

LDMG

GETTING THE BEST OUTCOME YOU CAN WITH A SOLICITOR

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based on a leaflet by ABC Brighton

Your solicitor will probably be the most important person (besides you) when it comes to dealing with the police if you are arrested and facing going to court for charges brought against you by the CPS (Crown Prosecution Service).

Solicitors will

- give you advice at the police station and during your interview
- go with you to court for all your appearances
- sometimes represent you in a the magistrates court, or engage a barrister to do this
- prepare your case, gathering evidence and witnesses
- if you are going to the crown court they will engage and brief your barrister.

Your solicitor co-ordinates the team of people working on your case, your legal team.

Nowadays solicitors have less time to put into your case, due to reduction in legal aid, and to start with they will not know as much about you and your case as you do yourself.

By working with your solicitor to prepare your case, and having the confidence to ask them about procedure and progress, you will get the best out of your legal team & have the best chance for the best outcome to your case. This leaflet is written to support you in this task.

LAWYERS' ROLES

Lawyers have two main roles, and must be authorised for each role, some will be able to carry out both roles (know as solicitor advocates), some only one:

- **solicitors** – they will be in contact with you (the client) from the start and all through the legal process, from the beginning of your case. They will offer advice about your case, about how to deal with the police during interviews, about how your case should go in court, for example if you should go to Crown court or Magistrates, how you should plead, what witnesses you should find, what are the likely outcomes. They will be able to explain the legal process. They will be with you during any police interviews. They may be with you during appearances at Magistrates' courts and may represent you (talk on your behalf in the court room itself) during such hearings. They may be with you during hearings at a Crown Court but will not be able to represent you there. If you will be having a barrister (see below) then the barrister will be engaged (instructed or briefed) by your solicitor.
- **barristers** – also known as counsel, advocates or briefs – they have the right to represent you during your court appearances. If you are appearing in the crown court then you must have a barrister or a solicitor advocate. Although only involved in the final stages of the process, the trial and hearings leading up to the trial, they may meet with you before hand (have a conference), and have even been known to be pro-active in finding evidence and getting to understand the context of the arrest.

Solicitors work for firms whereas barristers are self employed but work with each other in small groups (sets) sharing office space (chambers) and administrative services. Some firms and chambers have a particular ethos or specialism, such as working on human rights or public order issues. The ones we recommend fall into this category and are also known to us as having a good record and getting the best results.

SOLICITORS IN GENERAL

In this section we want to tell you some of the constraints that lawyers work within, not to excuse but to explain their behaviour, and to make you aware so that you can challenge any thing you are not happy with:

- they work in the private sector and are responsible for making enough money to pay their salaries, and possibly make a profit for their organisations. Although some will occasionally do work for no fee (pro bono), this does not happen very often. They will take a fee which, if you are eligible for legal aid, is paid by the government, but legal aid does not cover enough hours needed to do a thorough job.
- they work in the legal profession and will be coming in front of the same judges or magistrates time and again. This can make them wary of 'rocking the boat', or become blasé about cases they take on. On the other hand we have seen expert barristers build respectful relationships with a judge and then use this to their client's advantage.
- although working under your instructions they have experience of other cases and their own strong opinion about how your case should be run, after all you have come to them for advice. For example they may advise you to plead guilty or avoid actions they consider controversial such as accusing the police of lying. Remember they are working **for you** and you have the right to run your case the way you would like. In fact we have found that the chances of walking away from the court without a guilty verdict are much higher if you plead 'not guilty' and challenge the evidence that the police have against you. During interviews in the police station a solicitor may suggest you answer questions, we recommend that you make no comment and instead with your solicitor prepare a statement to give to the cops. You can find out more about this from our 'no comment' booklet (www.ldmg.org.uk)

PROBLEMS WITH SOLICITORS

They may not appear very sympathetic. Solicitors may come over as not being very sympathetic. It is worth bearing in mind they are concentrating on the legalities of your case and may not have too much time to listen to you. You might have been through terrible times being arrested, imprisoned, beaten by the cops, etc. and both need someone to talk to and to explore if there is any legal redress, but try to stick to the facts of your case when talking to your legal team. If you can meet up with others arrested at the same event, in a defendants' group as an example, this will be the place to exchange experiences as well as witnesses and other legal issues. Make sure your solicitor answers any questions you have and explains all you need to know, but don't expect them to have the time to listen to your experiences at length.

They may not seem to be aggressive enough. Solicitors must follow court etiquette. They work with the magistrates, prosecutors, judges, etc. all day long, and will be building working relationships, appearing to be very friendly with each other. Sometimes they might even be intimidated by them. It may seem as though they are not putting your case forward aggressively enough. If you feel this then discuss with them points you would like them to make, ask why they took a particular line. Remember they work for you.

