

ARREST PROCEDURES	
1.	<p>PURPOSE</p> <p>The aim of this policy is to ensure that the correct procedures are followed by investigators when dealing with arrestable offences.</p>
2.	<p>LINK TO ACCOUNTABILITIES</p> <p>Security Managers</p>
3.	<p>POLICY</p> <p>3.1 POWERS OF ARREST - ENGLAND AND WALES</p> <p>Powers of arrest are set out in the Police and Criminal Evidence Act 1984 Section 24.(4) & (5). Any person may arrest without warrant:-</p> <ul style="list-style-type: none"> • Anyone who is in the act of committing an arrestable offence. • Anyone whom he has reasonable grounds for suspecting to be committing such an offence. <p>Where an arrestable offence has been committed, any person may arrest without warrant:-</p> <ul style="list-style-type: none"> • Anyone who is guilty of the offence. • Anyone whom he has reasonable grounds for suspecting to be guilty of it. <p>3.2 ARRESTABLE OFFENCES (PACE Section 24 (1))</p> <p>The 'citizens' powers of arrest are applicable to Consignia Investigators and are confined to 'arrestable offences' only. Arrestable offences are defined as follows:-</p> <ul style="list-style-type: none"> • Offences for which the sentence is fixed by law e.g. life imprisonment for murder. • Offences for which a person of 21 years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years. e.g. theft, obtaining by deception, criminal damage (but not wilful delay or opening of postal packets). • Other offences detailed in PACE Section 24 (2) including taking a motor vehicle without consent, going equipped to steal, harassment, racially-aggravated harassment, having a bladed article or point in a public place, carrying an offensive weapon, and Section 1 of the Protection of Children Act 1978 (indecent photographs and pseudo photographs of children). • Conspiring, attempting, inciting, aiding, abetting, counselling or procuring any offence detailed in PACE Section 24 (2) as above. <p>3.3 ACTION ON ARREST (PACE Section 28 (1))</p> <p>To make an arrest lawful, the person arrested must be informed at the time or as soon as practicable:-</p> <ul style="list-style-type: none"> • That he is under arrest • Of the grounds for the arrest (which must be entered in the Security Manager's notebook as soon as practicably possible). <p>He should then be cautioned.</p>

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3.4	<p>REASONABLE FORCE (Criminal Law Act 1967 Section 3)</p> <p>If a suspect does not attempt to resist arrest or attempt to escape no force may be used. Such force as is reasonable in the circumstances in the prevention of crime may be used to arrest an offender or suspect, although a person may be arrested by the use of words alone. If excessive or unreasonable force is used then the person making the arrest may be prosecuted for the criminal offence of assault and/or found liable to pay damages in civil proceedings.</p>
3.5	<p>ACTION AFTER ARREST (PACE Section 30 (1))</p> <p>The arrested person must be taken to a 'designated' police station, i.e. one with a custody officer, as soon as practicable. In practice police can be called to take the suspect into custody.</p>
3.6	<p>QUESTIONING</p> <p>Once a person has been arrested, no questions can be asked of him until he has been received into police custody by the custody officer. If the person starts to say anything then a record of what he says must be made in an investigator's notebook and the person asked to sign the entry. A record should be made of any refusal to sign the entry. The investigator must sign, date and time any notebook entry.</p>
3.7	<p>DE-ARREST</p> <p>There is no facility for a suspect, once arrested by an investigator, to be de-arrested by the investigator. Once told he is under arrest there is no going back and he must be taken to a police station or the police called.</p>
3.8	<p>UNLAWFUL ARREST</p> <p>Unless an arrest is made strictly within the bounds of PACE Sections 24 and 28, the person making the arrest could face a civil action. and/or criminal proceedings for false imprisonment.</p>
3.9	<p>USES OF POWERS OF ARREST- EXAMPLES</p> <ul style="list-style-type: none"> • A suspect is known to be in possession of a stolen test letter but refuses to attend an interview. • An Investigator sees a person steal a mailbag and when challenged the person runs. • An arrestable offence has been committed and there are reasonable grounds to suspect the interviewee of having committed it. The suspect refuses to allow searches. <p>It is important that such powers of arrest are used sparingly when the investigator is clear that the circumstances make arrest lawful and there is no other reasonable way to pursue the enquiry. The arrest should be a bold action leaving the suspect with no doubt that he is not free to leave and that the police will be called.</p>
3.10	<p>LEGAL SERVICES ADVICE</p> <p>Q What is an arrest?</p> <p>A Arrest is the apprehending or restraining of a person or persons in order to be forthcoming to answer an alleged or suspected crime.</p> <p>Q When may an arrest without a warrant take place?</p> <p>A When the conditions of Sections 24 of the Police and Criminal Evidence Act 1984 are satisfied.</p>

