

Canolfan  
Gyfreithiol  
y Plant  
Cymru

Children's  
Legal  
Centre  
Wales

# **Stopped, Arrested, Interviewed, Charged – A Guide for Under 18s**

# Your Rights and the Law in Wales

This factsheet explains some of the different things the police have the power to do. It looks at police powers to 'stop and search', and what happens when you are arrested. Although the police can use these powers on anyone, there are extra things they must do if you are under 18.

## What powers do the police have in Wales?

The police in Wales have the same powers as they do in the rest of the UK. These powers are given to them by different laws. The powers the police have include powers to

Stop you in the street, and ask you questions about what you are doing

Stop you and search you

Arrest you and interview you at a police station

Charge you with a crime

The police have been given these powers to help them in their jobs: to prevent crime and to catch people who have broken the law. Just because the police have these powers doesn't mean they can do what they want or treat you without respect for your rights.

The police must

- always be reasonable when they are doing something that they have the power to do,
- make sure they are not doing something to you because of discrimination or prejudice that they have.

The law also protects your civil liberties and your human rights and, if you're under 18, the law in Wales protects your rights as a child. The police should always remember your civil liberties and your rights when they are using their powers.

You may find that the police don't act in the way they are supposed to when they are using their powers, but you will only be able to do something about it after it has happened, when you can get legal advice from a solicitor.

## Being stopped

The police can **stop you** to ask you about what you are doing in certain circumstances, or to **search you** for certain things (such as prohibited articles – which include knives and other weapons – or illegal drugs).

The police must have good reason for stopping you. The reason doesn't have to specifically relate to you. They might have had a complaint or been given some information about how some people are behaving in the area where you are, or about something you have done.

If you look like you might be involved, based on the information they have been given, the police might have a reason to stop you.

### **What will happen if I am stopped by the police? And what are my rights?**

It's important to know what your rights are in case you are stopped by the police.

#### **'Stop and Account'**

A 'Stop and Account' is when the police stop you in the street and ask you about your name and what you are doing in the area. The police don't have to think you're going to do anything to break the law, but they must always act reasonably.

The police must show you their warrant card, if they aren't in uniform.

In a 'Stop and Account', you don't have to answer the police questions, unless the police think you are part of some anti-social behaviour, or you have been part of some anti-social behaviour. If the police think this, and you don't answer their questions, you might be arrested.

You might not feel like it, but if you are stopped, it's a good idea to:

- Be polite,
- Answer the police questions with as much information as possible.

If the police think you are lying to them, they can arrest you for being obstructive – even if you haven't done what they stopped to ask you about.

But if the police officers try and make you 'stay' with them and it is unreasonable for them to do this, it might be false imprisonment.

## 'Stop and Search'

The police, or a Police Community Support Officer (PCSO) can carry out a 'Stop and Search' if they have a reason to think that you have something with you that you shouldn't have. This can include drugs, knives or other dangerous items including fireworks, and stolen goods.

**Before** the police search you, they must:

- Show you their ID card (warrant card) if they are not in uniform,
- Tell you the name of the police officer searching you and which police station he or she is from,
- Explain what they are looking for,
- Explain why they think they will find it,
- Tell you that you can have a record of the search<sup>1</sup>

Kinds of searches

### Non-Intimate Search

A 'non-intimate search' is when the police ask you to take off your outer clothes – coat, jacket or gloves. They can ask you to remove these items of clothing in public during a 'Stop and Search'.

### Intimate Search

An intimate search is when the police want you to take off more than your outer clothes, including your shoes. They can't ask you to take off more than your coat, jacket or gloves in public. If the police want to remove your shoes or other items of clothing, to carry out a more thorough search, they must do this in private.

An intimate search will usually happen at the nearest police station.

2 police officers should be with you when you are searched like this. They must both be the same sex as you.

The police can only keep you for as long as it takes to carry out the search.

---

<sup>1</sup> Police and Criminal Evidence Act 1984 section 1

## **Taking what they find**

If the police officer who searches you finds prohibited items (a knife, a gun, fireworks etc) or stolen goods, they can confiscate them (take them and keep hold of them). If the police find these sorts of things during the search they will probably arrest you and charge you with an offence.

## **Being arrested**

If you are 'arrested', and you are not already at a police station it means you must go with the police to a police station and won't be free to leave.

The police must have a reason to think that you have done something to break the law before they can arrest you.

The police can only arrest you if you're at least 10 years old. If you are younger than 10, you can't be arrested.

The police can arrest you anywhere – including in school. If the police are going to arrest you at school, they must tell the head teacher first.

You can be arrested for more than one thing. The police can also arrest you at the police station for another, different reason to the reason you are already there.

