

Crime & the Law

The following information provides an overview of your rights and responsibilities with respect to acts of crime and action that can be taken by law enforcement body such as the Police Service.

Powers of stop, search and seizure

Rules about what the police can and can't do are set down in codes of practice, or governed by national law. It is against the law for the police to discriminate against you because of your race, sex, sexuality, religion or disability. If the police fail to comply with the law or the codes of practice, they can be prosecuted or disciplined.

When can the police stop and search you

The police can stop and search you without having a search warrant if they suspect you of being in possession of:-

- drugs; and/or
- an offensive weapon, a bladed weapon; and/or
- stolen property; and/or
- alcohol if you are at certain major football or rugby matches or on public transport travelling to such an event; and/or
- evidence in relation to an offence under the Protection of Wild Mammals (Scotland) Act 2002; and/or
- cash or the cash equivalent of £1,000 or more and that this is the result of criminal activity
- fireworks that you intend to use anti-socially.
- items which could damage property e.g. spray paint cans

Before they stop and search you they must have reasonable grounds for suspecting that they will find these things. There are a few exceptions to this rule. If a serious violent incident has taken place, the police can stop and search you without having reasonable grounds for suspecting that they will find these things. This can be authorised by the rank of Inspector or above if they suspect it may have happened.

The Police can stop and search you or your vehicle at any time regardless of the area.

But the police do not have the right to stop and search you just because of your race or religious background.

An officer does not have to be in uniform but if s/he is in plain clothes s/he must identify her/himself and provide documentary evidence of identity if asked to do so. This would commonly take the form of a Warrant Card. In the above situations, the police should not require you to take off any clothing other than outer coat, jacket, shoes or gloves. If the police wish to conduct a more intimate search i.e. Strip Search, then they must have reasonable cause to do so. This may include hiding drugs or any other items in body cavities. This will take place somewhere private i.e. in a police custody cell.

In some circumstances a police officer of the rank of inspector or above can give the police permission to make stops and searches in an area for a certain amount of time - as long as this is for no more than 24 hours. This can be extended upon authorisation from the rank of Superintendent and above. When this permission is in force the police can search for offensive weapons or dangerous instruments whether or not they have grounds for suspecting that people are carrying these items.

How should the search be conducted

The search will be carried out by a member of the same sex. Intimate searches will be carried out by members of the same sex and out of view from members of the opposite sex.

The police do not have the power to take fingerprints, palm prints or body samples, such as a blood sample, unless you have been arrested. They cannot take any of the above if you are only being detained unless you voluntarily do so.

Stopping and searching vehicles

Police officers in uniform have the power to stop a motor vehicle on a road and ask the driver to produce:-

- a driving licence
- an insurance certificate

- a test certificate.

Tests for alcohol/drugs

A police officer can require you to supply a specimen of breath for a breath test or undergo other tests if you have been driving, attempting to drive or have been in charge of a motor vehicle and they suspect:-

- you of having alcohol in your body; or
- you of having used drugs; or
- you have committed a moving traffic offence; or
- you were the driver at the time of a road traffic accident.

A test for alcohol would normally be a breath test. A test for drugs would usually be a preliminary impairment test or sweat or saliva swab. It is an offence to fail to provide a specimen of breath, sweat or saliva or undergo a test in these circumstances without reasonable excuse.

The limit in relation to alcohol in the breath is currently 35 microgrammes of alcohol in 100ml of breath. If your breath contains no more than 46 microgrammes of alcohol in 100ml of breath, you have the option to have the breath specimen replaced by a blood or urine specimen. You must be informed of your right to exercise this option. If you are not told about it, any conviction from your original breath test will be unsafe.

Although you can state a preference, the police officer will decide whether to take a blood or urine specimen. If there are medical reasons that mean that blood cannot be taken, the specimen must be urine.

When can the police seize possessions

Once the police has carried out a search, the police have the power to seize and retain anything that they consider to be relevant to the offence. The police can seize cash of £1,000 or more if they suspect that it could be the result of the proceeds of crime.

