



# Police and Criminal Evidence Act 1984

## 1984 CHAPTER 60

### PART V

#### QUESTIONING AND TREATMENT OF PERSONS BY POLICE

##### **[<sup>F1</sup>63G Retention of section 63D material by virtue of section 63F(5): consent of Commissioner**

- (1) The responsible chief officer of police may apply under subsection (2) or (3) to the Commissioner for the Retention and Use of Biometric Material for consent to the retention of section 63D material which falls within section 63F(5)(a) and (b).
- (2) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that the material was taken (or, in the case of a DNA profile, derived from a sample taken) in connection with the investigation of an offence where any alleged victim of the offence was, at the time of the offence—
  - (a) under the age of 18,
  - (b) a vulnerable adult, or
  - (c) associated with the person to whom the material relates.
- (3) The responsible chief officer of police may make an application under this subsection if the responsible chief officer of police considers that—
  - (a) the material is not material to which subsection (2) relates, but
  - (b) the retention of the material is necessary to assist in the prevention or detection of crime.
- (4) The Commissioner may, on an application under this section, consent to the retention of material to which the application relates if the Commissioner considers that it is appropriate to retain the material.
- (5) But where notice is given under subsection (6) in relation to the application, the Commissioner must, before deciding whether or not to give consent, consider any representations by the person to whom the material relates which are made within the period of 28 days beginning with the day on which the notice is given.

*Status: Point in time view as at 15/12/2021.*

*Changes to legislation: Police and Criminal Evidence Act 1984, Section 63G is up to date with all changes known to be in force on or before 18 May 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)*

- (6) The responsible chief officer of police must give to the person to whom the material relates notice of—
- (a) an application under this section, and
  - (b) the right to make representations.
- (7) A notice under subsection (6) may, in particular, be given to a person by—
- (a) leaving it at the person's usual or last known address (whether residential or otherwise),
  - (b) sending it to the person by post at that address, or
  - (c) sending it to the person by email or other electronic means.
- (8) The requirement in subsection (6) does not apply if the whereabouts of the person to whom the material relates is not known and cannot, after reasonable inquiry, be ascertained by the responsible chief officer of police.
- (9) An application or notice under this section must be in writing.
- (10) In this section—
- “victim” includes intended victim,
- “vulnerable adult” means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through old age or otherwise, and the reference in subsection (2)(c) to a person being associated with another person is to be read in accordance with section 62(3) to (7) of the Family Law Act 1996.]

#### **Textual Amendments**

- F1** S. 63G inserted (31.10.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), **ss. 3, 120** (with s. 97); S.I. 2013/1814, art. 2(a)

#### **Modifications etc. (not altering text)**

- C1** S. 63G 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)

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