

FAQ document: Know Your Rights Briefing on Scots Law

Scottish Community and Activist Legal Project

Please see [our resources page](#) for all our published guidance. Hold ctrl+f to search the document for keywords. Questions are grouped roughly by topic.

Bustcards, Solicitors & calling Back Office

What is a bustcard?

[Bustcards](#) are small pieces of paper or digital info sharing your key rights, the recommended solicitors' phone numbers and the SCALP Legal Support Back Office phone number. You should have a copy with you so that you have that information in case of arrest. Legal Observers will be distributing printed ones at the big COP26 mobilisations.

What to do if one is arrested? Ask for duty solicitor and keep quiet?

No comment You only have to give your name, address, date of birth & nationality to the police if you are suspected of committing or witnessing a crime, or are driving a vehicle. Say "no comment" to all other police interactions

No Duty Solicitor Do not accept the duty solicitor. Instead ask for Clare Ryan: 07977 000 312. You have the right to have someone informed of your arrest. Make that the SCALP Legal Back Office 0131 322 5322.

What is the number on signal to request an LO for an action?

+44 773 405 1230

Do you still have 2 phone calls if arrested? i.e. back office and solicitor?

In Scotland you won't get to make those phone calls yourself. You should be able to get the desk sergeant to phone both the legal support back office and a solicitor - use the numbers on the bustcard.

Can you call a friend to let them know where you are if you're arrested?

You only get one person notified by the police and we recommend it's the SCALP Back Office so we know where you are and can track you.

Could an arrestee phone a friend who can then phone Back Office? or is it better for police to ring BO directly?

Always ring Back Office.

Can they take bust cards off you during arrest process?

We recommend you write the Back Office and solicitors' numbers on your arm if possible or keep them somewhere which can not be lost/taken. If you don't have the solicitors' number, but remember their name (Clare Ryan) they will be able to call them.

Do Scottish Police share records with Police in England & Wales?

Yes, this has been known to happen, although it is a separate jurisdiction.

I will want my family to know should I be arrested. In England, I decided to use one call to solicitor, one to family then the family would phone back office. Is there any issue doing that for COP / SCALP back office?

Give the police the Back office and solicitor's number and your family the back office number - it is better for BO to hear from the police station directly, as they can directly get the required information, they can then let your family know. Also you will not be able to make these calls, police will call on your behalf. You could also make sure that the group you are protesting with call your family if you are arrested.

i want to know a good solicitor to use. Will there be a bustcard? Will there be a back office running throughout COP?

Yes, we will be running a back office 24/7 throughout the COP26 fortnight. You will be able to find a copy of our bustcards through our social media channels and on our [website](#)

Are SCALP-recommended solicitors limited to those on the NETPOL list?

We're working on an updated list of Scottish solicitors, for now, we suggest sticking to the two Scottish-based ones on the [Netpol list](#) and those on our [bustcard](#)

Who is Clare Ryan in the FAQs?

Clare Ryan is a solicitor with decades of experience representing protestors in court. She is acting as a contact for a pool of solicitors, it's not just one but a whole team. If you don't have a bust card you can ask for her by name at the police station and they can find her details on their computer system.

Arrest

What happens if you refuse to identify yourself to the police (is there like a time after which you have to be set free)? Is there any way to go anonymous? Is that a higher fine? DO people have experience with this, if yes, how do the cops react, will you be detained longer? Is it a commonly used tactic in Scotland?

It has been done, with one example where people refused to give name or leave their cell and they convened a court in a police cell, with the PF standing next to the toilet. They will hold people for court and get a conviction for contempt of court and you could end up in prison.

We support a diversity of tactics and will give legal support to whatever people decide to do and respect their choices.

You are legally required to talk to the police if you witness a crime, what information are you required to provide? Is it just name, address or more general questions?

Name, Address, Place and Date of Birth and Nationality only.

Are there any circumstances in which the police can require you to give your dead name or names you have previously been known by?

