



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART III

#### CRIMINAL JUSTICE SYSTEM

##### *Youth justice*

### **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 [<sup>F1</sup>local policing body] any part of whose police area lies within the local authority's area;
  - [<sup>F2</sup>(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
  - (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 [<sup>F3</sup>local probation board][<sup>F4</sup>, clinical commissioning group or]<sup>F5</sup>[<sup>F6</sup>... [<sup>F7</sup>Local Health Board]<sup>F8</sup>...] 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.

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- (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;
  - [<sup>F9</sup>(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 [<sup>F10</sup>66ZB(2) or (3)] below;
  - [<sup>F11</sup>(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 [<sup>F12</sup>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;
  - [<sup>F13</sup>(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 <sup>F14</sup>... parenting orders, child safety orders [<sup>F15</sup>and reparation orders];
  - [<sup>F16</sup>(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) <sup>F17</sup>.....
  - (h) the supervision of children and young persons sentenced to a detention and training order [<sup>F18</sup>(including an order under section 211 of the Armed Forces Act 2006)]<sup>F19</sup>...;
  - [<sup>F20</sup>(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);]
  - [<sup>F21</sup>(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;]

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- (j) the performance of functions under subsection (1) of [<sup>F22</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>F23</sup>(k) the implementation of referral orders within the meaning of [<sup>F24</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)(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\(1\)\(d\)](#)
- 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\(p\)\(v\)\(u\)\(xvi\)](#)

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- 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

- I1** 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**

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