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# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART III

#### CRIMINAL JUSTICE SYSTEM

##### *Youth justice*

#### **37 Aim of the youth justice system.**

- (1) It shall be the principal aim of the youth justice system to prevent offending by children and young persons.
- (2) In addition to any other duty to which they are subject, it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice system to have regard to that aim.

#### **Commencement Information**

- II** S. 37 wholly in force; S. 37 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### **38 Local provision of youth justice services.**

- (1) It shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (2) below, to secure that, to such extent as is appropriate for their area, all youth justice services are available there.
- (2) It shall be the duty of—
  - (a) every chief officer of police or police authority any part of whose police area lies within the local authority's area; and
  - (b) every probation committee [<sup>F1</sup>, health authority or Primary Care Trust] any part of whose area lies within that area,

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- to co-operate in the discharge by the local authority of their duty under subsection (1) above.
- (3) The local authority and every person or body mentioned in subsection (2) above shall have power to make payments towards expenditure incurred in the provision of youth justice services—
- (a) by making the payments directly; or
  - (b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.
- (4) In this section and sections 39 to 41 below “youth justice services” means any of the following, namely—
- (a) the provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers;
  - (b) the assessment of children and young persons, and the provision for them of rehabilitation programmes, for the purposes of section 66(2) below;
  - (c) the provision of support for children and young persons remanded or committed on bail while awaiting trial or sentence;
  - (d) the placement in local authority accommodation of children and young persons remanded or committed to such accommodation under section 23 of the <sup>M1</sup>Children and Young Persons Act 1969 (“the 1969 Act”);
  - (e) the provision of reports or other information required by courts in criminal proceedings against children and young persons;
  - (f) the provision of persons to act as responsible officers in relation to parenting orders, child safety orders, reparation orders and action plan orders;
  - (g) the supervision of young persons sentenced to a probation order, a community service order or a combination order;
  - (h) the supervision of children and young persons sentenced to a detention and training order or a supervision order;
  - (i) the post-release supervision of children and young persons under section 37(4A) or 65 of the 1991 Act or section 31 of the <sup>M2</sup>Crime (Sentences) Act 1997 (“the 1997 Act”);
  - (j) the performance of functions under subsection (1) of [<sup>F2</sup>section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders)] by such persons as may be authorised by the Secretary of State under that subsection.
  - [<sup>F3</sup>(k) the implementation of referral orders within the meaning of [<sup>F4</sup>the Powers of Criminal Courts (sentencing) Act 2000].]
- (5) The Secretary of State may by order amend subsection (4) above so as to extend, restrict or otherwise alter the definition of “youth justice services” for the time being specified in that subsection.

#### Textual Amendments

- F1** Words in s. 38(2)(b) substituted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\)](#), arts. 1, 3(1), [Sch. 1 para. 35\(3\)](#)
- F2** Words in s. 38(4)(j) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 197\(a\)](#)
- F3** [S. 38\(4\)\(k\)](#) inserted (26.6.2000) by [1999 c. 23, s. 67\(1\)](#), [Sch. 4 paras. 25, 28](#) (with [Sch. 7 paras. 3\(3\), 5\(2\)](#)); [S.I. 2000/1587, art. 2](#)
- F4** Words in s. 38(4)(k) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 197\(b\)](#)

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#### Commencement Information

**I2** S. 38 wholly in force at 1.4.2000; S. 38 not in force at Royal Assent see s. 121; S. 38(4) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); S. 38(1)-(3)(5) in force at 30.8.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); s. 38 in force at 1.4.2000 insofar as not already in force by S.I. 2000/924, art. 2

