

You have opted to have our firm represent you at the police station. Please read this guide intended to assist you.

### **Who will pay the costs**

If we attend the police station on a legal aid basis the legal aid agency will pay for necessary attendances. If you are paying privately then you pay this cost as agreed.

You cannot have two separate firms or a further firm if it is a claim for the same case within 6 months. You may be able to change solicitors if the first firm was a duty solicitor and you seek a specialist opinion. In this case the next date must be effective with an interview or ID procedure to attend under legal aid.

### **What happens next**

Provide us with the location of the police station, details of officer's name, department, email, and telephone number.

### **Will you meet with me in advance or provide free advice before the meeting at the police station**

We cannot not provide a meeting in advance for free as this is not covered by legal public funding. As a private client you can fund advance meetings. This document is intended to give you outline advice on the procedure.

## **When do I become your client**

On legal aid our retainer commences once we set off and make our way to attend the police station for you on the agreed date. If it is by video this is once the police progress the case with us to allow us to make a claim on legal aid. You will not be our client and our retainer will not commence until the funding on legal aid is claimable. The work we undertake will be limited to the scope of the legal aid funding. On a private basis you become our client once you make payment and accept terms sent to you.

## **Can I pay for a separate meeting in advance of the police station**

Yes, you can, and you need to agree private fees with us. We can agree fees from a starting range of £500 plus VAT for a fixed meeting up to 2 hours. These are starting costs and more complex cases requiring more senior lawyers will cost more. This is not conditional on you instructing us on legal aid. This is entirely separate and away from the police station before the agreed meeting time on legal aid with the police.

You can also choose to have a solicitor at the police station on a private basis if you wish, see the link below.

See link to our private page explaining possible work we can undertake.

<https://www.jdspicer.co.uk/site/our-fees/private-fees/>

## **Will I be arrested and placed in a cell**

Sometimes the police may arrest you even if you attend voluntarily. This applies to more serious cases or if they think you pose a risk or for a variety of other reasons. They always avoid arresting you where possible. These days arresting is a thing of the past if you attend voluntarily as this holds up cell space and gives the police more work to do.

[If you are arrested read below for procedure and rights. At this stage assume you will not be arrested or detained.](#)

## **Voluntary Police Interview - What You Need to Know**

You may be wondering exactly what this is, how it's different to being arrested and what you need to do to protect yourself.

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Just because it is called a 'voluntary' interview, doesn't mean you should simply refuse to attend. Although you can say no, this could result in the police deciding to arrest you so they can carry out an interview whilst under police arrest instead.

We can call the police and obtain some disclosure where possible of the allegations. Generally little if any disclosure may be provided in advance. Our sole job will be to advise you on whether to answer police questions.

See our senior partners specialist article on whether [to say no comment in the interview.](#)

<https://www.jdspicer.co.uk/site/blog/crime-fraud/should-you-say-no-comment-in-a-police-interview>

### **What is a voluntary police interview**

A voluntary police interview or interview under caution is a formal meeting with police that usually takes place at a police station. You do not have to attend, and you can leave at any time once the interview has begun. However, as noted above, failure to attend or attempting to leave could result in you being arrested.

While a voluntary interview might be conducted in a less formal way than an interview under arrest, the conversation will still be tape recorded and anything you say can potentially be used against you in any subsequent criminal proceedings.

You have the right to a solicitor during an interview under caution and, once you have requested a solicitor, the police officers are not allowed to ask you any questions until your solicitor has arrived.

You will normally be invited to the interview in writing, with the option of two different dates to choose from. You can also suggest an alternative date if needed.

### **Why do police use voluntary interviews?**

There are various reasons why the police may choose to use a voluntary interview including:

- The police do not feel they have sufficient grounds to suspect you of having committed a crime, so they cannot arrest you
- They may feel you will be more cooperative if you are not under arrest
- There has been significant pressure on the police in recent years to avoid having suspects be released on bail for long periods and delaying the point of arrest can help reduce the length of time a suspect is on bail
- It can be cheaper for the police than the cost of an arrest and detention
- Police do not believe that the person's arrest is necessary at that point

### **Is it a bad idea to speak to police voluntarily?**

Not necessarily – it is usually preferable to being arrested for a start! The key thing is to make sure you do not say anything which increases your likelihood of being arrested or charged with an offence or that undermines your defence if you are charged.

