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# **Guide to arrest by police**

## **Introduction**

This guide is for anyone facing arrest personally or if you are worried about someone in that unfortunate position. All is not lost! The first thing to say is that do NOT accept advice from the police as to whether a solicitor should represent you in this situation. The police would rather we were not there because we are effective on your behalf. But is your legal right to be protected by a defence solicitor when facing investigation by the police.

A ROBIN MURRAY AND CO solicitor (**free of charge**) who is with you at the police station or elsewhere, when you are arrested, can achieve a number of positive things and here are some of them:

A ROBIN MURRAY AND CO solicitor:

1. Can help avoid a charge by adopting appropriate strategies.
2. Can help reduce the charge to a lesser offence
3. Can achieve a diversion to medical authorities where appropriate
4. Can sometimes persuade the police to caution rather than charge with full explanation as to the impact upon your character and employment prospects which the police will not tell you.
5. Can help put forward important reasons why you behaved in the way you did if the case is strong against you (mitigation) which may have some impact upon a court later sentencing you.
6. Can advise you whether to exercise your right to silence (no comment) which may or may not always be sensible depending upon the lawyer's assessment of the evidence.
7. Can advise you if it is in your interests to put in a written statement instead of answering questions.
8. Can protect you against oppressive, bullying and misleading behaviour by the police and advise you on any complaints arising from such poor police behaviour which may or may not be tactically wise to lodge prior to charge.

**Initial contact by police and the 'invitation to just have a chat at about a matter they are investigating'**

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1. When the police are investigating an allegation, they will often contact a suspect on the telephone if they haven't arrested them already and invite them to the Police Station for 'a chat', or even offer to come to your house or at some other location. They will say things like we 'just want to hear your side of the story' and there is nothing to worry about. They will often claim to be unbiased and entirely neutral. This is often not the case and the police are under pressure to 'clear offences up' which means they need a lot of favourable results and therefore they are not unbiased at all and would like you to admit to the offence. You may even find yourself stuck in a cell because you are immediately arrested and kept for hours. Some chat!

2. Also beware the police lulling you into a false sense of security by promising not to arrest you and treating you as a volunteer. Everything you say as a volunteer can be used against you in the same way as if you had been arrested. Plus although it is nice not to be arrested and often that is a reasonable option you do not have the protection of strict time limits and may be interviewed for longer over the course of the investigation if this is protracted. A ROBIN MURRAY AND CO lawyer will advise you about that.

3. Even as a volunteer (someone who is not under arrest) you are entitled to have a lawyer present free of charge wherever a police officer chooses to conduct an interview.

4.. To be frank, if you are not legally qualified you are at a major disadvantage in not having a solicitor with you. Everything you say over the telephone, on the way to the station (if in a police car) and on arrival is potentially written down in police note books so our advice is to say nothing about the alleged offence until you have had advice from your solicitor or the duty solicitor. Certainly on arrival at the police station when asked by the officer or custody sergeant if you want to talk to a free and independent solicitor free of charge say 'yes' that you would wish to do so.

.5. When the police tell you that having a solicitor will cause delay that is basically untrue. It is part of our contractual duty not to delay and we are audited to make sure that we do attend promptly and a duty solicitor has to give reasons for any delay over 45 minutes from receiving the call from the police station (for example due to traffic or the police not being ready.) Any delay will almost always be due to the police taking sometime to investigate and prepare for interview not because solicitors are slow in attending. Why would we want to do that? (By the way when police officers themselves are arrested they always insist on a defence solicitor being present to represent them. Why is that do you think?)

.6. The police want to get an admission. The main role of the solicitor is defined by the statutory codes as being 'to advance the interests of his client' (you). We are independent of the police **and free of charge**. If you are innocent that is a very good reason to have us there to ensure that this is made very clear. If you are guilty then we can help a great deal by putting forward reasons for the situation you found yourself in which may help you avoid a charge or help with sentencing if you plead guilty at court.

## The Police Interview

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The interview generally has 3 stages and if you do not have a solicitor you are generally at a major disadvantage as the first two stages, which are designed to help you, are cut out. With a solicitor you will have the added benefit of knowing in advance most of the prosecution case known at that stage and the questions the police will put to you in the interview. You will then be advised how best to deal with the interview by your solicitor. Without a solicitor you go into the interview 'blind' or ill informed. With a solicitor the 3 stages are: disclosure, consultation with your lawyer and the interview itself that your solicitor will also attend and proactively help you during this.

### **Stage I. Disclosure**

1. This is where the Police Officer dealing with the case explains in detail (sometimes in writing) to your solicitor what the evidence is against you. Many police officers do not give disclosure if you represent yourself and will potentially be surprised later in the interview by all sorts of dubious questions without a solicitor there to assist you, forewarned and forearmed by information provided at the disclosure stage. To have this advantage you need a solicitor.

2. The police often hold back crucial information in the hope of ambushing the suspect during the interview. A solicitor will ask probing questions during the disclosure stage to drag further information out of the officer. Sometimes a police refusal to answer these additional questions reveals an attempt to catch out the interviewee and based on that suspicion a solicitor will later advise his client to be aware of the risk of answering questions until this missing information is revealed or will help the client write a written statement covering that limited information which has been revealed.

