



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART IV

#### DEALING WITH OFFENDERS

#### CHAPTER I

#### ENGLAND AND WALES

#### *Sexual or violent offenders*

**<sup>F1</sup>58** .....

.....

**Textual Amendments**

**F1** S. 58 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**59** **Effect of extended sentences.**

**<sup>F2</sup>** .....

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**Textual Amendments**

**F2** S. 59 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 44(4)(p) (with Sch. 2)

**60** **Re-release of prisoners serving extended sentences.**

**<sup>F3</sup>** .....

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**Textual Amendments**

**F3** S. 60 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 332, 336(3), [Sch. 37 Pt. 7](#); S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 44\(4\)\(p\)](#) (with [Sch. 2](#))

*Offenders dependent etc. on drugs*

<sup>F4</sup>**61** .....

**Textual Amendments**

**F4** Ss. 61-64 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

<sup>F5</sup>**62** .....

**Textual Amendments**

**F5** Ss. 61-64 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

<sup>F6</sup>**63** .....

**Textual Amendments**

**F6** Ss. 61-64 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

<sup>F7</sup>**64** .....

**Textual Amendments**

**F7** Ss. 61-64 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

*Young offenders: reprimands and warnings*

**65 Reprimands and warnings.**

- (1) Subsections (2) to (5) below apply where—
  - (a) a constable has evidence that a child or young person (“the offender”) has committed an offence;
  - (b) the constable considers that the evidence is such that, if the offender were prosecuted for the offence, there would be a realistic prospect of his being convicted;
  - (c) the offender admits to the constable that he committed the offence;

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- (d) the offender has not previously been convicted of an offence; and
  - (e) the constable is satisfied that it would not be in the public interest for the offender to be prosecuted.
- (2) Subject to subsection (4) below, the constable may reprimand the offender if the offender has not previously been reprimanded or warned.
- (3) The constable may warn the offender if—
- (a) the offender has not previously been warned; or
  - (b) where the offender has previously been warned, the offence was committed more than two years after the date of the previous warning and the constable considers the offence to be not so serious as to require a charge to be brought; but no person may be warned under paragraph (b) above more than once.
- (4) Where the offender has not been previously reprimanded, the constable shall warn rather than reprimand the offender if he considers the offence to be so serious as to require a warning.
- (5) The constable shall—
- [<sup>F8</sup>(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and]
  - (b) explain to the offender and, where he is under that age, the appropriate adult in ordinary language—
    - (i) in the case of a reprimand, the effect of subsection (5)(a) of section 66 below;
    - (ii) in the case of a warning, the effect of subsections (1), (2), (4) and (5)(b) and (c) of that section, and any guidance issued under subsection (3) of that section.
- (6) The Secretary of State shall publish, in such manner as he considers appropriate, guidance as to—
- (a) the circumstances in which it is appropriate to give reprimands or warnings, including criteria for determining—
    - (i) for the purposes of subsection (3)(b) above, whether an offence is not so serious as to require a charge to be brought; and
    - (ii) for the purposes of subsection (4) above, whether an offence is so serious as to require a warning;
  - [<sup>F9</sup>(aa) the places where reprimands and warnings may be given]
  - (b) the category of constable by whom reprimands and warnings may be given; and
  - (c) the form which reprimands and warnings are to take and the manner in which they are to be given and recorded.
- (7) In this section “appropriate adult”, in relation to a child or young person, means—
- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation;
  - (b) a social worker of a local authority <sup>F10</sup> . . . ;
  - (c) if no person falling within paragraph (a) or (b) above is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police.

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- (8) No caution shall be given to a child or young person after the commencement of this section.
- (9) Any reference (however expressed) in any enactment passed before or in the same Session as this Act to a person being cautioned shall be construed, in relation to any time after that commencement, as including a reference to a child or young person being reprimanded or warned.

