

WAINWRIGHT & CUMMINS S O L I C I T O R S

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24 HOUR SERVICE

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CRIMINAL LAW

Wainwright & Cummins offers advice and representation on all areas of criminal law. We represent clients at police stations, Magistrates' and Crown Courts nationwide. We have been defending those accused of committing any criminal offence for over 25 years and we now have a large team specialised in this field. We have practitioners who speak English, French, Spanish, Swedish, Russian, Igbo and Arabic.

We have a dedicated emergency number so that our clients can reach us whenever they require our assistance, 24 hours a day, 7 days a week, 365 days a year.

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We aim to defend the interests of our clients charged with any criminal offence and to protect their inherent civil liberties and human rights. We also have a reputation for looking after vulnerable clients including young people, clients with mental health difficulties and clients facing charges

which could damage their professional and personal reputations.

Whatever the allegation we can help 24 hours a day, 7 days a week, 365 days a year. We have considerable experience across a broad range of criminal offences, some of which include:

- All drugs offences including simple possession, supply and importation.
- Allegations of violence ranging from common assault to murder and kidnapping.
- Allegations of sexual abuse and serious sexual offences such as rape, sexual assault, and allegations of possession of s.48 images.
- All forms theft offences, including burglaries and minor offences such as shop-lifting.
- Any allegation of fraud, including benefit fraud, forged documents, conspiracy to steal or defraud and allegations of theft from an employer or public body.

- Street crime- including robbery and allegations of Anti-Social Behaviour and Public Order Offences.
- Road Traffic Cases including allegations of causing death by dangerous driving.

Rights Individuals Have At The Police Station Generally

The police are governed by the Police and Criminal Evidence act 1986 (PACE) and its codes of practice. A detainee has many rights at the police station. A fundamental right the detainee has is the right to have somebody notified that they are in custody (although strictly speaking, the arrested person has no right to speak to them himself). Furthermore, the detainee has the right to speak to a solicitor or a police station representative at any time free of charge and in person at the police station. This right can only be postponed in very limited circumstances and such a delay must be authorised by an officer with a rank of at least Inspector. An example of such a circumstance would be to stop the

detainee from alerting other gang members of his arrest or to stop the destruction of criminal evidence.

Another fundamental right is the right to be examined by the Forensic Medical Examiner (FME) to ensure that the detainee has no immediate or urgent medical needs.

Rights Of A Foreign National At The Police Station

A national of a foreign country must be informed as soon as practicable about their rights of communication with their Embassy or Consulate.

Any citizen of a foreign country may communicate at any time with the appropriate High Commission, Embassy or Consulate. The detainee must be informed as soon as practicable of:

- this right;
- their right, upon request, to have their High Commission, Embassy or Consulate told of their whereabouts and the grounds for their detention. Such a request should be

acted upon as soon as practicable.

Consular officers may visit one of their nationals in police detention to talk to them and, if required, to arrange for legal advice. Such visits shall take place out of the hearing of a police officer.

Notwithstanding the provisions of consular conventions, if the detainee is a political refugee whether for reasons of race, nationality, political opinion or religion, or is seeking political asylum, consular officers shall not be informed of the arrest of one of their nationals or give access or information about them of their nationals or given access or information about them except at the detainee's express request.

Furthermore, the foreign national, who does not speak English, or is not comfortable speaking English in these circumstances, has the right to have an interpreter present to translate. This service is free of charge and the police have the obligation to arrange for the interpreter at the police station. An important note: The interpreter is not

subject to the legal privilege rule, unlike the legal representative.

The Role of the Legal Representative At The Police Station

The role of the legal representative is to protect the detainee's right and ensure he is treated properly. This includes ensuring that the detainee receives any necessary medical care from the FME. He will secure disclosure from the investigating officers and discuss the disclosure with the detainee and the strength or the evidence in private conference before the interview, take the detainee's account and advise them whether to answer questions or not.

Post Interview

After the interview the police will consult with the Crown Prosecution Service. The options available to them are:

- Refused charge - no further action will be taken against the detainee.
- Released and asked to return to the police at a later date.
- Issued with a caution or charged.

Bail

Bail is generally only refused if the police or courts have substantial grounds for believing that a suspect or defendant will fail to attend court, commit offences on bail or interfere with prosecution witnesses. A decision to refuse bail can be appealed.

Post Charge – At Court

The first hearing will be at the Magistrates' Court. If the defendant pleads guilty, the case could be dealt with to a conclusion there and then or the Court could adjourn for the preparation of a probation service pre-sentence report. Alternatively, should the Magistrates' Court deem the matter so serious and decide that a more severe sentence is warranted (one that is greater than its sentencing powers) they could refuse jurisdiction and send the matter to the Crown Court for the defendant to be sentenced there.

If the defendant pleads not guilty then the Magistrates will fix a trial date and adjourn the matter until that date. At the trial all witnesses will attend and

give evidence. Alternatively the defendant can elect to be tried by a jury or the Court could decline jurisdiction and the matter would be sent to the Crown Court.

Sentencing

The courts have sentencing guidelines for most offences. Discharges and fines can be imposed for minor offending, community orders (probation, community service and curfew) for more serious cases and prison for the most serious offences.

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