

At the Police Station

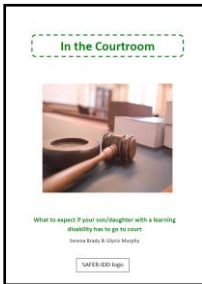


What to expect if your son/daughter with a learning disability has been arrested

Serena Brady & Glynis Murphy

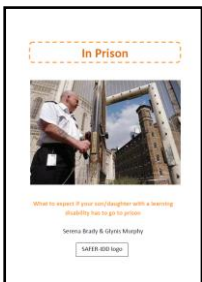
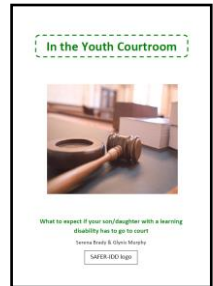
Safer-IDD information

Other booklets in the series:



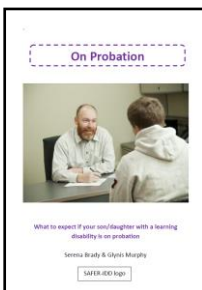
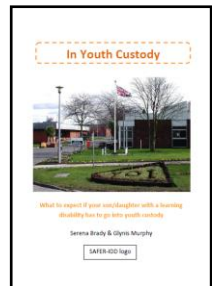
“In the Courtroom” & “In the Youth Courtroom”

Information on what happens during court / youth court and the possible outcomes.



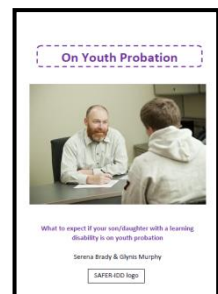
“In prison” & “In Youth Custody”

Information on what happens in prison / youth custody.



“On Probation” & “On Youth Probation”

Information on what happens during probation/youth probation.



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What is this booklet about?

This booklet is for people who have a son/daughter of any age with a **learning/developmental disability** who has been **arrested**.

This booklet will give you information about what will happen if your son/daughter is arrested, what they are entitled to, how they should be treated, what might happen after the arrest, and how you can help.

The booklet does not give you information on **court, youth court, probation**, or **prison**. Information on these aspects of the **criminal justice system** can be found in other booklets in this series (see page 1). There are also booklets on **Liaison & Diversion Services** and **Youth Offending Teams**.

How to use this booklet

You can use the sections in this booklet when you need to. It might be helpful to read specific sections when they are most relevant.

Most of the information in this booklet will be relevant to you whether as your son/daughter is a child or an adult (of any age). However some information is only relevant if your son/daughter is a young person between 10 and 18. This information is in a separate box and written in **green** so that

you can easily find it. If your son/daughter is even younger, i.e. **under 10**, the police cannot arrest or charge them with a crime (see page 8), but there might be other consequences if they break the law (see page 34).

There is a list of useful terms and an index at the back of this booklet which will help you to find information. Any words that are **red** are explained in the “useful terms” and are also in the index. There is also a list of websites where you can find more information at the end of the booklet.

People who might be involved

When someone is arrested, lots of people might be involved and they have different roles in the process.

Appropriate Adult

Appropriate Adults are people who can help someone in custody if they are 17 or younger, of if they have a learning / developmental disability, or have a mental health condition. More information on Appropriate Adults is given on page 12.

Custody Officer

This is the police officer who is responsible for looking after people when they come into in custody. They are not usually involved in investigating the crime but are involved in deciding whether someone should be charged.

Forensic Medical Examiner

Forensic medical examiners are doctors who work for the police force. They might also be called police surgeons.

Investigating officer / officer in the case

A police officer will usually be assigned to investigate the **crime** and will be called an investigating officer or officer in the case. They will usually be one of the officers who **interviews** the person in custody.

Liaison & diversion staff

Liaison and diversion services are there to help people who have been arrested and who might have a learning or developmental disability or mental health condition. Staff from the service might visit the person in custody to do assessments. More information on liaison and diversion services is given on page 17.

Senior police officer / review officer

These are police officers who are more senior than investigating officers and are usually involved in reviewing whether a person in custody still needs to be held at the police station.

Solicitor

A solicitor can give advice about the law to a person who has been arrested. Anyone who has been arrested has the right to talk to a solicitor free of charge (see page 22).

Independent Custody Visitors

These are members of the public who visit **custody suites** to make sure that people in custody are being treated fairly and looked after. They might ask to talk to people who are in custody, but the person in custody can refuse to talk to them if they want to.

Why an arrest might happen

If the police think your son/daughter has been involved in committing a crime they may arrest them. This is **not** the same as when the police think your son/daughter might have a mental health condition and take them to a **place of safety** (under section 136 of the Mental Health Act).

To make an arrest, they must think that your son / daughter was involved in the crime **and** that their arrest is necessary.