The police also have the power to confiscate alcohol from people under 18 who are drinking it in a public place. They can also confiscate alcohol from people aged 18 or over if it is suspected that the alcohol has been consumed or is intended for consumption by people under 18. They can also confiscate fireworks that they think are going to be used for anti-social purposes.

When can the police move you on

The police have the power to move you on if they believe that you are obstructing the lawful passage of any other person in any public places or if you (either individually or as part of a group) are conducting yourself in a riotous or disorderly manner anywhere, to the alarm, annoyance or disturbance of the public.

If you have been asked to move on, you are entitled to ask for a reason and should expect to receive one but if you refuse to move you are likely to be charged with an offence.

When can the police stop and question you

A police officer can stop and question you in any public place if you are suspected of committing an offence or the officer believes that you have witnessed a possible offence.

If you are stopped and questioned, you are expected to be co-operative. You will be asked to give your name and address to the officer. If you give a false name and address you are committing an offence.

If you refuse to provide your name and address after you have been requested by the police and you are suspected of withholding your details, it is an offence and you will be charged.

If you refuse to provide your name and address when you have witnessed an offence being committed you will be charged for refusing to provide this information.

If the police suspect you of committing an offence they may ask you for an explanation of your behaviour. You have the right to refuse to give an explanation. This may take the form of 'No Comment'.

Once you have given the police your name and address it is up to them to decide whether they want to ask more questions. If they don't then you should be allowed to go. If they do want to ask you more questions or they suspect you of having committed a crime they can:-

- ask you to attend voluntarily at the police station to help with enquiries; or
- detain you for questioning for up to 12 hours; or
- arrest you for committing an offence.

If the police suspect you of being a witness to a crime they can invite you to attend the police station to help with enquiries but you are not obliged to do so and cannot be detained at the police station unless there is new evidence linking you to the offence or if you make an admission of guilt.

If you have been questioned by the police, either as a suspect or a witness, the police should make clear before you are released or leave the police station what further action, if any, will be taken, for example, whether you have been charged and will be reported to the Procurator Fiscal or whether you have been eliminated from the enquiry.

When the police can issue you with a fine

A police officer can give you an 'on the spot' fine (fixed penalty notice) for some types of antisocial behaviour.

These may include, but are not limited to:-

- animal nuisance, including dog fouling
- dumping rubbish
- littering, flyering, graffiti
- public urination
- drunk and disorderly

Have a look at the section 'Your Behaviour and the Law' for more details.

Powers of entry

In general the police do not have the right to enter a person's house or other private premises without their permission. However, they can enter without a warrant:-

- when in close pursuit of someone who has committed, or attempted to commit, a serious crime; or
- to quell a disturbance; or
- if they hear cries for help or of distress

When can they enter and search premises

In general, the police don't have the power to search premises without a warrant unless they have obtained the permission of the person concerned. If it is believed that a delay in obtaining a warrant would possibly lead to the possible destruction or removal of evidence and therefore defeat the ends of justice the police can detain or arrest occupants until a warrant has been obtained.

A search warrant authorises the police to enter premises on one occasion only. If the police have a search warrant they can, if necessary, use reasonable force to enter and search the premises. The householder or occupier of the premises is responsible for any repairs that are needed as a result of the police forcing entry. However, if the police search an address in error, the police should be asked to repair any damage they cause.

As well as getting a warrant to enter and search because of suspected crime, a warrant can be issued to enter premises to check if the occupant is at risk because of mental illness. A warrant can also be issued to enter the home of a sex offender to do a risk assessment.

When can the police seize property

If the police have used a search warrant to search premises or a vehicle and they have found articles covered by the warrant, they have the power to seize them and take them into safe custody, for example, to a police station. The articles are held there as possible evidence in any criminal proceedings which the Procurator Fiscal may decide to start.

Where a warrant is granted to search for specific items of stolen property, the police do not have the power to seize other items not referred to in the warrant. If they believe that the items relate to the suspect being involved in another crime then they must apply for another warrant.

