

**A GUIDE TO ATTENDANCE AT A POLICE STATION FOR INTERVIEW**  
**QUESTIONS and ANSWERS**

**Q.1. Grounds for arrest and detention.**

- A.** The Police and Criminal Evidence Act 1984 authorises detention at a Police Station without charge, provided that the Police have reasonable grounds for believing that this is necessary in order to secure or preserve evidence relating to an offence for which a person is under arrest or, to obtain such evidence by questioning.

The Custody Sergeant is responsible for opening a "Custody Record" and recording the reason for arrest, the grounds for that arrest and the reason for detention.

Your Solicitor will ensure that your arrest and subsequent detention are lawful.

**Q.2. Your right to Legal Advice.**

- A.** All persons detained at a Police Station must be informed of their right to free legal advice, funded by the Legal Services Commission, which is available if an interview is to take place.

**Q.3. How long can I be detained at a Police Station?**

- A.** Detention at a Police Station is governed by the usual maximum period of detention without charge for up to 24 hours, although this period may be extended up to a total of 36 hours upon the authorisation of an officer of the rank of Superintendent or above if certain conditions are satisfied.

Detention will be reviewed by an Inspector no later than 6 hours after being first authorised to ensure the investigation is being conducted diligently and expeditiously. The second and subsequent reviews must be carried out no later than 9 hours after the first review.

**Q.4. The right to have somebody told of your detention.**

- A. Section 56 of PACE provides a right, for a friend, relative or other person to be informed of your arrest as soon as practicable.

**Q.5. What information should my Solicitor obtain from the Police?**

- A. In order to be able to advise effectively, it is necessary to obtain a clear idea of what evidence the Police have and the Defence Solicitor should seek to obtain as much information as possible about the allegation and the available evidence and a full and careful note should be taken of the Police response. It is crucial that sufficient time is taken to obtain as much information as possible as this will be crucial to the future conduct of the defence. Such enquiries may also lead to the disclosure of information that might not otherwise be disclosed by the Police. The Police officer should be asked whether they have any relevant information that they have not disclosed.

There are circumstances where a lack of disclosure from the Police before an initial interview may be treated by a Court as sufficient justification to prevent adverse inferences from silence being drawn. The more information that is disclosed, the less likely it will be that a Court will accept this justification for failure to tell the Police facts later relied upon by someone in their Defence.

Disclosure of the following information should be requested from the Police:-

- Information about how the matter was reported to the Police and why the Police have initiated the investigation.
- How a person came to be arrested and what happened on arrest.
- What investigations have been made of the crime scene.
- What relevant communications have taken place.
- What relevant communication has taken place between members of the public and the Police.

- Who is to be interviewed in relation to this case?
- What searches have been conducted?
- What evidence or objects have the Police in their possession e.g. clothing, CCTV recordings etc?
- What forensic examinations or tests have been conducted?
- What other investigations, forensic tests etc are planned.

**Q.6. Should I answer Police questions in interview?**

- A.** An interview is defined as the questioning of a suspect regarding their involvement or suspected involvement in a criminal offence or offences which must be carried out under caution.

The caution is as follows:-

*“You do not have to say anything but it may harm your defence if you do not mention when questioned something which you may later rely on in Court; anything you do say may be given in evidence.”*

The Solicitor should consider with their client whether the Police can make a case on the evidence available.

A person cannot be convicted solely on the inference drawn from silence. There must be some other evidence to show that a person is guilty. In certain circumstances, silence or refusal to answer Police questions is an appropriate option. The consideration to be borne in mind is what use the Prosecution can make of such silence or refusal at any subsequent Trial.

The issue is whether the accused could reasonably have been expected to mention the fact later relied upon by him in Court during the course of a Police interview.

Magistrates or a Jury must only draw an inference when they are satisfied that the accused had no innocent explanation or none that would stand up to scrutiny.

It is therefore necessary to consider what facts are to be relied upon at Trial in the event of charge and therefore what information should be provided to the Police in interview.

If you have a specific defence e.g. self-defence, there will be advantages to this being placed on record at an early stage, either in the hope that the Police will decide not to prosecute or with a view to strengthening your defence for the purposes of a Trial. Failure to mention a specific defence at this stage is likely to lead to adverse inferences being drawn if that defence is subsequently relied on at Trial.

Advice should be given in relation to the options that are available to you. Each case is different and will require individual advice.

#### **Q.7. Available Defences**

- A.** The Defence Solicitor must consider what defences may be available and this involves a careful consideration of whether evidence is likely to be available to establish the defence.

The Law should be explained e.g. that self-defence means that force used must be reasonable in the sense that it was proportional to the threat as perceived by the person. There is no duty to retreat, although the possibility of retreat is relevant in judging the reasonableness of the force used. A “pre-emptive strike” to ward off an anticipated attack may amount to self-defence and this again must be judged by whether it is reasonable in the circumstances.

The burden of proof rests with the Prosecution and in order to secure a conviction the Prosecution must prove beyond reasonable doubt the elements of the offence and in effect, disprove the defence. The standard of proof required is that Magistrates or a Jury at the Crown Court are certain so that they are sure that the Prosecution have proved their case.

In some cases, the burden of proof rests with the defence and in that event, the standard of proof for the defence is on the balance of probabilities rather than beyond reasonable doubt.

**Q.8. Other important issues**

**A.** You should also request legal advice in relation to the following matters:-

- Whether to provide samples for forensic analysis and the consequences of not doing so.
- Whether to consent to finger prints and photographs.
- Whether to consent to, or ask for, an identification parade.
- Searches of property.

**Q.9 What will happened after the Interview**

**A.** Following interview, the Police will seek the advice of the Crown Prosecution Service in relation to how the matter should proceed. A decision will be taken about the future course of the investigation and whether any further interviews are required and what other lines of enquiry should be made. A decision will ultimately be taken in relation to whether there is sufficient evidence to charge with a criminal offence.