Reasons an arrest might be necessary

- To stop your son/daughter getting hurt
- To stop your son/daughter hurting others
- To stop your son/daughter damaging property
- To stop your son/daughter committing more crimes
- To protect others (for example, children)
- To help the police find out whether a crime has been committed
- If they cannot find out your son/daughter's name or address, or if they think that the name/address given to them is false
- To make sure your son/daughter shows up to court

If the police think your son/daughter committed a crime but that it is not necessary to arrest them, they may ask your son/daughter to go to the police station without being arrested. In this case, your son/daughter is entitled to the same rights as someone who has been arrested. Your son/daughter cannot be **made** to stay at the police station or to go to the police station unless they have been arrested.

The police cannot arrest someone who is under 10 (this is the age of **criminal responsibility**). However, if someone under 10 has committed a crime there might be other consequences for the child or their parents / guardians (see page 34).

How the arrest will happen

If a police officer thinks they need to arrest your son / daughter they will tell them that they are under arrest.

They must also **caution** your son/daughter by saying the following:

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

The caution means:

- Your son/daughter has the right not to say anything
- Anything they say (at any time after being arrested) can be used to find out whether or not they committed the crime
- If your son/daughter's case goes to court, anything they said when they were arrested or spoken to by the police can be talked about.
- Anything they say in Court will be less likely to be believed if it was not mentioned to the police during the arrest or their interview.

Although this statement is called a caution, it is also important to note that the word “caution” can also mean a

type of warning given to someone who has been charged with a crime and admitted it (see page 37).

If your son/daughter hears the word “caution” and is unsure of which type of caution this is, they should always ask the custody officer or their solicitor.

After saying the caution, the police officer will take your son/daughter to a police station. They may be handcuffed for this.



At the police station



Once at the police station, a **custody officer** will take over from the arresting police officer.



The custody officer will ask your son/daughter some questions, including questions about their health and wellbeing, in order to find out if they need extra support while at the police station. The custody officer will also check other records held about your son/daughter on the computer. They might ask how your son/daughter is feeling, and whether they have a learning / developmental disability, or mental health condition.



If they know that your son/daughter is under 17, has a learning / developmental disability or mental health condition they should give them support from an **appropriate adult** (see page 13). If it is available in your area, the custody officer may also make a referral to a liaison and diversion service (see page 17). So it is **VERY** important that

your son/daughter tells the custody officer that they have a learning disability, autism or mental health condition.

The custody officer will start a **custody record** for your son/daughter. This is a note of everything that happened during the arrest and at the police station. Your son/daughter, their Appropriate Adult, or their **solicitor** can ask to see the custody record at any time. They can also have the custody record sent to them up to 1 year after they leave the police station.

Your son/daughter might then be taken to a **cell** to wait to be interviewed, to see an Appropriate Adult, or to see their solicitor.



Anyone under the age of 18 should not be taken to a cell, but this might still happen if the Custody Officer thinks it is necessary. They should NOT be placed in a cell with an adult, and they should be transferred to Local Authority accommodation if they need to be held overnight.

The role of Appropriate Adults

Appropriate
Adult

If the police know that your son/daughter is under 17 or has a learning / developmental disability (e.g. autism), or mental health condition they **must** provide them with support from an Appropriate Adult while they are in **custody**.

What do Appropriate Adults do?

An Appropriate Adult is there to support the person in custody and can help in a number of ways.

1. They can help your son/daughter to **understand** what happens at the police station.
2. They can help with **communication** between your son/daughter and the police.
3. They can make sure that your son/daughter understands their **rights** (see page 22) and that the **police are respecting these rights**.
4. They can **make sure that the police are acting properly** and they can tell them if they are not.

An Appropriate Adult cannot provide legal advice – this is a solicitor's job. They can, however, advise your son/daughter to take legal advice from a solicitor or request a solicitor on your son/daughter's behalf. Your son/daughter cannot be made to see the solicitor if they don't want to.

Because Appropriate Adults are not solicitors they might not be able to keep everything your son/daughter says to them secret (as they do not have **legal privilege**). This means that if they are asked to by the police or a court they will have to tell them whatever your son/daughter has said.

Your son/daughter can speak to a solicitor without the Appropriate Adult if they want to make sure that something they say is kept secret.

When should an Appropriate Adult be present?

Once the police know that your son/daughter should have an Appropriate Adult they must repeat the caution and tell them about their rights with the Appropriate Adult there. This is to make sure that your son/daughter understands the caution and their rights, and so they can be helped by the Appropriate Adult if they don't.

There are also many things that cannot be done unless the Appropriate Adult is present. These are:

- **Searches** of your son/daughter if they have to take off more than just their coat
- Your son/daughter taking part in certain procedures including:

- Giving **samples** (e.g. fingerprints, blood, urine, hair, cheek swabs, photos etc.)
- Taking part in **eyewitness identification** procedures
- **Interviews** when the police ask your son/daughter about a crime
- **Signing** documents or giving consent for something

The police must also give Appropriate Adults enough notice to be at the police station when certain things happen. These are when a senior officer reviews whether your son / daughter should still be held at the police station, or when your son/daughter is **charged**.

