



On successful completion of this module, learners will be able to:

1. **Explain** the ways in which a person can be brought before a court.
2. **Outline** the Postal Charge Requisition process
3. **Outline** the differences between a summary, either way or indictable offence.
4. **State** the difference between common and statute law.
5. **Describe** the elements required for a lawful arrest, including S24 PACE and preserved powers.
6. **Identify** the arrest necessity criteria under SOCAPA 2005.
7. **Identify** alternatives to arrest.
8. **Outline** the procedure for de-arresting individuals.
9. **Outline** considerations relating to vulnerability when making an arrest.

Introduction



Postal Charge
Requisition

Summons

Arrest on warrant

Arrest without warrant





QTS – in what ways can a person be brought before the courts?

There are **four** ways in which a person may be brought before a criminal court.

The four ways are:

- By Postal Charge Requisition
- By summons
- By arrest on warrant
- By arrest without a warrant

None of these three methods is better than any other one.

Each has a use in the appropriate circumstances.

Remember that arrest should not be a form of punishment; it is merely one of the ways to bring a person before the court.

A **Postal Charge Requisition (PCR)** is a process that has replaced as a **summons** (although a summons is still a power that police can use).

A Police Officer will report the suspect for an offence, and the suspect is then sent a letter from the Criminal Justice Unit to attend court at a date in the future.

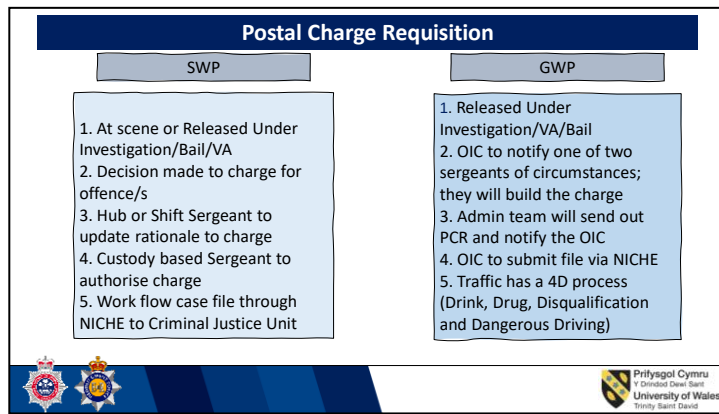
Basically, a **summons** is a document that tells the accused to attend the court at some date in the future.

The major difference between a summons and a PCR; is that whilst dealing with the summons, the case information is laid before the court, for the court to administer the date of the first court hearing for the suspect to attend court; whilst a PCR is straight from the police to the suspect to attend court, to answer a charge.

A **warrant**, on the other hand, is a court order that tells the police officer to actually go and arrest the person.

When there is no warrant, officers **must be sure that they have a power to arrest** the person without such a warrant.

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QTS – what is a Postal Charge Requisition?

Postal Charge Requisition - PCR is used only for crime when a person attends a police station as a Voluntary Attendee or whether a person is Released Under Investigation or for CPS advice for minor crime. These would be known as Green case files, which are slow time and are enough for a PCR.

The process involves the officer in case will notify PS Steve O'Brien or PS Tom Delaney of the case they have. The Sergeants will build the charges (once the OIC has stated the circumstances of the offence), they will pass this to their admin team who will notify the OIC that a PCR has then been sent to suspect. The OIC will then submit a PCR file through Niche. If the suspect is a youth, then the OIC will have to carry out a personal service of the PCR, this will include the OIC attending at the offender's address and personally serving the PCR upon the offender and then completing the PCR file. All youth offences are now PCR.

A point to note is that there are Traffic offences that fall into the crime bracket, which are known as the 4 D's to the department.

Drink Driving (mostly a charge in the custody unit, but certain circumstances may apply).

Disqualified Driving.

Dangerous Driving.

Drug Driving.

The PCR process is being reviewed in September, allowing LPU Sergeants authorising the OIC to refer the file to the PCR Team. This will allow the LPU Sgts to authorise a PCR when one of their officers completes the VA process.

SOUTH WALES POLICE:

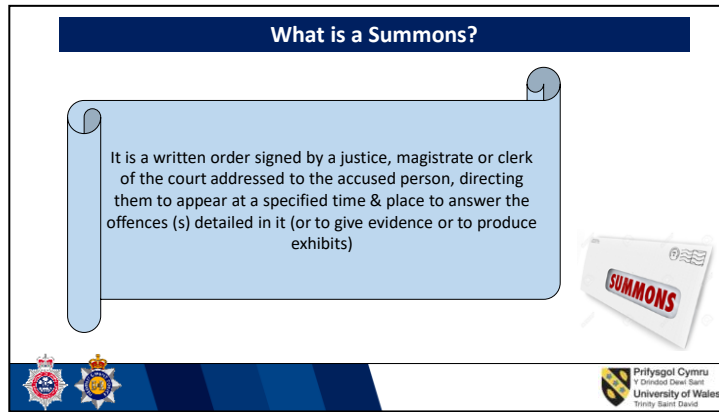
Examples:

1. Following 'Released Under Investigation' (RUI) if decision is made to charge (this could include those taken from custody to hospital for treatment)
2. Following RUI, if suspect does not take up offer of an out of court disposal (e.g. voluntary attendance, caution Restorative Intervention etc.)
3. Following voluntary attendance
4. Following 'Released on bail' if decision to charge is made prior to bail return date
5. Following offence being witnessed by a police officer and no need to interview

TOR

The wording on Traffic Offence Reports now states PROSECUTION instead of Summons, and the wording has been changed recently.

Give PCR Handout - Explain that Gwent and SWP have a variance in process and that there is further information on their Intranet e.g. BOB

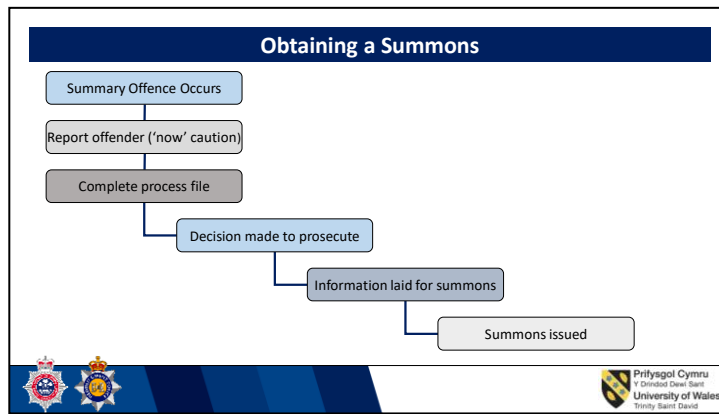


QTS - what is a Summons?