If you haven't legally changed your name, the police may require you to give your legal name. In Scotland if you wish to be known by a different name you can change your name(s) (forenames, middle names, and surnames) at any time, provided you do not intend to deceive or defraud anyone. Once you have decided to change your name, you can use the new name for all purposes. However, you will need to produce evidence that you have changed your name for most official purposes. Although you can officially record the change of name with the Registrar General it is not compulsory. The police may ask you if you have been known by any other names and if you don't tell them and they find out you could be charged with Perverting the Course of Justice

Can you be charged for loosening or removing your own cuffs not to run away but because they're uncomfortable?

Very difficult to do with Quickcuffs used by UK police now. If they are locked so the cuff size won't change you can't loosen them. If cuff size not locked any movement only tightens them. UK police do not use cable ties as cuffs. If they are cutting into your wrists you can ask that they be loosened and say that if you are injured by failure to do so you will make a complaint.

What are the disadvantages of accepting Recorded Police Warning (RPW)?

You may not want to accept an RPW if for some reason you **want** to get arrested or plead not guilty.

Can y'all explain what RPW's are?

Briefly - an alternative to arrest, which can be appealed later, they are not an admission of guilt and accepting one may mean avoiding arrest. This is covered in page 19 of our [Guide to Activism. Scottish Law and the Police – Scottish Community & Activist Legal Project](#)

If I am arrested with my bicycle do they have to bring the bicycle into custody with me? And if not where will they leave it? It's also 6 feet tall so will not fit in most police vans :)

They are meant to look after all of your property when you are arrested so they should take care of that but I'm not exactly sure how they would do that.

if you don't carry ID and they detain you will they hold you until they can confirm your identity somehow?

They will try and confirm ID somehow yes. You are not required to carry ID, and it can give police more information than you are legally required to provide e.g. they may read it during a stop and search, when you are not required to give any personal information.

Some of our service users don't have any ID card so what would happen to them if they were stopped by police? I am keen to learn to advise our service users who are asylum seekers.

Carrying ID is not a requirement, we advise against it in most cases. Lots on this in our [guide for internationals](#)

If I refuse to give a phone passcode when requested for it in custody, is that an offence?

Police are required to have a warrant to access (copy) data on your phone. Although they have devices that only need to be plugged into your phone (even if it's off) to see data on it, which doesn't require a warrant. We recommend thinking carefully about what information is on electronic devices that you bring to an action.

What are the rules on keeping under 16s in custody overnight?

[Guide to Activism, Scottish Law and the Police](#) Page 24 has plenty of info.

CAS has [a good guide](#) too.

Can I clarify though - is it unusual for people to be released pending further investigation before a charge?

Not unusual, no. But more likely they will charge and then just not get back in touch if they don't want to take it further.

If the police are offering to de-arrest you on a condition or promise should you still answer "no comment"?

They can only place conditions on release on police bail called and Undertaking. You have to sign an Undertaking to be released. More on undertakings in our [guide](#)

Searches

Can you be searched if they believe you have an item that may be used for a criminal offence?

Yes but it has to be a specific offence and one that has a search power, such as banned drugs or weapons. They have to have a reason to suspect you, more than you look a bit dodgy, but why they suspect you of that crime.

Can you decline a search if a Section 60 is not in place? Does this apply to vehicles too?

They can only search you if they have a legal power to. There is no longer legal voluntary searches in Scotland.

Can section 60 cover a wide area e.g. the whole city?? or more local ? Is it advisable to tell fellow activists if they learn of section 60 or not? Is it at all like a section 14 in UK?

It can cover a whole city. It is a good idea to tell people if you know it is in place because the chance of being searched is greater. You can only be prosecuted if you refuse police orders to remove a mask or be searched so it doesn't matter if you know about it before hand or not.

Can non binary people ask for a non binary officer to search them?

You can ask for sure but they are unlikely to comply with this unfortunately. We are hoping to produce a guide for Trans & Non-Binary folks so keep an eye on the website for this :)

Can they ask to search your bags under stop and search

Yes if they have the right to search you this includes bags you have on you.

Do police have the right to search your wallet to find you ID and find out your details during a stop and search? Do they have to tell you specifically what they are looking for in it?

It depends. If you are arrested, yes they can read anything. If it's a section 60 search then they are not supposed to because they are only looking for weapons.

Stop and search: is the Police allowed to demand you follow them to a van to perform the search?

