



WHAT ARE MY RIGHTS?

WHAT ARE THE POLICE ALLOWED TO Do?

WHAT ARE THE NEW OFFENCES UNDER THE TERRORISM ACT 2006?



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THIS GUIDE HAS BEEN PRODUCED TO GIVE YOU VALUABLE INFORMATION

It tells you what **your rights** are if the Police ever arrest, detain, search or question you. It explains **what they are allowed to do** in each instance. Importantly, it also covers the **Terrorism Act 2006**.

This is only a guide. If you, or someone you know face a criminal charge - **take up your RIGHT of FREE legal representation immediately.**

A GUIDE PRESENTED BY THE LAW FIRM:

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THE POLICE CAN STOP AND SEARCH YOU

(WITHOUT ARREST) ONLY IF:

- They have **reasonable suspicion** that you have a **stolen article** or '**prohibited articles**' on your person. Prohibited articles include offensive weapons, articles made or adapted for use in connection with offences such as burglary and theft. They can also search for items such as drugs.
- **Prior to a search**, they must provide their **name** and **police station** (except in terrorism related cases where warrant or other ID number will suffice).
- If they are not in uniform they must show you a **warrant card** to prove that they are police constables.
- They must tell you **why** you are being stopped and **what** they are looking for.
- They must inform you that you are entitled to a copy of the **search record**.
- They can search you if you are in a **public place**. They cannot search you in a house, but they can search you in a garden or in the yard of a house.
- When conducting a search in a public place, they can only require you to **remove** your outer coat, jacket or gloves.
- In certain circumstances, they can ask you to remove **any item worn to conceal your identity**, for example, face coverings.
- If a more thorough search needs to be

conducted, they must do this **out of public view**, for example, in a police van or a nearby police station.

- They must make a **record of the search** immediately or, if this is not possible, as soon as is practicable afterwards.
- They must provide you with a **copy of the search record** immediately. If this is not possible, you have a 12 month period within which to obtain a copy.
- If you are stopped under the **Terrorism Act 2000**, they **do not need reasonable suspicion** to search you.
- Under the Terrorism Act 2000, they can additionally require you to **remove headgear and footwear** in public.
- A search under the Terrorism Act 2000 can only be carried out by a person of the same sex.

THE POLICE CAN SEARCH YOUR HOME IF:

- You **consent** (in writing) to having your premises searched. Before seeking your consent, they must tell you what the **purpose of the search** is, that you **do not have to consent**, and that **anything seized** may be used in evidence.
- If you **have not** been arrested (and you do not consent), **they must obtain a warrant from the Court**. You are entitled to see and be supplied with a copy of the warrant.
- If you **have been** arrested, they do not need a warrant to search your house, but they must have the written **authorisation** of a police officer who is at

least of the rank of inspector.

- They are only entitled to use **reasonable force** to effect an entry or search.
- You are entitled to be **present** when the search is carried out.
- Unless it would hinder the search, they must allow you to have **another person present** to witness the search if you wish.
- If any damage has been caused, you should **make a note** of it or **take photographs**.
- They must provide you with a **list** of the items taken. You are permitted, and should, make your own list.
- You are entitled to have all of the **items returned to you** after the investigation has been completed. If they have failed to do so, you can ask the Court to demand that the police return your property or compensate you for its loss.
- The **Terrorism Act 2006** gives the police wider powers with regard to search warrants, enabling them to cover **other premises** that are under your control.
- It also allows warrants for the search of premises where there are reasonable grounds for suspecting that **terrorist publications** are likely to be found.

WHAT TO DO IF YOU ARE ARRESTED

- You are entitled to free and independent Legal Representation at any time. **Always take it.**
- Do not be put off by any attempts by police officers to **dissuade** you from seeking legal advice. They are not allowed to do so.
- If you are suspected of a Terrorist Offence, **contact specialist Solicitors** who have experience in dealing with these types of cases and these types of police officers.
- You have a right to silence. There are times when it will be within your interests to say nothing. However, there **may** be times when it would be better for you to tell Officers what you know.

YOUR SOLICITOR WILL ADVISE YOU WHICH OPTION TO TAKE, DO NOT DECIDE WHAT TO DO BY YOURSELF.