A summons orders a person to attend court and in some cases, it is used as an alternative to arrest. A summons does not necessarily indicate that an individual has committed an offence - they may not be accused or suspected of an offence, or the offence may only be minor.

The sequence of events leading to the issue of a defendant summons can be broken down as follows:

- A person is seen committing an offence, or an allegation is made that the person has committed an offence
- A police officer informs the offender that he or she will be reported for the offence
- A police officer completes a pocket notebook entry
- A written report is submitted to a supervisory officer.
- A decision is made whether to prosecute, caution or take no further action. If the decision is made to prosecute, an application is made for a summons.



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- A decision is made whether to prosecute, caution or take no further action. If the decision is made to prosecute, an application is made for a summons

The information required for a summons includes: full name & address (including post code), date of birth, wherever possible, a national insurance number.

The address can be a private or business address - it must be where person will be for a sufficiently long period to enable summons to be served, or at which another specified person will accept the summons on behalf of the accused.

Postal Charge & Requisition (PCR) was introduced in 2017. This will replace the summons process in South Wales Police – Please see Handout)

Witness Summons

A court can issue a summons to ensure that a witness attends court if:

- a person is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the court
- the court is satisfied that it is in the interests of justice to do so.





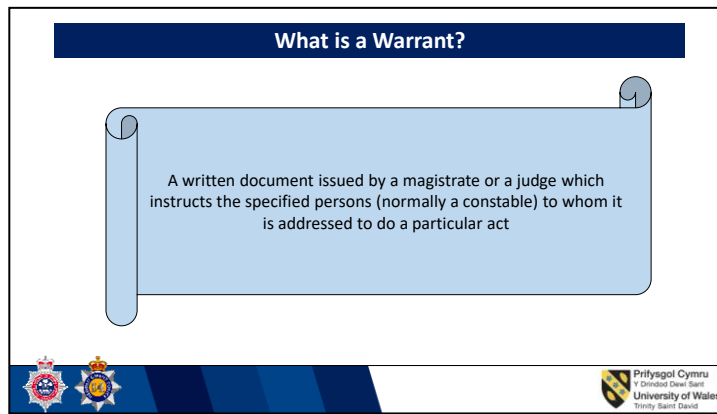
QTS – what is a Witness Summons?

Trainer to direct students to the additional handout on Moodle which gives examples of poor practice.

In certain cases this will allow the court to issue a witness summons early in the proceedings, to pre-empt the likely non-attendance of a witness.

The witness summons can be applied for by both the defence and prosecution.

In many cases the summons will also act as a measure of protection for a witness whose employer is reluctant to release them, or who faces some degree of discouragement or low-level intimidation in the community.



QTS – what is a Warrant?

Types of warrants

Arrest warrants can be issued by either a magistrates' court or a crown court. They are usually for:

- breaching court conditions
- failing to appear at court in answer to bail from an earlier court hearing – if a defendant over the age of 18 years who has pleaded not guilty does not appear in court without good reason, and is found guilty by the court in his/her absence, the court can pass sentence and/or issue a warrant of arrest

Commitment warrant – found guilty of an offence without their presence and have been sentenced to imprisonment – take the person to prison

Arrest for an offence. Where certain offences have been committed or are alleged to have been committed, or the defendant's address is not sufficiently established for a summons to be served, an arrest warrant may be issued.

Failure to answer a summons. A magistrate may issue a warrant for the arrest of a person who in certain circumstances has failed to appear at court in response to a summons.

Arrest for non-payment of a fine. Where a person has failed to pay a fine following a conviction, a magistrate may issue an arrest warrant. If the subject of a non payment warrant provides payment for the outstanding balance of the warrant they should not be arrested. The warrant should be endorsed that the outstanding balance has been obtained and signed along with any receipt references. The warrant is then returned to the court via your administration processes.

Arrest with bail conditions. When executing a warrant of arrest that has bail conditions, the same procedure should be followed as an arrest warrant, except that after arrest, the person can be released, subject to a requirement to attend a specified Magistrates' Court at a specified time.

European Arrest Warrant The Extradition Act 2003 simplifies procedures between member states of the European Union. It will be increasingly likely for officers conducting person checks on the PNC to find that the subject of the check is wanted for extradition to another country.

Officers must only arrest for extradition where there is a clear direction to do so on the PNC.

When executing any arrest warrant you should proceed as follows:

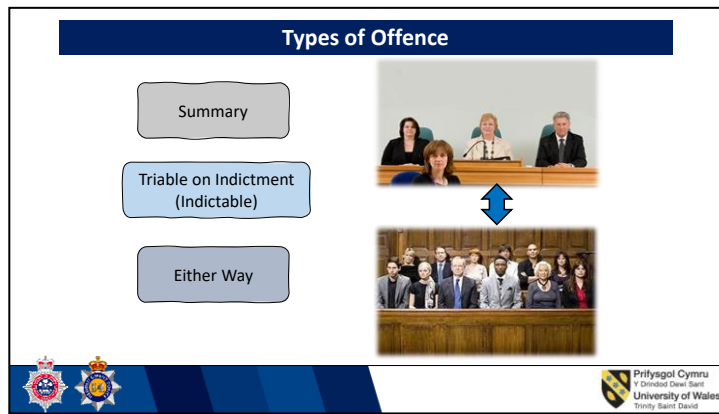
- Make sure that you read the warrant and understand it and confirm it has been signed by a Justice.
- Select an appropriate time to execute the warrant - consider, for example, the impact on other family members if the individual is arrested during a meal time
- Check that you have identified the right person (and not a child or relative with the same name). It may also be useful to check photograph records and the PNC for any warning markers.
- Identify yourself, establish the identity of the accused, arrest and caution them.
- Explain, in ordinary language, the charge and the reason for the arrest. Then, show the relevant person the warrant, if you have it with you (but do not hand the document over) or tell the relevant person where the warrant is and what arrangements can be made to let the person inspect it. It must be shown to the person arrested, if he demands it, as soon as practicable.
- Endorse the back of the warrant
- Make a record of the event in your pocket notebook
- Return the warrant to the court according to your local instructions

A warrant must not be used in order to arrest a suspect simply for the purpose of an interview.

It may also be necessary to ensure, if the person is shown on PNC as 'wanted on warrant', that this is also cancelled on PNC to show that the warrant has been executed and the requirements of the warrant have been discharged.

