

# INFORMATION FOR FAMILIES, FRIENDS AND CARERS

## When a person is involved with police and criminal justice system

This information has been designed for families whose relatives have been, or may be involved with the police, criminal justice system (courts) or probation in the future.

It includes information about what to expect if the police come to your home with a warrant and how to contact services and what to do if you aren't happy with the way something has happened.

Throughout the booklet we have used the terms 'family' and 'family member' to refer to anyone who has a relationship with an offender. This includes partners, friends and carers.

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### Glossary of terms

**Arrest** – the legal right of the Police to hold a person on the suspicion that they have committed a crime

**Bailiff** – a person authorised to collect money owed or goods to the value of the money owed

**Citizens Advice Bureau** – a free service providing, independent, confidential and impartial advice to everyone on their rights and responsibilities.

**Community Legal Advice** - a government-funded advice service set up by the Legal Services Commission. It aims to help people deal with civil legal problems and is part of the legal aid Programme. It has a telephone helpline, advice centres<sup>9</sup> and a series of advice leaflets

**Community Order** – a sentence of the court where the convicted person carries out work for the community instead of going to prison

**Curfew** – times when the offender must not be outside the address they are recorded as living at, usually early evening until early morning

**Custody** – the legal right of the Police to remove your liberty

**Drug Interventions Programme (DIP)** - a key part of the United Kingdom's strategy for tackling drug abuse. It aims to get drug-using offenders into treatment and other support, reducing drug-related harm and offending behaviour

**PACE** – the Police and Criminal Evidence Act, passed in 1984

**Premises** – your home

**Release from prison on licence** – release under certain conditions specified by the court

**Remanded** – being held by the Police before your trial

**Statutory power** - a legal power granted to the Police

**Tagging** - placing an electronic device on a person to keep track of where they are at all times

**Warrant** – legal authorisation granted to the Police to enter and search your home

## 1. POLICE COMING TO YOUR HOME ADDRESS

Some families have already had their home searched by the Police and others are concerned that this might happen in the future. This section explains Police powers in relation to searches around drug-related crime. It is not a complete guide. For more information or specific advice contact the Police, a solicitor or the Citizens Advice Bureau.

### 1.1 Going to an address to arrest a person:

If a Police officer comes to an address to arrest a person and has good reason to believe the person they are looking for is there, they may use **Section 17 of the Police and Criminal Evidence Act (PACE) 1984** to enter the premises. For example, if they knock and no one answers but they hear a noise or see the curtains move, the officer does not need permission from the court (a court-issued warrant) to enter the property. Once inside the property the Police can search the whole house for the individuals they are looking for.

If a Police officer knocks and someone else, for example a family member, answers the door, they would ask if the person they are looking for is in. If the person that answers the door says that person is not there and does not live there, the Police officer would need a good reason to believe that they were being lied to, to take further action. If the Police officer doubted the explanation given to them and believed that the person they were looking for was on the premises then they could force entry, under Section 117 of PACE 1984, to search for them.

### 1.2 Searching someone's home address after an arrest has been made:

If somebody has been arrested for an offence, they will be asked to give the address where they live.

The Police will then consider the use of **Section 18(1) of PACE 1984** to search this address.

If they decide to search the address, the Police officer would ask a Police Inspector to allow the search. If the Inspector thinks there is good reason to suspect property relating to that crime or a similar offence could be found at the address given, then that officer will be allowed to go there. The Police officer may force entry into the premises. Once in the property, Police officers can search everywhere the arrested individual has access to.

It is also possible for the police to search a property immediately, before the arrested individual gets to custody using **Section 18(5) of PACE 1984**. Officers should inform an Inspector following a search under this section.

### 1.3 Searching other properties after an arrest has been made:

**Section 32 of PACE 1984** is similar to Section 18 but, in addition, allows Police officers to search any premises that the person they have just arrested has come from, for example, if the person arrested was seen coming out of a property where they don't live police officers may decide that they wish to search that address.

### 1.4 Court Warrants: Drugs and property

Where the Police wish to search premises that cannot be covered by a Statutory Power they will approach the courts to seek their permission. The court will decide on whether there are enough grounds to suspect that the items that the Police seek are likely to be present, based on evidence given, and if there are, will then give permission by issuing a drugs warrant.

A drugs warrant is a written document held by the Police.

There are several types of warrant. They can be:

- a drugs warrant valid for one month under **Section 23 of the Misuse of Drugs Act 1971**
- a search warrant for stolen property valid for three months under **Section 26 of the Theft Act 1968**

## Police and Criminal Evidence Act (PACE) 1984

This Act provides several statutory powers allowing officers to search property for certain reasons.

Under the act, 'premise' includes vehicles and any tent or movable structure so a car, garden shed or garage could be part of the search.