If the police have seized certain articles after a search, you have no right to make the police return the articles and there is no time limit on how long the police can hold them. If you want to enquire about retrieving articles from the police you should write to the Chief Constable to establish if the property is to be used in evidence. If the property is to be used as evidence, the Procurator Fiscal is responsible for its disposal and the Fiscal will deal with enquiries concerning the property.

You may be able to take legal action to get a court order for the article(s) to be returned but this would be a complex process, for which legal advice would be needed.

What should happen if you are detained

How long can they hold you

The police have the power to detain you for questioning if they suspect you have committed an imprisonable offence.

If you are detained, the detention must end no later than 12 hours after it started, or earlier if there are no longer any grounds for suspicion or if you are arrested.

What can happen during a detention

The police must tell you why you have been detained, the general nature of the suspected crime and inform you that you do not need to answer any questions other than giving your name and address. The initial detention period is 12 hours. During the initial 12 hour period, a police custody review officer can authorise an extension to 24 hours without having to get a court's permission. You are entitled to have access to a solicitor immediately. Detention usually takes place in a police station, but if you are handcuffed and questioned by the police you may also be entitled to have access to a solicitor. This access may be a personal meeting or telephone contact.

During a detention you can be moved from the police station to any other place. The police also have the power to search you, take fingerprints, palm prints and other impressions and, where necessary, use reasonable force to ensure you comply with these requirements. The police can also take photographs.

If you have been detained by the police, you have the right to have a solicitor and one other person informed of your detention and whereabouts. You do not have the right to make a telephone call personally, the police will do this for you. The police must do this without delay unless there is a good reason not to, for example, that it might lead to the destruction of evidence or the warning of accomplices. There is no fixed time limit but any delay should be no longer than is necessary to investigate or prevent the crime or apprehend offenders.

If a young person under 16 is detained by the police, the police should tell their parents or guardians as soon as possible and may allow a parent or guardian access to the young person at the police station. The police can refuse access if there is a suspicion that the parent or guardian is involved in the crime or offence or if it is in the interests of the child to delay access.

You cannot be detained more than once in connection with the same offence, or an offence which arises out of the same grounds.

Being arrested if you have learning difficulties

If you have learning difficulties, the police should only interview you when a responsible person is present, unless delay would result in a risk of injury or harm to property or people. You should be accompanied at interview by:

- A relative or other person responsible for your care
- Somebody experienced in dealing with people with people with learning difficulties who is not employed by the police
- Some other responsible adult who isn't employed by the police

The Scottish Government has in place the [Appropriate Adult Scheme](#) that does just this.

Being arrested if you are not a UK national

If you are from outside the United Kingdom, you have the right to tell your High Commission, embassy or consulate your whereabouts. The police will make contact on your behalf.

Being arrested if your first language is not English

If you have difficulty understanding English and the interviewing officer cannot speak your language, you should be provided with an interpreter (this will normally follow the process of language line). The police must not interview you until the interpreter is present unless a delay would mean an immediate risk of harm to someone or serious loss of or damage to property.

Your rights on arrest

Arrest is the first step in the proceedings for bringing someone to trial for an offence and means that you can be held in police custody.

When can the police arrest you

The police can arrest you if they have a valid arrest warrant. A warrant will state the grounds for arrest. They also have a power to arrest you without a warrant if you are:-

- in the act of committing a crime; or
- accused by an apparently credible witness of being seen committing a crime; or
- seen running away from the scene of a crime pursued by others; or
- threatening danger to the public; or
- causing an offence to public decency; or
- if they believe you may abscond or have no fixed abode.

A police officer also has the power to arrest you without a warrant under a range of statutes, for example, the Misuse of Drugs Act 1971 and the Prevention of Terrorism Act 2000.

What should happen on arrest

If you are arrested by the police you should be told what you are being arrested for and which statute applies at the time of the arrest. However, if the circumstances make this impossible, the police should inform you of the reason as soon as reasonably practicable. An arrest is not necessarily unlawful because no reason was given at the time of your arrest.