Be guided by your **own force policy** on how warrants shown on PNC are cancelled and also **who** is responsible for doing it.

SWP only – Trainer to direct students to handout on Moodle 'SWP process for warrants'



QTS – what are the different types of offences that are heard in Court?

There are three types of offence.

The first is the '**summary**' offence.

These offences are triable only in Magistrates Court and this accounts for 95% of all cases.

A magistrates court is made up of either 3 lay magistrates or a circuit judge.

There is no jury in a magistrates court.

Next are offences '**triable on indictment**' also referred to as '**indictable**'.

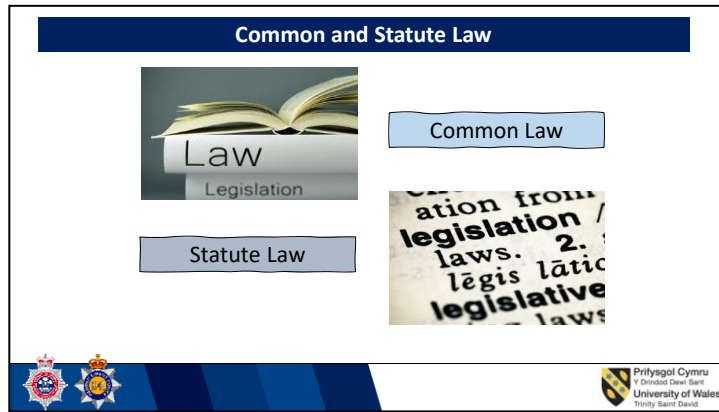
These offences can only be tried at a Crown Court where a judge sits and a jury decides the verdict.

In the middle are '**either way**' offences only and they can be tried either at Magistrates or Crown Court depending on the seriousness of the crime committed.

Theft is an '**either way**' offence. Summary if someone stole a packet of sandwiches, indictable if they stole a million pounds from a bank.

A **Constable** can arrest for any offence.

The power of arrest without warrant for **other persons** relate only to offences that are '**indictable**' or '**either way**'



QTS – What is Common Law?

Common Law

The common law of this country, gave the power of arrest ‘to any person’ for many offences.

Later, with the creation of **statute law**, which includes powers of arrest for certain offences, the common law powers were largely replaced.

There are however, still a few common law powers of arrest without warrant in common usage, for example an offence of outraging public decency.

The common law power that you will deal with on a more regular basis relates to ‘breaches of the peace’.

QTS – what is Statute Law?

Statute Law

A power of arrest, which is given in an Act of Parliament, is called a ‘**statutory power of arrest**’

The **Police and Criminal Evidence Act 1984** provides both the police and any other person the power to arrest.

These powers fall into two groups:

‘Indictable offences’ – Under the Police and Criminal Evidence Act (PACE) 1984 (offences triable at Crown Court)

Powers contained in other Acts – The powers of arrest which were contained in numerous Acts have mostly been abolished, although they will still specify that it is an offence under that Act.

These are preserved powers of arrest and they are mostly contained within Schedule 2 of PACE 1984.

These are discussed later on in the lesson

Meaning of Arrest	
An arrest is the taking of a person's liberty & preventing them from going about their lawful business	'An arrest occurs when a police officer states to an individual that they are arresting them or when they use force to restrain the individual concerned'
'It occurs also when, by words or conduct, they make it clear that they will, if necessary , use force to prevent the individual from going where they may want to go'	But the arrest <u>must</u> be necessary...




The **purpose** of an arrest is to make a suspect submit to the criminal justice system.

The information on this slide shows the concept of arrest as explained in *Murray v Ministry of Defence* 1988 in which the House of Lords quoted three different definitions of which they approved.

The elements of an arrest are, therefore:

actual physical restraint (e.g. holding firmly by the arm) or

words/conduct making it clear that the person will be restrained by force if necessary.

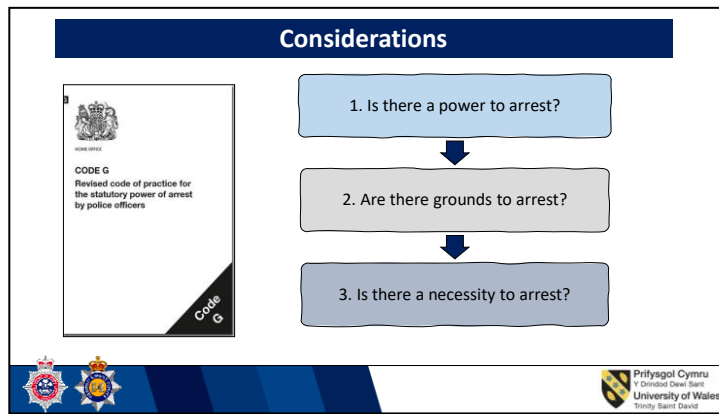
The PACE codes of practice state:

- *Everyone arrested, shall be informed of the reasons, in a language that they understand*
- *They shall be brought, promptly before a judge or authorised officer.*
- *If the grounds for detaining that person cease, then that person shall be released.*

If a police officer makes an arrest which is not compliant with the principles laid down by the European Convention on Human Rights then the arrested person's Convention Rights will have been unlawfully infringed upon and they are entitled to seek redress (eg compensation).

An unlawful arrest can give rise to disciplinary action against the arresting officer, and any evidence gained as a result of the arrest can be excluded by the courts. It is vitally important to get it right.

Any loss of evidence (and/or loss of a case in court) can lead to the loss of confidence in the police, allegations of corruption.



Police and Criminal Evidence Act 1984 (PACE) and the accompanying PACE codes of practice, establishes the powers of the police to combat crimes while protecting the rights of the public.

The **Power to Arrest** is given to officers by **S24 PACE** and is governed by **Code G** of the **Codes of Practice**.

In any arrest an officer is responsible for protecting a suspect's rights. They should ask themselves:-

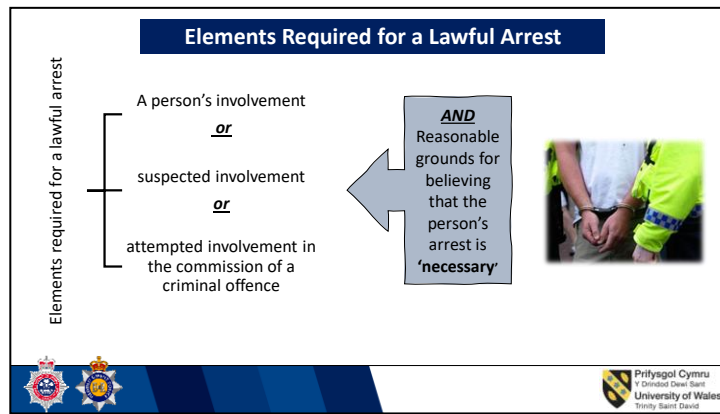
- Are my actions **P**roportionate? *Is this the minimum action I can carry out at this time?*
- Are my actions **L**awful? *What offence do you suspect the person to be involved in?*
- Am I **A**ccountable for this course of action?
- Are my actions **N**ecessary & **J**ustificable? *The only option available is to arrest the suspect? Why is this the only option?*
- Are my actions non-discriminatory and **E**thical? *Would I carry out this action whomever I was intending to arrest?*

The mnemonic **JPLANE** can be used to assist in remembering this.