Senior Police
Officer

Who can be an Appropriate Adult?

An Appropriate Adult must be over the age of 18 and must not be involved in the police case. This means that sometimes family members or friends might not be able to be an Appropriate Adult if they are a **victim, witness, suspect**, or otherwise involved in the case. Solicitors and police officers also cannot be Appropriate Adults.

Appropriate Adults are often:

- Family or friends (who are not involved in the case)
- Carers or support workers
- Social workers or health professionals, e.g. nurses

- Charity workers
- Volunteers

The police can find someone to be an Appropriate Adult if they need to. There may be a service in your area that provides Appropriate Adults who are trained in supporting people with learning disabilities or mental health conditions. **Support from an Appropriate Adult will be free.** Sometimes, though, people have to wait a long time for an Appropriate Adult. **It is worth the wait** because people with a learning disability or autism often find police stations very scary or confusing. They may say “yes” when asked if they did a crime because they think they can then go home. The Appropriate Adult will help them understand what the police are saying and doing, and why.

The role of liaison and diversion services

Liaison &
Diversion
staff

Liaison and diversion services are NHS services which support the identification, assessment, and referral of people of all ages who have mental health conditions or autism, or learning disabilities in the criminal justice system. They aim to:

- **Divert** people out of the criminal justice system where possible
- **Reduce** the **time** people with learning disabilities / autism / mental health conditions spend in **custody** (at a police station or in prison)
- **Reduce** the amount of **time** spent in court and delays in the **court** process due to lack of information or assessments
- **Reduce repeat arrests** by improving access to treatment in the community
- **Improve access to treatment** and support generally
- **Improve health outcomes**

How a referral to the service is made

Once a custody officer has identified that a person might have a learning disability or autism or a mental health condition they can make a referral to the liaison and

diversion service, if there is one in their area. Some liaison and diversion services may also accept referrals from the person in custody themselves, or from their friends, family or carers.

What happens after a referral is made

After receiving a referral, the service will arrange to assess the person to identify whether they have a learning disability or autism or mental health condition and they will refer them to treatment and support if necessary. They are able to work with community health and social care services to make sure that the person is receiving good support in the community as well as whilst they are in police custody.

They will also provide information to staff in the criminal justice system about the person's learning disability / autism / mental health condition so that they can take this information into account when making decisions.

Limitations of liaison and diversion services

Although liaison and diversion services do aim to help people with learning disabilities and/or autism, it is important to note that they may be relatively new services in some areas and they might not have expertise at every service in supporting people with learning disabilities or autism. They

are also not currently available in all areas as NHS England are undergoing a trial of Liaison & Diversion Services across 10 sites in England. There are plans to make Liaison and Diversion Services available in every area by 2016/2017.

How to contact your local Liaison & Diversion service

As the Liaison and Diversion scheme is still in a trial phase, there is no central list of all Liaison and Diversion services. If you'd like to contact your local Liaison and Diversion service you should be able to get their details from a police station or your local **Magistrate's/Crown Court**. Alternatively, you may be able to find their details by searching for them online.

To find out more information about Liaison and Diversion services visit:

<http://www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/>

Other things that might happen

When your son/daughter is first taken to the police station there are some other things that might happen before they are taken to a cell.

1. Your son/daughter will be searched

The police will search your son/daughter to see what items they have. This should be done by someone who is the same gender as your son / daughter. If they have to take off more than just their coat, an Appropriate Adult should be there with them.

2. Your son/daughter might have to give their belongings to the custody officer. This might include some of their clothes, their shoes, or their belt, and the contents of their pockets which might include medication

These will be kept safe while your son/daughter is in custody and returned when they leave. If your son/daughter has to give in their clothes they will be given something else to wear. It is **VERY** important that your son/daughter tells the police if they need to take medication and how often they need to take it.

3. Your son/daughter might have to have their photo taken, give fingerprints or other samples

Your son/daughter might be asked to have their photo taken or give their fingerprints.

They might also be asked to give any of the following samples;

- Blood
- Urine
- Hair
- Dental impressions
- Spit
- A swab from under their nails.



The samples they have to give will depend on what crime the police think has happened.

These procedures allow the police to check your son/daughter's identity, and to see if they have taken drugs or drunk alcohol.

Your son/daughter's Appropriate Adult should be with them if any of these procedures are needed.

