

## Court Duty Solicitor Scheme

Whilst it is preferable to apply for representation before going to Court in order to allow for preparation of your case, there is a possibility that you may be able to utilise a court duty solicitor. However, the duty solicitor will only be able to represent you if you meet certain criteria. Again, Holdens can advise whether you are likely to benefit from the court duty solicitor service.

### Remember

If you require representation in a Criminal Matter – contact us early to speak to a member of our dedicated team who will arrange to provide you with the necessary forms. Under the new ‘Simple, Speedy, Summary Justice’ Scheme rolling out across England and Wales, the Courts are being discouraged from allowing adjournments and will expect pleas to be entered on the first occasion at Court.

**It is therefore important that you contact us for advice as soon as you are aware that you are required to attend Court.**

\*You should be aware however that in certain circumstances you may be required to pay Prosecution costs if so Ordered by the Magistrates at the conclusion of your case.

If your matter is ultimately dealt with before the Crown Court then, in certain circumstances, you can be Ordered to contribute to the costs of your Defence.



a dedicated team

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legal assistance and advice for  
young and  
vulnerable people



a coherent and professional service from



# A GUIDE FOR APPROPRIATE ADULTS

## Making Welfare Your Priority

**When young people find themselves in trouble and attending the police station, either by voluntary arrangement or arrest, the Police and Criminal Evidence Act 1984 provides that an Appropriate Adult be called to the police station whilst that person is detained.**

### Legal Advice

As an Appropriate Adult you are responsible for the welfare of the young person detained. Remember young people, in a stressful police environment, often do not consider their right to legal advice. As Appropriate Adult it is your responsibility to consider asking for a Solicitor if you believe it to be in the young persons best interests.

Holdens Solicitors are local and can provide FREE representation at the police station at any time of the day or night. As Appropriate Adult you have the right to request the services of a Solicitor.

**Look after the welfare of the young person and ask for Holdens to be contacted.**

**Let us look after the legal rights of the child, allowing you to watch over their welfare.**

### The Role of Appropriate Adult

As Appropriate Adult you have a positive role to play at the police station. Essentially you are there to ensure that the detained person understands fully what is happening and why.

You are there to address any and all aspects connected with the welfare of the person detained:

- To support, advise and assist in communication and understanding
- To observe and ensure proper and fair practice by the police
- To ensure that the detained person understands their rights

**Remember you have a significant role to play in helping to protect their rights. It is not your role to provide legal advice and we would always advise you to seek the advice and representation of a solicitor.**

### Rights of a Detained Person

When you arrive at the police station the detainee should be given his rights in your presence, namely:

- 1 The right to have someone informed of their detention
- 2 The right to consult privately with an independent Solicitor, a service that is **TOTALLY FREE OF CHARGE**
- 3 The right to consult privately the Codes of Practice that govern police powers and procedure

These are continuing rights and can be exercised at any stage (except in very limited circumstances).

The Custody Officer must give the detained person a written notice explaining these rights as well as other entitlements such as physical comfort, food, drink and toilet facilities.

## Your Rights as Appropriate Adult

- To be told that a detained person is being held
- To speak with the detained person in private at any time
- To inspect the written record of detention (the Custody Record)
- To see copies of the rights and entitlements outlined above
- To see copies of the Codes of Practice
- To intervene in interview if you feel it necessary and in the interests of the detained person to help them communicate effectively.
- To ask for a break in the interview to seek legal advice or consult with the detained person.

You are entitled to be present:

- When a detained person is informed of their rights.
- When the detained person is cautioned
- During any police interview with the detained person
- When the detained person is charged
- Except in limited circumstances, where the detained person is searched and that search involved the removal of more than outer clothing.
- When a detention review is undertaken
- During any identification procedure
- During the process of obtaining fingerprints, photograph and DNA

**You are NOT entitled to be present during private legal consultations between the detainee and their Solicitor.**

## Questioning

Usually, the main reason a person is detained at the Police Station is in order for them to be questioned about an allegation of criminal behaviour.

The police should only ask such questions in your presence and should not do so before cautioning the detained person:

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

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As Appropriate Adult you must ensure that, during questioning, the detained person understands the questions being put to them and that the police do not ask questions in a manner which is confusing, repetitive or oppressive.

The vast majority of interviews are tape recorded and an increasing number are video recorded. Remember you are entitled to intervene at any stage.

You are entitled to ask that the interview be suspended and if you have any complaints regarding the interview you should alert the Custody Officer immediately.

**A Solicitor is able to effectively and persuasively deal with any issues that may arise in the police station including any instances of inappropriate or confusing questioning. A representative from Holdens, present at the police station, will always ensure that the detainee is treated fairly and that any interview is conducted appropriately.**

## Identification

During detention, the police may well ask to take a record of the detainee's fingerprints, photograph and DNA. In addition the police may well raise the issue of the taking of further intimate or non intimate samples for evidential purposes. The rules relating to samples are complex but advice and assistance can be quickly provided by a representative from Holdens. Legal advice should certainly be sought prior to agreeing to provide any such samples.