#### Marginal Citations

**M1** 1969 c.54.

**M2** 1997 c.43.

### 39 Youth offending teams.

- (1) Subject to subsection (2) below, it shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (3) below, to establish for their area one or more youth offending teams.
- (2) Two (or more) local authorities acting together may establish one or more youth offending teams for both (or all) their areas; and where they do so—
  - (a) any reference in the following provisions of this section (except subsection (4)(b)) to, or to the area of, the local authority or a particular local authority shall be construed accordingly, and
  - (b) the reference in subsection (4)(b) to the local authority shall be construed as a reference to one of the authorities.
- (3) It shall be the duty of—
  - (a) every chief officer of police any part of whose police area lies within the local authority's area; and
  - (b) every probation committee [<sup>F5</sup> health authority or Primary Care Trust] any part of whose area lies within that area,to co-operate in the discharge by the local authority of their duty under subsection (1) above.
- (4) The local authority and every person or body mentioned in subsection (3) above shall have power to make payments towards expenditure incurred by, or for purposes connected with, youth offending teams—
  - (a) by making the payments directly; or
  - (b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.
- (5) A youth offending team shall include at least one of each of the following, namely—
  - (a) a probation officer;
  - (b) a social worker of a local authority social services department;
  - (c) a police officer;
  - (d) a person nominated by a health authority any part of whose area lies within the local authority's area;
  - (e) a person nominated by the chief education officer appointed by the local authority under section 532 of the <sup>M3</sup>Education Act 1996.
- (6) A youth offending team may also include such other persons as the local authority thinks appropriate after consulting the persons and bodies mentioned in subsection (3) above.

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- (7) It shall be the duty of the youth offending team or teams established by a particular local authority—
- (a) to co-ordinate the provision of youth justice services for all those in the authority's area who need them; and
  - (b) to carry out such functions as are assigned to the team or teams in the youth justice plan formulated by the authority under section 40(1) below.

#### Textual Amendments

**F5** Words in s. 39(3)(b) substituted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\)](#), arts. 1, 3(1), [Sch. 1 para. 35\(4\)](#)

#### Commencement Information

**I3** [S. 39](#) wholly in force at 1.4.2000; [S. 39](#) not in force at Royal Assent see [s. 121](#); [S. 39](#) in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by [S.I. 1998/2327](#), [art. 3\(1\)](#), [Sch. 1](#) (subject to savings in [art. 9](#)); [s. 39](#) in force at 1.4.2000 insofar as not already in force by [S.I. 2000/924](#), [art. 2](#)

#### Marginal Citations

**M3** [1996 c.56](#).

VALID FROM 01/09/2010

#### **[<sup>F6</sup>39A Detention of child or young person: local authorities to be notified**

- (1) Subsection (2) applies where a youth offending team becomes aware that—
  - (a) a child or young person has become subject to a detention order and is detained in relevant youth accommodation, or
  - (b) a child or young person who is subject to a detention order has been transferred from one place of accommodation to another which is relevant youth accommodation.
- (2) The youth offending team must as soon as practicable notify—
  - (a) the home local authority, and
  - (b) the host local authority,
 of the place where the child or young person is detained.
- (3) Subsection (4) applies where a youth offending team becomes aware that a person has been released having immediately before release been—
  - (a) subject to a detention order, and
  - (b) detained in relevant youth accommodation.
- (4) The youth offending team must as soon as practicable notify the following authorities of the release—
  - (a) the home local authority;
  - (b) the host local authority;
  - (c) any other local authority in whose area the youth offending team expects the person to live on release.

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(5) Nothing in this section requires a youth offending team to notify a local authority of any matter of which the authority is already aware.

(6) In this section—

“home local authority”, in relation to a child or young person, means the local authority which is the home authority in relation to that person within the meaning of Chapter 5A of Part 10 of the Education Act 1996 (persons detained in youth accommodation);

“host local authority”, in relation to a child or young person who is detained in relevant youth accommodation, means the local authority for the area in which that person is detained;

“local authority” has the meaning given by section 579(1) of the Education Act 1996;

“young person” includes a person who is aged 18;

and references in this section to a person subject to a detention order and to relevant youth accommodation have the same meanings as they have in the Education Act 1996 (see section 562(1A) of that Act.)]

#### Textual Amendments

**F6** S. 39A inserted (1.9.2010 for E. and 1.4.2011 for W.) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), ss. 51 (as amended by S.I. 2010/1158, Sch. 2 para. 16(2)(3)(5)), 269(3)(f) (4); S.I. 2010/303, art. 6(1), Sch. 5; S.I. 2011/829, art. 2(c)

## 40 Youth justice plans.

(1) It shall be the duty of each local authority, after consultation with the relevant persons and bodies, to formulate and implement for each year a plan (a “youth justice plan”) setting out—

- (a) how youth justice services in their area are to be provided and funded; and
- (b) how the youth offending team or teams established by them (whether alone or jointly with one or more other local authorities) are to be composed and funded, how they are to operate, and what functions they are to carry out.