The exercise of this power is an obvious and significant interference with the Right to Liberty & Security under **Article 5 of ECHR set out in the Human Rights Act 1998**, all persons have the. Each time a person is arrested, this Article is engaged and the individual's human rights are infringed.

Officers must use their power fairly, responsibly & with regard to an individuals equality, diversity & human rights.

The Equality Act 2010 makes it unlawful for officers to discriminate against, harass or victimise any person on grounds of the 'protected characteristics' – age, disability, gender reassignment, race, religion or belief, sex & sexual orientation, marriage & civil partnership, pregnancy & maternity.

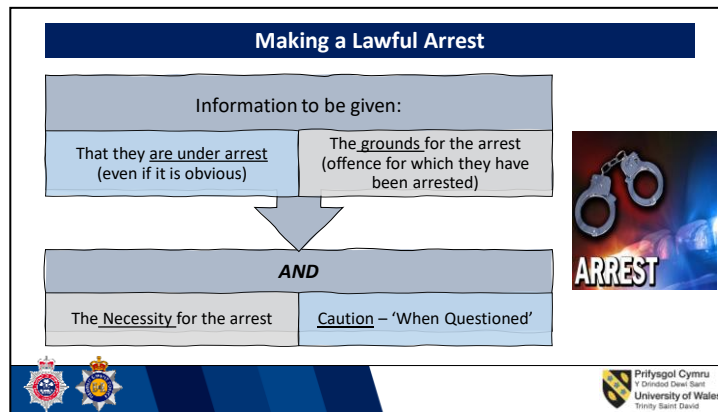


PACE Code G states that these two elements **must be satisfied** for a Sec 24 arrest to be lawful:

If the provisions of the Act and this Code are not observed, both the arrest and the conduct of any subsequent investigation may be open to question.

The law requires a person is informed of the '**grounds** for the arrest'

(e.g. "I am arresting you on suspicion of stealing a stereo from a Ford Fiesta car in Acacia Ave yesterday").



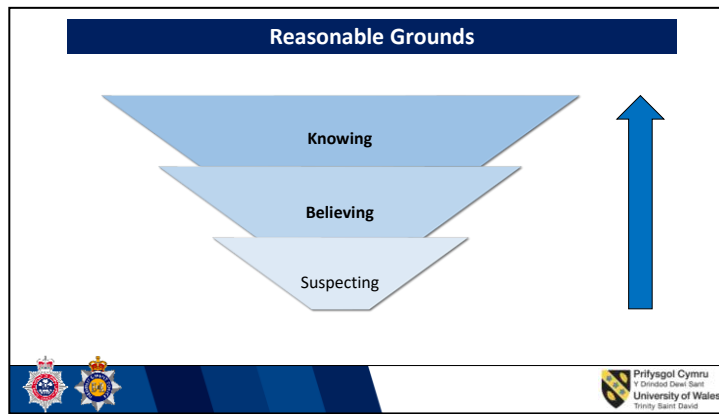
QTS – what information needs to be given to a person when they are arrested?

Under **Sec 28 PACE & Code G (Codes of Practice)** an arrest is not lawful unless at the time, or as soon as practicable (the officer) informs the person they are under arrest.

The person must be given the information promptly and in simple non technical language so that they can understand that they have been deprived of their liberty and the essential legal and factual grounds for their arrest in accordance with the Human Rights Act 1998 Schedule 1 Article 5(2).

In addition to the Human Rights issue, it is important that these things are considered by officers as Forces pay out a considerable amount of money as a result of claims made by individuals for unlawful arrest. These claims arise in most cases due to officers failing to consider whether the arrest they make is actually necessary.

Remember to give the ‘when’ questioned caution if it was not given just prior to the arrest taking place.



'Reasonable' is a conclusion that one or more people would reach in an agreement as a result of a personal experience or understanding.

It is practical, level headed and a logical result.

'Grounds' for something include a reason for a thought to exist:-

To **'know'** something is to be certain (10/10)

To **'believe'** something is a stronger and more concrete conclusion (7/10)

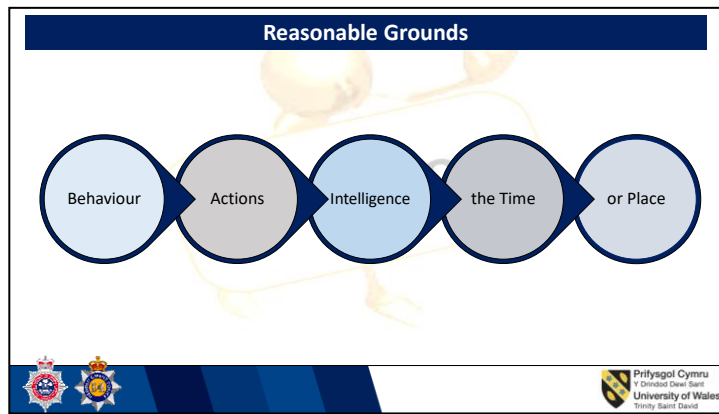
To **'suspect'** something is to think that it is probably true, although you are not certain (3/10)

To decide whether there are **reasonable grounds to suspect**: consider the component parts of the offence and whether a like-minded person would draw the same conclusions about the suspect and the offence?

Suspicion must be related to both the likelihood that the offence has been committed and whether that person is liable to arrest (Code G)

Examples:

- You are on patrol when you see a male spraying graffiti on a wall. Because you have seen it with your own eyes you **know** it to be true.
- You are on patrol and you see a male standing beside a wall with graffiti on it, the paint is wet and he has a can in his hand. No-one else is around. You **believe** that he has committed the offence OR
- You are on patrol and you see a wall with graffiti on it, the paint is wet. You walk a little way along the street and you see a male hiding behind a wall. No-one else is around. You **suspect** that he has committed the offence



Suspicion is required to make an arrest under **s24 PACE which must** contain reasonable, objective grounds which must be based on known facts and information.