They can take you to a van to search but it would have to be necessary.

Internationals, translation & non-UK citizens

What is the legal status for people on pre-settled status (as compared to ILR with settled status)?

Depends on the circumstance: see our [guide for internationals](#) for detailed info.

If you are an Irish citizen can you be deported even though there is no visa requirement?

Irish citizens are likely to be treated similarly to UK citizens, and are not subject to the Settled Status requirements that other EU citizens are now required to follow.

In custody are you entitled to a translator?

Yes. It might take longer to process depending on the language.

From our disabled activist guide: "The police should arrange for an interpreter to be present in the room with you if you are hearing impaired or have trouble communicating clearly. This could be a BSL interpreter or another appropriate professional. There are exceptions to this, when the police can interview you without an interpreter, such as if a delay in interviewing may result in harm to other people, to property, or to evidence"

Do you have to prove your british citizenship with a passport?

No.

Will you talk about rights for non UK citizens/residents? as there will be a lot of us there.

Yes we will cover this shortly, more in our [Guide for Internationals](#)

For someone in the UK on a working visa, if they were to be arrested, would this pose any threat to their work/visa status? Where is a good place to find out about this?

It would in part depend on their nationality as unfortunately the Home Office is institutionally racist and favours certain nationalities over others. You can find out more info here:

<https://www.scottishactivistlegalproject.co.uk/resources/guide-for-internationals/>

For EU citizens that are in UK under pre-settlement or settlement status, would getting arrested pose any risk in current or future settlement/residence status?

This is covered on Page 9 of our Internationals Guide.

<https://www.scottishactivistlegalproject.co.uk/resources/guide-for-internationals/>

Disability

If you have learning needs would you get the same support from the police in Scotland than in England?

You can find more in our [guide for disabled activists](#). You should get the support you need from the police and speak about what you need. Many people find that it can be hard to follow everything that is happening at the police station. It's important that you ask for help if you are not sure about anything, and ask for help with reading if you need it or with what you need.

I am situationally mute and use written communication and text to speech most of the time. Do you know if typing on my device legally counts as saying something? or can i be charged with not co-operating or something like that because of it?

SCALP Response 15th Aug 2021: (note that this focuses largely on what guidelines say the police are *supposed* to do, and we cannot know for sure that that is what would actually happen)

See also pg. 34 of our [guide](#) and our [guide for disabled activists](#)

Situational mutism is as I understand it a part of severe anxiety. I don't know what particular situation the person is speaking about and that does make a difference. I will check with others as I don't know for definite the answer, but I feel pretty confident to say that if they are approached by police and asked to give their name, then if they have a note on them which says "my name is ----" then that will be co-operating or if text on their phone clearly explains this. A handwritten note is fine. They can also have a note saying that they are unable to speak for health reasons. It should be treated in the same way as any other disability.

(I had a handwritten note to say I had seizures which saved me explaining anything and I could keep this on me in my pocket - and it never needed recharging!) In reality, it may be that individual officers will not have training in how to deal with people who have particular disabilities, so then things can go wrong if officers do not understand or refuse to follow guidelines laid out by SOP's. This is the same for tourettes where people feel the need to have a letter from their doctor with them to explain their condition, so that they can produce this if they are ever in such a difficult situation with police such as swearing in front of police and being threatened with arrest. Having to produce a note from a medical professional, medicalises it though. If arrested, going on what is said below (I've included an excerpt from the briefing) I think the person should be entitled to an appropriate adult to help them communicate. I don't know if they would be given access to their own mobile phone though or electronic device as this could be taken off them, just like everyone else's. I'd imagine they may need to rely on pen and paper - but I don't know this. In terms of people making requests to meet their needs, this sums up the position quite well I think:

"Reasonable requests, which do not interfere with operational requirements or security, should only be refused when there are justifiable reasons." Also, this may be relevant if the person is arrested and does not have a formal diagnosis:

Following interactions with the police

I have a friend who has been very badly treated by the Police. Is there a group which could offer her emotional support, particularly if her attempts to get justice are unsuccessful?