It is therefore very strongly recommended to have a specialist criminal defence lawyer with you during a police interview under caution to make sure you stay protected. If you take this precaution, attending a voluntarily police interview may be in your best interests.

### **What happens after a voluntary police interview?**

Following a voluntary police interview under caution you could be:

- Free to go
- Arrested and charged with a criminal offence
- Released under investigation
- If you are told that you will be reported for a charge to be considered against you, you may need to supply your fingerprints, DNA sample and photograph.
- You may be requested to consent to taking part in an identification process, or voluntarily surrender items

### **What happens during a police interview attendance at the police station?**

There are three main stages to the police interview process:

**Disclosure** – The police will provide information about the offence or offences you are suspected of committing to your legal representative without you present. Police can and usually will withhold information such as witness statements and other statements or evidence at this stage.

**Client-solicitor consultation** – You and your legal representative will be able to speak alone in a private consultation room at the police station. This allows your lawyer to explain the allegations you are facing and gives you a chance to respond to those allegations.

### **Our solicitor's advice - comment or no comment**

The advice we give at the Police Station is confidential and should not be discussed with the Police or any third party. Upon analysis of the disclosure given, our experienced representative will advise you accordingly whether you should:

1. Answer 'No comment' to questions.
2. Answer Police questions.
3. Serve a prepared statement outlining your defence.

Your representative will advise the best option for you in the circumstance based on the case.

### **What is said in the interview**

You will be asked questions by one or two police officers in a recorded interview in the presence of your lawyer.

At the start of the interview, the police should tell you:

- The names of the officers in attendance
- That the interview is being recorded
- The purpose of the interview – including what offence is being investigated
- That you can choose to end the interview at any time
- That you do not have to say anything
- That you have the right to legal representation

You should be formally cautioned – if this does not happen, then anything you say during the interview may potentially be considered inadmissible as evidence by a court. Before your interview, you should be informed the following words:

“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.”

They will then ask you questions which can cover issues such as:

- Your whereabouts at certain times
- Whether you know certain people
- Your knowledge of specific events
- Questioning in detail about allegations
- An attempt to discuss your relevant personal circumstances and issues relevant to the offence including health, drug and alcohol matters

You have the right to breaks (normally 15 minutes every two hours) if the interview goes on for this long.

If you are charged with a criminal offence, we can provide a proactive [Private service](#) after the police interview for you to undertake key work on your behalf.

If you are released under investigation, it is a good idea to take specialist legal advice as you may still be arrested and charged with a criminal offence at any time. You will have to fund this privately.

One common problem is that the police are not required to inform you if they decide to take no further action following a voluntary interview. This often leaves people feeling like they are 'on the hook' for an offence, even if no further action is taken.

Similarly, you may only find out that further action is being taken at the point when you suddenly receive a summons to attend court proceedings.

An experienced criminal defence solicitor can maintain pressure on the police to decide and ensure you stay informed, helping to reduce any potential for worry following a voluntary interview under caution.

### **Is a voluntary interview at a police station better than being arrested?**

In many ways, being voluntarily interviewed by police is not that different to being interviewed under arrest. However, one key benefit is that you will not have been arrested, so you will not need to disclose the police interview if, for example, you ever need to undergo a DBS check for work.

### **What to do if someone under 18 is invited to a voluntary police interview**

If someone under the age of 18 (or a vulnerable adult) is invited to a police interview under caution, then an appropriate adult must be present during the interview. They must also be present during an identification process or intimate searches that take place.

This appropriate adult will normally be the parent, guardian or social worker of the young person or vulnerable person.

