



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 4

#### POLICE POWERS

#### CHAPTER 3

##### POWERS UNDER PACE: MISCELLANEOUS

#### **74 PACE: detention: use of live links**

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) After section 45 insert—

*“Use of live links*

#### **45ZA Functions of extending detention: use of live links**

- (1) The functions of a police officer under section 42(1) or (2) may be performed, in relation to an arrested person who is held at a police station, by an officer who is not present at the police station but has access to the use of a live link if—
  - (a) a custody officer considers that the use of the live link is appropriate,
  - (b) the arrested person has had advice from a solicitor on the use of the live link, and
  - (c) the appropriate consent to the use of the live link has been given.
- (2) In subsection (1)(c), “the appropriate consent” means—
  - (a) in relation to a person who has attained the age of 18, the consent of that person;

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**Changes to legislation:** *Policing and Crime Act 2017, Section 74 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) in relation to a person who has not attained that age but has attained the age of 14, the consent of that person and of his or her parent or guardian;
  - (c) in relation to a person who has not attained the age of 14, the consent of his or her parent or guardian.
- (3) The consent of a person who has not attained the age of 18 (but has attained the age of 14), or who is a vulnerable adult, may only be given in the presence of an appropriate adult.
- (4) Section 42 applies with the modifications set out in subsections (5) to (7) below in any case where the functions of a police officer under that section are, by virtue of subsection (1), performed by an officer who is not at the police station where the arrested person is held.
- (5) Subsections (5)(b) and (9)(iii) and (iv) of that section are each to be read as if, instead of requiring the officer to make a record, they required the officer to cause another police officer to make a record.
- (6) Subsection (6) of that section is to be read as if it required the officer to give the persons mentioned in that subsection an opportunity to make representations—
- (a) if facilities exist for the immediate transmission of written representations to the officer, either in writing by means of those facilities or orally by means of the live link, or
  - (b) in any other case, orally by means of the live link.
- (7) Subsection (9) of that section is to be read as if the reference in paragraph (b) to the right conferred by section 58 were omitted.
- (8) In this section—

“live link” means an arrangement by which an officer who is not present at the police station where an arrested person is held is able to see and hear, and to be seen and heard by, the arrested person and the arrested person's solicitor (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of an authorisation under section 42(1) or (2) or anything that occurs in connection with a decision whether to give such an authorisation (whether because of a mental disorder or for any other reason);

“appropriate adult”, in relation to a person who has not attained the age of 18, means—

- (a) the person's parent or guardian or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
- (b) a social worker of a local authority, or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes;

“appropriate adult”, in relation to a vulnerable adult, means—

- (a) a relative, guardian or other person responsible for the vulnerable adult's care,

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- (b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or
  - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes.
- (9) In subsection (8), in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 101(2) of the Police Act 1996.

#### **45ZB Warrants for further detention: use of live links**

- (1) A magistrates' court may give a live link direction for the purpose of the hearing of an application under section 43 for a warrant authorising further detention of a person, or the hearing of an application under section 44 for an extension of such a warrant, if—
- (a) a custody officer considers that the use of a live link for that purpose is appropriate,
  - (b) the person to whom the application relates has had legal advice on the use of the live link,
  - (c) the appropriate consent to the use of the live link has been given, and
  - (d) it is not contrary to the interests of justice to give the direction.
- (2) In subsection (1)(c), “the appropriate consent” means—
- (a) in relation to a person who has attained the age of 18, the consent of that person;
  - (b) in relation to a person who has not attained that age but has attained the age of 14, the consent of that person and of his or her parent or guardian;
  - (c) in relation to a person who has not attained the age of 14, the consent of his or her parent or guardian.
- (3) Where a live link direction is given, the requirement under section 43(2)(b) for the person to whom the application relates to be brought before the court for the hearing does not apply.
- (4) In this section—
- “live link direction” means a direction that a live link be used for the purposes of the hearing;
  - “live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);
  - “vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of the hearing or what occurs at it (whether because of a mental disorder or for any other reason);
  - “appropriate adult”, in relation to a person aged under 18, means—
    - (a) the person's parent or guardian or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
    - (b) a social worker of a local authority, or

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- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes;
  - “appropriate adult”, in relation to a vulnerable adult, means—
    - (a) a relative, guardian or other person responsible for the appropriate adult's care,
    - (b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or
    - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes.
- (5) In subsection (4), in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 101(2) of the Police Act 1996.”
- (3) In section 45 (detention before charge-supplementary), in subsection (1), for “sections 43 and 44” substitute “ sections 43, 44 and 45ZB ”.
- (4) In section 45A—
  - (a) for the heading substitute “ Use of live links for other decisions about detention ”;
  - (b) in subsection (1)(b), for the words from “video-conferencing facilities” to the end substitute “ a live link ”;
  - (c) in subsection (3), for “the facilities mentioned in subsection (1) above” substitute “ a live link ”;
  - (d) in subsection (7), in each of paragraphs (a)(i) and (b), for “the video-conferencing facilities” substitute “ the live link ”;
  - (e) for subsection (10) substitute—
    - “(10) In this section, “live link”, in relation to any functions, means an arrangement by which the functions may be performed by an officer who is not present at the police station where an arrested person is held but who is able (for the purpose of the functions) to see and hear, and to be seen and heard by, the arrested person and any legal representative of that person (and for this purpose any impairment of eyesight or hearing is to be disregarded).”
- (5) In consequence of the amendments made by subsection (4), in section 40A—
  - (a) in subsection (2)(a), for “video-conferencing facilities” substitute “ a live link ”;
  - (b) in subsection (5), for “video-conferencing facilities” substitute “ live link ”.

#### **Commencement Information**

**II** S. 74 in force for specified purposes at Royal Assent, see s. 183

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1139, reg. 2 by [S.I. 2017/1162 reg. 2](#)