#### Textual Amendments

- F8** S. 65(5)(a) substituted (1.2.2001) by 2000 c. 43, s. 56(1)(a); S.I. 2000/3302, art. 3
- F9** S. 65(6)(aa) inserted (1.2.2001) by 2000 c. 43, ss. 56(1)(b); S.I. 2000/3302, art. 3
- F10** Words in s. 65(7)(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, Note; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(2)(h)

#### Commencement Information

- II** S. 65 wholly in force at 1.6.2000; S. 65 not in force at Royal Assent, see s. 121; S. 65 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); s. 65 in force for specified purposes at 1.4.2000 and 1.6.2000 insofar as not already in force by S.I. 2000/924, arts. 3, 4, Sch.

## 66 Effect of reprimands and warnings.

- (1) Where a constable warns a person under section 65 above, he shall as soon as practicable refer the person to a youth offending team.
- (2) A youth offending team—
- shall assess any person referred to them under subsection (1) above; and
  - unless they consider it inappropriate to do so, shall arrange for him to participate in a rehabilitation programme.
- (3) The Secretary of State shall publish, in such manner as he considers appropriate, guidance as to—
- what should be included in a rehabilitation programme arranged for a person under subsection (2) above;
  - the manner in which any failure by a person to participate in such a programme is to be recorded; and
  - the persons to whom any such failure is to be notified.
- (4) Where a person who has been warned under section 65 above is convicted of an offence committed within two years of the warning, the court by or before which he is so convicted—
- shall not make an order under subsection (1)(b) (conditional discharge) of [F11section 12 of the Powers of Criminal Courts (Sentencing) Act 2000] in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the offender which justify its doing so; and
  - where it does so, shall state in open court that it is of that opinion and why it is.
- (5) The following, namely—
- any reprimand of a person under section 65 above;

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- (b) any warning of a person under that section; and
- (c) any report on a failure by a person to participate in a rehabilitation programme arranged for him under subsection (2) above,

may be cited in criminal proceedings in the same circumstances as a conviction of the person may be cited.

- (6) In this section “rehabilitation programme” means a programme the purpose of which is to rehabilitate participants and to prevent them from re-offending.

#### Textual Amendments

**F11** Words in s. 66(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 198**

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

**C1** S. 66(4) modified (30.9.1998) by 1991 c. 53, **Sch. 2 para. 8A(10)** (as inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(11)**; S.I. 1998/2327, **art. 2(1)(w)** (with savings in arts. 5-8))

#### Commencement Information

**I2** S. 66 wholly in force at 1.6.2000; S. 66 not in force at Royal Assent, see s. 121; S. 66 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, **art. 3(3)** (as amended by 1998/2412); s. 66 in force at 1.4.2000 for specified purposes and 1.6.2000 insofar as not already in force by S.I. 2000/924, arts. 3, 4, **Sch.**

VALID FROM 01/02/2009

### *<sup>F12</sup>Young offenders: youth conditional cautions*

#### Textual Amendments

**F12** Ss. 66A-66H (and cross-headings before ss. 66A, 66H) inserted (1.2.2009 for the insertion of ss. 66G, 66H, 1.4.2009 for the insertion of s. 66C, 16.11.2009 for the insertion of ss. 66A, 66B, 66D-66F for specified purposes, 8.4.2013 in so far as not already in force) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 9 para. 3** (with **Sch. 27 para. 18**); S.I. 2009/140, art. 2(e)(ii); S.I. 2009/860, art. 2(1)(h); S.I. 2009/2780, art. 2(1)(c)(2); S.I. 2013/616, art. 2(b)

VALID FROM 16/11/2009

#### **66A Youth conditional cautions**

- (1) An authorised person may give a youth conditional caution to a child or young person (“the offender”) if—
  - (a) the offender has not previously been convicted of an offence, and
  - (b) each of the five requirements in section 66B is satisfied.
- (2) In this Chapter, “youth conditional caution” means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.

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- (3) The conditions which may be attached to such a caution are those which have one or more of the following objects—
- (a) facilitating the rehabilitation of the offender;
  - (b) ensuring that the offender makes reparation for the offence;
  - (c) punishing the offender.
- (4) The conditions that may be attached to a youth conditional caution include—
- (a) (subject to section 66C) a condition that the offender pay a financial penalty;
  - (b) a condition that the offender attend at a specified place at specified times.
- “Specified” means specified by a relevant prosecutor.
- (5) Conditions attached by virtue of subsection (4)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.
- (6) The Secretary of State may by order amend subsection (5) by substituting a different figure.
- (7) In this section, “authorised person” means—
- (a) a constable,
  - (b) an investigating officer, or
  - (c) a person authorised by a relevant prosecutor for the purposes of this section.

