

Chapter 7: KNOWING THE LAW

In this chapter there is information about:

- *The police*
- *Crime and the law*
- *Criminal courts*
- *Human rights*
- *Marriage and divorce*
- *Children and young people*
- *Consumer protection*

The rights and duties of a citizen

The law

Every person in the UK has the right to equal treatment under the law. The law applies in the same way to everyone – regardless of who they are or where they are from.

The law can be divided into criminal and civil law. Criminal law relates to crimes, which are usually investigated by the police or some other authority and are punished by the courts. Civil law is used to settle disputes between individuals or groups.

In the UK it is a criminal offence to carry a weapon such as a gun or knife or anything that is made or adapted to cause injury to someone, even if it is for self-defence.

Reporting a crime

In an emergency, or if you are the victim of a crime or you see a crime taking place, dial 999 or 112. The operator will ask you which service you need – police, fire, ambulance or, by the coast, the coastguard. Then you need to explain why the police are needed and where they need to go.

If the situation is NOT an emergency, you can either go to your local police station or telephone them. You can find the telephone number under 'Police' in the phone book. Some 'minor' crimes can be reported online. See www.online.police.uk for details.

Racially and religiously motivated crime

In the UK it is a criminal offence to use abusive or insulting words in public because of someone's religion or ethnic origin. Anyone who causes harassment, alarm or distress to other people because of their religion or ethnic origin can be prosecuted and given strong penalties by the courts. If you are the victim of religious or racially motivated crime, it is important to report this to the police and they have a duty to take action. You can ask for an interview at the police station, at your home or somewhere else.

You can get further information and advice from the Race Equality Council or from your local Citizens Advice Bureau.

Police duties

The job of the police in the UK is to:

- protect life and property
- prevent disturbances (known as keeping the peace)
- prevent and detect crime

The police force is a public service and should help and protect everyone. You should not be afraid of reporting a crime or asking the police for help. Police officers must obey the law and they must not misuse their authority, make a false statement, be rude, abusive or commit racial discrimination. The very small numbers of police officers who are corrupt or misuse their authority are severely punished.

Complaints

Anyone can make an official complaint against the police. To make a complaint, you can go to a police station or write to either the Chief Constable for that police force or the Independent Police Complaints Commission (in Northern Ireland, the Police Ombudsman). If it is a serious matter, it is a good idea to speak to a solicitor or to the Citizens Advice Bureau first.

If the police ever stop you

All good citizens are expected to help the police prevent and detect crimes whenever they can. The police can stop any member of the public on foot in connection with a crime that has been committed or is about to take place. They can stop people in a vehicle at any time.

If you are stopped by the police you should give the officer your name and address. You do not need to answer any more questions, although usually people do. You can ask for the

name of the officer who stopped and questioned you, the police station where he or she is based and the reason why you have been stopped.

The police can ask you to go to a police station to answer more questions and you can choose whether to go. If you go to a police station voluntarily, you are entitled to leave when you want to. If you are obstructive, rude or decide to mislead the police, you risk being arrested.

Search

The police can stop and search anyone they think might be involved in a crime. This includes offences such as theft, burglary or possession of illegal drugs or things to be used for committing criminal damage. They can also search the vehicle of the person they stop.

Police officers do not have the power to enter and search any building they choose, but they can enter a building if they have a warrant (that is special permission from a magistrate, in Scotland a Sheriff), or to arrest someone, to save a life or to prevent serious disturbance or damage. You can ask for the name of the officer who has stopped you, the police station where he or she is based and the reason for their search.

Arrest

If you are arrested and taken to a police station, a police officer will tell you the reason for your arrest.

If you have difficulty in understanding English, the police should provide an interpreter unless they think a delay in finding an interpreter might result in serious harm to a person or property.

The police should normally only interview a young person under the age of 17 if their parent or an 'appropriate adult' is present. This could be a social worker, an adult friend or a teacher.

Information and advice

If you are arrested or detained at a police station, you are given written details of three important legal rights:

1. the right to see a solicitor
2. the right to send a message to a friend or a member of your family, telling them where you are

3. the right to look at the codes of practice – guidelines that the police should follow when searching for and collecting evidence

This written note also includes the official police caution given to all suspects:

You do not have to say anything.