Their **BEHAVIOUR**, in addition to their **ACTIONS** including any property they are carrying and/or **INTELLIGENCE** including any information gained from a witness and/or the **TIME** or **PLACE** where they are found

A good test of whether you have reasonable grounds to suspect is whether an independent person would come to the same conclusion as you if they looked objectively at all the facts, even if it later turned out that your impression of what was happening was incorrect.

Consideration could also be given to:

- Information received from a colleague or from a member of the public,
- Information an officer receives via radio/telephone or they see in a document or they receive from an informant
- Circumstances that are observed by the officer themselves or
- Information received from PNC

Information an officer sees in a document/receives from an informant

Circumstances are observed by the officer themselves

Section 24(1) PACE 1984

A constable may arrest without warrant anyone who:

is about to commit an offence

is in the act of committing an offence

They have **reasonable grounds to suspect** to be:

a) about to commit an offence or

b) in the act of committing an offence

Constable – this also means a Special Constable

Since 1 April 2007, special constables have been able to exercise their powers throughout England and Wales. This is set out in Section 30(2) of the Police Act 1996 (as amended by the Police and Justice Act 2006), which states: "A special constable shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters."

These powers do not extend to Scotland and Northern Ireland, which have their own forms of Special Constabulary or reserve force.

Offence means any Statutory or Common Law Offence for which a person may be tried by Magistrates or Crown Court and punished if convicted (e.g. assaults, criminal damage, RTA offences, Local Authority byelaws, etc).

Common Law offences include Murder, Manslaughter, Kidnapping, False imprisonment and Perverting the course of justice.

There are other less used powers which fall outside S.24 and do not require us to justify 'necessity to arrest'. Here are some of the more common ones

Breach of the Peace powers.

Mental Health Act powers (S.136 Mental Health Act 1983).

Breach of bail and/or Breach of conditions of Bail powers (S.46A PACE & S.7(3) Bail Act 1976).

Court Arrest Warrant & other Court Order powers.

Arresting a driver following a positive roadside Breath Test or failure to provide a sample **IF** the officer suspects alcohol or drugs in the body (S.6D RTA 1988).

Arresting a person on suspicion of driving, or being in charge of a MPV, when under influence of drink or drugs (S.4(6) RTA 1988).

About to commit – You see a man, standing outside the large display window of a jewellery shop with a brick in his hand. He is facing the window and has drawn his arm back as though he is about to throw the brick through the window.

In the act of committing – You see a man walk up to a display of I-pods, cut a security link, pick up an I-pod and walk towards the door of the shop, past the check outs, without paying for the device. The store alarm is activated and the man continues to walk out of the shop. You conclude that the man is stealing the I-pod and stop him just outside the shop.

Reasonable grounds for suspecting to be about to commit – You see a man walk up to a display of mobile phones. He appears to be extremely nervous. You see him take a metal cutter out of

his pocket and reach towards the security chain and appear to be about to cut the chain, but he is disturbed. He puts the tool back in his pocket and walks away. A few seconds later the same man returns to the display of mobiles, takes out the same tool, places it around the security chain and sets off the alarm. At this moment you decide you have reasonable grounds for suspecting the man is about to commit an offence.

Section 24(2) PACE 1984

If an officer has reasonable grounds for suspecting that an offence has been committed they may arrest anyone whom they have reasonable grounds to suspect of being guilty of it



Section 24(3) PACE 1984

If an offence has been committed, an officer may arrest anyone
who:

a) is guilty of the offence b) they have reasonable
grounds for suspecting to be
guilty of it



Section 24 PACE also caters for situations in which it will be clear that an offence has definitely been committed.

In such circumstances, the officer (if it is also necessary) could arrest any person **who is guilty of the offence**.

However, the power of arrest at 1, 2 or 3 above, is **only exercisable if** the constable has **reasonable grounds for believing** that it is **necessary to arrest the person because one or more of the reasons supporting the need for arrest is satisfied**.

Trainer to facilitate discussion around the scenarios on the next 3 PPT slides.

Group Task 1

PC JONES is on patrol with her tutor when they hear a woman shout, 'Stop that man he has just stolen my purse'.



What powers of arrest do the officers have to deal with this situation?



Both officers can arrest the man.

S24(2) If an officer has **reasonable grounds for suspecting** that an offence **has been committed** they may arrest anyone whom they have **reasonable grounds to suspect** of being guilty of it.

Group Task 2

Officers are on patrol when they see Eddie Smith with a brick in one hand about to throw it through the window of a local jewellers.



What powers of arrest do the officers have to deal with this situation?

They can arrest Eddie Smith.

Sec 24(1) An officer may arrest anyone whom they have **reasonable grounds to suspect to be about** to commit an offence

Group Task 3

Officers are on duty when they are called to a shop where a large display window has been smashed.

Five days later their enquiries reveal a witness who states that John Sawyer committed the offence by throwing a brick through the window.

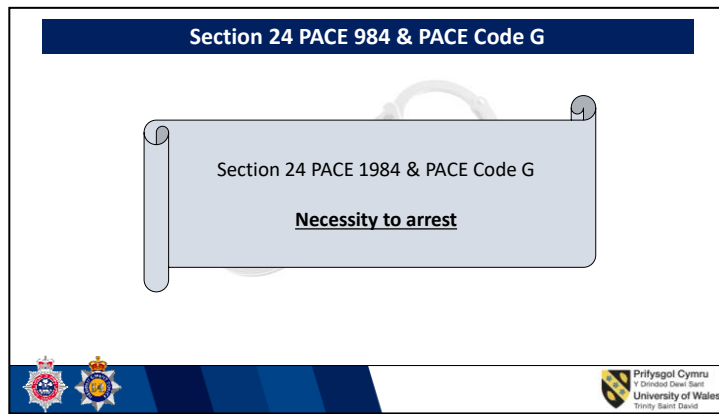


What powers of arrest do the officers have to deal with this situation?

The officers can arrest John Sawyer

Sec 24(3) If an offence has been committed, officers may arrest anyone whom they have **reasonable grounds to suspect to be guilty of it.**



There are two elements for a lawful arrest under **Sec 24 PACE**, involvement in the commission of an offence, as already discussed and that the arrest is '**necessary**'.

In **2005**, the **Serious Organised Crime and Police Act (SOCPA)** amended **Sec.24 of PACE** so that now, when a constable makes an arrest, they **must** be able to show that it was **necessary** to do so. This brings Sec.24 in line with **Article 5 of the European Convention on Human Rights (Human Rights Act 1998)**.

