



***Partnerships Preventions and Community Wellbeing –
Children and Young People Team***

Guidance for parents or carers of young people with ADHD who are taken into police custody

What can a parent expect if their child is arrested?

In terms of the law in Scotland, a child is defined as anyone under 16. This extends to 16 and 17 year olds if they have a social work supervision order.

If your child is arrested, they will be told why they have been arrested and taken to a police station. They will be taken to the custody bar and details taken from them (like their personal particulars) and at that point they will be asked questions that will help officers at the station look after them while they are in custody. This is the only point your child will directly be asked about any health conditions. Your child will have the opportunity to inform someone of their arrest, a parent or guardian must be contacted unless there is a specific reason not to. If they choose you to be contacted, it would be helpful to your child if you informed the officer who phones (or attends at your house) that your child has ADHD and any other information about their condition (such as medication, communication needs etc.) that will help the police care for your child.

Your child can be held initially for up to 12 hours in police custody before a decision is made about them getting out. This can be extended in rare circumstances to 24 hours but has to be agreed by a senior officer. The Police will hold your child for the least possible amount of time, only however long is necessary and proportionate. Depending on the local police station, there may be items available to help pass the time, such as books or a chalk board.

Rights your child has while in custody

- To be informed why they are being kept at the police station.
- A consultation with a solicitor at any time either by phone or in person.
- To ask for someone to be told where they are.
- To have access to an interpreter if English isn't your child's preferred language.
- The right to have help with communication needs. This would mean having procedures explained in a way that they could understand, or through use of an appropriate adult to help with communication.
- To medical help if your child is feeling ill (there is access to nurses and doctors at each police station, in private if requested). Medication (including ADHD medication) is made available to anyone in custody who needs and is prescribed. It.
- To see a written notice (called a letter of rights) telling your child about all of their rights, such as regular access to food, water and to use the toilet. Your child can ask for the letter to be in their preferred language or in an easy to read format (the police can read this to your child if they have difficulty reading).

Interviews

If your child has to be interviewed by police officers, they have the right not to speak or answer any questions the police ask them. Only upon arrest are they obliged to give their name, address, date and place of birth and nationality.

As above, your child has the right to speak to a solicitor at any time and to also have one present during the interview.

Any solicitor contacted to represent your child is independent of the police. Your child can select their own solicitor or if they do not have one, one will be contacted on their behalf.

If your child is under 16 they cannot be interviewed by police officers without a solicitor being present in the room as well as a nominated adult over 18 (parent, family member, friend). A social worker will attend if no one else is available. This rule extends to 16 and 17 year olds if they are under social work supervision requirements.

Young People and Vulnerable Adults

Young people and vulnerable adults have additional rights if they are arrested and taken to a police station. Anyone with ADHD would be identified as vulnerable.

Your child has additional rights to be supported when in a police station with access to parents or caregivers, social worker or an appropriate adult.

An appropriate adult is someone who has undertaken specialist training in order to help your child understand what is happening and facilitate effective communication

between your child and the police. An appropriate adult also has prior experience of working with people who have a mental disability, learning disability, autistic spectrum disorder and dementia or acquired brain injury in relation to overcoming communication issues. It is important to note an appropriate adult cannot give any legal advice to your child. That is the role of the solicitor only. It is not unusual for vulnerable people to have both an appropriate adult and a solicitor in the room whilst being interviewed by police.

What happens on being released?

There are several options that can be taken upon release of your child.

Released without charge – your child is immediately released without being ‘officially arrested’ (see below). This means there is no case being reported to the children’s reporter or procurator fiscal at this stage. Police can arrest your child again if more information is discovered about the crime under investigation.

Officially arrested – your child was officially arrested and charged, a report will follow to either the children’s reporter (if a child or 16/17 with social work supervision) or the procurator fiscal if an adult. In some cases they will be sent to both the children’s reporter and procurator fiscal to decide who is going to deal with the case. Your child should wait and they will receive correspondence from the court services about what happens next, you can contact a solicitor again if you wish meantime for further independent advice.

Not officially arrested but released with conditions - your child might be given rules they must stick to upon release. This is called ‘investigative liberation’ and means their freedom will be restricted in some way. For example, to not to go to a certain place or speak to certain people connected with the crime under investigation. These conditions cannot last longer than 28 days. Your child would have the right to appeal to a sheriff court if you or they do not agree with the conditions.

Where to find more information

The information in this document has been provided by the Children and Young People Team, Partnerships, Prevention and Community Wellbeing Division of the Police Service of Scotland in collaboration with ADHD Parent Support West Glasgow (www.adhdglasgow.org).

You can also find out further information about police arrest procedures and your rights as a young or vulnerable person at <https://www.mygov.scot/arrested-your-rights/young-people-and-vulnerable-adults>

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