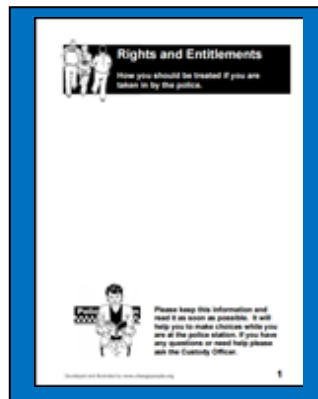
If the person in custody is under 16, the police will also need the permission of the person's parent or guardian if they need to take samples, fingerprints, or pictures.

Your son/daughter's rights

The custody officer will also tell your son/daughter about their rights whilst they are in custody.

They should give your son / daughter a copy of their rights and can provide an easy read version if this would be helpful.

These rights can be asked for at any time while your son/daughter is at the police station and can only be delayed in special circumstances (see below).



Solicitor

The right to speak to a solicitor

Your son/daughter has the right to receive advice and support from a solicitor before being asked about a crime by the police. **This advice will be free.**

The police should ask your son/daughter if they want to speak to a solicitor. If the police don't offer support from a solicitor, your son/daughter or their Appropriate Adult can ask for one.

The police can contact the **duty solicitor** if your son/daughter does not know any solicitors. The duty solicitor does not work for the police. **This will still be free.**

The solicitor will give your son/daughter advice about the law. This should be in private and anything said to the solicitor will be kept secret (this is called legal privilege). They can talk to a solicitor at any time of the day or night.

Once your son/daughter has asked for a solicitor, the police usually cannot ask them questions about a crime until they have seen or spoken to a solicitor. However, there are some times when it might be important to ask your son/daughter questions before they have spoken to a solicitor. This is if the police think that waiting for a solicitor might mean that someone gets hurt, more property is damaged, or people who haven't been arrested and were involved in the crime might find out about the police investigating.

In these situations, your son/daughter must be offered a solicitor as soon as possible after the immediate risk has passed.

The right to have someone told about the arrest



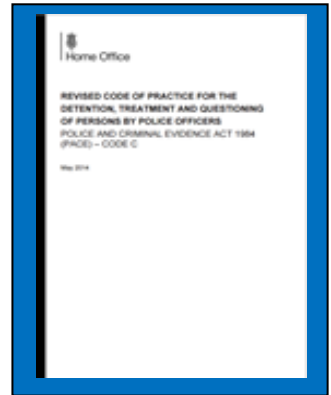
Your son/daughter can ask the custody officer to phone someone to tell them that they have been arrested. They can try to phone up to three people for your son/daughter until someone answers the telephone. **This will be free.** It is **VERY** important to make sure that your son/daughter has your phone number.

If the person in custody is under 18, the police MUST try to contact their parent/guardian to let them know that they have been arrested, why they have been arrested, and where they are being held.

If your son/daughter is not a British citizen the custody officer will also let them contact their embassy or consulate to tell them that they have been arrested. **This will be free.**

The right to see the Police Code of Practice

The **Police Code of Practice** is a book about the rules that the police have to follow. Your son/daughter or their Appropriate Adult can ask to see this at any time. They will be allowed to read it before being interviewed, however they cannot read it for so long that it holds up the police investigating the case.



The right to medical help

Your son/daughter can ask to see a nurse or doctor if they feel unwell or are hurt. **This will be free.** The nurse or doctor will be someone who works for the police. The doctor might be called a **police surgeon**, or **forensic medical examiner**. Your son/daughter can ask to see a different nurse or doctor, but they might have to pay for this.

Forensic
medical
examiner

If your son/daughter needs to take medication while they are in the police station they should tell the custody officer. They may be allowed to take the medication but a nurse or doctor will have to check first.



The right to stay silent

Your son/daughter has the right to stay silent when the police ask them questions. The caution (see page 9) that the police say when they arrest or interview someone tells your son/daughter about this right.

The right to know why they have been arrested

Your son/daughter, (and their Appropriate Adult and solicitor) has the right to know why they have been arrested. This includes knowing when and where the police think they committed a crime and what the crime was.

The right to see information about why they have been arrested

Your son/daughter also has the right to see documents about why they have been arrested and to show these to their solicitor or Appropriate Adult.

The right to know how long they can be kept at the police station for

The police should tell your son/daughter how long they can be kept at the police station for. This is usually for 24 hours but can be increased to a maximum of 36 hours by a senior police officer.



After 36 hours the police will have to ask a court if they can keep your son/daughter at the police station for longer.

While your son/daughter is in custody a senior officer should review whether they still need to be kept at the police station. This will usually happen 6 hours after they first arrive and then every 9 hours after that. Your son/daughter's Appropriate Adult can be there during these reviews, and your son/daughter and their Appropriate Adult can comment on the outcome of the review.

The right to help with communication and understanding what is happening

If your son/daughter has difficulties with communication they can have extra help with this. The Appropriate Adult can help them to understand and explain things to them. If they are deaf or hard of hearing, they can have someone who uses British Sign Language to help. **This will be free.**

If your son/daughter does not speak English they can have an **interpreter** to help them understand what the police are

saying. They can also have information translated to a language that they understand. **This will be free.**

The right to see evidence against them if they have to go to court

If the police decide to charge your son/daughter with a crime then your son/daughter has the right to see any **evidence** against them and to show this to their solicitor. This is to help them and their solicitor to prepare for court.

