



andrew warren associates

SOLICITORS & BARRISTERS

MORTGAGES & FINANCE

Bail

Bail is an agreement to attend Court to answer a criminal charge. It can be granted at any stage of criminal proceedings. Often when bail is granted, a number of conditions are applied to the bail undertaking. A well known condition is requiring the deposit of a sum of money with the Court and agreeing to forfeit that money if bail is breached. If you have agreed to do this on someone's behalf then you have become what is known as a "surety". A surety is a person who guarantees that the defendant will attend their Court hearing. If the defendant fails to appear, the money may be forfeited to the Court.

To be accepted as a surety, the Magistrate in Court or the Justice of the Peace who the bail undertaking is signed in front of must determine that you are of suitable character. This may involve a criminal record check being conducted on you.

You will also need to prove your identity and residential address and you will be asked to provide details of how long you have known the defendant and to describe your relationship with them.

Furthermore, you will have to show that you have savings and possessions that are worth more than the security that is required by the bail undertaking and you must be wholly responsible for the funding of the security. This means that no-one else can lend you the money to pay for the security and this includes the defendant.

Becoming a surety for a defendant is an onerous task, as you are agreeing to ensure that a defendant turns up at Court for their hearing and if they do not then you will lose the security that you have lodged under the bail undertaking.

Before agreeing to act as a surety for someone you should carefully consider the likelihood of the defendant turning up to Court for the hearing. If you believe that the defendant is likely to breach the bail undertaking and not turn up at court then it would be wise for you to decide not to become a surety. If you are not sure about becoming a surety you should make an appointment to come in and see me and we can go through your options.