Sorry to hear that. [Counselling for Social Change](#) offer low cost counselling for activists. There are also resources on [Activist Trauma Support](#). One of the most important things is to feel supported - it could be worth looking to set up a community care circle as it can also be emotionally intense for people supporting people affected by state violence. :

Scots law and the law elsewhere

Is there the equivalent of being released pending investigation? (England)

This is similar to what is called 'Release on an undertaking' see our [Guide to Activism. Scottish Law and the Police](#)

Are the new injunctions against road protesters in England also applicable in Scotland?

That injunction is England only. There are Scottish laws that also cover roads in a similar way but the injunction is not up here.

If the police get your details in Scotland is that then on file in England too?

Police have been known to share intelligence across the border.

How does Section 60 in Scotland compare to section 14 in England?

Section 60, the masks and searching bit, and section 14 public order act, putting conditions on a protest, work basically the same in Scotland.

If I am arrested in Scotland while on a conditional discharge which was issued in England, will my arrest and/or charge affect the conditional discharge? As it is a different country

Technically it shouldn't as it is a different legal system but there have been incidents where the Scottish and English police speak to each other.

If arrested in Scotland, would i have to go back up for court in scotland if things went further

likely yes, if you are released on an undertaking rather than being held for court.

Can we expect the police to be quite aggressive compared to normal due to met involvement in training + met police mutual aid officers being present in glasgow.

We don't see a specific difference as all police are capable of aggression and violence but mutual aid operations do have a tendency to be more aggressive. We will be observing all police action and during the G8 in 2005 Scottish Police were just as violent as the cops brought in from down South.

In London - police have phone numbers of solicitors, so don't need to give their number - only name. Is it the same in Scotland?

Usually yes, but we recommend you carry a bust card and write the numbers on yourself if you are attending an action.

In England, police aren't supposed to take your photo, fingerprints, dna for certain offences (non recordable ones). Does this apply in Scotland? and if it does, which of the common offences does it apply to?

There's just one type of arrest in Scotland.

COP Specific Qs

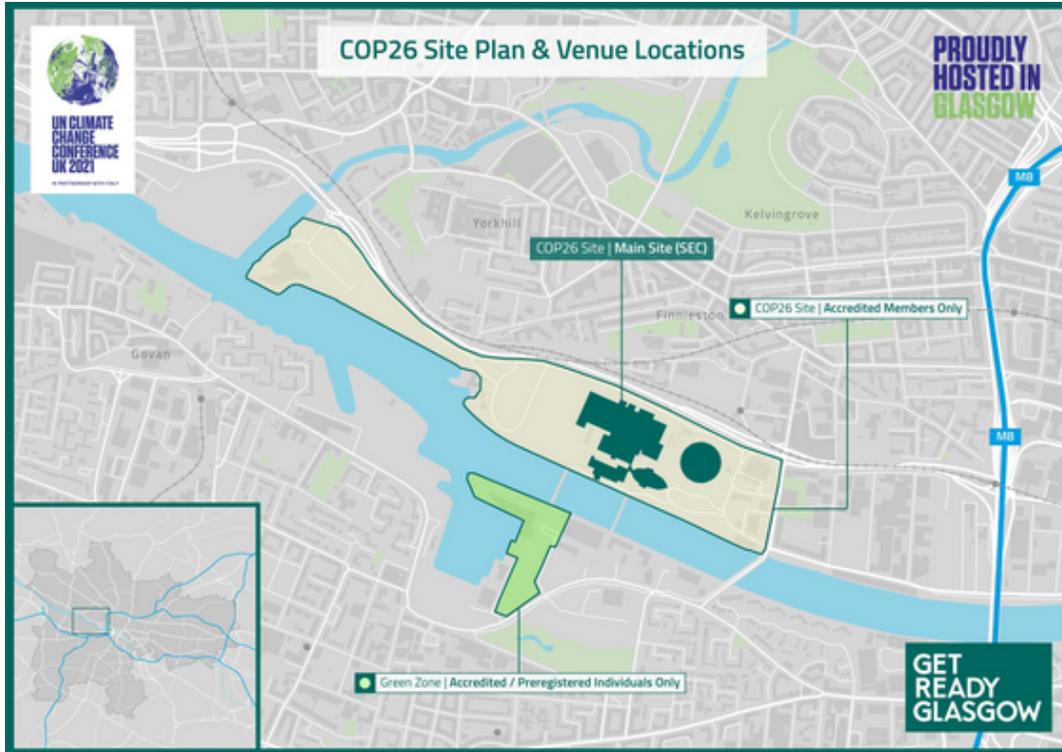
What would be the situation if someone were to be arrested in the blue zone?

