1984. It details the codes of practice that the police have to abide by when questioning and conducting interviews.

e.g.

- Ø Police cells must be adequately heated, clean and ventilated.
- Ø Access to toilet and washing facilities must be provided.
- Ø There must be one main meal and two light meals each day.
- Ø Suspects are entitled to at least eight hours rest each day.
- Ø Interview rooms, must be properly heated.
- Ø Suspects are not to be made to stand.
- Ø There must be a break from interviewing at normal meal times.

P.A.C.E. is a long document. The above points are basic to those held by the police for questioning.

### CRIMINAL JUSTICE & PUBLIC ORDER ACT

(1995).

The main change the act brought in was the new wording regarding the right to remain silent, the wording now is: *“You do not have to say anything. But if you do not mention something, which you later use in your defence, the court may decide that your failure to mention it now strengthens the case against you. A record will be made of everything you say and it may be given in evidence if you are brought to trial”.*

## POLICE OFFICER RANKS:

1. Chief Constable
2. Chief Inspector
3. Inspector
4. Sergeant
5. Police Constable PC

## C.I.D. RANKS:

1. Detective Chief Inspector DCI
2. Detective Inspector DI
3. Detective Sergeant DS
4. Detective Constable DC

## C.P.S.

After the police have finished their enquiries the case is handed to the **Crown Prosecution Service (C.P.S.)**. They have to decide whether there is sufficient evidence to take the matter to Court; it can be thrown out at this stage and go no further.

## SEARCHES:

The police do have the right to search a home if they have a search warrant. At times it may seem very hard and unjust when you have not committed any crime; but it is wise not to make enemies of the police; be polite not abusive.

## QUESTIONING:

In the event of being interviewed, ask for a solicitor or family friend to be present. You do have the right to remain silent. You have the right to insist on legal advice.

## “LITTLE CHATS”:

At any time if you are uncertain either ask for a friend / neighbour to be present or ask for a solicitor. Nothing is achieved by being awkward and making enemies of the police, politely decline until you have someone with you.

N.B. Where a relative is asked to make a statement it is **ESSENTIAL** that they establish whether or not this will effect their right to see the accused. **Do not accept a non-committal answer**; make a note the name of the officer that gives you your information. What appears to be a perfectly harmless comment, e.g. your son was in his night clothes can be used by the prosecution, (where were his day clothes? Why had he changed? Why had he put his day clothes in the washing machine? etc...) Few of us wish to be called to give evidence for the prosecution against someone we love however much we detest the crime they are accused of. If you need legal advice ask for it.

## HANDCUFFS:

A suspect who is in the care of the police may be handcuffed, while travelling in a police vehicle, or if they are violent, or there is a risk of them trying to escape. Handcuffs are seldom used on the very young (or the elderly).

## ACCUSED:

The accused is the person who has not yet been found guilty of the crime he is alleged to have committed. In other words he had not yet been to trial.

## DEFENDANT:

As with the “Accused”, the Defendant is the person who has been accused of a criminal act, and needs to be defended. He is known as the “Defendant”.

*N.B. From the layperson’s point of view “accused” and “defendant” mean the same thing.*

## YOUNG PEOPLE

### **Under 17 years old:**

Under 17 year olds are considered to be children and there has to be a parent or an “**appropriate adult**” present when they are questioned. It is advised that children should not be kept in police cells.

However for very serious offences a child may be held in a secure children’s unit while awaiting trial and after conviction.

### **18 to 21 years old:**

Most adult prisons have separate wings for the 18 to 21 year olds, at the age of 21 they will be housed in the adult section of the prison.

## APPROPRIATE ADULT:

An appropriate adult is needed where a child, adult with learning difficulties, or “vulnerable person” needs to be represented during a police interview; this is over and above the right to have a solicitor present. The “appropriate adult” where a child is concerned is normally the parent or guardian where they are available.

Excerpts from Mencap leaflet 1999:

### ***Why have I been asked to be an Appropriate Adult?***

Police can not interview a detained person they have identified as “vulnerable’ without an Appropriate Adult being present under the terms of the Police and Criminal Evidence Act 1984 (PACE). The term ‘vulnerable adult’ covers learning disability/mental handicap, mental illness or some other disability or illness. PACE became law following high profile miscarriages of justice which highlighted the fact that vulnerable people need special support and protection to help them give reliable evidence.

