

Bail not authorised to give bail on

[Sociology](#), [Human Rights](#)



Bail is the freedom from custody granted to a defendant whilst awaiting the next stage in the legal procedure. Defendants are able to be granted bail due to the presumption that everyone is innocent until proven guilty, as stated in Section 4 of the Bail Act 1976. Under Article 5 of the European Convention of Human Rights, everyone has the right to liberty, and as stated in Section 4 of the Bail Act 1976, everybody has a statutory right to bail.

Bail can be granted by either the police or by the courts. There is no right to police bail, but the police can release a defendant on bail before charging them, i. e.

‘pre-charge bail’. The suspect will be released from police custody on the condition that they return to the police station on a certain date. This is stated in Section 37 Police and Criminal Evidence Act 1984 (aka P. A. C.

E.) In a police station, the decision is made by the Custody Officer, who must be at least a Police Sergeant. This is outlined in Section 38 of the P. A.

C. E. Act 1984.

If bail is granted, then the suspect is released from custody until the next date they attend the police station/court. The police are not authorised to give bail on a charge of murder, as is stated in Section 114 Coroners & Justice Act 2009 – Section 115 of the same act states that only the Crown Court can do this. There are two main types of bail: conditional and unconditional. Under the Criminal Justice and Public Order Act 1994, the police and the court can attach conditions to the bail, which is known as conditional bail. Conditional bail is where conditions and requirements are

imposed upon the defendant to ensure that he attends court and that he does not commit offences or interfere with witnesses whilst on bail. Any requirement that is deemed necessary and appropriate can be attached as a bail condition, but the most common are as follows: surrendering of passport; reporting to police station; curfews; residence restrictions; electronic tagging; sureties or bail hostels.

The defendant's passport may be surrendered if he has connections in other countries, or if his crime had an international element. Not having a passport will prevent the defendant from absconding abroad and continuing the crime internationally. The defendant may be required to report to the police station every day. This allows the police to "keep an eye" on them and to ensure that the suspect doesn't abscond. In order to make conditions easier to enforce, the suspect may be electronically tagged. They will have an electric tag around their ankle which tracks their location and is not able to be taken off by the suspect. This device makes it easier to track the suspect and so helps with: checking that the defendant is at home during their curfew hours; tracking their location and ensuring that they are not breaching any restraining conditions, such as staying away from a witness or victim's house; and they also help the police find the defendant if they should abscond. Curfews may be imposed on a defendant to prevent the repeating of crimes such as drunk and disorderly or anti-social behaviour.

The usual curfew conditions are that the suspect must be at home between 7pm and 7am. This prevents the defendant hanging around in gangs in the dark, or drinking alcohol outside of the home late into the night.

Another condition that may be attached to bail is that the defendant stay at a bail hostel. This is not limited to homeless people, but can be very helpful because homeless people do not have an address. They may be made to reside in a bail hostel so that they can be found and contacted at a later date. This condition can only be issued by the Courts.

Section 4 of the Criminal Justice Act 2003 has introduced 'Street Bail' which allows the police to grant bail on the street at their own discretion. It is used for very minor offences and is helpful in that the police officers are able to stay on the streets as opposed to having to take the suspect back to the police station. This statute means that the police are able to maintain more of a presence on the street. Conditions are imposed to ensure that the defendant surrenders to custody. They also strive to ensure that the defendant will not commit further offences and that they do not interfere with witnesses or obstruct the course of justice.

Unconditional bail is when the suspect is released without any conditions attached to their bail. Under the Legal Aid, Sentencing and Punishment of Offenders Act 2012, suspects must be granted bail if there is no realistic prospect of them receiving a custodial sentence. If the police or the courts decide that the suspect is unlikely to commit any further offences while on bail, they will return to court and that they will not obstruct the course of justice; then they will be granted unconditional bail. Unconditional bail is usually granted for minor offences whereas more serious crimes will warrant the use of conditional bail. However, in both conditional and unconditional bail, under Section 6 of the Bail Act 1976, the police have the right to arrest

them if they do not surrender to police custody. Another possible outcome may be that the defendant is remanded in custody. This is essentially the refusal of bail but a suspect may also be remanded in custody for their own protection. If, after having been released on bail, the suspect refuses to surrender to police custody on a specified date, then the police have the right to arrest them under Section 6 of Bail Act 1976.

Bail may be refused for many reasons, such as not being able to discern the suspect's name and address. This may be the case if the suspect can't speak English, is intoxicated, or is homeless and so does not have an address. Bail will also be refused if the police doubt that the details provided are genuine. When the court is deciding whether to grant bail, they will also consider whether the suspect will fail to surrender to police custody, i. e. abscond. They will refuse bail if there are substantial grounds to believe that the defendant will commit an offence whilst on bail, or if the defendant will interfere with witnesses or otherwise obstruct the course of justice. If the suspect would be in danger, or would pose a threat to the public, they will not be granted bail.

Under Schedule 1, paragraph 9 of The Bail Act 1976, the police and the courts must take the following into consideration when deciding whether to grant bail: nature and seriousness of the offence – if the crime is very minor, then the defendant is unlikely to be prosecuted and so must be granted bail. The defendant's character, antecedents, associations and community ties also must be considered because these factors can be helpful in predicting the defendant's behaviour whilst released on bail. If it exists, the defendant's

previous bail record must be considered because it will indicate how the defendant has behaved when granted bail in the past.

Moreover, the strength of the evidence must be considered because the defendant must be released on bail if they are not likely to receive a custodial sentence as ruled in the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Custody Officer or the courts will also consider any other relevant factor that may affect their decision in whether to grant bail.

Some useful techniques to ensure a defendant's attendance in court are sureties and securities. They are used for serious offences and are financial assurances paid to the court by a third party – usually a member of the defendant's family.

Securities are when the third party pays money into court to allow the defendant to be allowed out on bail. Sureties are payments promised to the court and are only paid to the court if the defendant absconds. In conclusion, the decision to grant bail can either be made by the Custody Officer at the police station, or in the courts. They will need to consider any factors that will predict the defendant's behaviour whilst released. In order to ensure that a defendant surrenders to custody and does not commit further offences, they may impose conditions upon the suspect. If the defendant should not be released either for their own safety or because they are not satisfied that they will not surrender to custody or will commit further offences, then they will be remanded in custody.