(2) In subsection (1) above “the relevant persons and bodies” means the persons and bodies mentioned in section 38(2) above and, where the local authority is a county council, any district councils whose districts form part of its area.

(3) The functions assigned to a youth offending team under subsection (1)(b) above may include, in particular, functions under paragraph 7(b) of Schedule 2 to the 1989 Act (local authority’s duty to take reasonable steps designed to encourage children and young persons not to commit offences).

(4) A local authority shall submit their youth justice plan to the Board established under section 41 below, and shall publish it in such manner and by such date as the Secretary of State may direct.

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

- C1** S. 40: functions of the local authority not to be the sole responsibility of the executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**
- C2** Ss. 39-42 applied (with modifications) (1.2.2005) by **The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005** (S.I. 2005/157), **art. 5(2)**, Sch. 1 (with art. 5(3))
- C3** S. 40(1) disappplied (1.2.2005) by **The Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005** (S.I. 2005/157), **art. 5(1)**

#### **Commencement Information**

- I4** S. 40 wholly in force at 1.1.2000; S. 40 not in force at Royal Assent see s. 121; S. 40 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, **art. 3(1)**, **Sch. 1** (subject to savings in **art. 9**); s. 40 in force at 1.1.2000 insofar as not already in force by S.I. 1999/3426, **art. 2**

### **41 The Youth Justice Board.**

- (1) There shall be a body corporate to be known as the Youth Justice Board for England and Wales (“the Board”).
- (2) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board’s property shall not be regarded as property of, or held on behalf of, the Crown.
- (3) The Board shall consist of 10, 11 or 12 members appointed by the Secretary of State.
- (4) The members of the Board shall include persons who appear to the Secretary of State to have extensive recent experience of the youth justice system.
- (5) The Board shall have the following functions, namely—
  - (a) to monitor the operation of the youth justice system and the provision of youth justice services;
  - (b) to advise the Secretary of State on the following matters, namely—
    - (i) the operation of that system and the provision of such services;
    - (ii) how the principal aim of that system might most effectively be pursued;
    - (iii) the content of any national standards he may see fit to set with respect to the provision of such services, or the accommodation in which children and young persons are kept in custody; and
    - (iv) the steps that might be taken to prevent offending by children and young persons;
  - (c) to monitor the extent to which that aim is being achieved and any such standards met;
  - (d) for the purposes of paragraphs (a), (b) and (c) above, to obtain information from relevant authorities;
  - (e) to publish information so obtained;
  - (f) to identify, to make known and to promote good practice in the following matters, namely—
    - (i) the operation of the youth justice system and the provision of youth justice services;
    - (ii) the prevention of offending by children and young persons; and

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- (iii) working with children and young persons who are or are at risk of becoming offenders;
- (g) to make grants, with the approval of the Secretary of State, to local authorities or other bodies for them to develop such practice, or to commission research in connection with such practice; <sup>F7</sup> . . .
- (h) themselves to commission research in connection with such practice.
- <sup>F8</sup>(i) to enter into agreements for the provision of—
  - (i) secure accommodation within the meaning of section 75(7) below for the purpose of detaining persons in respect of whom a detention and training order is made under section 73 below or an order is made under section 77(3)(a) or 78(2) below;
  - (ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 53(1) or (3) of the 1933 Act;
  - (iii) accommodation which is or may be used for the purpose of detaining persons dealt with under subsection (4)(c) of section 23 of the 1969 Act, as that section has effect in relation to persons described in section 98(1) below;
  - (iv) accommodation which is or may be used for the purpose of detaining persons who are under the age of 18 when remanded in custody under section 128 of the 1980 Act;
  - (v) accommodation which is or may be used for the purpose of detaining persons sentenced when under the age of 18 and before 1st April 2000 to detention in a young offender institution under section 1A of the 1982 Act; and
  - (vi) accommodation which is or may be used for the purpose of detaining persons subject to secure training orders made before 1st April 2000 under section 1 of the 1994 Act;but no agreement shall be made under this paragraph in relation to accommodation for persons who have attained the age of 18 unless it appears to the Board that it is expedient to enter into such an agreement for the operation of the youth justice system;
- (j) to facilitate arrangements between the Secretary of State and any person providing—
  - (i) secure accommodation within the meaning of section 75(7) below to be used for detaining a person in accordance with a determination under section 75(1), 77(3)(a) or 78(2) below, or
  - (ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 53(1)(a) or (3)(a) of the 1933 Act;
- (k) to offer assistance to local authorities in discharging their duty under section 61 of the 1991 Act, whether by acting as the agent of a local authority or facilitating arrangements under section 61(2), or otherwise; and
- (l) annually—
  - (i) to assess future demand for secure accommodation for remanded and sentenced children and young persons,
  - (ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (i) and (k) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of