Common mistakes to avoid when attending a voluntary police interview

### **Thinking you are just being interviewed as a potential witness**

One of the most common errors people make is to not realise the seriousness of the situation or that they are at risk of criminal charges.

Many people fall into the trap of thinking they are being interviewed as a potential witness and police officers may not necessarily always make it clear that this is not the case. This can lead them to disclosing things that they would otherwise have kept to themselves.

### **Ignoring the letter inviting you to an interview**

This can be tempting – either because you think you do not need to bother or because you hope the police will give up if they don't hear from you. Ignoring the letter can mean the police will simply decide to arrest you instead.

### **Speaking to the police voluntarily without a lawyer**

We can't stress enough what a bad decision this is! It is very easy to mistakenly say the wrong thing during a police interview, leaving yourself at risk of arrest and criminal charges. Please never speak to the police without a specialist criminal defence lawyer present as there is a strong chance you will regret it.

### **What happens if you are arrested?**

The following guide is intended to offer a basic overview of what to expect when arrested, your rights following arrest, what happens in a police interview and the possible outcomes following a police interview.

When you arrive at the custody suite of a police station, you will normally:

- Be booked in by the police custody officer on duty
- Be searched and your possessions kept by the police custody officer, including your mobile phone
- Have your photograph taken
- Have your biometric data, including your fingerprints and DNA samples taken (DNA may be taken with a mouth swab or a head hair root)
- Have swabs of the skin on your hands and arms taken

- Have your belt and shoelaces taken before you are placed in a cell
- Be placed into a cell to await interview

### **When taken into police custody, you have the right to:**

- Free legal advice (either from the duty solicitor available or another legal representative of your choosing)
- Refuse to answer any questions until your legal adviser is present
- Receive legal advice promptly (except in exceptional circumstances, where a senior officer can authorise withholding legal advice for a maximum of 36 hours after arriving at the custody suite or 48 hours for suspected terrorism offences)
- Change your mind at any time if you initially choose not to have a legal representative
- Have someone notified at no cost to you that you have been arrested and are in custody (please note, you do not have the 'right to a phone call' under English law)
- Have an appropriate adult (such as a parent, guardian, or carer) present during searching and questioning if you are under 17 years old or are a vulnerable adult
- Refuse to give a blood or urine sample (except in relation to drink and drug driving) or to have dental impressions taken

### **The dangers of talking to police 'informally'**

If you are contacted by police, whether over the phone or in person, for a 'chat down the station', you should be extremely careful. While you may be under the impression this is an informal chat to 'get your side of the story', it can be very easy to accidentally incriminate yourself. In some cases, even things you say over the phone can later be used against you.

### **Our advice – never speak to the police without your lawyer present**

Any communication you have with the police, whether over the phone, in person or in writing, should always be done only after you have taken advice from your lawyer and only in the presence of your lawyer.

Even if a police officer tells you that 'you don't need a lawyer', that 'you're not a suspect' or 'waiting for a lawyer will just slow things down', you should always insist on having your lawyer with you before saying anything.

### **How long can you be kept in custody at a police station?**



The length of time you can be held in custody without being charged with a crime will depend on the type of offence you are suspected of having committing.

### **The time limits are:**

- 24 hours for most crimes
- After 24 hours your further detention of up to 36 hours must be authorised by an officer of the rank of superintendent or above.
- Detention without charge beyond 36 hours can only be authorised by a Magistrates' Court in respect of serious crimes e.g. murder. You can not be kept longer than 96 hours.
- For terrorism offences (under the Terrorism Act) you can be detained without charge initially for 48 hours, but this can be extended to up to 7 days with judicial authority and then a further extension of up to 21 days can be granted with further applications.

### **What are the possible outcomes following a police interview?**

Following police interview, there are four basic outcomes that could occur:

#### **Released with no further action**

This means the police accept that you have not committed a criminal offence or at least that there is no realistic prospect of them proving that you committed an offence.

#### **Released under investigation**

This means the police still suspect you may have committed a criminal offence, but they do not currently have enough evidence to charge you.