But it may harm your defence if you do not mention, when questioned, something which you later rely on in court.

Anything you do say may be given in evidence.

This caution means that the police cannot force a person to answer questions. But if a suspect does not answer questions at the police station, or in court, this can be used as evidence against him or her. The caution also states that anything a person does say to a police officer can also be used as evidence in court.

The duty solicitor

Anyone who has been arrested or goes to a police station voluntarily is entitled to legal advice in private. This can be with a solicitor of their choice or the duty solicitor. Duty solicitors work for local firms that specialise in criminal law and offer a free consultation. Usually the advice is given in person but sometimes it may be given over the telephone.

If you have been arrested, or are being questioned about a serious offence, or you feel unsure about your legal position, you have the right not to answer questions (except to give your name and address) until you have spoken to a solicitor.

There are some differences between the court system in England and Wales and the system in Scotland and Northern Ireland.

Magistrates' and district courts

In England, Wales and Northern Ireland most minor criminal cases are dealt with in a magistrates' court. In Scotland, minor criminal offences go to a district court.

Criminal courts

Magistrates, also known as Justices of the Peace, hear less serious cases in magistrates' and district

courts. They are members of the local community. In England and Wales they usually work unpaid and have no legal qualifications, although they do receive training. In Northern Ireland, cases are only heard by paid magistrates.

Crown courts and sheriff courts

In England, Wales and Northern Ireland, serious offences are tried in front of a judge and a jury in a Crown court. In Scotland, serious cases are heard in a sheriff court with either a sheriff or a sheriff with a jury. A jury is made up of members of the public chosen at random from the local electoral register (see Chapter 4). In England, Wales and Northern Ireland a jury has 12 members, and in Scotland a jury has 15 members. Everyone who is summoned to do jury service must do it unless they are not eligible, for example if they work in law enforcement, or they provide a good reason to be excused, such as ill health. The jury decides on the verdict, that is whether the defendant is innocent or guilty, and if the verdict is guilty the judge decides on the penalty.

Youth court

If an accused person is 17 years old or younger, their case is normally heard in a youth court in front of up to three specially trained magistrates or a district judge. The most serious cases will go to a Crown court. The parents of the young person are expected to attend the hearing. Members of the public are not allowed in youth courts and neither the name nor the photograph of the young person can be published in newspapers or used by the media. In Scotland there is a unique system called the Children's Hearings System, and Northern Ireland now has a system based on 'youth conferencing'.

Civil courts

County courts

Most towns and cities have a county court to deal with a wide range of civil disputes. These include people trying to get back money that is owed to them, cases involving personal injury, family matters, breaches of contract and divorce. In Scotland, all of these matters are dealt with in the sheriff court.

The small claims procedure

The small claims procedure is an informal way of helping people to settle minor disputes without spending a lot of time and money using a solicitor. This procedure is usually used for claims of less than £5,000. The hearing is held in an ordinary room with a judge and

people from both sides of the dispute sitting around a table. You can get details about the small claims procedure from your local county court (in Scotland local sheriff court), which is listed under Courts in the phone book.

Legal advice and aid

Solicitors

Solicitors are trained lawyers who give advice on legal matters, take action for their clients and represent their clients in court. There are solicitors' offices throughout the UK. It is important to find out which aspects of law a solicitor specialises in and to check that they have the right experience to help you with your case. Many advertise in local papers and the Yellow Pages, and the Citizens Advice Bureau can give you names of local solicitors and which areas of law they specialise in. You can also get this information from the Law Society (telephone: 020 7242 1222, www.solicitors-online.com) and the Community Legal Service (telephone: 0845 345 4345, www.clsdirect.org.uk).

Costs

Solicitors' charges are usually based on how much time they spend on a case. It is very important to find out at the start how much a case is likely to cost and whether you are eligible for legal aid.

Financial help or legal aid

Anyone who is questioned or charged in connection with a crime is entitled to free advice from a duty solicitor (see above) and free representation by a solicitor for their first appearance in court. It may also be possible to get help with costs for any further appearances in court, although this depends on the type of case and the income and savings of the client. A solicitor can give information and advice on this.