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subsection (6)(b) below which relates to securing the provision of such accommodation, and

(iii) to submit the plan to the Secretary of State for approval.]

- (6) The Secretary of State may by order—
- (a) amend subsection (5) above so as to add to, subtract from or alter any of the functions of the Board for the time being specified in that subsection; or
  - (b) provide that any function of his which is exercisable in relation to the youth justice system shall be exercisable concurrently with the Board.
- (7) In carrying out their functions, the Board shall comply with any directions given by the Secretary of State and act in accordance with any guidance given by him.
- (8) A relevant authority—
- (a) shall furnish to the Board any information required for the purposes of subsection (5)(a), (b) or (c) above; and
  - (b) whenever so required by the Board, shall submit to the Board a report on such matters connected with the discharge of their duties under the foregoing provisions of this Part as may be specified in the requirement.
- A requirement under paragraph (b) above may specify the form in which a report is to be given.
- (9) The Board may arrange, or require the relevant authority to arrange, for a report under subsection (8)(b) above to be published in such manner as appears to the Board to be appropriate.
- (10) In this section “relevant authority” means a local authority, a chief officer of police, a police authority, a probation committee <sup>F9</sup>, a health authority and a Primary Care Trust].
- (11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

#### Textual Amendments

- F7** Word in s. 41(5)(g) omitted (20.4.2000) by virtue of S.I. 2000/1160, **art. 3(a)**
- F8** S. 41(5)(i)-(l) inserted (20.4.2000) by S.I. 2000/1160, **art. 3(b)**
- F9** Words in s. 41(10) substituted (8.2.2000) by The Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000 (S.I. 2000/90), arts. 1, 3(1), **Sch. 1 para. 35(5)**

#### Commencement Information

- I5** S. 41 wholly in force; s. 41 not in force at Royal Assent, see s. 121. in force at 1.8.1998 for the purposes of making appointments under this section and under paragraph 1 of Sch. 2 by S.I. 1998/1883, **art. 2(a)**. s. 41 in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

## 42 Supplementary provisions.

- (1) In the foregoing provisions of this Part and this section—
- “chief officer of police” has the meaning given by section 101(1) of the <sup>M4</sup>Police Act 1996;
- “local authority” means—



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- (a) in relation to England, a county council, a district council whose district does not form part of an area that has a county council, a London borough council or the Common Council of the City of London;
  - (b) in relation to Wales, a county council or a county borough council;  
“police authority” has the meaning given by section 101(1) of the <sup>M5</sup>Police Act 1996;  
“youth justice system” means the system of criminal justice in so far as it relates to children and young persons.
- (2) For the purposes of those provisions, the Isles of Scilly form part of the county of Cornwall and the Inner Temple and the Middle Temple form part of the City of London.
- (3) In carrying out any of their duties under those provisions, a local authority, a police authority, a probation committee [<sup>F10</sup>, a health authority or a Primary Care Trust] shall act in accordance with any guidance given by the Secretary of State.

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#### Textual Amendments

**F10** Words in s. 42(3) substituted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\)](#), arts. 1, 3(1), [Sch. 1 para. 35\(6\)](#)

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#### Commencement Information

**I6** [S. 42](#) wholly in force; [S. 42](#) not in force at Royal Assent see [s. 121](#). In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

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#### Marginal Citations

**M4** [1996 c.16](#).

**M5** [1996 c.16](#).

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