

Rights Guide For Rough Sleepers

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As London Coordinator of Housing Justice, I invited Liberty, *The Pavement*, and legal charity Zacchaeus 2K to come together to do something positive, good and useful for rough sleepers.

The first fruit of this partnership is *The Rights Guide for Rough Sleepers*.

Eduardo Gill-Pedro compiled the legal advice; *The Pavement's* Val Stevenson edited the text and Z2K's barrister Alan Murdie advised on the legal issues. Shamle Begum worked on the project to first draft at Liberty; and Noel Rooney, a fine Plain English editor, clarified difficult legal ideas. Women at the Well and The Salvation Army highlighted issues that needed to be explained. Tom Balchin contributed his magnificent design skills; and the London Church Leaders and Christian Action Housing paid for the booklet's design and printing. Sincere thanks to them.

The group will continue to carry out joint actions around homelessness.

The Pavement and Housing Justice are campaigning to stop move-ons and Operation Poncho.

If you are willing to be interviewed about your experiences of move-ons or Poncho, please contact Housing Justice at info@housingjustice.org.uk

The Pavement is also keen to publish your letters on the subject, so email editor@thepavement.org.uk

We hope this publication helps you!

Sally Leigh
London Coordinator, Housing Justice.

Section 0105-15

Police Powers



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**When can the police
arrest me, if they
do not have a warrant?**

The Police and Criminal Evidence Act 1984 (PACE) says that a police officer can arrest you without a warrant if:

01

The officer has reasonable suspicion that you have committed a crime, are committing a crime or are about to commit a crime, **and...**

02

The officer has a good reason to think that s/he needs to arrest you:

- a** to find out your name or address,
- b** so a crime can be investigated,
- c** to protect a child, or anyone else who needs protecting from you,
- d to stop you**
 - hurting yourself or any other person getting hurt,
 - damaging property,
 - doing something obscene (they will only do this if other people can't reasonably avoid you), or
 - blocking the road.

The police officer must tell you that you are being arrested, and tell you why you are being arrested.

Reasonable suspicion

You can't be arrested just because you look a bit weird, or you are dressed in scruffy clothes. The police officer must have good reasons to think you are up to no good – it has to be more than a hunch.

Breach of the peace

The police (or any other person) can arrest you if they have reasonable grounds to believe you are causing a breach of the peace. A breach of the peace is when you are violent to another person, or their property, or you are threatening to be violent. If you are annoying or upsetting someone, this is not a breach of the peace, unless violence, or the threat of violence, is involved.

Your rights if you are arrested

If you are arrested you have some important rights.

- You have the right to tell someone where you are, and
- You can get a solicitor to help you

If you are arrested on suspicion of an offence, you should make sure that you ask for a solicitor.

The fact that you asked for a solicitor does not mean that you 'have something to hide' and will not be held against you.

Your possessions

If you are arrested on suspicion of an offence, or for a breach of the peace, and the police take your possessions, then the police have a duty to take good care of them.

If they destroy your possessions, or let them get lost or damaged, then you may be able to sue them for damages. If they refuse to return them, or deny that you have a right to them, then you may be able to sue them.

If the police arrest you, and leave your possessions on the street, and they are lost or damaged, or someone steals them, it is much harder to sue the police for your loss. The court will probably say that it is up to you to take care of your things. But this bit of the law is not very clear, so if something

like this happens to you, talk to a solicitor.

When you are released

If the police arrest you and take you to a police station, and then they let you go, they don't have to take you back to where you were arrested. However, the courts have said that the police should take care of you if there is a good reason to think that you may come to harm. So in one case, a man was arrested at his home very drunk, and was let out onto the streets on a cold January night, where he died from hypothermia. The courts said that in this case, where there was an obvious risk, the police were negligent – they did not take good care to make sure that the man was safe.

If you are very young, or you are particularly vulnerable because of your physical or mental health, then the police are more likely to have a duty to look after you.