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	<p>Section 24 is set out below:</p> <p>The power of arrest without warrant under Section 24 can be exercised as follows:</p> <ul style="list-style-type: none"> Any person (a police officer or ordinary citizen) may arrest anyone who is in the act of committing an arrestable offence or anyone whom he has reasonable grounds for suspecting to be committing an arrestable offence (s.24(4)). Where an arrestable offence has been committed, any person may arrest anyone who is guilty of the offence or anyone whom he has reasonable grounds for suspecting to be guilty of it (s.24(5)). A constable (but not a citizen) who has reasonable grounds for suspecting that an arrestable offence has been committed may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence (s.24(6)). A constable (but not a citizen) may arrest anyone who is about to commit an arrestable offence or anyone whom he has reasonable grounds for suspecting to be about to commit an arrestable offence (s.24(7)). <p>Q What is an arrestable offence?</p> <p>A Section 24 of PACE creates three categories of arrestable offence:</p> <ul style="list-style-type: none"> Any offence for which the sentence is fixed by law such as murder and treason. Any offence whether by statute or at common law which carries a maximum penalty of 5 years imprisonment or more e.g. theft, forgery, false accounting. Certain specified statutory offences including taking a motor vehicle without authority and going equipped for stealing, harassment, racially-aggravated harassment, having a bladed article or point in a public place, carrying an offensive weapon, and Section 1 of the Protection of Children Act 1978 (indecent photographs and pseudo photographs of children). An offence of attempting, conspiring etc. to commit any of the above. <p>Q What constitutes an arrest?</p> <p>A In general an arrest is constituted by physical seizure or touching of the arrested persons body with a view to his detention but there may also be an arrest by mere words i.e. by being informed that he is under arrest.</p> <p>Q When is an arrest unlawful?</p> <p>A An arrest is unlawful:</p> <ul style="list-style-type: none"> Unless at the time of the arrest or as soon as practicable after the arrest the arrested person is informed that he is under arrest and the ground of the arrest regardless of whether the fact of the arrest is obvious. If it has not been made clear to the person arrested that he has been arrested and is not free to leave, and, (even if it is obvious from the circumstances) why he has been arrested. If the power is not exercised for a proper purpose. Thus an arrest will be unlawful even

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	<p>though made on the basis of reasonable suspicion where the arrestee knows at the time of the arrest that there is no possibility of a charge being made.</p> <ul style="list-style-type: none"> • If sufficiently clear words are not used when the alleged arrest is made. • If the offence for which the person has been arrested has not been committed or not taken place. • An arrest will be invalid where the reasons given point to an offence for which no power of arrest is given and it is clear that no other reasons were present to the mind of the arresting person. • If the grounds for arrest are not reasonable. This is an objective standard. It is a lower standard than required to prove a prima facie case. Reasonable grounds may take into account matters which are not admissible in evidence. <p>Q What are the penalties for a false arrest?</p> <p>A Penalties are:</p> <ul style="list-style-type: none"> • Possible challenge to a subsequent interview under Sections 76 and 78 of PACE. • The possibility of committing the common law offence of false imprisonment which is defined as 'unlawful and intentional or reckless restraint of a victim's freedom and movement from a particular place'. • The physical element of the offence (known as the actus reus) consists of preventing a victim's freedom of movement. It can either be by detaining or simply preventing the victim from going on his way. The actus reus is also the imprisoning of the victim without lawful excuse and there seems to be no logical reason for requiring that the victim must realise this is the case. If an arrest is unlawful the actus reus of the offence will have been committed. • The required state of mind of the accused (known as the mens rea) for false imprisonment is intention or recklessness. It appears to be a subjective test. • False imprisonment is defined as the infliction of bodily restraint which is not expressly or impliedly authorised by law. Both 'false' and 'imprisonment' are somewhat misleading terms. False means erroneous or wrong, imprisonment does not require physical contact nor anything resembling a prison. It was stated as far back as 1520 that imprisonment is the restraint of a man's liberty whether it be in an open field or in the stocks or cage in the street or in a man's own home as well as in a common gaol. And in all these places the party so restrained is said to be a prisoner so long as he hath not his liberty freely to go at all times to all places whether he will. <p>Q Are there examples of what is and what is not false imprisonment?</p> <p>A The following are taken from decided cases. There is no false imprisonment where a person complies with the Police request to accompany him to a Police Station but the tort is committed if the 'request' is made in such a manner as to lead the person to believe he has no choice in the matter.</p> <ul style="list-style-type: none"> • A private person arresting on suspicion of an arrestable offence must prove not only reasonable grounds for his suspicion but also that the arrestable offence in question had been committed by <u>someone</u>.