How your son/daughter should be treated

The police should treat your son/daughter well while they're at the police station. The Police Code of Practice gives more information about how the police should treat people who are in custody.

Their cell

Usually your son/daughter will be given their own cell, but they may have to share with someone else.

They should be given clean bedding that is warm and comfortable. They should be allowed at least 8 hours of sleep in a 24 hour period.



If possible, they should be allowed to get fresh air and exercise at least once a day.

There should be somewhere for them to use the toilet and to have a wash, but this might not be in their cell.

REMEMBER – if your son/daughter is under 18 they might not be put in a cell. If they are, this should NOT be with an adult, and ideally should not be overnight. If they need to be held overnight, they should be transferred to Local Authority accommodation.

Eating and drinking

Your son/daughter should be given 3 meals a day with drinks. They should also be able to have drinks in between meals. It is OK to ask the police for a drink or a meal.

When the police are asking them questions, they should be allowed breaks at meal times and for a drink if the interview lasts a long time.

Staying in touch with other people

Your son/daughter should be allowed to make one phone call while they're at the police station. This is in addition to having the right to ask the custody officer to call someone for them (and to have their parent / guardian told about their arrest, if they are under 18). This phone call will **not** be private unless it is to their solicitor. The phone call will only be short.



They may be allowed to have visitors.

They should also be able to have a pen and paper if they want to write anything down.



Religious / cultural needs

While your son/daughter is in custody the custody officer should make efforts to meet all reasonable requests relating

to your son/daughter's religious or cultural needs.

As a minimum this includes providing your son/daughter with meals that meet dietary requirements (e.g. using halal meat, vegetarian, vegan etc.). Alternatively, if they are not able to do this they should allow your son/daughter to have meals brought in by their family/friends to meet these needs.

Your son/daughter will not be allowed to leave the police station to visit a church or other religious building; however the custody officers may provide a separate room for your son/daughter to use as a prayer room and may also allow your son/daughter to be visited by a faith leader whilst in custody. They can also provide advice about the direction of Mecca (if your son/daughter is Muslim) and provide access to any religious texts your son/daughter needs.



The police interview

Your son/daughter will usually be interviewed by the police to find out if they have committed a crime. This means that the police will ask them questions about the crime to figure out whether your son/daughter was involved.

Who can be there during the interview

Your son/daughter's Appropriate Adult should be with them when they are interviewed. The Appropriate Adult can help to make sure they understand everything and that the police also understand them. The Appropriate Adult should also check that the police are treating your son/daughter fairly.

Your son/daughter's solicitor might also be there at the interview, and an interpreter will be there if necessary.

During the interview

The interview will be in a separate room at the police station. Your son/daughter will be able to sit down during the interview.

The interview will be recorded. This might mean that it is video recorded, or audio recorded (so that just the voices can be heard).



At the start of the interview the police should repeat the caution (see page 9) to remind your son/daughter about their right to remain silent. The police officers should also say what their names and job titles are. After this they might ask some easy questions to start with (such as your son/daughter's name) before asking questions about the crime.

The interview might last a few hours. Your son/daughter should get breaks at meal times and around every two hours. The Appropriate Adult can ask for breaks if they think your son/daughter needs it.

Your son/daughter can also have a break to talk to their solicitor or Appropriate Adult in private at any time.

It is **VERY** important for your son/daughter to tell the police if they do not understand something. And they should **NEVER** agree to confess (say they did the crime) when they didn't, just to go home.

After the interview

Your son/daughter will usually be taken back to their cell after the interview while the police have a look at the evidence and decide what to do next (see page 34).

Your son/daughter will be given a copy of the interview **transcript** in their own language. They will be asked to sign

this to say that it reflects what happened at the interview.
They should not sign if it they don't understand it.

What next?

After the police have finished gathering all the evidence they will decide what should happen next. The **Crown Prosecution Service** might also be involved in this.

If your son/daughter is UNDER 10 YEARS OLD:

A **Youth Offender Specialist** will also be involved if your son/daughter is under 18 years old.

1

Local child curfew: The police might give your child a **Local Child Curfew** which means they ban your son/daughter from being in public place without an adult between 9pm and 6am. This can last up to 90 days. If they break the rules of their curfew, they can be given a **Child Safety Order** by a court.

2

Child safety order: If your son/daughter is given a child safety order this means that they will be put under the supervision of a Youth Offending Team. They will be given rules to follow, and if they break these the court can consider whether they should be taken into care. A child safety order usually lasts between 3 and 12 months.