We are unclear how the UN law stuff will work exactly but Police Scotland have said they will deal with crimes committed and will take anyone arrested in the Blue Zone into their custody.

Could you elaborate on special zones that can be closed to public by the police?

More on this from the COP26 Coalition and uk COP26 websites:

- The Blue zone is under UN law and registered officials only.
- The Green zone is also ticketed/closed to the public, but under Scots law.



[Asked by XR Steward] Would your LOs rather protestors didn't come chat with you when you're not busy?

It's important that LOs remain separate from the action. Chatting is ok, and LOs are there to give Know Your Rights info, but it can be tricky to maintain 'independence' if visibly socialising etc with organisers.

Would you like us to report all arrests including non activist arrests.

Yes, SCALP will not attempt to delineate between 'activists' and community members who happen to be subject to additional policing due to COP26 happening in their city.

What should you do if you see police acting in a way against someone's rights?

If you are subject to or witness any police behaviour which you are concerned about, try and stay calm, take shoulder numbers of police (and what force they are from), ask them 'Under what power' they are operating, and write that down. Remember 'No Comment' and if you are with a friend, stick together. Soon after, write an account of what happened, which can be useful for later submitting a complaint. Let SCALP and NetPol know: activists_legal@protonmail.com & COP26Policing@protonmail.com.

Any interactions with the police can be stressful and traumatic, take care of one another and check in with someone you trust during and after any incident.

Are we expecting police in Scotland to be less active in making arrests than in London? I think one of the constables may have said something to this effect?

Police Scotland said they are going to only make arrests if they 'need to'. This is partly because they said if they arrest more than 300 people at once they will be overwhelmed.

Public Order

Do police have the right to kettle/encircle people, and not allow people inside to leave the crowd?

Yes as part of their public order powers. These are vague unfortunately. They are meant to be proportionate and justified. More in our [public order guide](#)

What is the law around being kettled?

They kettle as part of their duty to "keep the peace" or something like that. It isn't a specified law, although they are only meant to use force if it is necessary and proportionate. This is difficult to challenge however. Breaking out of a kettle without assaulting an officer is legal as far as we know.

Are police likely to arrest everyone who they kettle?

They are less likely to do that kind of mass arrest as far as we know. It depends on what the crowd has done. But that kind of mass arrest like in other countries is less likely in Scotland.

Do the police have to give an official warning before they start to arrest people (giving you a chance to leave the protest before arrests start)?

No they don't have to, but sometimes do. Ignoring a warning can make for example a Breach of the Peace look worse in court, but they don't need a warning.

If you are kettled by police, can they arrest you even if you want to leave (and have not caused violence, etc)?

They can arrest you if they think you've committed a crime. Breach of the Peace for example doesn't have to be violent.

Offences in Scots Law

Do you have to give your details if you are driving a vehicle, even if you've not been arrested?

Yes but only the driver. This is so they can check you are allowed to drive.

Is it a crime to participate in a strike or march in Scotland? Can arrests be made for participating in a strike in a non violent way?

I believe there are specific laws around the number and nature of pickets on a strike. You are best speaking to your/a trade union about this as it's not our area of expertise. In general striking is legal but there are rules.

Do non-violent/peaceful marches (but still block roads etc) count as mobbing?

They could do.

Is samba drumming as part of a protest considered breach of the peace?

BoP can be really wide ranging so it could be but it would depend on the circumstances. People dressed as clowns were once charged with BoP

Are there specific flyposting / stickering regs applicable in Glasgow that you can cover?

Fly-posting, stickering or attaching posters in public places, can be treated differently to vandalism using Town and Country Planning laws. These mainly aim to stop commercial advertising and so it is a crime to have your goods or services advertised by fly posting even if you didn't put the posters up yourself. Under planning legislation, posters regarding an election have permission to be put in public spaces like lampposts, but must be removed within 14 days of the election. Removing them is considered theft

What is the appeals process for RPW's?

