



Sentencing Act 2020

2020 CHAPTER 17

FOURTH GROUP OF PARTS Further powers relating to sentencing

PART 11

BEHAVIOUR ORDERS

CHAPTER 5

BINDING OVER

376 Binding over of parent or guardian

- (1) This section applies where—
 - (a) a person aged under 18 is convicted of an offence, and
 - (b) a court is sentencing the offender for the offence.
- (2) The court has the following powers—
 - (a) the court may, with the consent of the offender's parent or guardian, order the parent or guardian to enter into a recognizance to take proper care of the offender and exercise proper control over the offender, and
 - (b) if—
 - (i) the parent or guardian refuses consent, and
 - (ii) the court considers the refusal unreasonable,the court may order the parent or guardian to pay a fine not exceeding £1,000.
- (3) For the purposes of this section—
 - (a) taking “care” of a person includes giving the person protection and guidance, and
 - (b) “control” includes discipline.
- (4) If the offender is aged under 16 when sentenced, the court must—

Status: Point in time view as at 06/04/2022.

Changes to legislation: Sentencing Act 2020, CHAPTER 5 is up to date with all changes known to be in force on or before 03 September 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)

- (a) exercise its powers under subsection (2), if satisfied, having regard to the circumstances of the case, that doing so would be desirable in the interests of preventing the offender from committing further offences, or
 - (b) state in open court that it is not so satisfied, and why not.
- (5) Subsections (2) and (4) are subject to section 37(8) of the Mental Health Act 1983 (order under this section not to be made where hospital or guardianship order is made) and to—
- (a) section 89(4)(b), and
 - (b) paragraph 16(2) of Schedule 4,
- (restrictions on the powers of a court making or extending a referral order).
- (6) If the court makes a youth rehabilitation order, a recognizance under this section may include a provision that the offender's parent or guardian ensure that the offender complies with the requirements of that order.
- (7) The period of a recognizance under this section—
- (a) may not be more 3 years, and
 - (b) must end before the offender reaches the age of 18.
- (8) A recognizance under this section may not be for an amount of more than £1,000.
- (9) In fixing the amount of a recognizance under this section, the court must take into account, in particular, the means of the parent or guardian so far as they appear or are known to the court (whether doing so has the effect of increasing or reducing the amount).
- (10) Section 120 of the Magistrates' Courts Act 1980 (forfeiture of recognizances) applies in relation to a recognizance under this section as it applies in relation to a recognizance to keep the peace.
- (11) A fine imposed under subsection (2)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (12) Section 404 (certain references to parent or guardian to be read as references to local authority) does not apply to this section.

Commencement Information

II S. 376 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

377 Binding over of parent or guardian: appeals, variations and revocations

- (1) A parent or guardian may appeal to the Crown Court against an order under section 376 made by a magistrates' court.
- (2) A parent or guardian may appeal to the Court of Appeal against an order under section 376 made by the Crown Court as if—
 - (a) the parent or guardian had been convicted on indictment, and
 - (b) the order were a sentence passed on the conviction of the parent or guardian.
- (3) A court may vary or discharge an order made by it under section 376 if, on the application of the parent or guardian, it appears to the court, having regard to any

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change in the circumstances since the order was made, to be in the interests of justice to do so.

Commencement Information

I2 [S. 377](#) in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

378 Other powers of the court to bind over to keep the peace

- (1) For powers to bind over to keep the peace exercisable on conviction see, in particular—
- (a) section 1 of the Justices of the Peace Act 1361;
 - (b) section 1(7) of the Justices of the Peace Act 1968.
- (2) This section does not affect the exercise of those powers in other circumstances, or of other powers to bind over.

Commencement Information

I3 [S. 378](#) in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Status:

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