A number of officers have found themselves being unable to satisfy objective observers, including courts, when called upon to explain their use of the power in this respect.

For this reason, officers must understand the principles of the Code and, if called upon to do so, be able to argue their decision was in line with the principles set out in the Code.



Code G of the Police and Criminal Evidence Act expects arresting officers to balance a suspect's **Right to Liberty** against the **needs** of the police to **investigate** crime.

The police can only remove that Right if they can show that they were carrying out a criminal investigation **and** it was necessary to remove the Right for them to achieve the investigation's objectives. If this is not shown then the arrest will be unlawful.

Code G identifies **investigation objectives** by stating that the police must have the widest possible considerations of all the circumstances during an investigation when deciding whether it is necessary to arrest a suspect or not.

There are other ways to process a suspect that has committed an offence – report for summons, granting street bail, issuing FPN, Advise/Persuade/Warn, and voluntary attendance at police station.

What constitutes necessity?

The Oxford Dictionaries Online defines it as;

'The state or fact of being required.- The state of being unavoidable.- A situation enforcing a certain course of action.'

Code G provides the statutory criteria for what may constitute necessity

Importantly- it remains an operational decision at the discretion of the constable to decide:

- which one or more of the necessity criteria (if any) applies to the individual; and
- if any of the criteria do apply, what course of action is open to the officer



1. To allow the prompt and effective investigation of the offence or of the conduct of the person in question.

An investigation might be hindered or delayed if suspect is not arrested.

E.g. may need to:

1. Interviewing the Suspect
 2. Consider Specific Investigation Needs
 3. Take Samples & Impressions
 4. Search, Examine or Photograph
 5. Class A drug testing.
1. Arresting for this purpose might be necessary if voluntary attendance for interview purposes is not considered to be a practical alternative, and questions need to be put about evidence gained during the investigation, or it is thought likely the person might steal or destroy evidence, collude or make contact with co-suspects or intimidate, threaten or make contact with witnesses, or there is a need to refer to Special Warning material in an interview (which can only be used when interviewing persons who have been arrested).
 2. To gain evidence relating to the offence under investigation e.g. person search after arrest, entry & search of premises, delaying notification of arrest or access to legal advice, extending detention beyond 24hrs, release on bail (with or without conditions).
 3. The police may need to take samples and impressions from the suspect for evidential or matching purposes.
 4. Could be to search a person, vehicle or premises, or to examine them for distinguishing marks or to take a photograph of them (to identify them). This is useful if a person has refused to identify themselves or given a false name the police can search the person if they believe that there is a mark or scar which might identify that person. Carry out an intimate search on detained person (S.55 PACE). Carry out x- ray & ultrasound scans on detained person (S.55A PACE).
 5. Arresting for this purpose might be necessary if a Class A drug misuse has caused or contributed to the commission of the **Trigger Offence** in question.
(Trigger offence are offences such as burglary, robbery, theft, TWOC, fraud, handling, going equipped or drugs offences).

2. To prevent the disappearance of the person in question

Concern that person may fail to appear at court.

When it is likely that, if the person is not arrested, they may not attend Court, e.g. the person

has previous convictions for failing to appear. Often used for motoring offences where a summons would normally be appropriate...

3. To protect a child or other vulnerable person

An arrest would be necessary if person was suspected of committing an offence which put health & safety of a child or vulnerable person at risk.

Child or other vulnerable person is directly or indirectly affected by the suspect and is thought likely that they may suffer either physical or psychological harm if the suspect is not arrested.

4. Causing unlawful obstruction of the highway

If the suspect of an offence also causes an unlawful obstruction of the highway which will continue if they are not arrested. This may lend itself to protest situations where the suspect of an offence is also causing an unlawful obstruction of the highway (begging might meet this criteria as might parking in the middle of the road).



P. To prevent causing physical injury to himself or another

A reason for arresting someone could be to prevent the person:

Causing physical injury to himself or another could be the police officer or any other person. It could also be a person who may be a self harmer

Suffering physical injury - suggests a less deliberate act than the word causing. Could relate to the person being arrested suffering injury from others. Eg if the suspect has assaulted a person in the street and there is a real risk that they will suffer some harm from friends of the victim who were present when the assault took place.

P. Committing an offence against public decency

This criteria might apply when an offence against public decency is being committed in a public place and is thought likely that it will be repeated. **It only applies, however, if the public cannot be reasonably expected to avoid the person in question.**

L. Causing loss of or damage to property - this may cover situations where there is a risk that if the person is not arrested then they may cause further damage to property or perhaps dispose of property that has been stolen in the original offence.

This criteria might apply where the suspect has a history of serial offending against property and it is thought likely that they may continue offending if they are not arrested. **Persistent shoplifters found in the town centre MAY lend themselves to this criteria – if you can justify an arrest.**

A. & N. Ascertain a person's name and address

If a person who is suspected of an offence refuses to provide name/address – officer must explain that it may lead to their arrest. This is not a power to arrest a person who simply refuses to give their name & address – it is just one of the reasons which would make an arrest necessary.

An officer may also arrest someone in a situation where there are reasonable grounds for doubting whether a name or address given by the person is real.

If you do not know and cannot readily ascertain a person's **name and/or address**, or you have reasonable grounds for doubting details provided – e.g. failures/refusals/apparent reluctance to

provide details **or** an Officer being unable to verify the details provided. If practicable, a person should be given an opportunity to prove their details before they are arrested and a warning that refusal may lead to arrest is good practice but it is not expressly required.

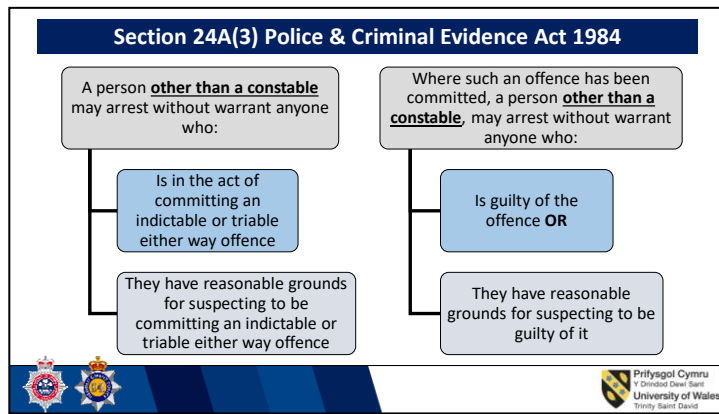
I	Investigation	To allow prompt and effective investigation of the offence or of the conduct of the person in question
D	Disappearance	To prevent any prosecution for the offence from being hindered by the disappearance of the person in question
C	Child	To protect a child or other vulnerable person from the relevant person
O	Obstruction	To prevent the relevant person causing an unlawful obstruction of the highway
P	Physical Injury	To prevent the relevant person causing physical injury to himself or any other person or Prevent him suffering physical injury
P	Public Decency	To prevent the relevant person committing an offence against public decency
L	Loss or Damage	To prevent the relevant person causing loss of, or damage to property
A	Address	To enable the address of the relevant person to be ascertained
N	Name	To enable the name of the relevant person to be ascertained



Applying the Necessity criteria requires an Arresting Officer to consider all of the circumstances of the particular case that they are dealing with and to believe that there is **no other way** of achieving one or more of these objectives other than to remove a suspect’s Right to Liberty.

