Police and Criminal Evidence Act 1984

1984 CHAPTER 60

PART IV

DETENTION

Detention—conditions and duration

39 Responsibilities in relation to persons detained.

(1) Subject to subsections (2) and (4) below, it shall be the duty of the custody officer at a police station to ensure—

(a) that all persons in police detention at that station are treated in accordance with this Act and any code of practice issued under it and relating to the treatment of persons in police detention; and

(b) that all matters relating to such persons which are required by this Act or by such codes of practice to be recorded are recorded in the custody records relating to such persons.

(2) If the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention—

(a) to the custody of **[**[F1]another police officer at the police station where the person is in police detention, for the purpose of an interview that is part of the investigation of an offence for which the person is in police detention or otherwise in connection with the investigation of such an offence**]**; or

(b) to the custody of an officer who has charge of that person outside the police station,

the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1)(a) above; and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1) above.

(3) If the person detained is subsequently returned to the custody officer, it shall be the duty of the officer investigating the offence to report to the custody officer as to the

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manner in which this section and the codes of practice have been complied with while that person was in his custody.

[[F2](3A) Subsections (3B) and (3C) apply if the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention to an officer mentioned in subsection (2)(a) for the purpose of an interview that is to be conducted to any extent by means of a live link by another police officer who is investigating the offence but is not at the police station where the person in police detention is held at the time of the interview.

(3B) The officer who is not at the police station has the same duty as the officer mentioned in subsection (2)(a) to ensure that the person is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1).

(3C) If the person detained is subsequently returned to the custody of the custody officer, the officer who is not at the police station also has the same duty under subsection (3) as the officer mentioned in subsection (2)(a).

(3D) For the purpose of subsection (3C), subsection (3) applies as if the reference to "in his custody" were a reference to "being interviewed".

(3E) In subsection (3A), "live link" means an arrangement by which the officer who is not at the police station is able to see and hear, and to be seen and heard by, the person in police detention, any legal representative of that person and the officer who has custody of that person at the police station (and for this purpose any impairment of eyesight or hearing is to be disregarded).**]**

(4) If an arrested juvenile is **[**[F3]moved to local authority accommodation**]** under section 38(6) above, the custody officer shall cease in relation to that person to be subject to the duty imposed on him by subsection (1) above.

[F4](5) . . . . . .

(6) Where—

(a) an officer of higher rank than the custody officer [F5]. . . gives directions relating to a person in police detention; and

(b) the directions are at variance—

(i) with any decision made or action taken by the custody officer in the performance of a duty imposed on him under this Part of this Act; or

(ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the custody officer shall refer the matter at once to an officer of the rank of superintendent or above who is responsible for the police station for which the custody officer is acting as custody officer.

(7) [F6]. . . . . .

Textual Amendments

F1 Words in s. 39(2)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 75(2)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 24

F2 S. 39(3A)-(3E) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 75(3)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 24

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F3 Words in s. 39(4) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), **Sch. 13**, para. 54; S.I. 1991/828, **art. 3(2)**

F4 S. 39(5) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15**; S.I. 1991/828, **art. 3(2)**

F5 Words in s. 39(6)(a) repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(6), Sch. 7 para. 123(4)(a), **Sch. 8 Pt. 13**

F6 S. 39(7) repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(6), Sch. 7 para. 123(4)(b), **Sch. 8 Pt. 13**

Modifications etc. (not altering text)

C1 Ss. 8, 9, 15, 16, 17(1)(*b*(2) (4), 18–20, 21, 22(1)–(4), 28, 29, 30(1)–(4)(*a*)(5)–(11), 31, 32(1)–(9), 34(1)–(5), 35, 36, 37, 39, 40–44, 50, 51(*d*), 52, 54, 55, 64(1)–(4)(5)(6), Sch. 1 applied with modifications by S.I. 1985/1800, arts. 3–11, Schs. 1, **2**

C2 S. 39 modified (2.8.1993) by S.I. 1993/1813, art. 6, **Sch. 3 para. 3(3)**.
S. 39 extended (27.7.1999) by 1999 c. 23, **ss. 61(3)**, 68(4)(e) (with s. 63(2), Sch. 7 paras. 3(3), 5(2))

C3 S. 39 applied (with modifications) by Criminal Justice Act 2003 (c. 44), s. 24B(1)-(3) (as inserted (29.6.2007) by Police and Justice Act 2006 (c. 48), **ss. 18(1)**, 53 (with s. 18(2)); S.I. 2007/1614, **art. 2(e)**)

C4 S. 39 applied (with modifications) (25.6.2013) by The Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (S.I. 2013/1542), arts. 1, 12(2)-(4), **Sch. 2** (with arts. 13-31)

C5 S. 39 applied (with modifications) (4.11.2015) by The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2015 (S.I. 2015/1783), arts. 1, 3(1), **Sch. 1** (with art. 3(2), (3), 4-19, Sch. 2)

C6 S. 39(2) modified (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 4 para. 35(5)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**
S. 39(2)(3) modified (2.12.2002) by Police Reform Act 2002 (c. 30), s. 38, **Sch. 4 Pt. 2 para. 22(3)**; S.I. 2002/2750, **art. 2(a)(ii)(d)**

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Changes and effects yet to be applied to :

- s. 39 applied (with modifications) by 2022 c. 32 s. 107(1)-(3)
- s. 39(6)(a) words inserted by 2005 c. 15 s. 121(7)(a) (This amendment is not applied to legislation.go.uk. S. 121(7) repealed (12.1.2009) by 2009 c. 26, s. 116(6)(b), Sch. 8 Pt. 13)
- s. 39(7) added by 2005 c. 15 s. 121(7)(b) (This amendment is not applied to legislation.go.uk. S. 121(7) repealed (12.1.2009) by 2009 c. 26, s. 116(6)(b), Sch. 8 Pt. 13)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 17(1)(cza) inserted by 2021 c. 17 s. 26(9)
- s. 47A(3A) substituted by 2022 c. 35 Sch. 2 para. 7
- s. 61(6BA) inserted by 2008 c. 28 s. 10(1) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 63(3D) inserted by 2008 c. 28 s. 10(2) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64(1AA) inserted by 2008 c. 28 s. 10(4) (This amendment not applied to legislation.gov.uk. S. 10 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- s. 64A(1B)(cb) inserted by 2022 c. 32 Sch. 11 para. 18(a)
- Sch. 1A para. 21A added by 1995 c. 32, s. 8B(1) (as inserted) by 2006 c. 12 Sch. 3 para. 13