



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 [^{F1}local policing body] any part of whose police area lies within the local authority's area;
 - [^{F2}(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;

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Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Youth justice is up to date with all changes known to be in force on or before 30 June 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)

- (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;] and
 - (b) every [^{F3}local probation board][^{F4}, clinical commissioning group or]^{F5}[^{F6} ... [^{F7}Local Health Board]^{F8} ...] 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.
- (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;
 - [^{F9}(aa) the provision of assistance to persons determining whether youth cautions should be given under section 66ZA below;]
 - (b) the assessment of children and young persons, and the provision for them of rehabilitation programmes, for the purposes of section [^{F10}66ZB(2) or (3)] below;
 - [^{F11}(ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;
 - (bb) the supervision and rehabilitation of persons to whom such cautions are given;]
 - (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 [^{F12}to such accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012];
 - (e) the provision of reports or other information required by courts in criminal proceedings against children and young persons;
 - [^{F13}(ee) the performance by youth offending teams and members of youth offending teams of functions under sections 25 to 27 of the Anti-social Behaviour Act 2003;]
 - (f) the provision of persons to act as responsible officers in relation to ^{F14}... parenting orders, child safety orders [^{F15}and reparation orders];
 - [^{F16}(fa) the provision of persons to act as responsible officers in relation to youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008);
 - (fb) the supervision of children and young persons sentenced to a youth rehabilitation order under that Part which includes a supervision requirement (within the meaning of that Part);]
 - (g) ^{F17}

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- (h) the supervision of children and young persons sentenced to a detention and training order [^{F18}(including an order under section 211 of the Armed Forces Act 2006)]^{F19} . . . ;
 - [^{F20}(ha) supervision after the end of the term of such an order under section 256AA of the Criminal Justice Act 2003 (as applied by section 106B of the Powers of Criminal Courts (Sentencing) Act 2000);]
 - [^{F21}(i) post-release supervision in accordance with a licence under section 31 of the Crime (Sentences) Act 1997 or section 250 of the Criminal Justice Act 2003 of a person sentenced to detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000, section 226, 226B or 228 of the Criminal Justice Act 2003 or section 209, 218, 221, 221A or 222 of the Armed Forces Act 2006;
 - (ia) post-release supervision under section 256B of the Criminal Justice Act 2003;
 - (ib) supervision under section 256AA of the Criminal Justice Act 2003 of a person sentenced to detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 or section 209 of the Armed Forces Act 2006;]
 - (j) the performance of functions under subsection (1) of [^{F22}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.
 - [^{F23}(k) the implementation of referral orders within the meaning of [^{F24}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)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), ss. 99, 157(1), [Sch. 16 para. 235](#); S.I. 2011/3019, [art. 3](#), Sch. 1 para. (nnn)(iii)
- F2** S. 38(2)(aa)(ab) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 39, 41(1), [Sch. 3 para. 3\(2\)](#); S.I. 2008/504, [art. 3\(1\)](#)
- F3** Words in s. 38(2)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, [Sch. 7 para. 151](#); S.I. 2001/919, [art. 2\(f\)\(ii\)](#)
- F4** Words in s. 38(2)(b) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 85\(a\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F5** Words in s. 38(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 85\(b\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F6** 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\(3\)](#)
- F7** Words in s. 38(2)(b) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), [art. 3](#), [Sch. para. 29\(2\)\(b\)](#)
- F8** Words in s. 38(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 85\(c\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F9** S. 38(4)(aa) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 15\(a\)](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F10** Words in s. 38(4)(b) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 24 para. 15\(b\)](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F11** S. 38(4)(ba)(bb) inserted (16.11.2009 in relation to specified areas, otherwise prosp.) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148(1), 153(7), [Sch. 26 para. 34\(3\)](#); S.I. 2009/2780, [art. 2\(1\)\(d\)](#)

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Changes to legislation: *Crime and Disorder Act 1998, Cross Heading: Youth justice is up to date with all changes known to be in force on or before 30 June 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)*