There is an acronym that may help:

Trainer to direct students to Moodle where there is a handout of this slide.



QTS – when can a member of the public arrest someone?

Section 24A(3) Police and Criminal Evidence Act 1984

The offence includes **Indictable** or **triable either way** offences

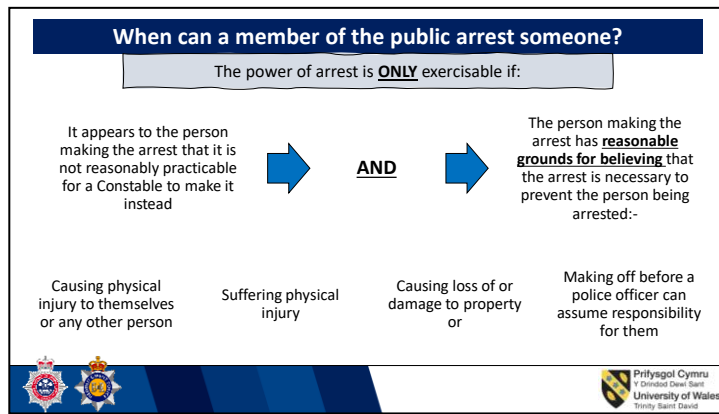
This is often referred to as an '**any person**' power.

This power of arrest has its origins in Common Law – the oldest form of law in existence.

As we have already mentioned, the majority of Common Law has now been superseded by Statute Law, however some powers remain, e.g. Breach of the Peace.

What is missing from the any person power to arrest is the phrase **about to commit**.

A constable can arrest for past, present and future offences where as the '**any person**' power only allows for past and present



What about PCSO's? Please see additional handout on Moodle for more detailed PCSO powers.

PCSOs have 20 standard powers and a range of discretionary additional powers which may be granted by the local chief constable should he/she believe that they are required to respond effectively to local priorities.

A PCSO can, for example:

give someone a fixed-penalty notice, eg for littering

demand the name and address of someone being anti-social

take alcohol off a person aged under 18

A PCSO can also ask a police officer to arrest a person.

The power of PCSOs can differ between [police forces](#).

They must wear a uniform clearly marked 'PCSO'.

Schedule 2 Police & Criminal Evidence Act 1984

It provides the preserved powers of arrest under PACE.

- S49 Prison Act 1952 (unlawfully at large)
- S13 Visiting Forces Act 1955 (deserter / absentee)
- S32 Children & Young Persons Act 1969 (detention of absentee)
- S7 Bail Act 1976 (absconding from bail)
- S18(return of patients), S35(10) (remand to hospital for reports), S36(8) (remand to hospital for treatment), S38(7) (interim hospital orders), S136(1) (mentally disordered persons in public place), and S138 (retaking of escaped patients) Mental Health Act 1983.
- S5(5) Repatriation of Prisoners Act 1984 (prisoner unlawfully at large).




Section 49 Prison Act 1952 (unlawfully at large)

Any person who, having been sentenced to imprisonment, custody for life or youth custody or ordered to be detained in a detention centre or young offenders institution or a youth detention training centre, or having been committed to a prison or remand centre, is unlawfully at large, may be arrested by a [constable](#) without warrant and taken to the place in which he is required in accordance with law to be detained.

Section 13 Visiting Forces Act 1955 (deserter / absentee)

provides for the apprehension and detention of deserters and absentees of certain foreign forces visiting the UK, together with legal procedures concerning offenders from those forces.

Section 32 Children & Young Persons Act 1969 (detention of absentee)

provides for the arrest and detention of young people who are absent without consent from a place where they has been sent by a court. A warrant to search is also available if required.

Section 7 Bail Act 1976 (absconding from bail)

If a person who has been released on [bail in criminal proceedings](#) and is under a duty to surrender into the custody of a [court](#) fails to [surrender to custody](#) at the time appointed for him to do so the court may issue a warrant for his arrest

Section 18(return of patients),section 35(10) (remand to hospital for reports),section 36(8) (remand to hospital for treatment), section 38(7)

(interim hospital orders), section 136(1) (mentally disordered persons in public place), and section 138 (retaking of escaped patients) Mental Health Act 1983.

provides for patients who are liable to be detained in a hospital, but absent themselves without permission and have to be returned.

Section 5(5) Repatriation of Prisoners Act 1984 (prisoner unlawfully at large).

EPNB Requirements

The arresting officer is required to record in their EPNB or by other methods used for recording information:

The nature & circumstances of the offence leading to the arrest

The reason or reasons why arrest was necessary

The giving of the caution **AND**

Anything said by the person at the time of arrest






QTS – what information do you think we need to record in our EPNBs when we arrest someone?

PACE states the Arresting Officer is required to provide information to the person arrested. This is usually done by creating a record in their PNB or their E-PNB, that the person is under arrest, the grounds of the arrest and the necessity for the arrest.

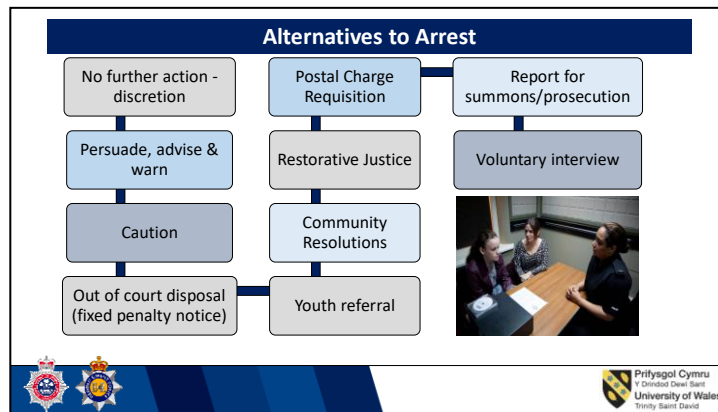
Remember, whichever of the ‘necessity criteria’ is used then the full details need to be recorded.