VALID FROM 16/11/2009

## **66B The five requirements**

- (1) The first requirement is that the authorised person has evidence that the offender has committed an offence.
- (2) The second requirement is that a relevant prosecutor decides—
  - (a) that there is sufficient evidence to charge the offender with the offence, and
  - (b) that a youth conditional caution should be given to the offender in respect of the offence.
- (3) The third requirement is that the offender admits to the authorised person that he committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the youth conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.
- (5) If the offender is aged 16 or under, the explanation and warning mentioned in subsection (4) must be given in the presence of an appropriate adult.
- (6) The fifth requirement is that the offender signs a document which contains—
  - (a) details of the offence,
  - (b) an admission by him that he committed the offence,

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- (c) his consent to being given the youth conditional caution, and
- (d) the conditions attached to the caution.

VALID FROM 01/04/2009

### **66C Financial penalties**

- (1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a youth conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.
- (2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).
- (3) The amount that may be prescribed in respect of any offence must not exceed £100.
- (4) The Secretary of State may by order amend subsection (3) by substituting a different figure.
- (5) Where a financial penalty condition is attached to a youth conditional caution, a relevant prosecutor must also specify—
  - (a) the amount of the penalty, and
  - (b) the person to whom the financial penalty is to be paid and how it may be paid.
- (6) To comply with the condition, the offender must pay the penalty in accordance with the provision specified under subsection (5)(b).
- (7) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.

VALID FROM 16/11/2009

### **66D Variation of conditions**

- A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a youth conditional caution by—
- (a) modifying or omitting any of the conditions;
  - (b) adding a condition.

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VALID FROM 16/11/2009

### **66E Failure to comply with conditions**

- (1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the youth conditional caution, criminal proceedings may be instituted against the person for the offence in question.
- (2) The document mentioned in section 66B(6) is to be admissible in such proceedings.
- (3) Where such proceedings are instituted, the youth conditional caution is to cease to have effect.
- (4) Section 24A(1) of the Criminal Justice Act 2003 (“the 2003 Act”) applies in relation to the conditions attached to a youth conditional caution as it applies in relation to the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).
- (5) Sections 24A(2) to (9) and 24B of the 2003 Act apply in relation to a person who is arrested under section 24A(1) of that Act by virtue of subsection (4) above as they apply in relation to a person who is arrested under that section for failing to comply with any of the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

VALID FROM 16/11/2009

### **66F Restriction on sentencing powers where youth conditional caution given**

Where a person who has been given a youth conditional caution is convicted of an offence committed within two years of the giving of the caution, the court by or before which the person is so convicted—

- (a) may 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 offender which justify its doing so; and
- (b) where it does make such an order, must state in open court that it is of that opinion and why it is.

### **66G Code of practice on youth conditional cautions**

- (1) The Secretary of State must prepare a code of practice in relation to youth conditional cautions.
- (2) The code may, in particular, make provision as to—
  - (a) the circumstances in which youth conditional cautions may be given,
  - (b) the procedure to be followed in connection with the giving of such cautions,
  - (c) the conditions which may be attached to such cautions and the time for which they may have effect,



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- (d) the category of constable or investigating officer by whom such cautions may be given,
  - (e) the persons who may be authorised by a relevant prosecutor for the purposes of section 66A,
  - (f) the form which such cautions are to take and the manner in which they are to be given and recorded,
  - (g) the places where such cautions may be given,
  - (h) the provision which may be made by a relevant prosecutor under section 66C(5)(b),
  - (i) the monitoring of compliance with conditions attached to such cautions,
  - (j) the exercise of the power of arrest conferred by section 24A(1) of the Criminal Justice Act 2003 (c. 44) as it applies by virtue of section 66E(4),
  - (k) who is to decide how a person should be dealt with under section 24A(2) of that Act as it applies by virtue of section 66E(5).
- (3) After preparing a draft of the code the Secretary of State—
- (a) must publish the draft,
  - (b) must consider any representations made to him about the draft, and
  - (c) may amend the draft accordingly,
- but he may not publish or amend the draft without the consent of the Attorney General.
- (4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.
- (5) When he has done so he may bring the code into force by order.
- (6) The Secretary of State may from time to time revise a code of practice brought into force under this section.
- (7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