You will be released but may be called back to a police station or custody suite at a later point for further questions.

#### **If arrested released on bail pending further enquiries**

This is the same as being released under investigation, except that you will be placed on 'pre-charge bail', meaning conditions can be placed on your release e.g. that you must stick to a curfew or not associate with certain people.

You will not have to pay to be released on bail pending further enquiries, but you can be arrested for breaching the conditions of pre-charge bail.

## **Charged or summonsed for a crime to attend court**

If you are charged with a crime, the exact details of the crime you are being charged with will be set out in a charge sheet and you will be required to sign to say you have been told about your charge and your subsequent Court date.

You will then either be kept in police custody or released on bail until an initial court hearing can be held to decide what happens next. If you are summonsed the charge is posted to you.

## **Bail**

If you are arrested and in custody or returning on bail you can be refused bail and kept in police custody, you must be produced before the next available Magistrates' Court. In most cases if you attend voluntarily you will leave on bail.

If you are released on bail, the police may set conditions on that bail e.g., to have a curfew, avoid associating with or contacting certain people, visiting certain areas etc.

## **If arrested what happens when you are being released from police custody?**

If you are due to be released from police custody, you will go through a standard pre-release process. This includes:

- Your possessions being returned (apart from items that are being kept as part of an ongoing police investigation)
- Being allowed to phone a friend or family member to arrange transport home
- May be issued with a travel warrant for public transport (if you cannot arrange your own transport)
- The conditions of your bail being explained (where relevant)

## **Should I talk to the witnesses against me or the alleged victim?**

Under no circumstances should you do this as you could commit further offences or be accused of breach of bail. Do not talk to them even if they or their family/associates contact you.

## **Funding if you are charged to attend court**

Legal aid public funding is available generally in some cases based on the seriousness of a case justifying the grant of public funding. If you must go to court the test will also require you to have a means income test.

You can be granted legal aid without a contribution towards the cost of the case (low income) or with a contribution (higher income) if the case is sent to the crown court for trial.

See link below and please read guide within this.

[www.jdspicer.co.uk/site/legal-aid-form/](http://www.jdspicer.co.uk/site/legal-aid-form/)

## **What is a police caution**

The police or Crown Prosecution Service can give you a caution (warning) or a penalty notice if you commit a minor crime. You must accept guilt to receive a caution. This avoids attending court.

<https://www.gov.uk/caution-warning-penalty>

## **What is a community resolution**

Community Resolutions provide an opportunity for the police to deal with appropriate low-level offences and offenders without recourse to formal criminal justice sanctions. You will need to make a reliable admission of guilt and or apology.

See explanatory link below

[www.west-midlands.police.uk/your-options/community-resolution](http://www.west-midlands.police.uk/your-options/community-resolution)

## **What if you are convicted at court**

The charity below provides excellent advice in the interim on all related issues

Unlock is a charity founded so that people with convictions would have better opportunities to move on in their lives

<https://unlock.org.uk/>

We can provide this advice, but it is set out clearly here. We take no responsibility for the accuracy of the site, but it is a good starting point to avoid incurring legal fees.

They can advise on –

Criminal records, employment, business, volunteering, education, insurance, banking and finance, travel, other areas of life.

They also advise on related immigration issues, sexual offences, and general matters.

If you have further questions, we can provide advice if possible or arrange a meeting which will have to be funded.

### **Biometrics – fingerprints, photo and DNA**

If you are arrested, your details will be entered onto the Police National Computer (PNC). This will include your personal details, details of your arrest and biometric information such as fingerprints and your DNA profile.

Your biometric information will be either retained or destroyed depending on whether you have been convicted or not.

If you are charged or convicted and the police have not already taken biometrics, the police will collect the above biometrics from you.

### **Further questions**

If you have further questions, we can attempt to reasonably answer these questions. Unless you are funding your advice privately, the work that we can do pre and post police station is limited to the police station attendance and procedures. Any substantial advice outside of the police station legal aid scheme must be funded by you.



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