## *What is my role?*

To ensure that:

1. The vulnerable person understands what is happening and why.
2. The vulnerable person understands their rights and your role in protecting them.
3. They get legal advice. This is FREE.
4. The interview is conducted fairly and to help the vulnerable person and the police to communicate so that the evidence given is reliable.

It is possible you may be asked to testify in court as to the reliability of the evidence.

## *What should I do?*

Before the police Interview:

- a. Inspect the custody record, which records the vulnerable person's time in Custody and what has happened since they have been arrested.
- b. Check that they have been told why they are being detained.
- c. Explain your role to them and what you can & cannot do.

## *Points to remember when agreeing to become an appropriate adult:*

1. You should not allow yourself to be placed in a situation of possible personal risk and vulnerability when fulfilling your role.
2. The whole process of the police interview can be extremely bewildering and pressurised for a vulnerable person.

It is important that you have proper support and training, particularly if you should be involved in a serious or long-term investigation. Do ask the police if there is a local Appropriate Adult scheme in your area.

- a. Make sure they have a solicitor to give them legal advice.
- b. Make sure they understand the difference between your role and that of their solicitor.
- c. Make sure they understand their rights and the procedures that will be followed.
- d. Make sure they understand the caution and what it means.
- e. Make sure they have been able to let someone know where they are should they want to do so.
- f. During the interview - by the investigating officer(s) be present when the caution is given:  
“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.”

## *The Interview will be taped, and you may take notes.*

You are not there as an observer and have the right to intervene in the interest and welfare of the vulnerable person.

1. Ensure that the vulnerable person understands the questions and is able to give responsible replies.
2. Ensure the police regularly review the need for custody.

## *After the interview:*

- Ø The custody officer will decide whether to charge the vulnerable person, whether they will be released, or released on bail.
- Ø They may be required to return to the police station for further questioning, in which case you will be needed again.
- Ø The police may decide to take fingerprints, a photograph or conduct an identity parade.

You will be required to stay with them and ensure they understand what is happening. If the vulnerable person is released you should ensure that they get home safely, **but it is not your responsibility, nor is it advisable to actually do this yourself.**

## *What shouldn't I do?*

- a. Speak on behalf of the vulnerable person.
- b. Discuss the alleged offence with the vulnerable person.
- c. Be compromised by receiving a confession of guilt from the vulnerable person, as your relationship with them is not actually confidential.
- d. Give legal advice, this is the responsibility of the solicitor who is their confidential and legal advisor.

## *What are my rights?*

1. To ask at anytime for a copy of the Police and Criminal Evidence Act 1984 which every police station should have.
2. To see copies of the “Notice to Detained Person” and Notice of Entitlement” which give the rights of the detained person in custody.
3. To inspect the custody record, which is kept by the custody officer.
4. To speak to the vulnerable person alone, if they wish to do so.
5. To intervene and if necessary stop the interview in the interest of the vulnerable person, and their giving reliable evidence.
6. To seek legal advice on behalf of the vulnerable person and ensure a solicitor be present.

## *Points to remember:*

- Ø Interviewing a vulnerable person takes time, and the length and number of police interviews can vary greatly depending on the seriousness of the offence.
- Ø You will normally be expected to cover your own travel and transport costs to and from the interviews, as the police have no funds or responsibility to reimburse expenses.
- Ø It is possible that you may have to give evidence in court. It is important you avoid any risk of confusion and being compromised in carrying out your responsibilities, particularly with regard to confidentiality.

**Checklist:**

- |   |        |
|---|--------|
| <input type="checkbox"/> Have I inspected the custody record?                       | Yes/No |
| <input type="checkbox"/> Have the rights of the vulnerable person been respected?   | Yes/No |
| <input type="checkbox"/> Have I explained my role and was it understood?            | Yes/No |
| <input type="checkbox"/> Did I hear them being cautioned and was it understood?     | Yes/No |
| <input type="checkbox"/> Have they got legal representation?                        | Yes/No |
| <input type="checkbox"/> Was I happy with the way the interview was conducted?      | Yes/No |
| <input type="checkbox"/> Did the vulnerable person understand the questions?        | Yes/No |
| <input type="checkbox"/> Was I happy with the way the fingerprints etc. were taken? | Yes/No |
| Would I be happy to verify the evidence in court?                                   | Yes/No |