- F12** Words in s. 38(4)(d) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 37](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))
- F13** S. 38(4)(ee) inserted (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 29\(2\), 93\(1\)](#); S.I. 2003/3300, art. 3(a)(iii)
- F14** Words in s. 38(4)(f) omitted (23.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 28](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(vii)
- F15** Words in s. 38(4)(f) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 153\(7\), Sch. 4 para. 49\(a\)](#); S.I. 2009/3074, art. 2(p)(v)
- F16** S. 38(4)(fa)(fb) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 153\(7\), Sch. 4 para. 49\(b\)](#); S.I. 2009/3074, art. 2(p)(v)
- F17** S. 38(4)(g) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 149, 153\(7\), Sch. 4 para. 49\(c\), Sch. 28 Pt. 1](#); S.I. 2009/3074, art. 2(p)(v)(u)(xvi)
- F18** Words in s. 38(4)(h) inserted (28.3.2009 for specified purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 378\(1\), 383\(2\), Sch. 16 para. 153](#); S.I. 2009/812, art. 3(a)(b); S.I. 2009/1167, art. 4
- F19** Words in s. 38(4)(h) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 149, 153\(7\), Sch. 4 para. 49\(d\), Sch. 28 Pt. 1](#); S.I. 2009/3074, art. 2(p)(v)(u)(xvi)
- F20** S. 38(4)(ha) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 9\(2\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F21** S. 38(4)(i)-(ib) substituted for s. 38(4)(i) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 9\(3\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F22** Words in s. 38(4)(j) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 197\(a\)](#)
- F23** 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
- F24** Words in s. 38(4)(k) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 197\(b\)](#)

Commencement Information

- I2** S. 38 wholly in force; 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 by [S.I. 2000/924, art. 2](#)

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;
 - ^{F25}(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;

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- (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;] and
- (b) every ^{F26}local probation board^{F27}, clinical commissioning group or^{F28F29} ...^{F30}Local Health Board^{F31} ...] 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) ^{F32}an officer of a local probation board^{F33} or an officer of a provider of probation services];
- ^{F34}(aa) where the local authority is in England, a person with experience of social work in relation to children nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;]
- (b) ^{F35}where the local authority is in Wales, a social worker of the] local authority ^{F36} . . . ;
- (c) a police officer;
- (d) a person nominated by ^{F37}a clinical commissioning group or^{F38} ... a ^{F30}Local Health Board] any part of whose area lies within the local authority's area;
- ^{F39}(da) where the local authority is in England, a person with experience in education nominated by the director of children's services appointed by the local authority under section 18 of the Children Act 2004;]
- (e) ^{F40}where the local authority is in Wales,] a person nominated by the chief education officer appointed by the local authority under section 532 of the ^{M1}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.
- (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

F25 S. 39(3)(aa)(ab) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 39, 41(1), [Sch. 3 para. 3\(3\)\(a\)](#); [S.I. 2008/504](#), [art. 3\(1\)](#)

F26 Words in s. 39(3)(b) substituted (1.4.2001) by [2000 c. 43](#), s. 74, [Sch. 7 Pt. II para. 151](#); [S.I. 2001/919](#), [art. 2\(f\)\(ii\)](#)

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- F27** Words in s. 39(3)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F28** 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)**
- F29** Words in s. 39(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** Words in s. 39(3)(b)(5)(d) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 29(2)(c)**
- F31** Words in s. 39(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 86(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F32** Words in s. 39(5)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)**, (2); S.I. 2001/919, **art. 2(f)(i)**
- F33** Words in s. 39(5)(a) inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(3)(b)**; S.I. 2008/504, **art. 3(1)**
- F34** S. 39(5)(aa) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(a)**; S.I. 2007/1792, **art. 2**
- F35** Words in s. 39(5)(b) substituted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(b)**; S.I. 2007/1792, **art. 2**
- F36** Words in s. 39(5)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67(8), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**
- F37** Words in s. 39(5)(d) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 87(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F38** Words in s. 39(5)(d) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 87(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F39** S. 39(5)(da) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(c)**; S.I. 2007/1792, **art. 2**
- F40** Words in s. 39(5)(e) inserted (with effect for specified purposes as mentioned in s. 18(9)(a) of the amending Act, otherwise 1.1.2008) by Children Act 2004 (c. 31), ss. 18(9)(10), 67(2), **Sch. 2 para. 5(3)(d)**; S.I. 2007/1792, **art. 2**

Modifications etc. (not altering text)

- C1** 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))

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

- M1** 1996 c.56.

[^{F41}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

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- (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.
- (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

- F41** 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

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- (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.

^{F42}(2)

[^{F43}(3) The functions assigned to a youth offending team under subsection (1)(b) above may include, in particular—

- (a) 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);
- (b) functions relating to a local authority’s duty under section 15(2)(g) of the Social Services and Well-being (Wales) Act 2014 to provide or arrange for the provision of services for the purposes of encouraging children not to commit criminal 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.

Textual Amendments

F42 S. 40(2) repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

F43 S. 40(3) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **161**

Modifications etc. (not altering text)

C2 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](#)

C3 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))

C4 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.