When will the police charge someone

The police will charge a person when they have enough evidence to prove that they have committed an offence. The charge is a statement which says:-

- what crime the person is charge with; and
- when the crime was committed; and
- where the crime was committed.

If you are charged, the police must caution you that you do not need to say anything in answer to the charge but that you have the opportunity to reply. Any reply that you make will be noted and may be used in evidence.

The common law caution used by Police in Scotland is as follows; *'You are not obliged to say anything but anything you do say will be noted down and used in evidence'*.

If the offence is not a serious one and the police have no reason to doubt that you are normally a law abiding person, you may be charged but not detained any further. Later you may receive a citation from the Procurator Fiscal to appear in court and, for some offences, may be offered the opportunity to plead guilty by letter.

In other, more serious cases, the police may decide to hold you in custody, in a police cell, after arresting and charging you with an offence.

Rights in police custody

If you are held in police custody following an arrest, the police must bring you before the Sheriff or District Court no later than the next day after the arrest. However, should you be in custody at either the weekend or during a public holiday you will be held in custody until the next lawful day.

Once you have been charged with an offence, you are not obliged to say anything to the police and have the right to remain silent if you wish. If you do make any kind of statement this will be noted and may be used in evidence.

If you have been arrested and held in a police station, you have the right to have a solicitor and one other person informed of your arrest, without delay. You don't have the right to make the telephone call personally, the police will do this for you. An arrested person may choose a solicitor or they can use a duty solicitor and they have the right to a private interview with their solicitor before being brought to court.

Fingerprints and body samples

If you have been arrested, the police have the power to take your fingerprints, palm prints and other impressions. The police can also take photographs. Other samples can also be taken using reasonable force, should you not do so voluntarily, if a police inspector provides permission:-

- body hair samples, other than pubic hair
- finger or toe-nail clippings or other material from the nail
- blood or other body tissue or fluid gained by swabbing or rubbing
- saliva that can be swabbed from the inside of the mouth.

Blood samples can also be taken as long as there is a warrant to do so.

If you are convicted, records of your prints and impressions will be retained on police files along with your criminal record. Otherwise, in most cases, records of your prints and impressions will be destroyed. However, records of your prints or impressions can be held for up to 2 years (3 in the case of certain violent and sexual offences) where you have accepted an alternative to prosecution in court, eg a fine or work order. Also, in the case of certain violent and sexual offences, the police have the power to keep your DNA information for up to 3 years, even if you are acquitted by the court or if the case is dropped. The police can also apply for an extension, to enable them to retain the DNA information for further periods of up to 2 years at a time.

Searches

If you have been arrested with the authority of a warrant, the police will have the power to undertake an intimate body search, which means a strip search but not an invasive search, which involves an internal examination. A special warrant has to be obtained to carry out an invasive search and a medical practitioner must carry this out.

DNA testing

If you have been detained or arrested, the police have the power to carry out a DNA test. If you are convicted, your DNA details will be held permanently on the National DNA Database. If you are subsequently acquitted or if criminal proceedings are dropped, your DNA details will be destroyed. However, DNA details can be held for 2 years (3 in the case of certain violent and sexual offences) where you have accepted an alternative to prosecution in court, eg a fine or work order. Also, in the case of certain violent and sexual offences, the police have the power to keep your DNA

information for up to 3 years, even if you are acquitted by the court or if the case is dropped. The police can also apply for an extension, to enable them to retain the DNA information for further periods of up to 2 years at a time.

Identification parades

If you have been arrested, the police have the power to make you take part in an identification parade. However, there are certain safeguards for the conduct of identification parades, for example, you have the right to have a solicitor present and the other people in the parade should look broadly similar to you in terms of gender, age, height, dress and general appearance.

Reporting a Crime

In an emergency, you should phone 999. You will need to tell the operator answering your call the exact location where the police are needed, why they are needed and your name and number. However the call will still be acted upon if you refuse to give your name.

In non-emergency situations, you should usually contact the police service local to the area in which the crime has taken place. In Glasgow, this is Strathclyde Police. You can do this by phone or in person, at Police stations with front offices open to the public.