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Prisoners Reform Trust publishes (free of charge), four booklets that replace the old Prisoner's Handbook. Where young people are concerned the one you will need is:

*Information Book for Male Prisoners & Young Offenders:*

Prison Reform Trust,

*15 Northburgh Street, London EC1 V0JR*

## PART 2

### THE COURT

When a man is arrested he must be formally charged within 24 hours, in special circumstances this time can be extended by a further 12 hours. If there is an extension to the 24 hours the decision has to be made by a superintendent or officer of higher rank, in very rare cases the police can apply to a magistrate for a further extension. From police statistics the majority of people are detained for between 1 and 6 hours. If a man is charged he is normally brought before a magistrate the following morning, this can vary during public holidays such as Christmas and the New Year etc.

### SOLICITORS:

Solicitors undergo many years training. There are many branches of the law, buying & selling property, Wills etc. There are also solicitors that specialise in criminal law. Most law firms have at least one amongst the group who specialises in criminal law.

### DUTY SOLICITOR:

If you are taken to the police station for questioning and you do not have your own solicitor you will be entitled to use the duty solicitor. The duty solicitor is not chosen by the police, but one of many that work on a rota basis and can be called upon by the police.

### **May I choose my own solicitor?**

The accused has the right to choose a solicitor of his own choice.

### **Legal Aid solicitors:**

Not all solicitors accept legal aid though most do; be sure to ask before incurring big bills.

### **Is a man always held in prison while awaiting trial?**

Not necessarily, the police can grant bail or in some cases the Court will grant bail. The police can both recommend or advise against bail, this will be taken into consideration by the magistrate before making his decision. There are often conditions laid down by the Court, for example the person may need to report to the police station a certain number of times a week. It is normal for the person's passport to be retained by the police. The bailee will not be permitted to contact any witnesses. Sometimes there are certain areas the person may not visit. The person will have to appear in Court on appointed dates. There are times when sureties are asked for; this is a sum of money. This money does NOT have to be produced at the time. You may be asked to give proof that you have the money in the event of the accused absconding.

### **May I use my house as surety?**

Yes, most courts will accept property as security.

## **What happens if the accused breaks bail and disappears?**

The Court has the right to call in, all, or part of the money pledged. The Court will usually issue a warrant for the arrest of the accused. It is unlikely that bail will be granted a second time.

## **What is a Bail Hostel?**

A place where someone can be required to stay when they are on bail.

## **What happens when the police oppose bail?**

The Court has been known to over-rule police opposition to bail though this is unusual. In serious cases such as murder bail is seldom granted. It is not usual for people accused of murder or rape to be released on bail and will therefore be held in prison. It is possible to apply to the Crown Court or a Judge in Chambers for bail. The more senior court Judge may over rule the lesser court, this only happens in exceptional cases.

## **Is the time on remand added to the eventual sentence?**

The time in prison will come off the final sentence in most cases. The time in prison is called being “on remand.”

## **What happens if a person is not granted bail?**

If bail is not granted the accused will be brought before the Court at regular intervals until his Committal for trial, when he may need to reapply for bail.

## **What happens when a young person or child is not granted bail?**

They are normally looked after by the Local Authority either in a children’s home or Secure Children’s Units. Children should not be held in police cells. Young people who have committed violent crime or have a history of absconding may be held in secure accommodation.

## **At what age can a young person be kept in prison?**

From the age of 17 years a young person maybe held in prison whilst on remand.

## **Is there a difference between Remand and Convicted prisoners?**

Remand prisoners have more privileges than convicted men. They are allowed visits without having to send out Visiting Order, in some prisons meals, food, money, cigarettes etc. may be taken in, (each prison has its own rules and regulations.) Always check with the prison first.

## **Does the time spent on bail come off the final prison sentence?**

Yes. In some cases where the sentence is the same length as the time already spent in prison the accused can be released directly from the Court.

## **How long does it take from arrest to trial?**

In England, with a complicated case it can take anything from 9 months to nearly two years. In Scotland the case has to be brought before the Court within 101 days of the Committal hearing.