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- (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
 - (iii) working with children and young persons who are or are at risk of becoming offenders;
 - ^{F44}(g)
 - (h) ^{F45}... to commission research in connection with such practice.
 - ^{F46}(ha) with the approval of the Secretary of State, to make grants to local authorities and other persons for the purposes of the operation of the youth justice system and the provision of youth justice services, subject to such conditions as the Board considers appropriate, including conditions as to repayment;
 - (hb) to provide assistance to local authorities and other persons in connection with information technology systems and equipment used or to be used for the purposes of the operation of the youth justice system and the provision of youth justice services;]
 - ^{F47}(i) to enter into agreements for the provision of—
 - ^{F48}(i) [^{F49}youth detention accommodation], within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, for the purpose of detaining persons subject to orders under section 100, 104(3)(a) or 105(2) of that Act or section 211 or 214 of the Armed Forces Act 2006;
 - (ii) accommodation which is or may be used for the purpose of detaining persons sentenced under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 [^{F50}, section 226, 226B or 228 of the Criminal Justice Act 2003] or section 209 [^{F51} 218, 221, 221A or 222] of the Armed Forces Act 2006;]
 - ^{F52}(iii)

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- (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;
- ^{F53}(v)
- ^{F53}(vi)
- [accommodation referred to in paragraph 14(3) of Schedule 5A to the ^{F54}(vii) Policing and Crime Act 2009 which is or may be used for the purpose of detaining persons subject to a detention order under that Schedule;]
- 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—
 - ^{F55}(i) [^{F56}youth detention accommodation], within the meaning given by section 107 of the Powers of Criminal Courts (Sentencing) Act 2000, to be used for detaining a person in accordance with a determination under section 102(1), 104(3)(a) or 105(2) of that Act or section 214(3) of the Armed Forces Act 2006; or
 - (ii) accommodation to be used for detaining a person in accordance with a direction by the Secretary of State under section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 or a determination by the Secretary of State under section 210 or 218(3) of the Armed Forces Act 2006;]
- [^{F57}(ja) at the request of the Secretary of State, to assist him in carrying out his functions in relation to the release of offenders detained in accommodation which is youth detention accommodation, within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000;]
- ^{F58}(k)
- (l) annually—
 - (i) to assess future demand for secure accommodation for remanded [^{F59}children and young persons and secure and other accommodation for 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 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.
- ^{F60}(6A) The power of the Secretary of State under subsection (6)(b) includes power—
 - (a) to provide that, in relation to any function of his that is exercisable in respect of particular cases, the function is to be exercisable by the Board only—

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- (i) where it proposes to exercise the function in a particular manner, or
 - (ii) in respect of a class of case specified in the order, and
- (b) to make any supplementary, incidental or consequential provision (including provision for any enactment to apply subject to modifications).]
- (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 [^{F61}local policing body], a [^{F62}local probation board][^{F63}a provider of probation services][^{F64}, [^{F65}a clinical commissioning group][^{F66}and] a [^{F67}Local Health Board]^{F68}...].
- (11) Schedule 2 to this Act (which makes further provision with respect to the Board) shall have effect.

Textual Amendments

- F44** S. 41(5)(g) omitted (28.1.2015) by virtue of [The Youth Justice Board for England and Wales \(Amendment of Functions\) Order 2015 \(S.I. 2015/79\)](#), arts. 1, **2(a)**
- F45** Word in s. 41(5)(h) omitted (28.1.2015) by virtue of [The Youth Justice Board for England and Wales \(Amendment of Functions\) Order 2015 \(S.I. 2015/79\)](#), arts. 1, **2(b)**
- F46** S. 41(5)(ha)(hb) inserted (28.1.2015) by [The Youth Justice Board for England and Wales \(Amendment of Functions\) Order 2015 \(S.I. 2015/79\)](#), arts. 1, **2(c)**
- F47** S. 41(5)(i)-(k) inserted (20.4.2000) by [S.I. 2000/1160](#), **art. 3(b)**
- F48** S. 41(5)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383(2), **Sch. 16 para. 154(a)**; [S.I. 2009/812](#), **art. 3(a)(b)**; [S.I. 2009/1167](#), **art. 4**
- F49** Words in s. 41(5)(i)(i) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), ss. 39, 41(1), **Sch. 3 para. 16(3)**; [S.I. 2007/3001](#), **art. 2(1)(r)**
- F50** Words in s. 41(5)(i)(ii) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 40(2)(a)**, 95(1); [S.I. 2015/778](#), art. 3, **Sch. 1 para. 32**
- F51** Words in s. 41(5)(i)(ii) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 40(2)(b)**, 95(1); [S.I. 2015/778](#), art. 3, **Sch. 1 para. 32**
- F52** S. 41(5)(i)(iii) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 38(a)**; [S.I. 2012/2906](#), art. 2(j) (with art. 7(2)(3))
- F53** S. 41(5)(i)(v)(vi) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 40(3)**, 95(1); [S.I. 2015/778](#), art. 3, **Sch. 1 para. 32**
- F54** S. 41(5)(i)(vii) inserted (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 39(4)**, 59(1); [S.I. 2011/3016](#), **art. 2(d)**

