

Police Powers of Arrest

Before the Serious Organised Crime and Police Act 2005 the police only had the power to arrest those suspected of committing an offence carrying a sentence of at least five years in prison. Now, police are able to arrest anyone they suspect of any offence, even something as minor as littering, giving them the power to harass and intimidate virtually at will.

A lawful arrest requires two elements:

1. A person's involvement or suspected involvement or attempted involvement in the commission of a criminal offence;
AND
2. Reasonable grounds for believing that the person's arrest is necessary.

Arresting officers are required to inform the person arrested that they have been arrested, even if this fact is obvious, and of the relevant circumstances of the arrest in relation to both elements and to inform the custody officer of these on arrival at the police station.

Therefore a police officer will merely have to satisfy themselves of "*a person's involvement or suspected involvement or attempted involvement in the commission of an offence,*" **and** that there are "*reasonable grounds for believing that the person's arrest is necessary.*" This gives the police the power to harass and intimidate virtually at will.

Additionally, police are now allowed to photograph "suspects" on the street where they have been arrested or issued with a fixed penalty notice, rather than taking them back to a police station. This can be used to build up a digital photographic database using the simple expediency of charging someone with a minor violation, or even giving him or her a fixed penalty notice. The photo can be kept on file even if the person is found not guilty in court. The police also have powers to take your fingerprints in the street (if they have a mobile finger printing machine) if they reasonably suspect that you have or are attempting to commit an offence and they do not know, and cannot get your name or they think you have given a false name.

Unless you are the driver of a vehicle YOU DO NOT HAVE TO GIVE A POLICE OFFICER YOUR NAME AND ADDRESS not even if they quote the terrorism laws at you. The police officer may say he will arrest if you do not give your name and address.

REMEMBER that you can only be arrested if :-

- you are in the act of committing an offence
- the officer has reasonable grounds for suspecting you are about to commit an offence
- the officer has reasonable grounds for suspecting you have committed an offence
- an offence has been committed and the officer has reasonable grounds to suspect you are guilty of it.
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However, you can only be arrested if one of the following conditions applies: -

- the officer does not know, and cannot get your name
- the officer thinks you have given a false name or address
- you have not given a satisfactory address. This means an address where the police can contact you
- the officer has reasonable grounds to believe the arrest is necessary to prevent you causing physical injury to yourself or others, suffering physical injury, causing loss or damage to property, committing an offence against public decency, or causing an unlawful obstruction of the highway
- the officer has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person.

If the officer is arresting you because you have failed to give them a satisfactory address they must first explain that you may be arrested and give you the opportunity to give them the address.

Always ask **WHY** you are being arrested, you may wish to challenge the reason for the arrest later (perhaps by a claim for false arrest via the IPCC)

The police should only use reasonable force to make an arrest and they should inform you that you are under arrest as soon as possible. After the arrest they should explain why they have arrested you. The police must caution you unless it is impractical to do so or unless they cautioned you immediately before they arrested you.

Remember people have been convicted of breach of the peace simply for swearing at an officer.

Powers of detention

Detention is similar to being arrested, you are taken by force by the police to a police station and you are kept captive there. You may be questioned but you may (and probably should) remain silent, apart from giving your name and address.

The police only can detain you if they do not have enough evidence to charge you and they have good reason to believe that they can obtain further evidence by continuing with your detention.

You cannot normally be held for more than 24 hours without being charged or released. If a serious offence is being investigated, a senior police officer can authorise your detention for a further 12 hours, this 36 hour detention can only be extended further with the approval of a magistrates' court (up to a total of 96 hours).

Police detention in the street - There is no power to stop or detain a person in order to find grounds for a search.