If you are unhappy about how a warrant is conducted, there is information about complaint procedures in section 8 of this booklet.

- a warrant that would cover things that could be used as evidence under **Section 8 and 15 of PACE 1984**.

This means that the Police could hold these warrants for a period of time before using them, although that would be very rare

## 1.5 Frequently Asked Questions

### ***“Do officers need to knock first and do I have to let them in?”***

In most cases the officers would make some attempt to attract the attention of the persons inside, but it is possible that due to the previous behaviour of the individual or because they are looking for drugs, they could enter in a quicker and more aggressive manner. In these circumstances there would need to be reasonable and proportionate grounds to support the style of entry.

Police Officers can turn up and ask you to allow them to search your property without a statutory power or warrant but this is voluntary and you can refuse in these circumstances. If officers do have a warrant they should seek ‘permission’ to enter and search but you don’t have the right to refuse entry. If they need to, they could use force and individuals could be arrested if they obstruct the officers from carrying out their ‘lawful duty’. You risk being arrested for obstruction of a Constable in the lawful execution of their duty if it could be proved that you had tried to deceive the Police officer.

### ***“Will I get a record of the search?”***

It is Police best practice to leave a document called a ‘Notice to occupier of premises searched’ but there are occasions when they don’t have this document with them. Under **Section 18 (1) and Section 18 (5)** this should be signed by the Inspector, but this is not always possible. In these circumstances, the Inspector’s name should appear on the document. There should also be a record of the search on a database at the Police station.

### ***“How many officers will turn up?”***

Generally it will be more than one but could be many. This would depend on the number of rooms that need to be searched, the number of people on the premises and whether the Police have any reason to believe that those people may object or be ‘difficult’. It may also depend on what the Police are looking for.

### ***“What time of day will this occur?”***

There is no guidance in law specifying appropriate times for the police to search and they will make this decision based on a number of different factors relating to the particular case. The Police should be able to justify any action taken, including decisions made about the time of day.

### ***“What happens if I am not home or my children are in?”***

The officer has a power under **Section 117 of PACE 1984** to force entry into the property if needs be. If the Police are aware that children are or could be present, this would form part of their action plan in relation to the search, especially if this is a ‘raid’ type entry with lots of officers in full protective clothing rushing into a property.

The officers can search anywhere inside a premises if they suspect that the individual in custody would have access to that room. This could include a child’s bedroom or nursery.

### ***“What if the person gives my address but doesn’t live here?”***

This is always a difficult situation to deal with if the Police do not know any different, as they can still enter by force if need be.

### ***“Am I allowed to watch the search?”***

A friend, neighbour or other person must be allowed to witness the search if the occupier wishes, unless the officer in charge of the search has reasonable grounds for believing the presence of the person asked for would seriously hinder the investigation or endanger officers or other people. A search must not be unreasonably delayed for this purpose.

### ***“Do I have to pay for damage done to my property?”***

**Section 117 of PACE 1984** allows the officer to use force to gain entry in several different circumstances. This could mean breaking down the door or smashing a window. The cost of repairing this damage is the homeowners’ / occupiers’ liability and not that of the

Police. In order to protect your belongings, the Police must ensure that the property is secured before leaving but in most cases, this is also at the homeowners' / occupiers' expense.

## **2. POLICE CUSTODY**

### **2.1 Young people and people with learning difficulties**

If someone is under 17 years old or has learning difficulties and has been detained by the Police, they should not be interviewed until their parent, guardian or an appropriate adult is present, unless a delay would result in injury or harm to other people or property.

### **2.2 Speaking to your relative when they've been arrested**

Anyone arrested will be taken to the nearest custody suite with free cells.

Once all planned searches have taken place (this may include other properties the individual has access to) you should be able to speak directly to the person in custody. You can do this by calling custody and asking to speak to the Duty Sergeant or Assistant. Your call will then be transferred to the cell, and you will be able to speak to your relative through the cell intercom system.

Call 101 from your phone and speak to the operator to be transferred to the custody center,

### **2.3 Support whilst in custody**

**Drugs and alcohol:** Everyone booked into custody is asked a standard set of questions. This includes a question about whether they are dependent on drugs or alcohol. If they answer 'yes' they will be asked if they want to see a drug or alcohol worker, from the Drug Interventions Programme (DIP) Team. Most people answer 'no' to this question, but DIP workers undertake proactive visits to cells to reach those with substance misuse problems.

**Mental Health:** If someone is detained under Section 136 of the Mental Health Act 1983, they will receive a psychiatric assessment while in the police cells from a Force Medical Examiner. An Approved Social Worker, Community Psychiatric Nurse (CPN) and Doctor may also be called to make a further assessment.