If the police arrest you, they must tell you:

- that they are the police,
- that you are being arrested,
- what they think you have done,
- why they need to arrest you,
- that you must go with them.

If you aren't already at the police station, you will be taken to a police station so that the police can interview you (ask you questions) and they can decide whether you should be charged with an offence.

## At the Police Station

### When you get to the police station

A police officer called a custody officer must tell you what your rights are. These are:

- free legal advice, and to talk privately with your solicitor,
- to tell someone where you are,
- to have medical help if you are feeling ill,
- to see the rules the police have to follow while you're at the police station,
- to see a written notice about your other rights, like about going to the toilet, to have breaks,
- To have an interpreter with you, if you need one.

If you are under 18, the police must try to contact the person who is responsible for looking after you – normally your parent, carer or guardian. The police must also make sure that there is an 'appropriate adult' at the police station for you.

#### 'Appropriate adults'

An appropriate adult is someone who is over 18. He or she is at the police station to make sure your general welfare is properly looked after. They can help make sure you have enough food and drink, that you can go to the toilet, and can step in if you are getting upset or are tired.

An appropriate adult might be one of your parents, or your carer. It could also be a social worker, another adult, such as a family friend, or a volunteer appropriate adult.

You don't have to have your parents there if you don't want to.

#### 'Solicitors'

Solicitors are people who are trained to understand the law and know how it works. When the police arrest you, the custody officer must tell you that you have the right to free legal advice. This means you can have a solicitor with you when the police ask you questions. If you don't know a solicitor, the police can arrange for a solicitor (the 'duty solicitor') to come to the police station to be with you.

The duty solicitor is not a 'police solicitor'. He or she is independent of the police.

You won't have to pay for the duty solicitor.

The duty solicitor will get in touch with the police station to find out when your interview will take place. He or she will usually try and speak with you as soon as possible after finding out that you have been arrested, even if you are not going to be interviewed straight away.

### Remember

- **You can refuse to be interviewed unless you have a solicitor.**
- **The duty solicitor is your solicitor – he or she is not a ‘police’ solicitor.**
- **It is always a good idea to ask for a solicitor if you have been arrested.**
- **You won’t have to pay for the solicitor.**
- **You can talk to your solicitor on your own – away from the police and away from your appropriate adult – before you are interviewed by the police.**

## Fingerprints, photos and DNA

If you are arrested and taken to a police station, the police can take your fingerprints even if you don’t want to give your fingerprints and can use reasonable force to obtain them.

If you have already given your fingerprints to the police during the investigation of the offence before you were arrested, you won’t have to give them again unless the first set of prints weren’t good enough.



The police can take a photo of you **without your consent**, and take a DNA sample, for example from a mouth swab or your hair, without your consent.

The police can’t take a sample of your blood or your urine (what’s called an ‘intimate’ sample) without your consent and the consent of your parents. If you are under 14, your parents can consent to this even if you don’t agree to it.

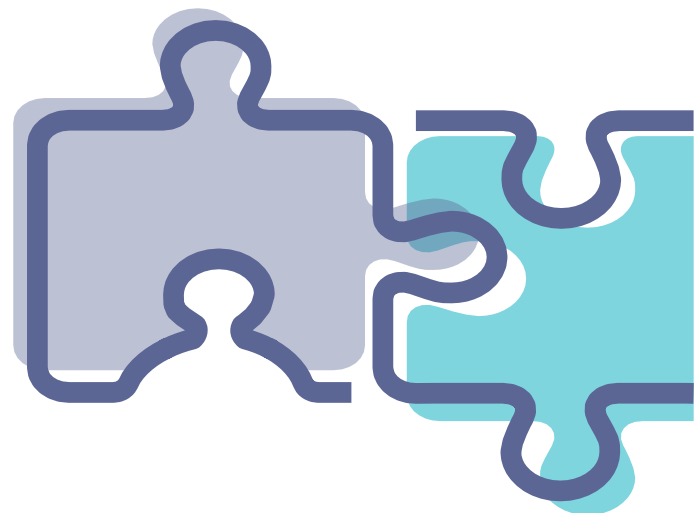
If the police ask you for an intimate sample, and you refuse, this can be brought up against you in the court (if your case goes to court). What is called an 'adverse inference' or 'adverse comment' can be made to the court. The prosecution will say that you refused to give the sample because it would support the case against you.

## **Personal property**

When you get to the police station the custody officer will ask to see what personal property you have with you. Things like your wallet and keys and anything else you have with you.

The custody officer is responsible for making sure that your personal property is kept safe, and that you are safe too. The custody officer **may keep your personal property** while you are in the police station. He or she will keep anything that you might use to hurt yourself or others, or which you might use to damage property or to try and escape.