Did you say that going floppy is an offence ('obstructing a police officer') if you are being arrested?

It can be resisting arrest.

If person is glued to the ground, they cannot move or comply to stand and walk. Is this resisting arrest ?

No as far as I know it has to be active.

What law will apply on the river, and are there water based offenses?

There are specific maritime laws yes. The river Clyde will be covered by these. We don't have a guide on this unfortunately.

If arrested, do you have to give your phone passcode to the police officers at the station?

No - they are supposed to have a warrant to access this. That said, you should be mindful of what info is on there, and consider removing anything you wouldn't want in their hands.

I cannot find the number to contact on Signal to contact to request Legal Observers

See <https://www.scottishactivistlegalproject.co.uk/cop26/>

What procedures do police do in police station, for example, taking fingerprints; taking DNA: how long can they keep you on record if found not guilty or discharged without charge?

MORE ON

<https://www.scottishactivistlegalproject.co.uk/guide-to-activism-scottish-law-and-the-police/>

Are people likely to be charged immediately following arrest? Unlike the England where there can be a delay between the arrest and the charge.

Often its a little while after arriving at the police station. They can arrest you for one thing, charge you for something else, and then taken to court for something different again and they can change the charge mid trial... moving goalposts time!

What are the potential legal consequences of breaking police bail - how serious of an offence is it?

It can be treated seriously, yes. Some people have been put on remand, prison until trial.

Can police confiscate cameras from /witnesses/ who are filming/photographing and use against a protestor?

They can but it is legally complicated. For anyone arrested by the police, they can hold their possessions for evidence. Taking it from other people is harder, but possible.

What charge would "swarming" (temporary road blockage in groups) be - where does that fit in Scottish law?

It could still be a Breach of The Peace arrest.

In what circumstances could a protest become a mob? Is that likely?

Its less used. Mobbing is just collective Breach of the Peace but harder to convict so more likely to just use BoP.

Is mobbing equivalent to a riot charge?

No just a breach of the peace in a crowd. Not necessarily more serious.

What would be likely charges for:

- - blocking an entrance to a building (if other entrances were available to workers? or if they weren't?) Breach of the Peace for both. You are much more likely to be convicted if all entrances are blocked.
- - blocking most/all of a pavement? = Obstruction of the pavement or BoP
- - blocking one carriageway of a two-way road?/ blocking both? BoP or could be obstruction of the highway
- - locking on to a piece of street furniture? BoP depending on circumstances.
- - locking on to a heavy object?
- - glueing onto building/ pavement/ road/ street furniture/ heavy object?

If you get done for resisting arrest on the grounds that you went floppy, how serious is this offence?

It is not super serious and would normally add a small amount of fine on. Not super serious.

Other questions

Are police allowed to lie? E.g tell you that you are legally required to give some info that you actually aren't required to?

They are not supposed to lie about their legal powers. Knowing your rights and taking notes of police interactions is the only way to stay safe though.

References to a 'senior police officer' can you specify what rank qualifies?

Normally it is Inspector or higher.

Safest role to take on if there is too much at stake (e.g. risk of being targeted by the Police because of belonging to minorities; risk of deportation for non-British citizens...)? Legal observer roles...?

If you're at a protest, there's always a risk of arrest. We don't know of LOs being arrested in Scotland, but it has happened elsewhere. The safest legal position to be in is not at the protest - e.g. comms, social media or back office from somewhere far away from the action.

What should we do if we are injured by a police officer?

At the time, take a note of police shoulder numbers and which force they are from. Try and find other people who witnessed it. Talk to a Legal Observer if they're around. Afterwards, get in touch with us.

Can you tell us about scots police ranks signs

They are exactly the same in England & Wales. More [info and illustrations here](#) (sorry for tone, this is non-SCALP material but has the info requested)

Is passcode considered the same as a fingerprint lock?

Better to use a >6 digit code than face or fingerprint.

Police are regularly filming using chest cameras now (inc PLOs) - what can they use this for and how long can they keep footage (if not involved in any case)?

It's legal to film in any public space and they can keep that footage as far as I know for as long as they want.