- You will be given this advice after you have had a **private consultation** with him/her and after he/she has been given information by the Police detailing why they want to talk to you. It is important that you consider this advice as carefully as you can.
- The Police have **36 hours in which to find you a Solicitor.**
- If you have requested a solicitor, generally you **SHOULD NOT** be interviewed before you have had the chance to speak with them.

- Your right to consult with a Solicitor can be **delayed for up to 48 Hours** if you have been arrested for Terrorist Offences.
- You have the **right to call someone** and tell them that you are being held in custody at a police station or other premises.
- If you have been **injured by the police** during or after your arrest, you are advised to see the Forensic Medical Examiner at the police station and/or a doctor afterwards so that your injuries are recorded. You are also advised to take photographs of any visible injuries.
- **NOTE:** The **Terrorism Act 2006** has **extended the period** of time the police are permitted to **detain a person without charge.** They can now hold a suspect for **up to 28 days** instead of the 14 days that had been previously permitted by the Terrorism Act 2000.

GETTING BAIL

- Each case needs to be considered on its own merits. If your case involves a **minor offence** and you have no (or minor) previous convictions, your chances of getting bail are good.
- If your case involves a **serious offence** and you have similar (or numerous) previous convictions, and there are substantial grounds for believing that you would **commit further offences, fail to turn up or interfere with witnesses,** you may

be refused bail.

- If you are not granted bail at the police station, you have the right to be **brought before a Magistrate** to make a bail application. The Prosecution has to satisfy the Court that the substantial grounds mentioned above exist.
- If bail is refused, another hearing can be held again in eight days at the Magistrates Court where a **second bail application** can be made.
- After that, unless there is a real change of circumstances (for example, a surety becomes available) **a further bail application can be made to the Crown Court.** This can be done as soon as practicable. A Crown Court Judge will then hear the application and decide whether to grant bail, with or without conditions, if at all.
- **Whilst getting bail in terrorism cases may be very difficult, it is not impossible. You are advised to contact specialist solicitors who deal with these types of cases.**



SPEAKING TO THE POLICE/ SECURITY SERVICES

Q: The Police have knocked on my door and have asked me to speak to them about MY involvement in an offence. Should I speak to them?

A: If you are suspected of committing an offence, **they must caution you** before they ask you about anything connected to it. It is your decision, after hearing the caution, as to whether you say anything at all. **HOWEVER we strongly recommend waiting until you have reached the Police Station and spoken to a Solicitor before deciding what, if anything, you should say, especially if you are suspected of terrorism related offences.**

Q: The Police/Security Services have knocked on my door and have asked me to speak to them about “what I know” Do I have to speak to them?

A: No, you are under no such duty. Any duty would be voluntary. It may be that the questions are simply routine house-to-house enquires about a local incident that you have no issue with. However, **if you have any reservations** about speaking to any Police Officer for whatever reason, take their details,

contact a Solicitor and discuss the situation with them before you decide what to do. Remember that only Police Officers can arrest you or require an answer from you. There is no legal duty on you to speak to Security Service Officers. However, once again, we do recommend that you get legal advice whenever anyone from the Authorities asks you for information.

Q: I have been told that if I withhold information, I could be facing a criminal charge. Is this true?

A: If you **intentionally mislead** the police then you may well be charged with an offence of ‘Perverting the Course of Justice’ (for example, providing a false alibi).

Under the Terrorism Act 2000, there is a specific offence of:

“...having information that (you) know or believe might be of material assistance in securing the apprehension, prosecution or conviction of another person in the UK for an offence involving the commission, preparation or instigation of an act of terrorism, and failing to disclose that information as soon as reasonably practicable (to the police)...”

You can be charged if you fail to contact the

Police if you have such information. In both circumstances, the charges are serious, and it is **absolutely vital** that you obtain legal advice before speaking to the authorities. As for an overall duty to report illegal or suspicious behaviour, **any decision would depend on the facts**, the type of activity involved and what the law states about that particular type of crime. Other factors, such as Professional Privilege may become important considerations. **You must discuss the facts of your situation with a Solicitor before deciding what to do.** It’s impossible to give a single answer here.