## Being Interviewed

Once the police have arrested you, they will want to ask you questions about what has happened. If you have asked to have legal advice, the police usually can't start asking you questions until your solicitor has arrived.

You can refuse to be interviewed unless your solicitor is there.

There must also be an appropriate adult there, to support you during the interview.

The police will record their interview with you.

Before the police ask you questions, they will explain that:

- you don't have to answer the questions they ask, or say anything in the interview.
- But if you don't answer the questions or say anything, and then you want to say something about what happened later on, for example when you are in court, someone might ask why you didn't say anything about it to the police.
- anything you do say can be used as evidence.

This is called the 'police caution'. The words the police use are:

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

## **How long can the police keep me at the police station?**

Unless the police think you have done something very serious, or you have been involved in terrorism, you can't be kept at the police station longer than 24 hours.

If you have been arrested for a serious offence, like murder, you can be kept at the police station for up to 36 or even 96 hours.

If you are arrested under the Terrorism Act you can be kept at the police station for up to 14 days.



## **Getting food and water and going to the toilet**

While you are at the police station, you must be given food and something to drink. You are also allowed to go to the toilet. If the police don't do this, you or your appropriate adult should ask that you are treated properly.

## **Having breaks**

The police should make sure you have breaks when you are interviewed. You or your appropriate adult can ask about giving you a break if you are getting tired or upset.

## **Having visitors**

You are not normally allowed visitors while you are being kept in the police station once you have been arrested, but you can have an appropriate adult with you at the police station to make sure you are treated properly.

## **Being kept overnight**

If you're under 18, you won't normally be kept in a police station overnight, even though the rules say you can be kept for up to at least 24 hours, but this will depend on what you have been arrested for and what the police may need to do in their investigations. If the police arrest you at night, they might give you 'bail' and ask you to come back to the police station to be interviewed at a better time.

## Once you've been interviewed

Remember that just because you have been arrested **doesn't mean you will be charged with an offence**. Even if you are charged, this doesn't mean you will be convicted by the court – the court will have to be satisfied by the evidence that you are guilty before you can be convicted.

Once the police have interviewed you, they have different options open to them.

1. No further action
2. Bail
3. Being charged
4. Alternatives to being charged

## No further action

if the police decide that you haven't done what they arrested you for, or there is no evidence, they can release you and take 'no further action. You will be released and nothing else will happen. You won't have a criminal record.



## Bail

If the police want to carry out some more investigations before deciding what to do, they can give you **bail**, or **release you under investigation**.

If you are given 'bail' you can leave the police station but must agree to come back at a specific date and time.

Sometimes you will be given '**Conditional Bail**' when you will have to agree to do or not to do certain things. It gives the police more time to investigate and means you are not kept at the police station during that time.

The kind of conditions that you might have to agree to for conditional bail might include going back to the police station once a week, or following a curfew restricting when you can leave your house and where you can go.

You don't have to pay money to get bail.

**Release 'under investigation':** If you are 'released under investigation', it means that the police still want to think about what to do – whether to take no further action or whether to charge you, but it is not as formal as 'bail'. You won't have to report back to the police station at a particular date or time. If the police do decide to charge you, you will receive a 'summons' telling you when you have to go to court.

If, after the interview and any other investigations, the police think you have done what they arrested you for, they can **charge** you with the offence.

## Being charged

If the police think they have enough evidence to show that you did what they think you did, they can 'charge' you with the offence.

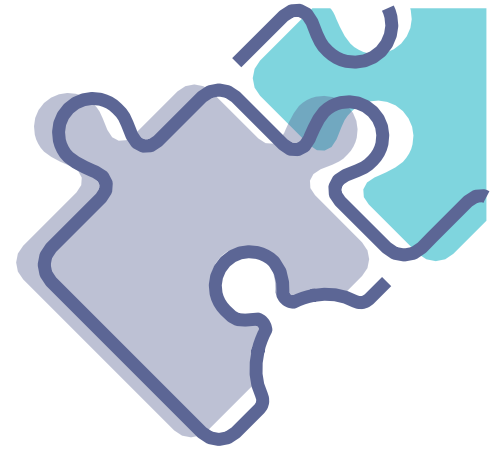
Once you have been 'charged' with an offence, you will often be given 'bail', so you can go home. If you can't be given bail for some reason, arrangements will be made for you to be put into local authority accommodation.

If you are charged with an offence, it means that at some point in the future, you will have to go to court for your case to be looked at in more detail.

## Alternatives to being charged

Even if the police think you have committed an offence, you may not always be 'charged'. There are other options open to the police.