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Q	When can I arrest a person?
A	<p>When the conditions of Section 24 are satisfied and when it is justified i.e. you could not deal with it in any other way. For example:-</p> <ul style="list-style-type: none"> • Where a person walks out of an interview and you have reasonable grounds to believe he has Consignia property on him. • Where a search of a home is refused and again do you have reasonable grounds to believe Consignia property is there and will disappear because he is free to go. • Where you have reasonable grounds for believing the Defendant will disappear. • Where you have reasonable grounds for believing the Defendant may seriously injure or kill himself.
Q	What do I do if I have to arrest someone?
A	<p>Other than comply with the matters mentioned above you need to document very carefully everything that surrounds that arrest. You need to put in your notebook the grounds you had for making the arrest, the reasons why you made the arrest and the actual words that you said to the Defendant and of course any words that he said in reply.</p> <ul style="list-style-type: none"> • You need of course to get him to a Police Station or get the Police to you as a matter of urgency. The Defendant can be shown your notebook and he can be asked to sign at least showing the things said and done were accurate. He cannot of course sign that your reasons are accurate. • If you know in advance that you are going to arrest someone because of the nature of the job i.e. working with the Police, dealing with outsiders or those who you believe are using false names it maybe worthwhile talking it through with one of the Solicitors in the Criminal Law Division before you make those arrests. In a minority of recent cases the lack of information about why the arrests were made, the grounds for suspecting those particular persons and the necessity for the arrest have caused problems in the civil action because the proceedings there are well over a year after the event.
Q	Can I unarrest/dearrest someone?
A	<p>No. Once arrested they remain arrested until freed but if you tell them they are under arrest means that their arrest and imprisonment has ended but it does not make good the original arrest.</p> <p>Remember imprisonment can take place without an arrest and if improper it is much more likely to be false.</p>
3.11	<p>INTERVIEWEE DECIDES TO LEAVE</p> <ul style="list-style-type: none"> • Unless under arrest the interviewee is fully entitled to leave an interview at any time. This also applies before the interview has commenced and after it has been concluded. At the beginning of the interview the person is told he is free to leave and no attempt should be made to stop him leaving or persuade him to stay. <p>If an interviewee states that he is leaving, or asks what will happen if he does leave, the officer must decide whether he has the power to arrest him and whether it is</p>

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	<p>desirable to do so.</p> <ul style="list-style-type: none"> • So far as the desirability of arrest is concerned, where the person is of fixed abode and no searches are outstanding there would seem no point in making an arrest. • If the suspect asks what will happen if he leaves, the investigator should tell him he is free to leave but he would prefer to continue the interview as there are further enquiries to be made. If he goes to leave and there are sufficient grounds to make an arrest and it is desirable to do so, then he should be arrested. If the investigator has decided not to arrest him, then he must be allowed to leave. <p>If however, the suspect decides to remain voluntarily, then he should be further cautioned, reminded of his rights and asked to sign form CS001 again.</p>
3.12	<p>CHARGING SUSPECTS</p> <ul style="list-style-type: none"> • Before framing charges, if possible advice should be sought by telephone from Legal Services, Criminal Law Division. Failing that one single holding charge capable of proof should be advised to the police - using Appendix 5 as a guide. • Unless the investigator signs the charge sheet, the police are under a duty to report the case to the Crown Prosecution Service, which will inevitably cause delay if the case is then subsequently transferred to Legal Services, Criminal Law Division. To avoid such delay, the investigator must sign the charge sheet and if possible write TO BE PROSECUTED BY CONSIGNIA PLC on the police copy of the charge sheet, also recording their contact telephone number. • The investigator must ensure he/she takes from the police station copies of the charge sheet, the custody record, property sheet and any bail record. These must be submitted in the case file for the benefit of the solicitor. • Legal Services should be notified immediately of the situation.
3.13	<p>BAIL</p> <ul style="list-style-type: none"> • The question of bail is the responsibility of the custody officer at the police station, however any sound reason for refusing bail or imposing conditions on bail should be brought to the attention of the police. • If the suspect is held in custody, he will normally be brought before a Magistrates Court at the earliest opportunity. It is essential that the investigator makes immediate telephone contact with the Legal Services, Criminal Law Division (never a solicitor's agent direct) to arrange Consignia representation at court. The same applies if the defendant is charged and released on bail in one of the areas participating in the "Narey Pilots" of early date of first court appearance in bail cases under the Crime and Disorder Act 1998. These provisions will be extended to the whole country in due course. Legal Services will provide further advice when this happens. • A custody officer has discretion not to charge a suspect but to bail him to return to the police station at a later date under Section 37 (7) of PACE. This allows time for further evidence to be gathered, detailed advice to be sought by submitting the file to Legal Services, Criminal Law Division and authority from a senior line manager in the business to be obtained (by telephone if necessary) before charges are laid. • As an alternative, the custody officer has discretion under Section 37(7) of PACE to release a suspect from police custody without the requirement to return to answer bail. Provided there are no difficulties with abode, identity or suicide, this course of action should be taken and any