They may not be spending enough time on your case. Sometimes solicitors seem unwilling to pursue any real investigations, chasing witnesses, etc. As we've explained they rarely have enough

time to devote to a case. This is where **you come in**: you can be very helpful, not just on your case but on cases for other people arrested at the same time as yourself. Work with each other to find witnesses to the incidents in which you were arrested, visit the site of arrest as soon as possible to look for CCTV cameras and obtain the footage, scour the internet for footage, get in touch with LDMG/GBC to see if they can help with witnesses. Remember you can be a witness in other cases. Write down your recollections of the events as soon after the event as you can, it will help your case if you can say your notes were written within a few days. Give everything you think might be useful to your solicitor and follow up to make sure they received it and discuss how they might use it. You are the person who has most motivation for gathering the information, even the best legal team need this kind of support from you.

They may be over optimistic. Many solicitors suffer from pathological optimism - they may underestimate the prosecution case, assure you that there's nothing to worry about ... even though you may be facing a stretch inside. To some extent this is to keep you calm and upbeat, but we have seen complacency ruin a case, so press them for realistic opinions, ask them about the prosecution's case, evidence etc., make sure they don't leave things unsaid in court (in court you can signal that you want to talk to your representative at any point), remind them of the severity of the case.

They may advise you to plead guilty. In court you can see how well all the solicitors from both sides and the court staff get on with each other. The pressure is on for everyone to work together to keep the court running smoothly, not waste too much time. But while the prosecution are eager to get a conviction as quickly as possible, a poor defence solicitor may not have spent enough time on a legal aid defendant. They may advise you to plead guilty in your best interests, or to get a reduced sentence, and if you are not sure of your rights you might go along with this. *We would recommend that you stand your ground and plead not-guilty, it is only by pleading not-guilty that you will actually have a trial and the opportunity to challenge the police evidence and so improve your chances of being found not guilty.* It is in the nature of the work a solicitor or barrister does that they come over as very self confident and authoritative, not always easy to stand your ground in this situation, but if you are prepared for this situation in your mind, then it is easier to stand for what you want to do, for what is your right to choose to do.

FINDING A SOLICITOR

If you think it's likely that you will be getting into potential nicking situations, ask around for a decent solicitor's phone number and memorise it. LDMG (www.ldmg.org.uk) and GBC legal have published bust cards with the names of solicitors in the London area who have a good record of work in public order field, LDMG keep a watch on these solicitors working with them and updating their advice when necessary. You could email them for the name of a good London solicitor. Look out for bust cards being distributed at actions and keep them one or two in your wallet for future reference. If you need a solicitor outside London it is still worth getting in touch as we may be able to put you in touch with someone.

Don't use duty solicitors at police stations or courts, they work in all fields and will not necessarily have much experience or knowledge in public order offences, which is what demonstrators/activists are charged with. You have the right to phone for a solicitor of your choice if you are arrested.

Nowadays solicitors firms have web sites and the individual solicitors will have a page about the cases they have taken on, successfully, in the past. This will give you an idea of the kind of work they are good at and their experience.

Some Tips ...

DON'T trust a solicitor to build up a case for you. Take as active a part in your case as possible - tell them what line of defence you want to take and what you want them to do.

Join or start a defence group with others arrested at the same time (LDMG/GBC can help you set one up) and work together to collect and share evidence, witnesses etc. When you find witnesses put them in touch with your solicitor, make sure they have the witnesses contact details. If you find evidence, footage etc. send these to your solicitor as soon as you can.

Tell them everything you think may be relevant but remember that anything you tell your solicitor may be revealed to the court during your hearing or trial.

Keep a note of everything you give them and all appointments with them. After each appointment they should write confirming what you have discussed and telling you what they are doing.

You have the right to make not comment at a police interview, to plead not guilty and ask to have a trial in front of a jury at a crown court. We recommend all of these stances, be strong with your solicitor and let them know if these are things you want to do.

With reduction in legal aid solicitors are spending less time on cases. If you have a police interview or appointment for police bail ask your solicitor to come with you, if they cannot then ask LDMG if they can send a legal monitor instead.

AND FINALLY...

Remember that **you** are engaging your legal team, solicitor and barrister, you are the client and they are **working for you**. Either you are paying them or, more usually, the state is paying them on your behalf through legal aid.

However, they are often busy and, since legal aid is being cut severely, will not want to spend too much time on your case. The more that you can be a proactive member of your own legal team the better the outcome.

- If you have any questions, then ask. Make sure you have contact details for your solicitor so that you can get in touch when you need to.
- Make sure they have correct contact details for you. If you change your address, phone number, email address make sure you let them know.
- If you haven't heard from your solicitor for a while, get in touch and ask about progress
- Try to meet with your barrister before the trial, preferably on an earlier day, but at least be prepared to get to court early to meet with them there.

If you are unhappy with your solicitor you have the right to dismiss them and find a different one, however it is not always possible to transfer your legal aid to the new solicitor. Check with the new solicitor that you would like to represent you.

Similarly you can request a particular barrister that you may know, or if you are unhappy with the one engaged by your solicitor you can request a different one.

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