Consequences for parents / guardians: If a child aged under 10 commits a crime their parents / guardians might be given consequences to prevent this happening again. These might include:

3

- Attending a **Parenting Programme** run by a Youth Offending Team
- Signing a **Parenting Contract** with their child and the Youth Offending Team to ensure everyone commits to keeping the child away from crime
- Being given a **Parenting Order** which says what they and their child can / cannot do. A parenting order lasts up to a year and the parent can be sent to court if they don't obey it.

If your son/daughter is OVER 10 YEARS OLD (including adults)

1

No further action: The police might decide that there is not enough information to say that your son/daughter committed a crime. Your son/daughter will be allowed to leave the police station and will not have to do anything else.

Police bail: The police might think that they need more information before they can decide whether

2

your son/daughter was involved in the crime. They will let your son/daughter go home but they will be told that they must return to the police station at a later date. This is called police **bail**. Your son/daughter might have to follow certain rules while on bail. These will be explained to them and their Appropriate Adult. Police bail is free, and your son/daughter will not have to pay anything to be allowed to go home.

3

Diversion: the police may decide that your son/daughter should be diverted to support or treatment. This could be combined with a formal caution (see below). They may refer your son/daughter to community services, or they may require them to be admitted to hospital for assessment or treatment under the **Mental Health Act**. More information about the Mental Health Act is given in the court booklet.

4

Penalty notice: The police might decide to give your son/daughter a **Penalty Notice** if they are suspected of committing a minor offence and are aged over 18. Your son/daughter will have to sign the ticket and agree to pay the penalty fine. If they don't agree with the penalty notice they can ask to go to court instead.

Formal cautions: The police might decide to give your son/daughter a warning (called a formal caution). They can only do this if your son/daughter admits to committing the crime and understands the consequences of this. The caution will stay on their record so that the police can see it if they get arrested again. They may either be given a **Simple Caution**

5 (called a **Youth Caution** if they are under 18), or a **Conditional Caution** (called a **Youth Conditional Caution** if they are under 18). A conditional caution means that your son/daughter will have to obey certain rules to avoid being charged with the offence. If your son/daughter is under 18 and given a caution, they will also be referred to the Youth Offending Team. (Remember – formal cautions are different to the caution that the police say when they arrest or interview someone – see page 9).

Charge: If the police think your son/daughter committed the crime they will “charge” them with it and give them some written information with details about the charge. If your son/daughter is charged they will have to go to court at a later date. When they are charged, one of the following things might happen:

6

a

Court bail: The police might allow your son/daughter to go home but they will have to return to court at a later date. As with police bail, your son/daughter will not have to pay anything but they may be given rules they have to follow whilst they are on bail.

b

Remanded in custody: If your son/daughter is over 18 and is charged with a crime they might be sent to prison “on remand” while they wait to attend court. If your child is under 18 and is charged with a crime, they might be sent to Local Authority secure accommodation instead of prison. This is to ensure that no further crimes are committed, to reduce risks to the public, or to make sure that they attend their court date. The prison or Local Authority accommodation that your son/daughter is sent to might not be close to home, as it will depend on where there is space for your son/daughter.

c

Remanded in hospital: Your son/daughter might be sent to hospital under Section 35 of the Mental Health Act (see ‘Court’ booklet for more information on the Mental Health Act) after being charged with a crime. This is to allow professionals to assess your son/daughter’s

mental health and prepare reports to help the court during your son/daughter's trial. Your son/daughter might be offered treatment while in hospital but being remanded under section 35 doesn't mean that professionals can force your son/daughter to have treatment if they don't want it.

How you can help

If your son/daughter has been arrested it can be a difficult and stressful time, but there may be things you can do to help.

If your son/daughter is over 18, it is important to remember that in the eyes of the law they are considered an adult and will be treated as such. This may mean that the best way to help to your son/daughter is by visiting them and providing social and emotional support.

You might also be able to help in the following ways;

- **Ensure that the custody officer is aware that your son/daughter has a learning or developmental disability**, and **provides an Appropriate Adult** to help them
- Make a **referral to your local liaison and diversion service** if this has not already been done
- **Talk to your son/daughter's Appropriate Adult** (if you yourself are not acting as their Appropriate Adult) and provide any help or information that they need (e.g. on communication etc.)
- **Call their social worker, community nurse, psychologist, or psychiatrist if they have one.** They

will be able to talk to the police and the liaison & diversion service.

- Make sure your son/daughter has a **solicitor**

Legal advice for yourself

You may also want to get advice from a solicitor for yourself as this can help you to understand what is happening and how you can best help your son / daughter. You can obtain legal advice by contacting any solicitor (e.g. by searching for one in your area online, going into a solicitor's office, finding one in the phone book, or asking the police / a court to suggest someone you could contact). It is important to note that they will charge for their services, so it will not be free.