If someone is arrested for a crime but has mental health needs, these will be assessed before the crime is investigated.

People often express frustration at not being given information about the support their loved ones receive while in custody. However, information about the services used by the individual while in custody cannot be shared with relatives unless permission is given by the individual, or they are under 18 years old.

### **2.4 Getting information about the charge/likely release**

Most families would like to be warned when a relative is released from custody, but it is unlikely that they will be informed when this happens. It is also unlikely that families will be notified of what they have been charged with, unless they are a witness, have made a statement or the person being released is under 18 years old.

#### **PRISONER LOCATION SERVICE**

Prisoner Location Service  
PO Box 2152  
Birmingham  
B15 1SD

Email: [prisoner.location.service@noms.gsi.gov.uk](mailto:prisoner.location.service@noms.gsi.gov.uk)

### 3. COURTS

If someone is arrested and charged by the Police, they will have to go to court. When they leave the Police Station, they should be given the date, time and location of the court hearing that they are expected to attend.

#### 3.1 Getting information about court appearances.

If the person arrested and charged is under 16 years old their parent or carer **must** attend court with them. If they cannot attend, the young person should be accompanied by another responsible adult. In these circumstances it is likely that you would have been present when the young person was released on bail, at which point you should have been given the court hearing details.

If the person arrested and charged is over 16 and hasn't shared information with you about the court date, you may be able to get this information from the court, although they may not be able to discuss the case with you for legal reasons. Often the courts only receive information a day or two before each case so might not be able to provide this information ahead of time if it hasn't been passed to them by the Police.

#### 3.2 Attending court

If you have any concerns about going to court, you can speak to a member of court staff who can advise you on court procedures. If you or your family member needs legal advice, they may be able to get this free from a law centre or the Citizens Advice Bureau. Those on low incomes may also be eligible for free, confidential advice from Community Legal Advice.

Any member of public, including young people over the age of 14 years old can attend court and watch the proceedings from the public gallery. There aren't crèche facilities so childcare will need to be arranged for younger children.

The names of those due in court will appear on the court list in the foyer (this may vary between courts). The list will tell you which court they will be heard in. If their name does not appear you can ask the reception desk, or an usher and they will be able to help.

#### 3.3 Speaking to your family member before, during or after the court hearing

If the person due in court has been kept in custody by the Police, you will not be able to speak to them immediately before or during the court hearing.

Similarly, if someone before the court receives a custodial sentence you will not be able to see them before they are taken back to the custody suite or to prison. This can be very distressing for families so you should try to prepare yourself and those with you for this possibility.

### 4. PRISON

If your relative is remanded or sentenced to prison, there are a number of services that can support you during this time.

For information about individual prisons and for advice and support, visit the prison service website [www.hmprisonservice.gov.uk](http://www.hmprisonservice.gov.uk).

#### 4.1 Where to get help

#### COURT CONTACT DETAILS:

The location of the court may vary depending on which Police Station someone is charged at.

You can find contact details of each local court using the search tool on the home page of the 'Justice' website: [www.justice.gov.uk](http://www.justice.gov.uk).

Offenders' Families Helpline is free and confidential 0808 808 2003. It operates seven days a week: Monday to Friday 9:00am - 8:00pm, Saturday and Sunday 10:00am - 3:00pm. You can also visit their website [www.prisonersfamilieshelpline.org.uk](http://www.prisonersfamilieshelpline.org.uk)

If you have immediate concerns about a prisoner's health or safety, call the prison and ask to speak to the Duty Governor or the Chaplain, otherwise you can write to the Prison Governor, who should reply within 30 days. Details about individual prisons can be found on the prison service website.

## **5. WHEN THE OFFENDER IS RELEASED**

Your family member may be released on bail by the Police or courts and given a date when they are expected to re-appear in court.

### **5.1 Bail from custody or returning home from prison**

It is important to think about looking after yourself and the rest of your family. If you decide you don't want your relative to come back to your home, and do not want the Police or courts to use your address as a bail address, you have the right to refuse. When this happens, the Police will either hold the individual in custody or will find an alternative address for them to stay at.

### **5.2 Probation & Youth Offending Service**

Offenders will meet a Probation Trust or Youth Offending Service if they are on a Community Order or have been released from prison.

The Probation Service is responsible for:

- Preparing reports that assess offenders to help courts and the Parole Board to make their decisions
- Supervising Community Orders made by courts
- Supervising offenders released from prison on license

The purpose of its work with offenders is to "punish, help, change and, where necessary, control" to reduce the risk that offenders will re-offend and thereby to protect the public.

