



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 1

ARREST AND CUSTODY

CHAPTER 5

RIGHTS OF SUSPECTS IN POLICE CUSTODY

Intimation and access to another person

40 Right of under 18s to have access to other person

- (1) Access to a person in police custody who a constable believes is under 16 years of age must be permitted to—
 - (a) a parent of the person,
 - (b) where a parent is not available, a person sent intimation under section 38 in respect of the person in custody.
- (2) Access to a person in police custody who a constable believes is 16 or 17 years of age must be permitted to a person sent intimation under section 38 in respect of the person in custody where the person in custody wishes to have access to the person sent intimation.
- (3) Access to a person in custody under subsection (1) or (2) need not be permitted to more than one person at the same time.
- (4) In exceptional circumstances, access under subsection (1) or (2) may be refused or restricted so far as the refusal or restriction is necessary—
 - (a) in the interests of—
 - (i) the investigation or prevention of crime, or
 - (ii) the apprehension of offenders, or
 - (b) for the wellbeing of the person in custody.
- (5) A decision to refuse or restrict access to a person in custody under subsection (1) or (2) may be taken only by a constable who—

Status: This is the original version (as it was originally enacted).

- (a) is of the rank of sergeant or above, and
 - (b) has not been involved in the investigation in connection with which the person is in custody.
- (6) In this section, “parent” includes guardian and any person who has the care of the person in custody.