Solicitors can also give information on schemes to cover the cost of a solicitor's help, but not all types of case are covered by these schemes and the help available also depends on the income and savings of the client. Sometimes the costs are paid by the client on a 'no win, no fee' basis. In no win, no fee cases, the solicitor only charges the client if they win the case. It is important to check all the possible costs before agreeing to a solicitor to taking a case as no win, no fee, as there are often hidden costs such as paying the costs of the other side.

Law Centres

Most large cities have one or more Law Centres staffed by qualified lawyers. They can give legal advice and possibly take on a case. To find the address of your nearest centre, you can telephone the Law Centres Federation on 020 7387 8570 or visit: www.lawcentres.org.uk

Other advice and information

There is a Citizens Advice Bureau in most towns and cities. They give free and confidential advice on many different types of legal problems. Their website also gives a wide range of information in English, Welsh, Bengali, Chinese, Gujarati, Punjabi and Urdu:

www.adviceguide.org.uk

Just ask!

www.clsdirect.org.uk is the website of the Community Legal Service and it gives information on a wide range of legal questions in seven languages. It can also give you details of local solicitors and places to go for advice in your area.

For teenagers

The Young Citizen's Passport is a practical guide to everyday law written especially for the needs of young people aged 14 to 19. It is produced by the Citizenship Foundation and there are three different editions: England and Wales, Scotland and Northern Ireland. You can order a copy through a local bookshop or telephone the publishers, Hodder Murray, on 020 7837 6372.

Victims of crime

Anyone who is the victim of a violent crime can apply to the Criminal Injuries Compensation Authority for compensation for their injuries. The crime has to be reported to the police as quickly as possible and the application for compensation must be made within two years of the crime. You can find more information on the Criminal Injuries Compensation Authority website: www.cica.gov.uk

Victims of crime can also get free help and guidance from Victim Support. You can find their telephone number in the local phone book, ring their national helpline on 845 30 30 900 or go to their website: www.victimsupport.com

Check that you understand:

- How the police force is organised and the responsibilities of the police

- How to report a crime
- Your rights if you are stopped and searched or arrested
- How to make a complaint about the police and get support if you are the victim of a crime
- That it is illegal to carry a weapon
- The different types of criminal and civil courts
- How to get legal advice and legal aid

Human rights

The Human Rights Act

All UK courts must follow the principles of the European Convention on Human Rights. These rights are set out in British law in the Human Rights Act 1998 and apply to everyone in the UK. Public bodies such as the police, schools and hospitals have to work in a way that follows the Human Rights Act.

There is more general information on the Human Rights Act on the Department of Constitutional Affairs website: www.dca.gov.uk/peoples-rights/human-rights/index.htm

In Northern Ireland there is a Human Rights Commission, which is considering whether Northern Ireland needs its own additional human rights law. It also works with its counterpart in the Republic of Ireland with the aim of achieving common standards in both parts of the island.

Equal opportunities

For more than 30 years the law in the UK has been developed to try and make sure that people are not treated unfairly in all areas of life and work because of their sex, race, disability, sexuality or religion. In 2006 unfair age discrimination at work also became unlawful.

If you face problems with discrimination, you can get more information from the Citizens Advice Bureau or from one of the following organisations:

The Commission for Racial Equality – www.cre.gov.uk

The Equal Opportunities Commission – www.eoc.org.uk

The Disability Rights Commission – www.drc.org.uk

(These three organisations will be brought together in the Commission for Equality and Human Rights from October 2007).

