

In the field of civil justice, pending procedures and proceedings initiated before the end of the transition period will continue under EU law. The e-Justice Portal, on the basis of a mutual agreement with the UK, will maintain the relevant information related to the United Kingdom until the end of 2024.

Defendants (criminal proceedings)

England and Wales

This factsheet and its sub-factsheets explain the procedure used during criminal investigations and what happens after the investigation and before the criminal trial takes place.

What are the stages of a criminal investigation?

A criminal investigation begins when the police suspect a crime may have been committed. The police conduct the investigation and gather evidence. In serious cases once the police believe they have enough evidence to charge they liaise with the [Crown Prosecution Service \(CPS\)](#), which usually decides what, if any, charges are suitable. It may request further investigation.

If the police identify you as a suspect, the first key stage is the decision to arrest you.

After a period in custody for questioning, the next key stage is the decision to charge. If the police need to conduct further investigations and you do not need to be held in custody the police must release you either without charge or on police bail asking you to return to a police station at a later date.

If however, you are to be charged with an offence and the police decide you should still be kept in custody, you will be taken to a court to decide whether or not to release you on bail before the trial.

If you are being investigated for alleged terrorist offences your rights, and the police powers, are different from those discussed below (see the [Terrorism Act 2000](#) which is outside the scope of these factsheets).

If you are under 18 there are additional safeguards. Ask your lawyer to explain them.

Click on the links below for more information about your rights before the case goes to court:

[Investigation and arrest \(1\)](#)

[Interview and charge \(2\)](#)

[Court appearances before the trial \(3\)](#)

[Preparation of the case before the trial \(4\)](#)

[Investigation and arrest \(1\)](#)

Will the police ask me questions?

If the police suspect you of committing a crime or having information about a crime, they can ask you questions.

Must I go to a police station?

The police can [stop](#) you, search you, and ask you limited questions in the street or other public place. If asked, you should tell the police your name and address. If the police suspect you of a crime, they may ask you to go to a police station voluntarily. They also have the power to arrest you and take you to a police station against your wishes. They must tell you why they are doing so.

Am I free to leave the police station?

If you are at a police station, either as a suspect or possible witness, but have not been arrested, you are free to leave at any time.

What happens once I am arrested?

If the police want to keep you in the police station they must [arrest you](#). They must tell you why and the arrest must be necessary. The police can search you, take your fingerprints and DNA sample and conduct other physical searches explained [here](#).

What happens if I don't speak the language?

If you don't understand English, the police must get you an interpreter, free of charge. You cannot be interviewed in the absence of an interpreter.

Can I have a lawyer?

If you are arrested, you have the right to consult a lawyer. If you do not know a lawyer the police will contact the duty solicitor. See [Factsheet 1](#).

What if I am under 17 years old or a vulnerable adult?

If you are under the age of 17 or you are a vulnerable adult you must not be interviewed without an Appropriate Adult the police will arrange this.

This person will support and advise you in communicating with the police. This person is not a lawyer and will not give legal advice. An Appropriate Adult can be a family member, friend or a volunteer or social/health care professional.

Can the police search me?

Even if you are not under arrest the police can [stop and search](#) you or your vehicle but only if they have reasonable grounds for suspecting you have stolen or prohibited items or have committed a criminal offence.

Can the police take my fingerprints or DNA?

If you have not been arrested, you do not have to provide fingerprints or other samples, and the police cannot take them without consent. However, if you have been arrested the police do have the power to take samples such as [blood, saliva or other body tissues](#) without consent.

Must I take part in an identification parade?

If you have been arrested the police can ask you to take part in an identification parade. If you refuse this may be held against you in a trial. Normally this consists only of video photographs being shown to the victim or witness(es)". The duty solicitor can advise you.

Can the police search my car or premises?

If you have been arrested the police can, with authority from a senior officer, search your car and premises and remove any of your property if it is relevant to the investigation.

Can I contact a friend or family member?

Yes, to tell them where you are.

Can I see a doctor if I need one?

If you need medical help, you have the right to see a doctor.

I am from another Member State. Can I contact my Embassy?

Yes. A representative from the Embassy will come to the police station or contact you to see if you need help. The Police are obliged to contact the Consulate from the following countries in the EU if you have been arrested and detained - Austria, Belgium, Bulgaria, Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Poland, Romania, Slovakia, Spain or Sweden.

What happens if I am arrested on a European Arrest Warrant?

If a [European Arrest Warrant](#) is issued by one Member State, you can be arrested in another Member State and sent back to the country concerned after a hearing before a judge. You are entitled to have a lawyer and an interpreter if you need one. See [Factsheet 1](#).

When will the police charge me?

If the police decide that there is enough evidence against you, they can charge you with a crime. The charge tells you what crime the police think you committed. Once you have been charged, the police cannot question you further about that crime.

How long can I be detained by the police after arrest?

Once you are arrested the police can detain you at a police station for up to 24 hours. A senior officer may extend this period to 36 hours if he has reasonable grounds for believing that it is necessary to gather evidence, the offence is a serious one and that the investigation is being conducted properly. After that time you must be charged with an offence or released from police custody. If the police wish to detain you further they must obtain permission from a Magistrates' Court. The court can extend the period of detention to a maximum of 96 hours.

Complaints against the police

If you think the police treated you inappropriately, you may complain either to the police or to the [Independent Police Complaints Commission](#).

