



**HEDDLU  
GOGLEDD CYMRU  
NORTH WALES  
POLICE**

Response Date:08/05/2024

**2024/411 - procedures and checklists for police re arrests**

In response to your recent request for information regarding;

**I'd like to see the instructions given to police officers regarding what procedures need to be followed when they make an arrest**

- what they need to consider before making the arrest
- what they need to record in writing about these decisions
- what they need to say when making the arrest

**And the same for custody sergeants, who must make their own independent decision before putting someone in the cells**

- what do they need to consider before they can make this momentous decision
- what do they need to record in writing about this decision

**Please do what you can in the available time for this request. Just get me whatever info you can in the time.**

**I am assuming that, given that this is such an important area because it deprives the public of liberty, the police would be given a simple checklist, a reminder of what to follow. Just as you would if you were operating a forklift truck, or if you were checking a forklift truck before you used it.**

**These will be digital and therefore subject to FOI**

**Of course, it is the independent decision of the arresting officer and of the custody officer whether an arrest and detention can take place - they can't delegate upwards and claim they were simply doing what they were told to do - see *Alger v Metropolis*. If they do, the arrest is automatically illegal.**

**If you simply refer me to PACE, then I will conclude that your police force does not have any of the most basic training and reminder / checklist provisions in place. If this were a Health and Safety matter, that would be taken as prima facie proof that the organisation was not doing enough to safeguard Health and Safety (which is what I suspect is happening with the police).**

**I'm sending this request to all police forces, so it will be interesting to see the differing procedures in place .**

Please see attached that we hand out to all the students in initial training in relation to arrests.

*In relation to "And the same for custody sergeants, who must make their own independent decision before putting someone in the cells*

- *what do they need to consider before they can make this momentous decision*
- *what do they need to record in writing about this decision":*

Upon a detainee entering the Custody environment a Custody Officer will ascertain the reason for their arrest in line with the Police and Criminal Evidence Act (PACE), and consider whether the arrest is

necessary in line with the considerations listed in Section 110 of the Serious Organised Crime and Police Act 2005. If they are so satisfied they will also consider whether authorising an individual to be kept in Custody is proportionate, lawful, necessary, non-discriminatory and the least intrusive option considering the detainee's human rights. An assessment will also be made as to the detainee's fitness to detain, which will include a review by a Healthcare Practitioner if there are any concerns relating to the detainee's fitness.

If the Custody Officer determines that it is appropriate to authorise detention then they are required to formally document that decision in a custody record. This will include the legal grounds under which the detainee is held and why the arrest is considered to be necessary.

There are prompts built in to our record management system that ensure Custody Officers take account of relevant legislation when documenting this decision. Furthermore all Custody Officers receive extensive training (including legal inputs) prior to performing the role. They are also appropriately qualified having each passed an examination of their knowledge of the law. Custody procedure typically forms a significant proportion of the questions within that examination.

This decision is then scrutinised by an officer of at least the rank of Inspector who will continue to review the need for a detainee to be kept in Custody over specified periods set within PACE.

THIS INFORMATION HAS BEEN PROVIDED IN RESPONSE TO A REQUEST  
UNDER THE FREEDOM OF INFORMATION ACT 2000, AND IS CORRECT AS AT 07/05/2024



# Powers of Arrest – SOCAP

There are **3 ways** in which a person may be brought before a **criminal** court:

- **summons**,
- **arrest with warrant**,
- **arrest w/o warrant (Sec 24)**

## PURPOSE OF AN ARREST

- a way of bringing a person before a court.
- an arrest should always be Justified



## 3 Types of OFFENCE

**'Indictable ONLY'** must be tried at Crown Court – Rape, Murder, Manslaughter, Treason

**'Summary ONLY'** must be tried at Magistrates' Court – TWOC, Littering, Common Assault, Obstruction, Minor Traffic Offences.

Most offences are **'Indictable'** but not Indictable ONLY nor Summary Only and can be tried at either court – Theft, Making Off, Going Equipped, Burglary, Criminal Damage, Offensive Weapon. These are referred to as **'EITHER WAY'** way offences because they are triable either way.



# Powers of Arrest – SOCAP

## POWER OF ARREST SOCAP POLICE ONLY POWERS

- Where you have reasonable grounds to suspect an offence/Indictable offences has been committed, you may arrest without warrant, anyone whom you have **reasonable grounds to suspect is guilty** of that offence.  
**Arrests must be Justified ( Sec 24(5) a – f )**
- You may arrest without warrant anyone **with Justification ( Sec 24(5) a-f )**
  - who is **about to commit** an offence/Indictable offences OR
  - whom you have **reasonable grounds for suspecting to be about to commit** an offence/Indictable offences Arrests

## ANY PERSON POWERS ( Includes Police )

- Any person may arrest without warrant, anyone who **is committing**, or whom they have **reasonable grounds to suspect is committing** an Indictable offence.
- Where an Indictable offence has been committed, any person may arrest without warrant, **anyone who is guilty**, or whom they have **reasonable grounds to suspect is guilty** of the Indictable offence.