3. Sometimes the disclosure is so poor or inadequate that the solicitor will advise that it is reasonably safe to conclude that no court would regard it as unreasonable to simply exercise the right to remain silent (reply 'no comment'). But this is a decision that only a solicitor is properly qualified to make as it is based on an experienced assessment of the evidence and knowledge of the law. It is dangerous to always simply reply 'no comment' as this can prove disastrous if the court feels it was unreasonable for you not to answer question at the police station and leave your response until the trial.

### **Stage II. Consultation with your solicitor**

1. Again, and stating the obvious, if you do not ask for a solicitor you will not have the benefit of cool independent and knowledgeable legal advice. You will not have that 'edge' in the subsequent interview of being pretty well prepared for what is to come.

2. A solicitor will reveal to you all he has been told about the case in disclosure by the police and give you an independent assessment as to how strong or weak that case is. The solicitor will listen to all you have to say and then advise you whether or not to answer questions or whether to provide a written statement. You will also receive advice, where appropriate, on whether to provide physical samples. The interview caution will be explained to you in a far better manner than the rushed version by the police when the interview has commenced. Sometimes it is tactically wise to exercise the right to remain silent even if innocent, where for example, answering questions will put you at the scene

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when otherwise the police cannot prove you were there. ! On other occasions it would be better to answer questions if it is felt that a court would give your evidence in court more credibility. It will depend on the evidence and it is a complex judgment call and it is better to make that decision with a solicitor having been with you and advising you following an expert assessment of the all the evidence both prosecution and defence.

3. The solicitor will advise you on exactly what to expect during the interview and how to conduct yourself though he cannot answer for you or tell you what to say. It will also be explained that the solicitor has a proactive non passive role during the interview in order to protect you should the need arise. We will speak up and defend you if poorly treated.

### **Stage III. The interview.**

1. This will almost certainly be recorded. That is a good thing as there is an accurate record of what took place especially if visually recorded. It is important though to ensure that you adopt appropriate verbal and body language as, remember, this interview may be heard and or seen by a court later on and you will wish to give the right impression.

2. It is impossible to recite here all that may happen in the interview but the solicitor will be on guard to watch out for the following poor police behaviour:

- Over aggressive or intimidating questioning
- Misleading or over complex questions (such as several questions rolled into one requiring a 'yes or no' answer where inappropriate)
- 'Ambush' questions based on evidence not previously disclosed which may result in your solicitor demanding that you be able to exercise your legal right to a further private legal consultation.
- Bringing up matters from the past which may have no relevance to the matter being investigated..

### **When the interview is over**

1. The solicitor will advise you what the next steps in the process are. Whether you are likely to be bailed back to the police station pending further enquiries, or charged and bailed to court on a future date? Or whether the Police upon advice from the solicitors from the Crown Prosecution Service will seek to put you before the court in custody? (Note that the police have access to legal advice so it would be wise for you do so).

2. If you are charged the solicitor can advise you about the availability of legal aid and private funding for court as appropriate. (Advice in police station is free and not means tested) Sorting these things out at the police station can sometimes save valuable time.

3. We will advise you on the prospects of bail (being released or remanded in custody) and will make representations to the police in relation to any bail conditions (Such as residence, reporting, and no contact with witnesses) in order to increase your chances for release. In most cases we can secure your release.

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4. Having had a solicitor at the police station will have an immediate benefit if the case proceeds to court. The solicitor will have a far greater grasp of what the case is about than anyone else in the court room. Having been in the police station it will be possible to advise immediately on plea, on witnesses, on sentencing plus an ability to negotiate on charges with the Crown as weaknesses in the prosecution case will be obvious to solicitor who can often then bring informed pressure to bear upon a busy hard pressed prosecutor who may be less enthusiastic about the evidence than the police or the original reviewing CPS lawyer.

### **On Balance**

Why be without a solicitor? They provide an expert and free service in a complex and dangerous area of law for those people facing trained police officers. They 'even up the odds' in your favour. We can provide some balance. If you needed medical surgery you would go to a surgeon or try to operate on yourself? Why therefore would you wish to negotiate the complexities of an arrest by the police on your own? If you are innocent then you need a solicitor to help you establish that innocence. We win cases because of what we do early on in the case at the police station-even if the police do not realise it at the time!

If you have committed an offence then you need a solicitor to help you explain the reasons that the offence occurred, to obtain a caution or diversion if appropriate and to prepare the ground for help by outside agencies if you need this.

A police station can be a very lonely and upsetting place to be sometimes if you are under suspicion. Having a solicitor with you can help you not only by giving you expert legal advice but also by giving you strong moral and emotional support at a critical time. You have nothing to lose and everything to gain by requesting a solicitor to help you in the police station. We want to help you. It is what we do and we are proud to do it for you. We believe in Justice and standing up to the mighty power of the State by representing you in the police station and defiantly demanding that the State proves its case against you. We are a well known firm with national profile and we are there for you.

Please call us on:

01634 832 332 during office hours or;

For out of hours emergency police arrests on 0844 567 6717