Useful terms

Age of criminal responsibility: This is the age when a person is considered to be responsible for their actions, know right from wrong, and know how to obey the law. In England the age of criminal responsibility is 10 years old.

Appropriate Adult: an adult who can help someone who has been arrested to understand what happens at the police station, and can make sure that they are being treated fairly. See page 13 for more information.

Arrest: when the police think someone has committed a crime and take them to the police station to find out more.

Autism: a type of **Developmental disability**.

Caution (during arrest or interview): the statement that the police have to say when they arrest or interview someone to let the person know about their right to stay silent and the consequences of staying silent (see page 9). This is different to a “Formal Caution” (see below and page 37)

Cell: a locked room in the police station where people who have been arrested have to stay while the police are investigating their case.

Charge: when the police think that someone has committed a crime and should go to court they will “charge” them with the crime.

Conditional caution: a type of formal caution that requires the person to follow certain rules in order to avoid being charged with the crime. This is called a **Youth Conditional Caution** if given to someone who is under 18. (Remember – this is different to the caution that the police have to say when they arrest or interview someone – see above and page 9)

Court: the place where people say what they know about the crime to help a judge or jury decide if the person committed the crime. If it is decided that the person did commit the crime, the court also decides what consequences the person should have for committing the crime. The two types of criminal courts are **Magistrate’s court** and **Crown court**. See court booklet for more information.

Bail: when the police charge someone with a crime and let them go home before their first appearance at court. The police might also grant bail to a suspect without charging them with a crime if they need to gather more information about whether a crime has been committed and who committed it. Bail may include rules that must be followed to avoid being taken back into custody.

Child safety order: when a youth offending team supervise a child under the age of 10 who has committed a crime. See page 34.

Crime: behaviour that involves breaking the law. This may also be called an offence.

Crown court: a type of criminal court that deals with mostly serious crimes. See **Court** and court booklet for more information.

Crown prosecution service: the service in England and Wales that is involved in all cases and decides what charges should be given and which criminal cases should go to court. They also provide lawyers who prosecute (i.e. lawyers who set out the evidence that suggests the person committed the crime). They also sometimes decide that charges can be dropped.

Custody: being held at the police station after being arrested.

Custody officer: a police officer whose job it is to look after people who have been taken into custody.

Custody record: all the information about the arrest and what happened while someone was at the police station.

Custody suite: a place where people who have been arrested are held while police review the evidence and decide whether to charge them with a crime.

Criminal justice system: the system in England that deals with people who are suspected of or have committed a crime.

Developmental disability: a type of disability usually present from birth which may also co-occur with a learning disability. Examples include Autism, Fragile X Syndrome, Down syndrome etc. A developmental disability may be identified by psychological or medical tests.

Duty solicitor: a solicitor who can help people who have been arrested if they don't know any solicitors. Duty solicitors do not work for the police.

Evidence: any information (e.g. written information, things people say, photographs, samples, recordings etc.) which might help the police or a court to figure out whether someone committed a crime.

Eyewitness identification: any procedure which involves a witness of a crime trying to identify the suspect.

Forensic medical examiner: another name for a doctor who works for the police.

Interpreter: someone who speaks English and other languages who can repeat what the police say in a language that the person in custody understands.

Interview: when the police ask someone who is suspected of committing a crime about whether they were involved in the crime. Interviews are audio or video recorded.

Learning disability: a type of disability which is usually present from birth and results in the person having difficulty with certain things such as communication, independent living, or social skills. A learning disability includes the person having an IQ below 70 and this is usually identified using specific types of psychological tests.

Legal privilege: a term that means the solicitor is able to keep secret anything they are told by a suspect they are supporting.

Liaison & diversion service: services that support people in the criminal justice system who may have a learning or developmental disability, or mental health condition. See page 17 for more information.

Local child curfew: when the police ban a child (under the age of 10) from being in a public place without an adult between 9pm and 6am. See page 34.

Magistrate's court: a type of criminal court that deals with mostly minor crimes. See **Court** and Court booklet for more information.

Mental Health Act: the law that protects people in hospitals who have a learning disability or autism or mental health condition and states how they should be supported. This may include being required to stay in hospital, in a locked ward if necessary. See Mental Health Act booklet for further details.

Parenting contract: a contract that is signed by a parent / guardian, their child, and a member of staff from the youth offending team. The contract says that everyone must do everything they can to stop the child getting involved in crime. See page 35.

Parenting order: an order given by the court which says what a parent/guardian and their child can and cannot do. See page 35.

Parenting programme: training given to a parent/guardian of someone under the age of 10 who has committed a crime. See page 35.

Penalty notice: a fine given to a person who is suspected of committing a minor crime instead of charging them with the crime.