## Powers of Arrest – SOCAP

Any persons who make an arrest can do so for the following – **LAPS** + Loss or Damage to property + Abscond before Constable can assume responsibility + Physical injury to self / another +Suffering physical injury

| POWERS OF ARREST – Section 24 PACE                   |                                   |                                     |                                                                      |
|------------------------------------------------------|-----------------------------------|-------------------------------------|----------------------------------------------------------------------|
| PAST                                                 | PRESENT                           | FUTURE                              | SUSPECTED                                                            |
| Has been committed and is guilty                     | Is committing                     | About to commit                     | -                                                                    |
| Has been committed and reasonably suspects is guilty | Reasonably suspects is committing | Reasonably suspects about to commit | Suspect offence has been committed and reasonably suspects is guilty |
| ANYONE includes POLICE (IO only)                     |                                   | <u>POLICE ONLY</u> (IO/Any offence) |                                                                      |



## Powers of Arrest – SOCAP

### REASONABLE GROUNDS

**Powers of Arrest** are exercisable only if the PC has reasonable grounds for believing the arrest is necessary because of what is specified in the act.

**No hard & fast definition –**

Grounds will depend on each case. Grounds to believe something is a stronger level of reasonable grounds in comparison to simply suspecting something and it would be needed to be supported by stronger objective facts.

Offences known as **Indictable offences** are found in **Section 24A PACE 1984**





# Powers of Arrest – SOCAP

Reasons to justify arrest Section 24(5) a – f are detailed below

|          |                                                                                                                                                                                                                         |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>C</b> | <b>Child/Other Vulnerable Person</b> – to protect a child or other vulnerable person from the person in question                                                                                                        |
| <b>O</b> | <b>OBSTRUCTION</b> – to prevent the unlawful obstruction of the highway                                                                                                                                                 |
| <b>P</b> | <b>PHYSICAL INJURY</b> – to prevent them causing physical injury to themselves or of other persons, or to prevent them suffering physical injury                                                                        |
| <b>P</b> | <b>PUBLIC DECENCY</b> – to prevent them committing an offence against public decency (Only where members of the public going about their normal business cannot reasonably be expected to avoid the person in question) |
| <b>L</b> | <b>LOSS OR DAMAGE</b> – to prevent them causing loss or damage to property                                                                                                                                              |
| <b>A</b> | <b>ADDRESS</b> – suspect address furnished is untrue                                                                                                                                                                    |
| <b>N</b> | <b>NAME</b> – suspect name furnished is untrue                                                                                                                                                                          |
| <b>N</b> | <b>NAME</b> – not readily ascertained                                                                                                                                                                                   |
| <b>E</b> | <b>EFFECTIVE</b> – to allow for prompt and effective investigation                                                                                                                                                      |
| <b>D</b> | <b>DELAY</b> – to prevent any prosecution for the offence from being hindered by the disappearance of the person in question                                                                                            |



# Powers of Arrest – SOCAP

## POLICE Powers of Arrest

Section 24(1) (2) (3) PACE

OFFENCE

= **SUSPICION**  
**SHACKS**

During

After

Before

Suspect

**D**  
**A**  
**B**  
**S**

Necessity to arrest

= **BELIEVE**  
10 reasons

SUMMARY

INDICTABLE

COPPLANNED

COPPLANNED

Prompt & effective investigation  
of person's conduct S 24(5) (e)

Prompt & effective investigation  
of person's conduct and offence  
(indictable only) Section 24(5)(e)

ARREST

ARREST

Section 32 search (DIE)

Section 32 search

Person

+ / or

Premises

**P**  
.  
**A**  
.  
**W**



# Powers of Arrest – SOCAP

OTHER PERSON Powers of Arrest

↓  
Section 24A PACE

↓  
INDICTABLE OFFENCE

During

After

= **SUSPICION**  
**SHACKS**



Necessity to arrest & not reasonably practicable for Constable to arrest

&

= **BELIEVE**  
**4 reasons**

**L**  
**A**  
**P**  
**S**

Loss or damage  
to property

Abscond before Constable  
assume responsibility

Physical injury being caused  
to self or another

Suffering physical  
injury

↓  
Other person arrest

↓  
Section 24A PACE

↓  
Constable review of arrest

↓  
Re- arrest - Section 24 PACE ( giving reasons)



# Powers of Arrest – SOCAP

## POLICE POWERS of ARREST – Section 24(5)(e)

When considering an ARREST that is in connection with an indictable offence if there is an **operational need** to:-

- ❖ Enter and search any PREMISES occupied or controlled by a person
  - ❖ Search the person
  - ❖ Prevent contact with others
- ❖ Take fingerprints, footwear impressions
- ❖ Samples or photographs of the suspect
- ❖ Ensure compliance with statutory drug testing requirements