VALID FROM 01/02/2009

### *Interpretation of Chapter 1*

#### **66H Interpretation**

In this Chapter—

- (a) “appropriate adult” has the meaning given by section 65(7);
- (b) “authorised person” has the meaning given by section 66A(7);
- (c) “investigating officer” means an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or a person designated as an investigating officer under section 38 of the Police Reform Act 2002 (c. 30);
- (d) “the offender” has the meaning given by section 66A(1);
- (e) “relevant prosecutor” means—
  - (i) the Attorney General,

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- (ii) the Director of the Serious Fraud Office,
  - (iii) the Director of Revenue and Customs Prosecutions,
  - (iv) the Director of Public Prosecutions,
  - (v) the Secretary of State, or
  - (vi) a person who is specified in an order made by the Secretary State as being a relevant prosecutor for the purposes of this Chapter;
- (f) “youth conditional caution” has the meaning given by section 66A(2).]

*Young offenders: non-custodial orders*

<sup>F13</sup> 67 .....

**Textual Amendments**  
**F13** S. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F14</sup> 68 .....

**Textual Amendments**  
**F14** S. 68 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F15</sup> 69 .....

**Textual Amendments**  
**F15** S. 69 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F16</sup> 70 .....

**Textual Amendments**  
**F16** S. 70 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F17</sup> 71 .....

**Textual Amendments**  
**F17** S. 71 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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F18<sup>72</sup> .....

**Textual Amendments**

F18 S. 72 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Young offenders: detention and training orders*

F19<sup>73</sup> .....

**Textual Amendments**

F19 S. 73 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F20<sup>74</sup> .....

**Textual Amendments**

F20 S. 74 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F21<sup>75</sup> .....

**Textual Amendments**

F21 S. 75 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F22<sup>76</sup> .....

**Textual Amendments**

F22 S. 76 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F23<sup>77</sup> .....

**Textual Amendments**

F23 S. 77 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F24<sup>78</sup> .....

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**Textual Amendments**

**F24** S. 78 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F25</sup>**79** .....

**Textual Amendments**

**F25** S. 79 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Sentencing: general*

**80 Sentencing guidelines.**

<sup>F26</sup> .....

**Textual Amendments**

**F26** Ss. 80, 81 repealed (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 303(c), 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2004/81, **art. 5(2)(e)**

**81 The Sentencing Advisory Panel.**

<sup>F27</sup> .....

**Textual Amendments**

**F27** Ss. 80, 81 repealed (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 303(c), 332, 336(3), **Sch. 37 Pt. 7**; S.I. 2004/81, **art. 5(2)(e)**

<sup>F28</sup>**82** .....

**Textual Amendments**

**F28** S. 82 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Miscellaneous and supplemental*

**83 Power to make confiscation orders on committal for sentence.**

<sup>F29</sup> .....

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**Textual Amendments**

**F29** S. 83 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 457, 458(1), [Sch. 12](#); S.I. 2003/333, [art. 2\(1\)](#), Sch.

<sup>F30</sup>**84** .....

**Textual Amendments**

**F30** S. 84 repealed (28.8.2000) by [2000 c. 25](#), s. 1, [Sch. 3](#); S.I. 2000/2125, [art. 2](#); and s. 84(2) expressed to be repealed (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), ss. 107(2), 108(2), [Sch. 8](#); S.I. 2002/2306, [art. 2\(g\)\(i\)\(iii\)\(f\)](#)

<sup>F31</sup>**85** .....

**Textual Amendments**

**F31** S. 85 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**Status:**

Point in time view as at 01/08/2007. This version of this chapter contains provisions that are not valid for this point in time.

**Changes to legislation:**

Crime and Disorder Act 1998, Chapter I is up to date with all changes known to be in force on or before 20 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.