What powers do the police have to stop and search me?

Powers to search with reasonable suspicion

The police can stop and search you if they have reasonable suspicion to think you are carrying drugs, weapons, stolen goods, or anything you could use to commit a crime. The rules for the police say that they must be fair and treat you with respect if they stop and search you. The police are not allowed to stop and search you just because of how you look, or what you have done in the past.

Powers to search without reasonable suspicion

There are some laws which allow the police to stop and search you even if they don't have reasonable suspicion.

In some places, including most of London at the moment, a police officer in uniform can search you for things that may be used for terrorism, even if s/he does not have any reason to suspect you of being a terrorist.

The law also says that if the police are expecting violence in an area, they can designate that area and then search anyone in the area to make sure they don't have weapons on them, even if they have no reason to suspect them of actually having the weapons.

Rules for the police

Before they stop and search you, the police have to do this;

tell you

- 01** they are police officers
- 02** their names, and which station they are from
- 03** why they are searching you
- 04** what they are looking for
- 05** what law they are using for the search
- 06** that you are allowed to have a copy of the search record

If the police do not tell you all these things, then the search may be illegal.

What is a search?

A search can take place in most public and some private places.

The police can only give you a pat down and remove your outer clothes, such as your jacket, hat and gloves.

They are allowed to put their hands in the pockets of outer clothing and feel around inside collars, socks and shoes if they have a good reason to do so.

They cannot ask you to take off any more clothes than this, or anything which is worn for religious reasons such as a turban or headscarf, unless they take you somewhere private – like a police station, and unless the officer searching you is of the same sex as you.

A police officer is allowed to use reasonable force if s/he needs to so s/he can make the search, but first s/he has to give you the opportunity to cooperate – if you refuse to cooperate, then force can be used.

The police must do the search as quickly as they can, but the law says they can take as long as they need to so they can do the search properly.

If the police stop and search you, you do not have to give your name and address and you do not have to explain what you are doing there.

The search record

The police must make a record of each and every search they carry out. The police officer must write down;

- 01** your name, or what you look like if you refuse to give your name,
- 02** when and where they searched you,
- 03** what they were looking for, why they thought you may have it, and anything they found,
- 04** the name and badge number of the officer who searched you, and,
- 05** your ethnic background.

If the police do not give you a copy of the search record at the time they do the search, you can get a copy from the police station, so long as you ask for it within 12 months of the search.

What should you do?

You should always ask a police officer to explain why s/he is searching you.

At the end of the search, ask for a copy of the search record. If the police officer doesn't give you a copy, write down the name, badge number and police station of the officer searching you.

You should also write down;

- 01** the time,
- 02** where you are,
- 03** what happened just before the search, and,
- 04** exactly what the police said about searching you.

This information will help you to get a copy of the search record from the police station within 12 months of the search.

If you mean to sue the police or make a complaint, the search record will be very important.

Do I have to answer questions the police ask me?

If the police ask for your details or ask you any other questions, the law says you don't have to answer. If you then walk away, the police can't stop you just because you refused to answer their questions.

The law is different if the police think you are doing something that counts as anti-social behaviour. Then you have to give them your name, and they can arrest you if you don't. The police should tell you that they believe you are doing something anti-social, and explain to you that you have to give them your name and address.

Moving you on

If the police have reasonable grounds to believe that anti-social behaviour is a problem in a particular area, then they can designate that area as a 'dispersal area'. If you are in a group of two or more people in a dispersal area, then a police officer in uniform can tell you and the other people in the group to go home if you live in the area, or to leave the area and not to return for twenty-four hours if you do not live in the area. The police can only do this if they have good reason to think that your group is likely to harm or frighten people, or if your group is doing something which counts as anti-social behaviour.

There is also a law called the Violent Crime reduction Act 2006. If the police use this law, they can tell you, even if you are on your own and not part of a group, to leave the area and not return for forty-eight hours.