The Human Rights Act lists 16 basic rights (the 'Convention Rights'):

- **The right to life** – Everyone has the right for their life to be protected by the law. The state can only take someone's life in very limited circumstances, such as when a police officer acts justifiably in self-defence
- **Prohibition of torture** – No one should be tortured or punished or treated in an inhuman or degrading way
- **Prohibition of slavery and forced labour** – No one should be held in slavery or forced to work
- **The right to liberty and security** – Everyone has the right not to be detained or have their liberty taken away, unless it is within the law and the correct legal procedures are followed
- **The right to a fair trial** – Everyone has the right to a fair trial and a public hearing within a reasonable period of time. Everyone charged with a criminal offence is presumed innocent until proved guilty
- **No punishment without law** – No one should be found guilty of an offence that was not a crime at the time it was committed
- **Right to respect a person's private and family life** – Everyone has the right for their private and family life, their home and their correspondence to be respected. There should not be any interference with this unless there are very good reasons, such as state security, public safety or the prevention of a crime
- **Freedom of thought, conscience and religion** – Everyone is free to hold whatever views and beliefs they wish. Again, this right is only limited for reasons such as public safety, the protection of public order and the protection of the freedom and rights of others
- **Freedom of expression** – Everyone has the freedom to express their views. This may, however, be limited for reasons of public safety or to protect the rights of others
- **Freedom of assembly and association** – Everyone has the right to get together with other people in a peaceful way. This again may be limited for reasons of public safety or to protect the rights of others
- **Right to marry** – Men and women have the right to marry and start a family, but national law may put restrictions on when this may take place and with whom
- **Prohibition of discrimination** – Everyone is entitled to the rights and freedoms set out in the European Convention on Human Rights. This is regardless of their race, sex, language, religion, political opinion, national or social origin or for any other reason

- **Protection of property** – No one should be deprived of their possessions except in the public interest, such as when the state raises taxes or confiscates goods that are unlawful or dangerous
- **The right to education** – No one should be denied the right to education
- **The right to free elections** – Elections for government must be free, fair and take place at reasonable intervals with a secret ballot
- **Prohibition of the death penalty** – No one can be condemned to death or executed

The Equality Commission for Northern Ireland – www.equalityni.org

For further information on discrimination at work, see chapter 6.

Military service

In the UK there has been no compulsory military service since 1960.

Marriage

In order to marry, each partner must be 16 years old or older, and unmarried. Anyone who is 16 or 17 and wants to get married needs written permission from their parents. Close blood relatives are not allowed to marry each other although cousins are allowed to marry. No one can be forced to get married regardless of how strong the wishes of their family may be. Couples who have agreed to marry usually announce their engagement. In the past an engagement was seen as a legal contract but these days it is not.

A marriage ceremony can take place in a registry office, a registered place of worship or in premises that have been approved by a local authority. You can get a list of these from your local authority.

In order for a marriage ceremony to take place, couples need to get certificates from the registrar of marriages in the district(s) where they live. In order to get a certificate, the partners need to show their birth certificates or, if these are not available, their personal identity documents. If either of the partners has been married before, they need to show proof that this marriage has ended. Certificates can be collected between 21 days and 3 months before the date of the wedding.

The procedure for marriages in the Church of England is slightly different. The traditional method used by most couples is the publication of banns, which takes the same time as the civil method of getting married by certificate. The banns are published by being read aloud during the service on each of the three Sundays before the ceremony. You do not have to be a member of the church to be married there but it is usual for the couple to attend the church on at least one of the three occasions when the banns are read. You can get more

details from either a religious minister who is authorised to conduct marriages or the local registrar of marriages – see Registration of births, marriages and deaths in the phone book.

In the UK, many women take their husband's surname when they get married. But there is no legal duty to do this and some women prefer to keep their own surname.

Living together

These days, many couples in the UK live together without getting married or live together before they get married. Couples who live together without being married do not have the same legal rights as couples who are married and may face some problems if their relationship breaks up. For example, if only one partner's name is on a tenancy agreement or title deeds to a property, the other partner may have difficulty staying in a property or claiming a share in its value.

If a married person dies without making a will, their husband or wife is entitled to all or most of their possessions. But if a couple are not married and there is no will, it can be very difficult for the surviving partner to claim any of their partner's possessions.

If an unmarried couple have a child, both parents have a duty to support that child until he or she is 18 years old.

Same-sex partnerships

Couples of the same sex can now legally register their relationship and mark this with a civil ceremony known as a civil partnership. When they do this they have similar legal rights to those of married couples.