For example, if the officer uses ‘prompt and effective investigation’ then they **must record which aspect of this criteria applies**, i.e. interviewing the suspect; specific investigation needs etc.

Ensure the person under arrest is cautioned in line with PACE Code C unless impractical to do so, by reason of their condition or behaviour at the time.

The importance of documenting decisions are to:

- Demonstrates compliance with legislation, policies and procedures – PACE Code C/G
- Assists in demonstrating a reasonable approach was taken if any arrest is necessary (as per training in Conflict Management)
- Demonstrates the rationale behind the use of force
- Evidences that communication with the suspect is appropriate – any significant statements made have been understood and signed
- Provides evidence of the behaviour of possible suspects including points to prove for offences committed
- Provides evidence that the actions taken were justifiable/legal/proportionate and may be the subject of evidence in a court



QTS – what are other options available to Police Officers as oppose to arresting someone?

Where practicable, every effort should be made to deal with the matter without the need for arrest.

Individuals who are arrested may have lasting concerns in terms of employment opportunities, relationships, travel and the psychological impact of restraint - so it is important to consider whether an alternative to arrest might be more appropriate.

Any arrest for an offence where process for summons or other means of disposal could have been used could lead to the case being open to question and could even be found to be unlawful, making the officer liable to criminal or civil action and disciplinary procedures.

Report for summons/prosecution- by using the reporting process

No further action- using your discretion

Out of court disposal (fixed penalty notice)- freeing up time in the courts

Voluntary interview- if considering arrest for the purposes of interviewing then arranging a voluntary is an alternative

If you intend to make an arrangement for an individual to attend on a voluntary basis as an alternative to arrest then you are obliged to provide them with certain information:

Voluntary Interviews- must be told;

- Need to be interviewed
- If they attend voluntarily- no need to arrest
- Time etc will be agreed
- Failure to attend will lead to arrest

Note: Arrest on arrival at the station prior to interview would only be justified if:

- new information coming to light after the arrangements were made ; **and**
- it was not reasonably practicable for the person to be arrested before they attended the station.

Note: The possibility that the person might decide to leave during the interview is therefore not a valid reason for arresting them before the interview has commenced.

De-Arrest

A person arrested by a constable at a place other than a police station shall be released without bail if a constable is satisfied at the time before the person reaches a police station that there are no grounds for keeping him or her under arrest. The constable must record the fact that this has happened.

S30 (7) PACE 1984



QTS – when would you de-arrest someone?

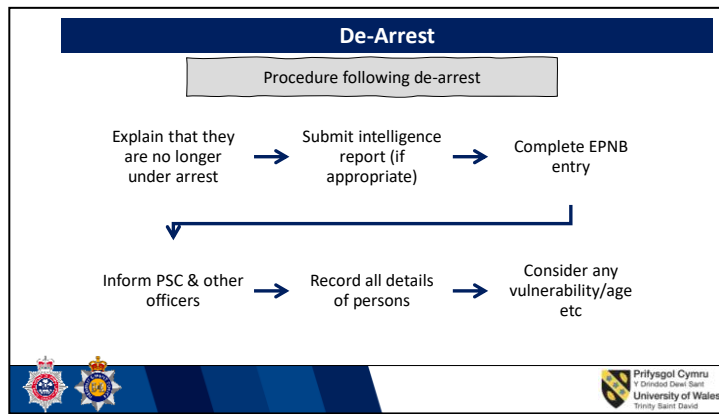
If the arrest no longer becomes necessary, the officer must de-arrest and release the suspect and consider alternative methods of prosecution.

Under PACE, this can only take place **before arrival** at a police station.

A **note** (usually in the PNB) must be made of the action taken and everything that has been said about the offence.

If the arrest reason under which the accused person is arrested no longer applies, then the person should be released and dealt with by other means

- Reported for summons,
- Issued a penalty ticket for disorder, if applicable or
- Warned regarding their future conduct.



Following de-arrest the following should be considered:

- Explain to the person that they are no longer under arrest and explain the reasons for it.
- Submit any intelligence reports that may be appropriate
- Complete a full PNB entry – accurately document the officers' actions at all times
- Inform the PSC (control room) and other officers of your actions
- Record details of the persons as they may be witnesses
- Consider any vulnerability, age etc. regarding a duty of care - should they be taken home?
- Consider if alternative action is appropriate (PND, summons or voluntary attendance)

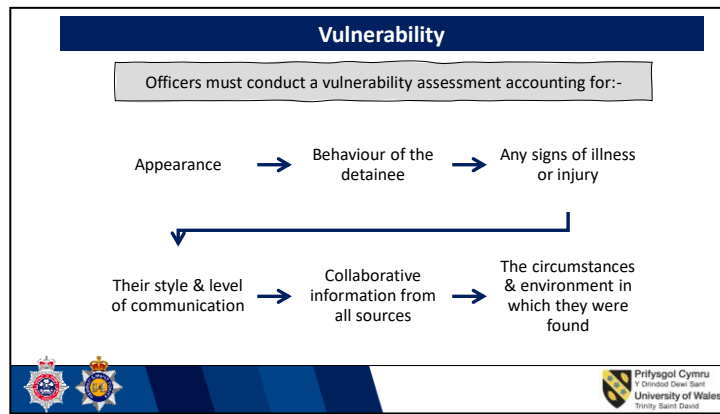
Deportation of an offender	
Statutory power of the Home Secretary (HS)	Non British citizens are liable to deportation from the UK if the HS deems their deportation to be conducive to the public good
Automatic deportation of foreign criminals under the UK Borders Act 2007. HS must make a deportation order in respect of a foreign criminal unless exemptions apply	



QTS – who authorises the deportation of an individual from the UK?

The *UK Borders Act 2007* made provision for the automatic deportation of foreign criminals. The Home Secretary **must** make a deportation order in respect of a foreign criminal unless certain exceptions apply

Examples of exemptions – under 18 at the time of conviction, a hospital or guardianship order is in place under S37 of the Mental Health Act 1983, where deportation would contravene the UK’s obligations under the Refugee and Human Rights Conventions



QTS – what signs of vulnerability should you look out for when you have arrested someone?

Vulnerability assessment should take account of the appearance and behaviour of the detainee, any signs of illness or injury, their style and level of communication, collaborative information from all sources and the circumstances and environment in which they were found.