Your local police Office is:

Glasgow City Centre Police Office (Open 24 hours)
50 Stewart Street
Glasgow
G4 0HY

Contact Number: 0141 532 3242

Email address: AnderstonCityCommunityPolicingTeam@strathclyde.pnn.police.uk

Sometimes it can be difficult to report a crime to the police. If you are reluctant to speak to the police for whatever reason, you can contact one of the following for help:

- Our ASK (Advice, Support & Knowledge) service within the Union - ussa.ask@strath.ac.uk
- Victim Support: 0845 30 30 900 or at www.victimsupport.org.uk
- Alternatively you can report a crime online at:
<http://www.strathclyde.police.uk/index.asp?locID=1500&docID=-1>

Hate Crimes

- ***A hate Crime is defined by the Scottish Government as: "A crime motivated by malice or ill will towards a social group."***

A hate crime is any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice based on a person's actual or presumed disability, race, religion or belief, sexual orientation or whether they are transgender.

- ***A hate incident is any occurrence (where a crime has not occurred), which is perceived to be a hate incident by the victim or any other person***”

A hate incident is an incident that is not a criminal offence, but like a hate crime, is perceived to be motivated by hostility or prejudice based on a person's actual or presumed disability, race, religion or belief, sexual orientation or whether they are transgender.

Hate crimes and incidents can be reported to the police. However there are third-party reporting schemes which allow victims to report hate crimes to the police anonymously via a third party such as a community group or website.

The University of Strathclyde Students Association is a Third Party Reporting centre and you can make a report at our ASK service in the Lounge, level 5 of the Student's Association.

Any information you give at a reporting centre is confidential and anonymous if you prefer. Information does not have to be shared, you can choose what information to give and who it is passed on to. For further information about hate incidents, please see www.stophateuk.org.

You can report a Hate Crime to **any** Organisation that displays the below logo.



Info for Victims of Crime

All Police services are legally bound to comply commitments under the Code of Practice for Victims of Crime (you can view the full document via the following link: www.homeoffice.gov.uk/documents/victims-code-of-practice?view=Binary). This code sets out what services you can expect to receive from the police and other criminal justice agencies as a victim of crime, for example:

- A right to information about your crime, including the right to be notified of any arrests and court cases
- A dedicated family liaison police officer for bereaved relatives
- Victim Support services
- An enhanced service for particularly vulnerable or intimidated victims of crime.

For help coping with the consequences of crime, please contact Victim Support on 0845 30 30 900 or see their website: www.victimsupport.org.uk. For further information on support and services available to victims of crime, please see: www.homeoffice.gov.uk/crime-victims/victims/victim-support.

Info for Witnesses

It is a criminal offence to intimidate a witness or anyone helping the police in an investigation. If you suffer harassments or threats before, during or after a court case, you should tell the police immediately. There is protection and support available from the legal system and external agencies for people acting as witnesses to a crime.

Witnesses' identities can be protected during the investigation of a trial and during early stages of the prosecution process. In exceptional cases, a witness' identity can be protected throughout the trial itself. In more extreme circumstances, victims and witnesses can be relocated by the Police working in partnership with Local Authorities. (www.cjsonline.gov.uk/victim/coming_forward/witness_protection/). For more information on acting as a witness, please see www.direct.gov.uk/en/CrimeJusticeAndTheLaw/Goingtocourt/DG_070444

Crime and the University

If you are arrested for any criminal offence you are obliged to inform the University. If you do not do so, you could face action under the [University Disciplinary Procedures](#). If you have been involved in criminal proceedings in any way, your academic work may be adversely affected and you should notify your department in case you can submit mitigating circumstances.

If you have been affected by crime, you can get information and advice from the Student's Association and the University Advice and Information Centre.

Your Behaviour and the Law

Running around drunk and making a noise, stealing traffic cones and plant pots, urinating in the street, littering, flyering, wildparties; these are all things that students have a reputation for doing. Of course most people do not behave like this, but some do, both students and non-students. Some things may seem funny at the time, but can get you into trouble. You may get a criminal record, be excluded from your course, and if you study something like law, healthcare, education, or social work, you may not be able to practise, even for quite minor things.