## **What is the difference between “convicted” and “on remand”?**

Remand is when the accused is awaiting trial. When the accused is found guilty he is then “convicted” of that crime and sentenced.

## **How often can a person on remand have visitors?**

As often as the prison permits visits, sometimes daily. After conviction, (that is being found guilty) visiting rights change. You have to have a V.O. Visiting Order. The prisoner may send out two a month.

## **Is there visiting on Christmas day?**

Not normally.

## **Can things be taken in while a person is on remand?**

Yes, because he has not been found guilty of any crime. The prison will give you a list of what can be taken in; it varies from prison to prison. After conviction there are fewer things you may take in.

## **What happens at a COMMITTAL hearing?**

The Prosecution puts before the judge their evidence. The Defence may put in a plea on behalf of his client. At this stage a trial date may be set.

## **What is an “Old Style Committal” hearing?**

At an old style committal both sides have to put before the judge ALL the evidence for and against the accused. Unless there is very strong evidence in favour of the accused he is taking a great gamble in disclosing all evidence, witnesses etc. In very rare cases a judge has ruled that there is no case to answer and the charges are dropped, but this is most unusual. A word of WARNING: Judges do not take kindly to “time-wasters.” “Old style” committal hearing are now almost unheard of, they went out in 1997.

## **Can a close relative be called to give evidence for the prosecution?**

Yes, it can be upsetting because as a prosecution witness, if you are permitted to visit, you will be forbidden to speak about the case.

## **Can a witness refuse to give evidence?**

Yes, BUT they could still be called as a witness, only they will be treated as a “Hostile Witness.” The Court makes an order and the reluctant witness is subpoenaed to appear. In the event of the witness still refusing the Court can issue a warrant for their arrest for “contempt of Court”, the Court will be informed of this fact when they appear to give their evidence.

## **Witness Box:**

The witness box is to one side at the front of the Court, so that both the judge and the Jury can hear and see the witnesses. If the accused is giving evidence on his own behalf he will be brought forward, escorted by a prison officer, to the witness box to give his testimony.

## **What is the difference between the “dock” and the Witness box?**

The accused is held in the “dock”, an area that is well guarded and often has stairs nearby that lead down to the cells.

## **Is it possible to see the accused from the public gallery?**

Not always, although in some Courts you are so close that you can almost touch them.

## **Does the accused have to give evidence?**

No, it is for him to decide with the advice from his legal team. The jury will be told that they can construe what ever they like from this.

## **Can the accused be subpoenaed to give evidence?**

No, it is his right not to do so, unlike the rest of us.

## **Can the accused be visited at the end of a Court session?**

It depends on the Court and the time before prison transport comes to collect the men. It is always worth asking but it is not so frequent as it used to be as prison transport is now in the hands of “private tender” and therefore there are less police on the spot to help if needed. If a man is in the middle of giving his evidence when the Court session ends, he is permitted NO VISITORS, (not relatives, not legal advisors.)

## **Can things be taken in for the accused?**

Each Court and prison has its’ own regulations, but you will be permitted to take in clean, smart clothes for the accused, but they have to be collected at the end of each day. Make certain they are marked with name and number.

## **Does it make a difference if the accused is wearing a suit?**

First impressions on the judge and jury are important, as well as it being a mark of respect to the Court. An appearance in Court should be viewed as a formal occasion. It will not influence the verdict but psychologically it may have an effect on the wearer.

## **Does it matter if the accused does not have a suit?**

No, not at all, but a clean, pressed pair of trousers, a well ironed shirt with tie can look just as smart; it also shows the Court that the accused has made an effort with his appearance. (The mother or wife of the accused also feels that at such a terrible time in her life she is still able to do something for the man she loves.)

## **What does the “Crown” mean? (e.g. Crown v Robinson)**

The magistrate or judge tries the case in the name of the monarch... “The Crown,” against (Versus) the person accused of a crime.

Updated 15<sup>th</sup> March 2005; please inform us of any errors at [information@affected.org.uk](mailto:information@affected.org.uk).  
This information may be used free-of-charge;  
nevertheless, donations are appreciated [[www.affected.org.uk/about/funding.htm](http://www.affected.org.uk/about/funding.htm)].