Divorce

A divorce cannot take place during the first year of marriage. In order for a man or a woman to apply for a divorce they must prove to a court that their marriage has 'irretrievably broken down'. In order to do this, he or she must prove one of the following things has happened:

- their partner has committed adultery
- their partner has behaved unreasonably. This can cover many things such as domestic violence, assault, or refusing to have children
- they have lived apart for two years and both want a divorce
- they have lived apart for five years and only one partner wants a divorce
- one partner has deserted the other for at least two years before the application for divorce

Help and advice

The breakdown of a marriage can be a very difficult time for everyone involved. Family doctors can sometimes help by arranging an appointment with a family therapist. There is also a voluntary and independent organisation called Relate, which operates in England and Wales. You can find their contact details in the phone book under Relate or at www.relate.org.uk

If you are facing divorce, or if your partner has left you, it is very important to get advice about your legal position from a solicitor, particularly if you have young children or if there is disagreement over money or property.

Domestic violence

In the UK, brutality and violence in the home is a serious crime. Anyone who is violent towards their partner – whether they are a man or a woman, married or living together – can be prosecuted. Any man who forces a woman to have sex, including a woman's husband, can be charged with rape.

It is important for any woman in this situation to get help as soon as possible. A solicitor or the Citizens Advice Bureau can explain the available options. In some areas there are safe places for women to go and stay in called refuges or shelters. There are emergency telephone numbers in the Helpline section at the front of the Yellow Pages including, for women, the number of the nearest Women's Centre. The police can also help women find a safe place to stay.

Children

Parent's responsibilities

The law says that parents of a child who are married to one another have equal responsibility for their child. This continues even if the parents separate or divorce. But when a child's parents are not married, only the mother has parental responsibility unless:

- the father jointly registers the child's birth with the mother
- the father subsequently marries the mother
- the father obtains the mother's agreement for equal parental responsibility
- the father acquires parental responsibility by applying to court

Parental responsibility continues until a child is 18 years old.

Support

Both parents, whether they are married to each other or not, have a legal responsibility to maintain their children financially. A father who does not have parental responsibility in law still has a duty to support his children financially.

Control

Parents are responsible for the care and control of their children until they are 18. By law, they can use reasonable force to discipline them, but if this punishment is too severe, they can be prosecuted for assault or the child may be taken into the care of the local authority.

Many voluntary organisations and local authorities offer parenting courses, support and advice on being a parent. Parentline Plus is a national charity that works for, and with, parents. They offer a free 24-hour, 7 days a week telephone: helpline service for parents – telephone 0808 800202, or: www.parentlineplus.org.uk You can also get information on parenting on the BBC website: www.bbc.co.uk/parenting

Child protection

Every local authority has a legal duty to protect all children in its area from danger, and must place the safety and interest of the child above all else. If it believes that a child is suffering significant harm at home, it must take action to try and stop this happening. Where possible, local authorities try to work with parents, but they have the power to take a child from its home and into care. This is only done in an emergency or when all other possibilities have failed.

ChildLine is a free and confidential helpline for children and young people in the UK to talk about any problem with a counsellor – telephone: 0800 1111, or: www.childline.org.uk In the UK, there are laws about employment and children (see Chapter 6).

Medical advice and treatment for children and young people

From the age of 16, young people do not need their parents' permission for medical consultation or treatment as long as the doctor or nurse believes that the young person fully understands what is involved. If a young person under the age of 16 asks for contraceptive advice and treatment, the doctor will encourage them to discuss this with a parent or carer. But most doctors will prescribe contraception for a young person if they believe they are able to understand what is involved.

Leaving a child on their own

As a general rule, it is against the law for children to be left alone in the home unless they are in the care of a responsible person aged 16 or over.