Being a student, being drunk, or having an after exam party is not an excuse. Don't let this happen to you.

Being Drunk

If you are drunk, and causing a problem, you can be arrested for 'Drunk and Disorderly'. For this you can receive a 'fixed penalty notice' (a spot fine of £80), or if the case goes to court, a fine of up to £1000. Failure to pay fines can result in imprisonment. At the very least you may have to sleep it off in a Police cell overnight. Find more information at: www.crimereduction.homeoffice.gov.uk.

Littering, Flyering, Graffiti

All of these can carry a fixed penalty fine. Even tiny things like cigarette ends, orange peel or chewing gum can result in a fine for littering. Sticking a poster for your band on a bus stop, or handing out flyers in the street without a license all count. Graffiti can also result in a charge of criminal damage.

Public Urination

Going to the toilet on the street, or in the park, can also be a public order offence, if it is likely to cause distress to someone else. It doesn't matter how desperate you are, or how far away the public toilets are. This can still get you a spot fine.

Stealing traffic cones, and other things

Stealing or interfering with traffic cones or temporary road signs is an offence under The Road traffic Act 1988. Stealing or messing with someone's plants or window-boxes could result in you being arrested for theft or criminal damage. Both of these can carry a fine of up to £5000 or six months in prison, though for minor offences community penalties are often used.

Parties and Noise

Parties are for many people a normal part of student life, but some get out of hand, particularly those which have been advertised on sites like facebook and partyvibe. They can also be a cause of a lot of distress or bad feeling for residents nearby, who may well be trying to sleep. There may also be damage to your house which your landlord will charge you for.

It is not illegal to have a party, but there are a number of things that could happen which are illegal.

If you have a large event, ask for money, or sell alcohol, you can be breaking licensing laws. Penalties for this can be severe.

You may find that people are taking or dealing drugs at your party. If anyone is dealing (which can just include giving a joint to someone), or are using cannabis (or opium), then as the tenant of the property you can be charged with allowing this. An

amendment to the Misuse of Drugs act covering allowing the use of any drug has not yet been implemented but is possible in the future.

If you make too much noise, and environmental health officers are called, they have the power to confiscate any musical equipment, and issue a fine. If there is a fire or serious accident and someone dies, you could even be arrested on suspicion of manslaughter! In extreme cases, noise and antisocial behaviour like this can also result in you being evicted from your house, though this is rare.

ASBOS

Anti-social Behaviour Orders, or ASBOs, are a civil order that can ban you from doing anything which 'causes harassment, alarm, or distress' to another person. These can last for up to 10 years and breaching them can result in up to 5 years in prison, or a fine of up to £5000. They are used when persistent behaviour affects other people, and the behaviour need not be a criminal offence in its own right. Many of the above things can count.

Drugs

Drugs are illegal whether you are a student or not. The penalties for drugs can be serious:

Class A drugs, such as cocaine, crack, crystal meth, ecstasy, heroin, LSD (acid), magic mushrooms, methadone, opium, and any class B drug prepared for injection - Maximum penalties: seven years in prison and/or a fine for possession, life imprisonment and/or a fine for possession with intent to supply.

Class B drugs, such as amphetamines (speed), barbiturates, cannabis, codeine. Maximum penalties: five years in prison and/or a fine for possession, 14 years in prison and/or a fine for possession with intent to supply.

Class C - Ketamine, some tranquillisers like Temazepam Maximum penalties: two years in prison and/or a fine for possession, five years prison and/or a fine for possession with intent to supply.

Remember that if you buy drugs for your mates, or even pass them a joint, this can be treated as supply! Some 'legal highs' are not so legal, as their supply is controlled by the Medicines Act.

Though the penalties for drugs can be harsh, many cases are dealt with via a fine or caution. This does not mean that you have got away with it though, you will still have a criminal record and this may affect your career chances in later life.

A good overview of the legality of drugs can be found at <http://www.urban75.org/legal/drugs.html>