

WHEN SOMEONE IS ARRESTED

Do the police need to arrest me before I can be taken into custody?

No, the police have the right to detain you if they have grounds for believing that you have committed an offence. You can be detained for up to twelve hours initially but at the end of that period the police may, in certain circumstances, detain you for a further twelve hours. Thereafter you must be either released or arrested.

What are my rights if I am arrested or detained?

You do not require to answer any questions asked by the police, except for questions put to you in terms of Road Traffic Legislation which require you to answer (see our factsheet on Motoring Offences). If you do answer questions then you should realise that the answers you give can be used as evidence in court. It is usually best not to answer any questions from the police until you have had proper legal advice. You should simply refuse to answer the questions.

Do I have the right to make a phone call if I'm arrested?

No. The police must inform a solicitor and one other person nominated by you, usually a member of your family, of your detention. The police are also required to inform the solicitor where you are being detained and whether you will be released or taken to court.

What if I don't have a solicitor?

There will be a duty solicitor whom the police can contact for you if you can't name the solicitor you wish to have informed of your detention. The duty solicitor is nominated by the Scottish Legal Aid Board to assist people who are in custody but don't have a solicitor.

Can I have a solicitor present when I am being questioned?

You have the right to a telephone conversation with a solicitor to advise you prior to a police interview. A solicitor can also be present at any interview with the police if you request this. The Scottish Legal Aid Board provide this service free of charge. If you wish your own solicitor to be present at an interview, then you may be liable for the costs of their attendance.

When will I appear in court after being arrested?

If you are kept in custody overnight you will be taken to court on the next court day (i.e. not at the weekend or on a public holiday). Alternatively, the police may give you a date to appear in court or you may receive a summons telling you when to go to court. You must then attend court or you will be liable to arrest.

Will I get bail?

When someone first appears in court on a criminal charge, if the case can't be dealt with right away, the court considers whether the person should be released on bail or remanded in custody pending trial. See our factsheet on Bail.

If am refused bail how long will I be kept in prison awaiting trial?

If you are charged with a serious crime you can be detained for 140 days. If you are charged with a less serious crime you can only be detained for 40 days before trial. The prosecution can apply to extend these periods.