Youth Caution	Youth Conditional Caution	Triage
<p>This is a 'warning' that the police can give to you when they think you have committed an offence, but they want to avoid you going to court. The police often give Youth Cautions to people if it's the first time they've been in trouble with the police, and it's not a very serious offence. You will be referred to the Youth Offending Team. The Youth Caution will be on your criminal record.</p>	<p>This is like a youth caution, except that there are conditions attached to the caution. You might have a curfew, which limits when you can be outside your home, and where you can go. You might get a Youth Conditional Caution if the offence you have committed is a bit more serious. Like the Youth Caution, you will be referred to the Youth Offending Team and the Youth Conditional Caution will be on your criminal record.</p>	<p>This programme means you are taken out of the formal system and given an opportunity to say sorry to the victim of the crime. You will have to carry out activities to 'make up' to the community for what you have done. You will be monitored while you take part in this, but if you complete your programme successfully, you won't be charged, and it won't show up on your criminal record. In many areas of Wales, this is called the Bureau.</p>



## Going to the police station to answer questions when you haven't been arrested

The police might ask you to go to the police station to answer questions about something that has happened. They might do this because they think you were involved in what has happened, or you might know about other people who were involved.

The police should tell you whether they want you to go to the police station because they think you might be the person who has committed the offence, or simply because they think you are a witness. You do not have to attend but if the police want to ask you questions about whether you committed the offence (and not as a witness), they might arrest you if you decide not to go voluntarily.

If you have been involved in what has happened, you can choose to tell the police this or not. Remember the **police caution** (set out earlier) which tells you that you don't have to answer questions. If you do tell them about what you did, the police may arrest you and you could end up being cautioned, charged or dealt with in another way (as explained above).

Even if you don't tell the police what happened or what you were involved with, the police may arrest you if the answers you have given make them think you were involved, or if they have other reasons, or evidence, to think that you were involved

If you aren't arrested, you should be able to leave the police station at any time.

## What about my 'rights'?

Your rights when you are at the police station which come from UK laws. These rights include things like being told you can have an appropriate adult and free legal advice. You also have rights in Wales from the **United Nations Convention on the Rights of the Child (UNCRC)**.

If you are under 18, in Wales, you have all the rights of children that are contained in the UNCRC.

The UNCRC doesn't specifically talk about 'police powers' but it does talk about the rights of children and young people, and how they should be treated. The police in Wales must still respect your rights 'as a child', even if they think you have broken the law. This doesn't mean that you won't be stopped and searched, or arrested, but it does mean that you should be treated 'as a child' by the police and that you should be treated in accordance with your UNCRC rights.

The UNCRC says that

- you should not be treated cruelly,
- If you break the law, you shouldn't be kept in a prison with adults,
- You should be able to have contact with your family,
- If you are accused of breaking the law, you should be treated as if you haven't broken the law until it's clear that you have broken the law,
- If you are charged, you should be told about this quickly and directly,
- Your privacy should always be respected.

The rules the police follow about how they should treat you might mean that you are not treated properly in the way the UNCRC says you should be treated.

If you think that the police have not respected your UNCRC rights in the way they have treated you, you should talk to your solicitor.

If you think you have been treated badly by the police, you can make a complaint.

You can complain directly to the police force that's involved. You will need to know whether the police force that has treated you badly is:

- North Wales Police
- South Wales Police
- Gwent Police, or
- Dyfed-Powys Police

If you'd prefer not to complain directly to the police force, you can complain through the **Independent Office for Police Conduct (IOPC)** website. If you need to read the website in Welsh, or any other language, you can change the language using the dropdown menu in the bottom left corner of the screen.

If you use the IOPC website to make your complaint, it will still probably be looked at first by the police force.

The IOPC will investigate some kinds of complaints.

There's no time limit for making a complaint, but if you leave it longer than 12 months, you will need to explain why you didn't make a complaint sooner. It will make it harder for the police to investigate your complaint the longer you leave it.





This factsheet was prepared in May 2020 to give you an understanding of what might happen, and what your rights are, during stop and account, stop and search and arrest. While every effort has been made to ensure the accuracy of the information, it is possible that the law, and practice may change. The contents of this document should not be taken as a substitute for legal advice as every situation is different. If you have been stopped and searched, or arrested you should seek legal advice from your own legal representative.

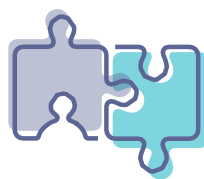
**Children’s Legal Centre, Wales**

School of Law, Swansea University,  
Singleton Park, Swansea,  
Wales, SA2 8PP

**Canolfan Gyfreithiol y Plant, Cymru**

Ysgol y Gyfraith, Prifysgol Abertawe,  
Parc Singleton, Abertawe, Cymru, SA2 8PP

01792 295399



Canolfan  
Gyfreithiol  
y Plant  
Cymru

Children’s  
Legal  
Centre  
Wales