Childminders and nurseries must be registered and inspected by the Office for Standards in Education (Ofsted). You can get details of registered childminders in your area from your local authority, Children's Information Service (CIS). ChildcareLink on 08000 96 02 96 or www.childcarelink.gov.uk can give you the telephone number of you local CIS. You can also contact the National Childminding Association (NCMA) on 0800 169 4486 or www.ncma.org.uk

Check that you understand:

- What the Human Rights Act is
- What equal opportunities means and how to get more information about it
- The laws about marriage, divorce and domestic violence
- The laws about parental responsibility for children
- How to get support about parenting
- Children's rights and support for children and young people

Consumer protection

By law, when you buy something from a shop, it should do everything you can reasonably expect and all that the seller and manufacturer claim. The Sale of Goods Act 1979 states that the goods you buy from a shop or trader must:

- be of satisfactory quality, and
- match the description, and
- be fit for all their intended purposes.

Satisfactory quality

'Being of satisfactory quality' means the goods must be free from faults, scratches or damage – unless the sales assistant told you about the fault or you had a chance to look carefully at the item before you bought it and had the opportunity to find the fault.

This rule applies to any goods you buy from a shop or trader – new or second-hand. But it does not apply to goods bought privately from an individual, for example through a newspaper or shop window advertisement. In these cases, the buyer is expected to take responsibility for the quality of the goods they buy.

Match the description

'Matching the description' means that the goods you buy must be the same as the description on the packaging or advertisement at the time of sale. This rule applies to all goods sold, including second-hand goods sold privately.

Fit for all their intended purposes

'Being fit for all their intended purposes' means that the goods must do what the seller, packaging or advertiser claims.

Taking care with your purchases

Sometimes there are problems with goods bought from shops, by mail order or on the internet and so it is a good idea to take the following steps:

- Be cautious of advertisements that make exaggerated claims, and of people who try to sell you things at your door
- Keep receipts as proof of purchase, particularly if the goods were expensive
- If there is a problem with something you bought, stop using it straight away and tell the shop or trader about the problem
- If you have to make a complaint to a shop or company, keep a record of telephone calls and make a copy of any letters or emails that you send.

Prices are usually clearly marked on most new goods and these are the prices that customers expect to pay. In general, people in the UK do not barter or negotiate prices for goods. But some bargaining may take place when buying houses, second-hand goods such as cars, or some household services such as decorating or gardening.

Services

The law covering services – such as hairdressing or shoe repairs – states that services must be done:

- with reasonable care and skill
- within a reasonable time
- for a reasonable charge.

To avoid problems it is a good idea to agree the price before the work starts.

Mail order and internet shopping

There are special regulations to protect people who buy goods from home, by post, phone or on the internet. As well as the rights listed above, you are entitled to cancel your order

within 7 working days if you decide that you do not want to buy the item. But this does not apply to all purchases. For example, you cannot change your mind for tickets or accommodation bookings, audio and video recordings that have been opened, newspapers and magazines, and perishable items such as flowers or food. You are also entitled to a full refund if you do not receive the goods by the date agreed or within 30 days, if you did not agree a date.

If you are buying goods on the internet, it is important to make sure that you have the trader's full address. You also need to make sure that the website offers a secure way of paying – this is shown by a small picture of a yellow padlock at the bottom of the screen.

Complaints

If a fault appears soon after you have bought an item and you are not responsible, you are entitled either to your money back or to a replacement. It is the shop's responsibility to deal with the problem.

If an item worked well at first and then developed a fault, you may still be entitled to all or some of your money back, to be offered a replacement or to have the item repaired free of charge. The action taken will depend on how long you have had the goods, how serious the fault is and whether it is unreasonable for a fault to develop so soon.

Paying by credit card

If you have used a credit card to buy something which cost between £100 and £30,000 and there is a problem with it, you can claim the money back from the credit card company. This can be useful if the trader does not help to solve the problem or has gone out of business.

Help and advice

You can get advice locally from the Trading Standards Office, listed in the phone book under the local authority, or from the Citizens Advice Bureau.

You can check the prices and performance of many products in *Which?* an independent magazine. You can subscribe to the magazine or read it in the reference department of most public libraries.

There is more information about consumer rights from the BBC website: www.bbc.co.uk
You can also get information from the government's official department which protects consumers – the Office of Fair Trading, www.oft.gov.uk

Check that you understand:

- Consumer rights for items bought in shops and by mail order,
- Consumer rights for services
- How to make complaints and get help and advice