The Probation Service may need to contact family members if someone gives that address for release from custody or whilst subject to supervision to ensure that the address is appropriate. This may involve a home visit. If someone on license or a community order lives with you, they may receive home visits during this period of supervision. When this happens, some support is offered to the family to ensure that their resettlement is successful.

Probation officers can pass on information about a client only if that individual gives them permission; otherwise, all information is kept confidential.

The Youth Offending Service (YOS) is a multi-agency team, including police, probation, education, social services and health. It is coordinated by the local authority and is overseen by the Youth Justice Board and Ministry of Justice. Its aim is to prevent offending, re-offending and to prevent young people being sent into custody. It works with young offenders on offending behaviour programmes, reparation activities and victim work, provides support to parents and helps young people find education and health services where required.

### **5.3 Tagging and Curfews**

Police and the tagging company are responsible for checking someone is sticking to their curfew. They will make visits to the offender's address during the curfew period and ask to see the person at that address. Most curfews require the individual to be at a stated address from early evening until early morning. This means police visits are likely to be at unsocial hours.

#### **Did you know?**

If you have concerns about someone being released on bail returning to your address, you can request specific restrictions or conditions of bail.

## 6. DEALING WITH SOMEONE ELSE'S DEBT

There are occasions when a family member may have built up some debt associated with your address. If you are in this situation, you should encourage that person to contact the Citizens Advice Bureau to sort out a payment plan. If they are not willing to do this, you should contact them yourself.

### 6.1 BAILIFFS

In some circumstances, after receiving a warning notice, a bailiff may visit your address to redeem costs. The Citizens Advice Bureau has some valuable information and will be able to advise you about this.

If you are informed that a bailiff will be coming to remove goods from your property, then you should seek advice immediately.

#### Do I have to let them in?

In most cases bailiffs will have gained a court order to legally enter your property and must do so through '*gaining peaceful entry*'. This means that they are allowed to enter only with the homeowner's permission, without breaking in, although bailiffs are allowed to gain access through an open window or door. The only exception to this is if there are unpaid criminal fines and the court has granted permission to break into the property.

Once inside they have the power to search every room, even using forced entry, to recover goods to the value of debt belonging to the person specified on the warrant. The bailiff is also entitled to enter again in the future without the resident's permission.

### YOUR RIGHTS

The bailiff should be acting under strict policies and procedures, and you are entitled to be treated with fairness and respect. This means that you should not be discriminated against, threatened, or be misled to believe that they have greater legal authority than is the case.

There are formal ways to make a complaint about a bailiff if you have reason to do so. For more information, please contact the Citizens Advice Bureau, details of which are in section 9 of this booklet.

### 6.2 DRUG DEBT

Although it's unlikely to happen, some people fear that drug dealers may come round, especially if a large quantity of drugs have been seized, to collect money owed.

It is important to remember that irrespective of previous events or of a family member's involvement with the Criminal Justice System, the Police have a responsibility to protect the public and will always respond to any concerns you have.

In an emergency always call 999.

## 7.1 Making a complaint about the Police

The simplest way is to contact the nearest police station in person, by post, phone, fax or email.

Alternatively, you can contact the Independent Police Complaints Commission (IPCC). You can do this by phone, email, post, fax or minicom. You can find more information about how to make a complaint about the police on the IPCC website at: [www.ipcc.gov.uk](http://www.ipcc.gov.uk). You can also find information on how your complaint will be investigated and what the outcome might be. You can download a complaint form or complete one online.

## 7.2 Making a complaint about Probation

Any complaint must be about an action or decision taken by probation staff, the Trust Board, a board member, a contractor, agent or volunteer working for the probation service. You can also complain about a failure to take an action or decision by any of these people.

A complaint can be made by a person who has had a probation report written about them, a person convicted of an offence who is under probation supervision or accommodated in approved premises, victims of people convicted of offences, people who have suffered physical injury or distress or theft or damage to their property as a result of the conduct of a person subject to a community order or on licence and the parents, spouse, cohabiter, siblings or children falling in the categories mentioned above where that person has died.

The aim is to try to resolve complaints as quickly, informally, and satisfactorily as possible. To start this process, it is recommended that you speak to the relevant Senior Probation Officer at the Probation Office that manages the sentence for the person concerned.

This contact can often resolve the complaint satisfactorily without the need to undertake a formal investigation. If you are unable to resolve the matter informally, you should send the complaint in writing to the Chief Executive

### IPCC CONTACT DETAILS:

Independent Police  
Complaints Commission

Contact Telephone  
0845 300 2002

Fax: 020 7404 0430

Textphone/Minicom:  
020 7404 0431

E-mail  
[enquiries@ipcc.gsi.gov.uk](mailto:enquiries@ipcc.gsi.gov.uk)

Website  
[www.ipcc.gov.uk](http://www.ipcc.gov.uk)

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