Interview and charge (2)

When can I be interviewed?

If you are arrested and [detained at a police station](#), the custody officer must ensure that you are mentally and physically fit to be interviewed. In any period of 24 hours, you must have a continuous period of at least 8 hours rest with no questioning. During an interview, you should be permitted 15 minute refreshment breaks every 2 hours. You are normally entitled to have a lawyer present in the interview.

Must I answer the police's questions?

You do not have to answer questions. If they suspect you of a crime, the police have to give you a formal warning (caution) before they ask questions. They warn you that you do not have to answer questions but that if you do say anything, what you say can be used as evidence in court. You must also be told that if you fail to say something that you later wish to rely on in court then the fact that you did not mention it to the police may be held against you in a trial.

How are police interviews conducted?

Police station interviews take place in an interview room and will always be audio recorded. The recording process must be explained to you before interview.

When will the police charge me?

If the police think that they have enough evidence against you, they can charge you with a crime. The police cannot then question you further about that crime. The charges may be altered at a later stage in the process.

Court appearances before the trial (3)

When do I first appear in court?

If you have been held in police custody, you must be taken to court on the next day it is sitting. Normally, the first hearing will be in the Magistrates' Court.

Do I have the right to a lawyer?

You have the right to a lawyer in court. If you don't have your own lawyer, the duty solicitor will act for you. See [Factsheet 1](#).

Will there be an interpreter if I don't speak the language?

If you don't speak English, an interpreter will be provided, free, to translate all the court proceedings.

Can I be released from custody?

If you are held in custody, you can apply to the court to be released on bail. If bail is granted you may not have to deposit any money.

You will usually get bail if you do not have a criminal record and the court thinks you are not a risk to society, will not interfere with witnesses and will attend court when required. Bail may be subject to conditions, such as living at a certain address, giving the police your passport or wearing an electronic tag.

If the court refuses bail, you will be imprisoned until your trial.

Can I appeal the decision to keep me in prison until the trial?

Yes. Ask your lawyer for advice.

Will I appear in court again before the trial?

Yes. Your lawyer will advise you.

How long can I be held in prison before the trial?

If you are held in prison, your trial must take place within [certain time limits](#).

Usually, a Crown Court trial should start within 182 days of you going to prison. If it doesn't, you may ask to be released on bail. In less serious cases, the trial must take place within 56 days. If it doesn't, you will be released on bail.

Preparation of the case before the trial (4)

What happens before the trial?

In the period before your trial, the [Crown Prosecution Service](#) (CPS) continues to review whether the case is strong enough to justify prosecution. The prosecutor will share with your lawyer the evidence that will be used against you at trial. For example, if witnesses are to give evidence, you will be given their written statements. The prosecution must also disclose to you any material that may weaken its case or assist your case. The prosecutor must continually review the evidence and disclose to you any material falling within that test.

I am from another Member State. Do I have to be present in England/Wales before the trial?

If you have not been held in custody or have been released on bail, you are free to go back to your own country. However you may not be granted bail if the prosecutor requires you to remain in England or Wales while the investigation continues. The court may grant you bail on the condition that you remain in England. It is an offence if you break this condition. If you are released on bail you must give an address in the United Kingdom where you can be contacted. This can be the address of your lawyer.

If I have gone back to my own Member State, do I have to go back to England/Wales before the trial?

Probably. For some preliminary hearings, it may be that your lawyer can ask for you not to attend, or it may be possible for you to participate by video link.

Will my case always go to trial?

Your case will not necessarily go to court. The CPS can decide to drop the case or it may suggest a [conditional caution](#), which may include a fine. If you agree to this, you are accepting you that committed the crime. It will go on your criminal record and you will not be able to appeal.

What kind of evidence will the prosecution collect?

The police will interview witnesses and may also collect physical and forensic evidence. For example, they may collect documents from your home or workplace, they might search your car or collect samples of your DNA (eg hair, saliva etc).

Can I prevent the prosecution from collecting certain evidence?

Sometimes the police have to obtain a [search warrant](#), which can be challenged. Usually warrants have to be specific about what can be searched and why. If the police do not comply with the warrant, then the evidence collected might not be admitted at trial.

Will information be requested about my criminal record?

The prosecution will gather information about your criminal record, including convictions outside the UK.

Can the charges against me change before the trial?

Yes. This depends on the prosecution's assessment of the evidence. Your lawyer can ask for charges to be changed.

What happens if I have been tried for the same offence in another Member State?

If a final decision has been made by a court in one Member State then you cannot be tried again on the same facts in another Member State.

Can I plead guilty before the trial?

In most cases, if you want to plead guilty to the charge(s) before trial you can. If you plead guilty you will normally get a much lower sentence than if you had a contested trial. If you decide to plead guilty, you cannot usually appeal against the conviction and it will appear on your criminal record.

Related links

[Criminal Procedure and Investigations Act 1996](#) (as amended)

[Criminal Justice Act 2003](#) (as amended)

[Police and Criminal Evidence Act 1984](#)

[Codes of Practice](#)

[Bail Act 1976](#) (as amended)

[Prosecution of Offences Act 1985, section 22](#) (as amended)

[Serious Organised Crime and Police Act 2005](#)

[Terrorism Act 2000](#)

Last update: 01/12/2016

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