New Offences Under the Terrorism Act 2006

The Terrorism Act 2006 creates new offences relating to terrorism as well as amending existing ones. Part 1 of the Act include:

Encouragement of terrorism (section 1):

- A person commits the offence if he /she **publishes** or **causes another to publish** a statement that is likely to be understood by its audience as a **direct or indirect encouragement or other inducement** to commit, prepare and instigate acts of terrorism.
- He/she must **intend** or be **reckless** as to whether others will be encouraged. It is **irrelevant** whether any person is **actually encouraged** by the statement or not.
- A statement that is likely to encourage such acts is one which **glorifies the commission or preparation of such acts**, whether in the past, future or generally. Such a statement is one from which members of the public can reasonably infer that such acts are being glorified as conduct that they should emulate.

- It is a **defence** for that person to show that the statement did not express his/her view nor had his/her endorsement. This must also be clear from the circumstances of the publication of the statement.

Disseminating terrorist publications (Section 2):

- Prohibits the **distribution, circulation or dissemination by any other means** of a terrorist publication or the **possession of** such a publication with a view to doing so.
- The person must **intend** or be **reckless** as to whether the result of his/her conduct would be understood in such a manner or be useful in the preparation or commission of such acts. It is **irrelevant** whether any person is **actually encouraged** by or **makes use** of the publication in terrorist acts.
- A **terrorist publication** is one which is likely to be understood by its audience as a direct or indirect encouragement, or other inducement, to commit, prepare or instigate acts of terrorism or if it is useful to them in the commission and preparation of such an act.

- **Indirect encouragement** is defined as glorifying the commission or preparation of such acts, whether in the past, future or generally. Such a statement is one from which members of the public can reasonably infer that such acts are being glorified as conduct that they should emulate.
- It is a **defence** for that person to show that the publication did not express his/her view nor had his/her endorsement. This must be clear from all the circumstances of the conduct.
- The maximum penalty is seven years' imprisonment and/or a fine.

Preparation of terrorist acts (Section 5):

- Prohibits anyone from intending and engaging **in any conduct** in preparation for committing a terrorist act or assisting others in committing such acts.
- The maximum penalty for this offence is life imprisonment.

Training for terrorism (Section 6):

- Prohibits anyone from **providing and receiving** instruction or training in terrorist activities.
- The person providing the instruction/training **must know** at the time that the person being trained intends to use it for terrorist acts or for assisting others in such acts.
- The person receiving the instruction/training **must intend** to use his/her skills in the manner described above.
- The training must be in the making, handling or use of a noxious substance or the use of any method or technique, design or adaptation capable of an act of terrorism.
- The maximum sentence is 10 years imprisonment and/or a fine.

Attendance at a place used for terrorist training (Section 8):

- Prohibits anyone from attending **any place** where training is provided, whether in the UK or abroad, provided the person **knew** or **believed** or **could not reasonably have failed to understand** that the training was in connection to terrorist activities.

- It is **irrelevant** whether he/she receives instructions/ training himself.
- The maximum penalty is 10 years imprisonment and/or a fine.

Making and possession of devices or materials (Section 9):

- Prohibits the **making or possession** of a radioactive device, or the possession radioactive material.
- Such devices or materials must be **intended** for terrorist purposes or to be made available for such use.
- The maximum sentence is life imprisonment.

Misuse of devices or material and misuse and damage of facilities (Section 10):

- Prohibits the **use** of radioactive materials devices in a terrorist acts.
- Prohibits the **damaging** of nuclear facilities which causes the risk of or an actual radioactive leak.
- The maximum sentence is life imprisonment.

Terrorist threats relating to devices, materials or facilities (Section 11):

- Prohibits persons from making a demand for a supply of radioactive materials or devices, or for a nuclear facility to be made available or accessible to himself/herself or another.

- The maximum penalty is life imprisonment.

Trespassing etc. on nuclear sites (Section 12):

- It broadens a previous prohibition on trespassing to cover any nuclear site.

Maximum penalty for possessing for terrorist purposes (Section 13):

- The Act also increases the maximum sentence for certain offences. The offence of 'possession for terrorist purposes' is increased from 10 years to 15 years imprisonment.

PART 2 of the Terrorism Act

- Part 2 of the Act gives the Home Secretary wider powers to proscribe terrorist groups and to amend the law to allow the proscription to continue when the group changes its name.

