



Sentencing Act 2020

2020 CHAPTER 17

FOURTH GROUP OF PARTS Further powers relating to sentencing

PART 11

BEHAVIOUR ORDERS

CHAPTER 5

BINDING OVER

376 Binding over of parent or guardian

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

Status: This is the original version (as it was originally enacted).

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