Place of safety: when the police take someone to a police station or hospital because they think that the person has a mental health condition that needs to be assessed. They are able to do this under section 136 of the Mental Health Act and can only do this if the person is in a public place and they need immediate care or assessment. The person can only be kept at a place of safety for 72 hours and must be assessed by a doctor or mental health professional within this time. This is different to being arrested by the police because the police think that the person has been involved in committing a crime (see page 8)

Police code of practice: the book about the rules that the police have to follow (for example, when arresting and interviewing suspects, holding people in custody etc.)

Police surgeon: another name for a doctor who works for the police.

Prison: a place where people who have committed a crime might be required to live for a period as a consequence for committing the crime.

Probation: when a person has been charged and found guilty of a crime but the court does not think the person should go to prison, or if the person has just been released from prison, they are said to be on “probation”. If they have just been

released from prison, this might also be called on “licence” or on “parole”. Probation means the person is still serving their sentence for the crime, but is allowed to do this in the community. Probation will have rules that must be followed in order to avoid going back to court or prison. See court and probation booklets for more information.

Rights: things that protect a person in custody and which they must be allowed to have. See page 22 for more information.

Simple caution: a type of formal caution when someone admits a crime, without any rules that must be followed. This is called a **Youth Caution** if given to someone under the age of 18. (Remember – this is different to the caution that the police have to say when they arrest or interview someone – see above and page 9)

Solicitor: someone who can give advice about the law to someone who has been arrested.

Suspect: someone who the police think has committed a crime.

Transcript: a written record of what was said during an interview.

Victim: someone who has been hurt or upset by a crime that involved them.

Witness: someone who saw a crime happen.

Youth caution: see **Simple caution**.

Youth conditional caution: see **Conditional caution**.

Youth court: a type of Magistrate's court that deals with people under the age of 18 who are suspected of having committed a crime.

Youth offending specialist: a specialist lawyer who works for the Crown Prosecution Service and has specific knowledge and training to work with people under the age of 18 who have committed a crime.

Youth offending team: a team that help people under the age of 18 who have committed a crime. They provide support at the police station and in court, training, supervision, and advice. See Youth Offending Team booklet for more information.

Useful resources

This is a list of the places where information for this booklet was found and other resources that you might find useful.

A joint inspectorate of the treatment of offenders with learning disabilities within the criminal justice system

Phase one *from arrest to sentence*

<https://www.justiceinspectorates.gov.uk/cji/inspections/joint-inspection-of-the-treatment-of-offenders-with-learning-disabilities-within-the-criminal-justice-system-phase-1-from-arrest-to-sentence/#.Vqe8VflVikp>

Phase two *in custody and the community*

<https://www.justiceinspectorates.gov.uk/cji/inspections/learningdisabilitiesphase2/#.Vge8cPlViko>

Department of Health 'Positive Practice Positive Outcomes' Report

<https://www.gov.uk/government/publications/positive-practice-positive-outcomes-a-handbook-for-professionals-in-the-criminal-justice-system-working-with-offenders-with-a-learning-disability>

The Bradley Report about how people with mental health problems or learning disabilities are treated in the criminal justice system.

<https://www.rcpsych.ac.uk/pdf/Bradleyreport.pdf>

Citizens Advice information pages

General information on legal system:

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/>

Young people:

<https://www.citizensadvice.org.uk/law-and-rights/legal-system/young-people-and-the-law/>

College of Policing detention & custody pages

<https://www.app.college.police.uk/app-content/detention-and-custody-2/>

Crown Prosecution Service

<http://www.cps.gov.uk/>

Gov.uk information pages

General information on legal system:

<https://www.gov.uk/browse/justice>

Children and young people:

<https://www.gov.uk/if-my-child-gets-in-trouble-with-police>

Youth offending teams:

<https://www.gov.uk/youth-offending-team>

The Howard League for Penal Reform

<http://www.howardleague.org/>

KeyRing criminal justice system resources:

<https://www.keyring.org/cjs>

Liaison & Diversion Services

<http://www.england.nhs.uk/commissioning/health-just/liaison-and-diversion/>

MENCAP resources on the criminal justice system

<https://www.mencap.org.uk/raising-your-game/resources>

Mental Health Act Code of Practice (see, in particular, chapters 22)

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

National Appropriate Adults Network

<http://www.appropriateadult.org.uk/>

National Autistic Society: Criminal Justice information pages

<http://www.autism.org.uk/working-with/criminal-justice.aspx>

Notice of rights whilst in custody

<https://www.gov.uk/notice-of-rights-and-entitlements-a-persons-rights-in-police-detention>

Offenders' families helpline

<http://www.offendersfamilieshelpline.org/>

Prison Reform Trust

<http://www.prisonreformtrust.org.uk/>

Prison Reform Trust: No One Knows project:

<http://www.prisonreformtrust.org.uk/ProjectsResearch/Learningdisabilitiesanddifficulties>

Police Code of Practice (see, in particular, Code C)

<https://www.gov.uk/police-and-criminal-evidence-act-1984-pce-codes-of-practice>

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