



Policing and Crime Act 2017

2017 CHAPTER 3

PART 4

POLICE POWERS

CHAPTER 1

PRE-CHARGE BAIL

Notification of decision not to prosecute

66 Duty to notify person released under section 34, 37 or 37CA of PACE that not to be prosecuted

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 34 (limitations on police detention) after subsection (5A) (inserted by section 54 of this Act) insert—

“(5B) Subsection (5C) applies where—

- (a) a person is released under subsection (5), and
- (b) the custody officer determines that—

- (i) there is not sufficient evidence to charge the person with an offence, or
- (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

Status: This is the original version (as it was originally enacted).

(5E) In this Part “caution” includes—

- (a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;
- (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;
- (c) a youth caution under section 66ZA of that Act.”

(3) Section 37 (duties of custody officer before charge) is amended as follows.

(4) After subsection (6) insert—

“(6A) Subsection (6B) applies where—

- (a) a person is released under subsection (2), and
- (b) the custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6B) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”

(5) After subsection (8) insert—

“(8ZA) Where—

- (a) a person is released under subsection (7)(b) or (c), and
 - (b) the custody officer makes a determination as mentioned in subsection (6A)(b),
- subsections (6B) and (6C) apply.”

(6) Section 37B (consultation with Director of Public Prosecutions) is amended as follows.

(7) After subsection (5) insert—

“(5A) Subsection (5) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”

(8) Omit subsection (9).

(9) In section 37CA (release following arrest for breach of bail) after subsection (4) insert—

“(5) Subsection (6) applies where—

- (a) a person is released under subsection (2), and
- (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or

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- (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
- (6) The custody officer must give the person notice in writing that the person is not to be prosecuted.
- (7) Subsection (6) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (10) In section 24B(2) of the Criminal Justice Act 2003 (application of provisions of Police and Criminal Evidence Act 1984)—
 - (a) in paragraph (d) for “(5)” substitute “(5E)”, and
 - (b) in paragraph (f) for “(6)” substitute “(6C)”.

67 Duty to notify person released under any of sections 41 to 44 of PACE that not to be prosecuted

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 41 (limits on period of detention without charge) after subsection (9) insert—
 - “(10) Subsection (11) applies where—
 - (a) a person is released under subsection (7), and
 - (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
 - (11) The custody officer must give the person notice in writing that the person is not to be prosecuted.
 - (12) Subsection (11) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”
- (3) In section 42 (authorisation of continued detention) after subsection (11) insert—
 - “(12) Subsection (13) applies where—
 - (a) a person is released under subsection (10), and
 - (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.
 - (13) The custody officer must give the person notice in writing that the person is not to be prosecuted.
 - (14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”

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

(4) In section 43 (warrants of further detention) after subsection (19) insert—

“(20) Subsection (21) applies where—

- (a) a person is released under subsection (15) or (18), and
- (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(21) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(22) Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”

(5) In section 44 (extension of warrants of further detention) after subsection (8) insert—

“(9) Subsection (10) applies where—

- (a) a person is released under subsection (7), and
- (b) a custody officer determines that—
 - (i) there is not sufficient evidence to charge the person with an offence, or
 - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(10) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(11) Subsection (10) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.”