Identification procedures can be complex and again it is highly recommended that legal advice be sought with regards to participation and procedure.

**Police Station practice and procedure can be complex-look after the welfare of any young or vulnerable person for whom you act as Appropriate Adult. Be aware of your responsibilities and request Holdens Solicitors at the earliest opportunity.**

As soon as you are aware that a young person is required to attend the Police Station contact Holdens Solicitors to arrange for prompt, effective representation and advice.

If you are called to attend the Police Station as the result of a young person having been arrested, inform the Custody Officer what you wish a representative from Holdens to be contacted. The Custody Officer will contact us directly to arrange representation.

Decisions made at the police station can influence the conduct of a case right through the criminal justice system. Young and vulnerable people can find their lives affected for a considerable period of time.

## Police Station

**If you are suspected of having committed a criminal offence and attend a Police Station in England or Wales you are entitled to Legal Representation free of charge. You are entitled to this advice whether you attended the police station voluntarily or were arrested and detained there. You may speak to a Solicitor in person or on the telephone any time of the day or night.**

**Even if you initially tell the police that you do not want a Solicitor – you can change your mind at any time.**

Holdens Solicitors have a team of specialist Solicitors able to assist at the police station 24 hours a day, 7 days per week. We are an independent team of Lawyers who are not connected with or employed by the police. We are available to provide help and advice on all aspects of Criminal Proceedings and you should not hesitate to contact us or ask the police to contact us on your behalf. We can provide advice over the telephone and also attend the police station in person to provide continued advice and assistance.

As soon as legal advice has been requested it is important that you receive that advice before you are asked any questions about the suspected offence. Advice can only be delayed in certain serious cases and only then with the consent of a Senior Police Officer. The longest period a detainee can be made to wait before speaking to a solicitor is 36 hours after arriving at the Police Station (48 hours in cases of suspected terrorism).

Matters dealt with at the Police Station can have serious repercussions at later stages of the Criminal Justice System and you should ask for the help of a Solicitor at an early stage.

**All advice and assistance provided by a Solicitor at the Police Station, either on the telephone or in person, is provided free of charge no matter what your circumstances or income.**



## Magistrates/Youth Court

If you are summoned or charged to appear before a Magistrates Court or a Youth Court in England and Wales you may be entitled to receive Legal Aid.

Legal Aid certificates are issued to those individuals who satisfy the Court that their case is sufficiently serious and merits publically funded representation and that they do not have the means with which to privately fund their own defence.

### Merits?

This test is often referred to as the 'Interests of Justice' test. The Court must be satisfied that your case is sufficiently serious to warrant legal representation. The Court will take into account other matters, for example, without representation you would have trouble understanding proceedings, or that the case is so serious that you face the possibility of going to prison if found guilty or losing your livelihood as a result.

Each member of our team of specialist Criminal Lawyers can provide you with further advice concerning the Interests of Justice test in relation to your particular circumstances.

### Means?

If your case is deemed to pass the merits or, 'interests of justice' test then the Court may wish more information concerning your financial circumstances. In certain circumstances, if you live with a partner, the Court may require information about the financial means of your partner also.

The Court has issued a series of forms that can be required in order for an application for Legal Aid to be made.

**In order to allow time for the forms to be processed by the appropriate Magistrates Court it is extremely important that you make contact with us as soon as you become aware that you are required to attend Court.**

Our team of Criminal Lawyers can send you the forms appropriate to your circumstances and provide advice as to their completion and advice as to whether Legal Aid is likely to be granted. We can also complete certain aspects of the forms ourselves on your behalf.

## **1 Are you in receipt of Job Seekers Allowance, Income Support or Guaranteed State Pension Credit?**

If you are in receipt of any of these Benefits then the Court will automatically accept that you do not have the means to fund your own defence and they will therefore consider only the merits of your case. You will be required to provide you National Insurance Number and the Court will use this to satisfy themselves that you are in receipt of the Benefit listed.

## **2 Are you in receipt of another form of Benefit, Employed or Self Employed?**

If you are employed, self employed or claiming any other form of Benefit then you will be required to complete a form with regards to your financial means.

Where you are employed or self employed you will be required to provide a wage slip or accounts to indicate to the Court the level of your income. You must provide the Court with originals of these documents for their consideration.

## **3 Young People**

If you are under 18 years of age the Court will automatically assume that you do not have the means to fund your own defence and will consider only the merits of your case.

Our team of Criminal Lawyers will take details about yourself and the case for which you will appear before the Magistrates Court and can advise you which forms you will be required to complete and what other documents we may require from you.

Once completed, the forms will be sent to the Court for consideration, though this must be done prior to your first appearance before the Magistrates Court.

Once submitted, you will be informed of the result of your application by the Court.

If granted, the Criminal Legal Aid Fund will meet the cost of your Defence\* and you will not generally be required to contribute to those costs.

If a Legal Aid Representation Order is not granted it is important that you discuss your particular circumstances with a representative from Holdens who will advise as to whether legal representation is appropriate and if so the cost of instructing Holdens privately. Holdens endeavour to give excellent advice and representation yet providing value for money.