



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART IV

#### DEALING WITH OFFENDERS

### CHAPTER I

#### ENGLAND AND WALES

#### *<sup>F1</sup>Young offenders: youth cautions*

#### Textual Amendments

- F1** Ss. 66ZA, 66ZB and cross-heading inserted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 135(2)**, 151(1) (with s. 135(4)); S.I. 2013/453, art. 4(d)

#### **66ZA Youth cautions**

- (1) A constable may give a child or young person (“Y”) a caution under this section (a “youth caution”) if—
  - (a) the constable decides that there is sufficient evidence to charge Y with an offence,
  - (b) Y admits to the constable that Y committed the offence, and
  - (c) the constable does not consider that Y should be prosecuted or given a youth conditional caution in respect of the offence.
- (2) A youth caution <sup>F2</sup>... must be given in the presence of an appropriate adult.
- (3) If a constable gives a youth caution to a person, the constable must explain the matters referred to in subsection (4) in ordinary language to—
  - (a) that person, and

*Status: Point in time view as at 15/12/2017.*

*Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Young offenders: youth cautions is up to date with all changes known to be in force on or before 20 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)*

- (b) <sup>F3</sup>... the appropriate adult.
- (4) Those matters are—
  - (a) the effect of subsections (1) to (3) and (5) to (7) of section 66ZB, and
  - (b) any guidance issued under subsection (4) of that section.
- (5) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, guidance as to—
  - (a) the circumstances in which it is appropriate to give youth cautions,
  - (b) the places where youth cautions may be given,
  - (c) the category of constable by whom youth cautions may be given, and
  - (d) the form which youth cautions are to take and the manner in which they are to be given and recorded.
- (6) No caution other than a youth caution or a youth conditional caution may be given to a child or young person.
- (7) In this Chapter “appropriate adult”, in relation to a child or young person, means—
  - (a) a parent or guardian of the child or young person,
  - (b) if the child or young person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
  - (c) a social worker of a local authority, or
  - (d) if no person falling within paragraph (a), (b) or (c) is available, any responsible person aged 18 or over who is not a police officer or [<sup>F4</sup> a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996 ] .

#### Textual Amendments

- F2** Words in s. 66ZA(2) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 41\(2\)\(a\), 95\(1\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 33
- F3** Words in s. 66ZA(3)(b) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 41\(2\)\(b\), 95\(1\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 33
- F4** Words in s. 66ZA(7)(d) 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. 79\(2\), 183\(1\)\(5\)\(e\)](#); S.I. 2017/399, reg. 2, Sch. para. 27

### 66ZB Effect of youth cautions

- (1) If a constable gives a youth caution to a person, the constable must as soon as practicable refer the person to a youth offending team.
- (2) Subject to subsection (3), on a referral of a person under subsection (1), the youth offending team—
  - (a) must assess the person, and
  - (b) unless they consider it inappropriate to do so, must arrange for the person to participate in a rehabilitation programme.
- (3) If the person has not previously been referred under subsection (1) and has not previously been given a youth conditional caution, the youth offending team—
  - (a) may assess the person, and

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- (b) may arrange for the person to participate in a rehabilitation programme.
- (4) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, guidance as to—
  - (a) what should be included in a rehabilitation programme arranged for a person under subsection (2) or (3),
  - (b) the manner in which any failure by a person to participate in a programme is to be recorded, and
  - (c) the persons to whom any such failure must be notified.
- (5) Subsection (6) applies if—
  - (a) a person who has received two or more youth cautions is convicted of an offence committed within two years beginning with the date of the last of those cautions, or
  - (b) a person who has received a youth conditional caution followed by a youth caution is convicted of an offence committed within two years beginning with the date of the youth caution.
- (6) The court by or before which the person is convicted—
  - (a) must not make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge) in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the person that justify it doing so, and
  - (b) where it does so, must state in open court that it is of that opinion and its reasons for that opinion.
- (7) There may be cited in criminal proceedings—
  - (a) a youth caution given to a person, and
  - (b) a report on a failure by a person to participate in a rehabilitation programme arranged for the person under subsection (2) or (3),in the same circumstances as a conviction of the person may be cited.
- (8) In this section “rehabilitation programme” means a programme with the purpose of rehabilitating participants and preventing them from re-offending.]

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