

Dunn & Baker

INFORMATION ON POLICE PROCEDURE

Rights at the Police Station

All persons in custody must be dealt with as swiftly and efficiently as possible, and released as soon as the reason for detention no longer applies.

If you are police custody, you must be told of your rights:

- 1) to inform someone of your arrest
- 2) to consult the Codes of Practice
- 3) to consult privately with a free solicitor

Appropriate Adult

Where a detainee is deemed to be a "vulnerable person" through lack of understanding, or appears to be under the age of 17, it is normally necessary for a parent, guardian, social worker or local authority volunteer to be present when the vulnerable person / juvenile is interviewed by the Police. This accompanying person is known as the "appropriate adult".

He or she is there to assist the client and the client may speak to him or her in private at any time. In addition, he or she will be able to make sure that the client is treated fairly and may help the client if there is any difficulty in communication.

Interview/Questioning

The difference between questioning and an interview, is that an interview is carried out under caution. You are entitled to have legal advice and to have a Solicitor present at any interview.

Caution

The Police caution states that you do not have to answer any questions.

However if you choose not to answer police questions or do not mention when questioned something which you could reasonably have been expected to mention, and which you later wish to rely on in Court, such as an alibi or a statutory defence (such as self-defence), it may undermine your defence if you only choose to mention it later on in Court.

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Anything that you do say, could be used against you as evidence in Court, for example admitting the offence, or should you give a wholly different account of events at the police station, to the one you give at Court.

If any items have been found on you during a search (for example stolen goods or burglary tools) and you fail to account for their presence, or if you otherwise fail to account for a substance, object or mark (such as explaining blood staining on your clothing), then the Court can draw unfavourable conclusions from such a failure.

Similarly, if you fail to give a contemporary innocent explanation for your presence at or near the scene of a crime, then unfavourable conclusions could be drawn by the Court, if you try and explain yourself at a later stage.

Intimate/Non-intimate samples

If you are a suspect in a police investigation under arrest at the police station, you must give consent before any intimate or non-intimate samples can be taken from you.

Non-intimate samples are: -

A sample of hair (other than pubic hair), a sample taken from the nail or under a nail, a swab taken from any part of the body including the mouth (but no other body orifice), saliva, a foot print or similar impression of a person's body other than part of his or her hand.

Intimate samples are: -

A dental impression, a sample of blood, semen or other tissue fluid, urine or pubic hair, a swab taken from any body orifice other than the mouth.

If you refuse to give a non-intimate sample, it can be taken using reasonable force.

Fingerprints and footwear impressions may similarly be taken without consent.

If you refuse to give an intimate sample, then no force can be used to obtain one from you, but the court may draw its own unfavourable conclusion as to why you refused to give the sample (known as an "adverse inference"), which might harm your case if the matter came to trial. Advice would be given to you what the court would be entitled or likely to infer in the totality of the evidence known to us at the time, should this arise.

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Samples may be retained by the police for information / comparison purposes for the prevention or detection of future crime. However if not "banked" for this purpose, these samples must otherwise be destroyed by the police if you are not prosecuted or cautioned for the offence.

You have the right to be present when the samples are destroyed upon request or be provided with a certificate confirming destruction.

Bail from the Police Station

The Custody Sergeant has the right to refuse bail and to remand you in custody, if the Custody Sergeant believes that further offences may be committed by you, or that you may interfere with witnesses or destroy evidence, or that you may not attend Court. If the Custody Officer is of the view that bail should be refused, then you must be brought before a Court at the first available opportunity, when it will be possible to apply to the Magistrates' for bail.

Similarly, the Custody Sergeant has a right to impose conditions of bail, if he or she believes that further offences may be committed by you or there is a risk that witnesses will be interfered or evidence destroyed. These conditions may for example include living at a named address, and staying indoors between nominated times, not contacting certain named witnesses or not going to certain streets or towns. If bail conditions are imposed, they must be observed. If they are not, then in default you can be arrested and kept in Custody you can be brought before a Court.

If you fail to attend Court at the specified time, you could be charged with an offence under the Bail Act which can carry a fine or term of imprisonment. More over if you are so charged, bail may be successfully opposed in Court, and you could be remanded in Custody for the duration of your case.

If no conditions of bail are imposed by the Custody Sergeant, then you must only ensure that you attend Court at the time and date stated on the Charge Sheet. If you do not attend as bailed, then a warrant may be issued for your immediate arrest.

If the police need to complete further investigations before they make a decision whether to charge you and with what, you may be bailed to return back to the Police Station on a date in future.

Conditions can be placed on your police station bail, and if you breach those conditions, you are liable to arrest.

Bail to a Police Station is exactly the same as bail to a Court, and if you fail to attends on time on the appointed day at the Police Station, the police may

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apply for a warrant for your arrest and you may be charged with an offence under the Bail Act, which can carry a fine or term of imprisonment.

DUNN & BAKER – HERE TO HELP YOU

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Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.