They have to give you the order in writing, and they can't make you leave an area if:

- 01** you live there,
- 02** you work there,
- 03** you are getting medical treatment there,
- 04** you are studying or training there,
- 05** you have to go there as part of a court order.

No drinking zones

A local council can make an area into a no-drinking zone.

In a no-drinking zone, a police officer can ask you to stop drinking, and hand over any alcohol you have, or any bottles or cans you have. It is a crime if you don't do what the police officer asks you to do.

It is not a crime to drink in a no-drinking zone, but you have to stop if a police officer tells you to stop.

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Criminal Offences

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Is it a criminal offence to sleep on the street?

Section 4 of the Vagrancy Act 1824 says that a person...

“...wandering abroad and lodging in any barn or outhouse, or in any deserted or unoccupied building, or in the open air, or under a tent, or in any cart or wagon, and not giving a good account of himself” is committing a crime. This means the police can arrest you for sleeping on the street if;

- 01 there is a shelter nearby, you know about the shelter, and you don’t go there,
- 02 you make a habit of sleeping on the street, even though you have been offered a place in a shelter,

- 03 you have caused damage, or infected the place with vermin, or it looks like you are going to do so

Is it a criminal offence to urinate on the street?

There is no national law that says it is a crime to urinate on the street. But most local councils have bylaws saying it is not allowed in their areas. If you urinate on the street in these areas, it is a crime. Also, if you have been drinking, and you urinate on the street, the police may arrest you for being drunk and disorderly. Even if you have not been drinking, urinating on the street may be a public nuisance, which is a criminal offence.

Is it a criminal offence to obstruct the highway?

Blocking the road or the pavement (this is called causing an obstruction) without a good reason is a crime. So if you are sleeping on the pavement you might be causing an obstruction. But the police can only arrest you for it if you are being unreasonable about it. If you have done your best to take up as little space as possible, and you are only there for a short time, you can argue that you are being reasonable, and it is not a crime.

Police complaints

You can make a complaint against a police officer (or a community police support officer, or a special constable) if you think they have treated you unfairly or illegally, or if you see someone else being treated unfairly or illegally.

You should make your complaint within one year from the time when it happened, and normally complaints are made in writing (although you can make it in person if you want to) addressed to the police force concerned.

If you think you have been treated badly by the police, and you might want to make a complaint, it is a good idea to go and get some advice first.

Actions against the police

You may want to bring a civil action against the police (bringing a civil action means suing the police), especially if:

- 01 the police arrested you and you think it was wrong,
- 02 they used force on you and you don't think the force used was reasonable,
- 03 they stopped and searched you and you think they did it wrongly,
- 04 they took your property and it was lost or damaged, or they didn't give it back to you, or,
- 05 you were harmed or hurt because they didn't take proper care of you.

There are other reasons for suing the police, but these are the most likely. If you want to sue the police, you **MUST** get advice from a lawyer who specialises in this kind of work. If you call **0845 608 1122 (Community Legal Services)** you will find information about useful lawyers. You may be able to get legal aid.

If you win a civil action against the police, you may get some form of compensation for any damage you suffered.

Further questions or need further advice?

Liberty offer a free human rights telephone advice service staffed by solicitors and barristers to help answer any questions you may have about the issues raised in this leaflet or other human rights issues. The telephone number is **0845 123 2307** and is open on Mondays and Thursdays between 6.30pm and 8.30pm and Wednesdays between 12.30pm and 2.30pm.

Liberty also have an information website at; **www.yourrights.org.uk** on which you can find further information about these and other civil liberties and human rights issues.

Liberty is a campaigning group working to protect civil liberties and promote human rights through a combination of test case litigation, lobbying, campaigning and the provision of free advice. Liberty is an independent membership organisation and relies on the support of individuals. Join today at; **www.liberty-human-rights.org.uk**

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