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3.14	<p>subsequent prosecution be initiated by way of summons. The custody officer should be invited to tell the suspect that he has been released for Consignia to consider the question of prosecution. The papers should not be marked CHARGE REFUSED as this could prejudice further action.</p> <p>POWERS OF ARREST - SCOTLAND</p> <ul style="list-style-type: none"> • In Scotland there is no distinction between arrestable and non arrestable offences • In Scotland there is no equivalent to the Police and Criminal Evidence Act 1984 and the law in relation to arrests is much less clear. • Most of the Authorities dealing with the rights of arrest and detention relate to arrests by Police Officers. • Common Law does allow a private citizen to arrest without warrant in a limited number of circumstances. • If a citizen witnesses a serious crime or where he is a victim of crime and has information equivalent to personal observation he is entitled to arrest without warrant. • A serious crime is not defined but there is authority to say that a private individual has no power to arrest someone who has only committed a breach of the peace although he may intervene to prevent the occurrence of such a breach. Legal Services believes that the theft from Consignia or fraud/attempted fraud should fall within the definition of serious crimes. • A civilian will not be entitled to arrest anyone whom they suspect of committing an offence unless there is very strong evidence e.g. personal observation to support this suspicion. • After an arrest the Police should be called as soon as possible. The investigator should carefully document what he says to the suspect and should also make a careful note of the information available to him in the event that he be required to justify his actions. The investigator must also make the suspect aware as soon as possible of the reason for his actions. • If a suspect, who has been confronted by investigators, attempts to leave and is in the process of committing an offence or has in his possession stolen property then the investigator should formally ask him to remain whilst Police are called. If he refuses to do so he should then be formally told that they intend to detain him until Police arrive on the basis that they have information that he is in the process of committing a crime which they should specify; or he had just committed a crime which again they should specify and, if appropriate, that he is in possession of stolen property. • Where someone has admitted criminal offences to an investigator, the investigator will not be justified in arresting such a person unless there is a risk he will abscond or dispose of evidence. • Where an arrest without a warrant is challenged the question of whether the arrest is wrongful normally depends on whether it was reasonable for the arrester to believe that it was justified. The arrestee's subsequent acquittal is not in itself conclusive that the arrest was wrongful. If, however, a suspect is detained by investigators and it subsequently turns out that the wrong person has been detained or that no offence has been committed, then that person will have the right to raise a civil action for damages for wrongful detention/arrest. The investigator would be entitled to defend the action on the grounds that he had reasonable grounds for detaining/arresting that person and the question of whether or not that defence will succeed will depend on the whole circumstances of the apprehension, including the seriousness of the crime and the information which is available to the investigator. The investigator should only

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3.15	apprehend a suspect where there is strong evidence that they have committed a crime and there is no alternative to prevent the suspect absconding or disposing of the evidence. If a private citizen uses force to apprehend someone without having reasonable grounds to do so then it is also possible that he could lay himself open to a charge of assault.					
	The few Scottish cases dealing with citizens arrest do not encourage arrest by individuals other than Police Officers or other persons who have statutory right of arrest.					
	POWERS OF ARREST - NORTHERN IRELAND					
4.	The section of this chapter dealing with arrests in England and Wales holds good for Northern Ireland.					
	The equivalent of Section 2.4 of the Police and Criminal Evidence Act 1984 is Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989.					
	The arrestable offences are the same in Northern Ireland as in England and Wales.					
Links to other reference material (policies, processes and procedures, etc.)						
4.1	Title	Author	Located	Version	Type	Policy No.
4.2	PACE		Library	1984	Act	3.1 to 3.15
4.3	Crime & Disorder		HMSO	1998	Act	3.13
4.4	Protection of Children		HMSO	1978	Act	3.10
4.4	Criminal Law (Sec 3)		HMSO	1967	Act	3.4
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