## Section 24 PACE – Reasons for Arrest

| IDENTIFICATION        |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 24(5)(a)      | Name                               | To enable the name of the person <u>in question to be ascertained</u> , in the case where the constable does not know and cannot readily ascertain the person's name or has reasonable grounds for doubting whether a name given by the person as his name is his real name.                                                                                                                                                                                                                                                                                                                                                                                                 |
| Section 24(5)(b)      | Address                            | To enable the <u>address of the person in question to be ascertained</u> , in the case where the constable does not know and cannot readily ascertain the person's address or has reasonable <u>grounds for doubting whether an address given by the person as his address is his real address</u> .                                                                                                                                                                                                                                                                                                                                                                         |
| PREVENTION            |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 24(5)(c)(i)   | Injury to self or another          | <b>To prevent</b> the person in question causing physical injury to himself or any other person                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 24(5)(c)(ii)  | Suffering Physical injury          | <b>To prevent</b> the person in question suffering physical injury                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Section 24(5)(c)(iii) | Property                           | <b>To prevent</b> the person in question causing the loss of or damage to property.<br>The property can belong to anyone                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Section 24(5)(c)(iv)  | Public Decency                     | <b>To prevent</b> the person in question committing an offence against public decency.<br>Must be a likelihood of members of the public being present and being unable to avoid the behaviour                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Section 24(5)(c)(v)   | Obstruction                        | <b>To prevent</b> the person in question causing an unlawful obstruction of the highway.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| PROTECTION            |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 24(5)(d)      | Child or other vulnerable person   | <b>To protect</b> a child or other vulnerable person from the person in question                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| INVESTIGATION         |                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Section 24(5)(e)      | Prompt and Effective Investigation | <p>To allow the prompt and effective investigation of the offence or of the conduct of the person in question.</p> <p>This may arise when it is thought likely that unless the person is arrested and then either taken in custody to the police station further action considered necessary to properly investigate their involvement in the offence would be frustrated, unreasonably delayed or otherwise hindered and therefore be impracticable. Examples of such actions include:</p> <p><i>(i) interviewing the suspect</i> on occasions when the person's voluntary attendance is not considered to be a practicable alternative to arrest, because for example:</p> |

|                         |                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         |                             | <ul style="list-style-type: none"> <li>• it is thought unlikely that the person would attend the police station voluntarily to be interviewed.</li> <li>• it is necessary to interview the suspect about the outcome of other investigative action for which their arrest is necessary, see (ii) to (v) below.</li> <li>• arrest would enable the Special Warning to be given in accordance with Code C paragraphs 10.10 and 10.11 when the suspect is found: <ul style="list-style-type: none"> <li>➤ in possession of incriminating objects, or at a place where such objects are found.</li> <li>➤ at or near the scene of the crime at or about the time it was committed.</li> </ul> </li> <li>• the person has made false statements and/or presented false evidence.</li> <li>• it is thought likely that the person: <ul style="list-style-type: none"> <li>➤ may steal or destroy evidence;</li> <li>➤ may collude or make contact with, co-suspects or conspirators;</li> <li>➤ may intimidate or threaten or make contact with, witnesses.</li> </ul> </li> </ul> <p>(ii) when considering arrest in connection with the investigation of an <b><u>indictable offence</u></b> there is a need:</p> <ul style="list-style-type: none"> <li>➤ to enter and search without a search warrant any premises occupied or controlled by the arrested person or where the person was when arrested or immediately before arrest;</li> <li>➤ to prevent the arrested person from having contact with others;</li> <li>➤ to detain the arrested person for more than 24 hours</li> </ul> <p>(iii) when considering arrest in connection with any <b><u>recordable offence</u></b> and it is necessary to secure or preserve evidence of that offence by taking fingerprints, footwear impressions or samples from the suspect for evidential comparison or matching with other material relating to that offence, for example, from the crime scene.</p> <p>(iv) when considering arrest in connection with any offence and it is necessary to search, examine or photograph the person to obtain evidence.</p> <p>(v) when considering arrest in connection with an offence to which the statutory Class A drug testing requirements in Code C section 17 apply, to enable testing when it is thought that drug misuse might have caused or contributed to the offence.</p> |
| <b>DISAPPEARANCE</b>    |                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Section 24(5)(f)</b> | <b>Prosecution Hindered</b> | <p>To prevent any prosecution for the offence from being hindered by the disappearance of the person in question</p> <p>This becomes the reason for which 24(5)(a) and or (b) will lead to arrest.</p> <p>This may arise if there are reasonable grounds for believing that:</p> <ul style="list-style-type: none"> <li>■ If the person is not arrested he or she will fail to attend court, or</li> <li>■ Street bail after arrest would be insufficient to deter the suspect from trying to evade prosecution</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

NB: This code does not apply to .... the power of constables to arrest without warrant other than under Section 24 PACE...including:

*Road Traffic Act 1988, section 6D arrest of driver following the outcome of a preliminary roadside test requirement to enable the driver to be required to provide an evidential sample.*