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- F55** S. 41(5)(j)(i)(ii) substituted (28.3.2009 for specified purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 154(b)**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**
- F56** Words in s. 41(5)(j)(i) substituted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(5)**; S.I. 2007/3001, **art. 2(1)(r)**
- F57** S. 41(5)(ja) inserted (1.11.2007) by **Offender Management Act 2007** (c. 21), **ss. 32(2)**, 41(1); S.I. 2007/3001, **art. 2(1)(i)**
- F58** S. 41(5)(k) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 12 para. 38(b)**; S.I. 2012/2906, **art. 2(j)** (with **art. 7(2)(3)**)
- F59** Words in s. 41(5)(l)(i) substituted (1.11.2007) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 16(6)**; S.I. 2007/3001, **art. 2(1)(r)**
- F60** S. 41(6A) inserted (1.11.2007) by **Offender Management Act 2007** (c. 21), **ss. 32(3)**, 41(1); S.I. 2007/3001, **art. 2(1)(i)**
- F61** Words in s. 41(10) substituted (16.1.2012) by **Police Reform and Social Responsibility Act 2011** (c. 13), ss. 99, 157(1), **Sch. 16 para. 236**; S.I. 2011/3019, **art. 3**, **Sch. 1 para. (nnn)(iii)**
- F62** Words in s. 41(10) substituted (1.4.2001) by **2000 c. 43, s. 74**, **SCh. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**
- F63** Words in s. 41(10) inserted (1.4.2008) by **Offender Management Act 2007** (c. 21), ss. 39, 41(1), **Sch. 3 para. 3(4)**; S.I. 2008/504, **art. 3(1)**
- F64** 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)**
- F65** Words in s. 41(10) inserted (1.4.2013) by **Health and Social Care Act 2012** (c. 7), s. 306(4), **Sch. 5 para. 88(a)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F66** Word in s. 41(10) substituted (1.4.2013) by **Health and Social Care Act 2012** (c. 7), s. 306(4), **Sch. 5 para. 88(b)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F67** Words in s. 41(10) substituted (1.4.2007) by **The References to Health Authorities Order 2007** (S.I. 2007/961), **art. 3**, **Sch. para. 29(2)(d)**
- F68** Words in s. 41(10) omitted (1.4.2013) by virtue of **Health and Social Care Act 2012** (c. 7), s. 306(4), **Sch. 5 para. 88(c)**; S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

Modifications etc. (not altering text)

- C5** 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)**)

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 ^{M2}Police Act 1996;

“local authority” [^{F69}(except in section 39A)] means—

- (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;

^{F70}

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“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.

[^{F71}(2A) So far as relating to the Isles of Scilly, subsection (2) does not apply for the purposes of section 39A.]

(3) In carrying out any of their duties under those provisions, a local authority, a police authority, a [^{F72}local probation board][^{F73}a provider of probation services][^{F74}, [^{F75}a clinical commissioning group][^{F76}or] a [^{F77}Local Health Board]^{F78}...] shall act in accordance with any guidance given by the Secretary of State.

Textual Amendments

- F69** S. 42(1): words in definition of "local authority" inserted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 5(1), **Sch. 2 para. 43(2)** (with Sch. 4 para. 3)
- F70** S. 42(1): definition of "police authority" omitted (16.1.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), ss. 99, 157(1), **Sch. 16 para. 237**; S.I. 2011/3019, **art. 3**, Sch. 1 para. (nnn)(iii)
- F71** S. 42(2A) inserted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 5(1), **Sch. 2 para. 43(3)** (with Sch. 4 para. 3)
- F72** Words in s. 42(3) substituted (1.4.2001) by [2000 c. 43](#), s. 74, **Sch. 7 Pt. II para. 151**; S.I. 2001/919, **art. 2(f)(ii)**
- F73** Words in s. 42(3) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. 39, 41(1), **Sch. 3 para. 3(4)**; S.I. 2008/504, **art. 3(1)**
- F74** 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)**
- F75** Words in s. 42(3) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 89(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F76** Word in s. 42(3) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 89(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F77** Words in s. 42(3) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), art. 3, **Sch. para. 29(2)(e)**
- F78** Words in s. 42(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 89(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

- C6** 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))

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)

Marginal Citations

- M2** 1996 c.16.

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