

2007 No. 2222 (L. 21)

MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

**The Magistrates' Courts (Parenting Orders) (Amendment) Rules
2007**

<i>Made</i> - - - -	<i>23rd July 2007</i>
<i>Laid before Parliament</i>	<i>6th August 2007</i>
<i>Coming into force</i> - -	<i>1st September 2007</i>

The Lord Chief Justice, after consultation with the rule committee appointed by the Lord Chancellor under section 144 of the Magistrates' Courts Act 1980(a) and with the concurrence of the Lord Chancellor, in exercise of the powers conferred by that section, makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Parenting Orders) (Amendment) Rules 2007 and come into force on 1st September 2007.

Amendment of the Magistrates' Courts (Parenting Orders) Rules 2004

2. The Magistrates' Courts (Parenting Orders) Rules 2004(b) are amended as follows.

3. After rule 6, insert the following—

“7. An application for a parenting order made under section 26A(c)(parenting orders in respect of anti-social behaviour: local authorities) of the 2003 Act shall be made by complaint and in the form set out at Schedule 5 or a form to like effect.

8. A parenting order made under section 26A of the 2003 Act shall be in the form set out in Schedule 6 or a form to like effect.

(a) 1980 c. 43. Section 144 has been amended by sections 15(1) of, and paragraphs 99 and 102 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4). There are other amendments to section 144 not yet in force; parenting orders are not family proceedings within the meaning of section 65 of the Magistrates' Courts Act and accordingly section 144(1)(b) does not apply to parenting orders.

(b) S.I. 2004/247 (L. 3); r. 7 to 9 and Schedules 5 and 6 were revoked by r. 2.1 of the Criminal Procedure Rules 2005 (S.I. 2005/384 (L. 4), the Courts Act 2003 (c. 39), the Courts Act 2003 (Commencement No 6 and Savings) Order 2004 (S.I. 2004/2066) and the Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035).

(c) Section 26A of the Anti-social Behaviour Act 2003 (c. 38) was inserted by section 24 of the Police and Justice Act 2006 (c. 48).

9. An application for a parenting order made under section 26B(a)(parenting orders in respect of anti-social behaviour: registered social landlords) of the 2003 Act shall be made by complaint and in the form set out at Schedule 7 or a form to like effect.

10. A parenting order made under section 26B of the 2003 Act shall be in the form set out in Schedule 8 or a form to like effect.”.

Amendment of Schedule 1

4. In Schedule 1 (Application for Parenting Order (Anti-social Behaviour Act 2003, section 20))—

(a) for “Child or young person’s age:” substitute—

“Child or young person’s age and date of birth (or date on which they are believed to have been born):”;

(b) for “Applicant Local Education Authority:” substitute—

“Applicant:

[Local Education Authority:

[Governing Body of the []

School’s address: []]

[School from which the pupil was excluded, if different:

School’s address: []]

[School at which the behaviour which would warrant exclusion from school on disciplinary grounds took place, if different:

School’s address: []]”;

(c) for “(a) the child or young person has been excluded from school on disciplinary grounds;” substitute—

“(a) [the child or young person has been excluded from school on disciplinary grounds;] [the child or young person has engaged in behaviour [insert details] which would warrant exclusion from school on disciplinary grounds;]”; and

(d) after “[It is alleged that the parent(s) have refused to enter into a parenting contract.]” insert—

“[It is alleged that the parent(s) have failed without reasonable excuse to attend a reintegration interview.]”;

(e) after “[The child or young person is under 16. Information as to the family circumstances of the child or young person is attached.]”, insert—

“It is alleged that making the order would be desirable in the interests of preventing the child or young person from engaging in behaviour which would warrant their exclusion from school on disciplinary grounds for a fixed period or permanently. The court is requested to make such an order in respect of [*insert person’s name*] [and] [*insert person’s name*].

[The applicant requests the court to order that the person(s) named above attend for a period of [*insert number*] months a counselling or guidance programme to be specified in directions given by the responsible officer.]”; and

(f) for—

“Short Description of the counselling/guidance programme to be attended by the parent(s)/guardian(s):

(a) Section 26B of the Anti-social Behaviour Act 2003 was inserted by section 24 of the Police and Justice Act 2006.

Further requirements to be included in the order:”,
substitute—

“Short description of such residential course to be attended by the parent(s)/guardian(s):

The applicant requests the court to order that the parent(s)/guardian(s) comply for a period of [*insert number*] months with requirements to be specified in the Parenting Order as follows:”.

Amendment of Schedule 2

5. In Schedule 2 (Parenting Order (Anti-social Behaviour Act 2003, section 20))—

(a) for “Applicant Local Education Authority” substitute—

“Applicant Local Education Authority/School Governing Body”;

(b) for the paragraph beginning “[*insert child/young person’s name*]” substitute the following—

“[[*insert child/young person’s name*] of [*insert address*] who is believed to have been born on [*insert date of birth*], [a registered pupil][formerly a registered pupil] at [*details of school*] has [been excluded from [*details of school from which the child or young person has been excluded, if different*] on disciplinary grounds] and the prescribed conditions are met [*insert details*].]

[The court is satisfied that [*insert child/young person’s name*] of [*insert address*] who is believed to have been born on [*insert date of birth*], [a registered pupil at [*details of school*]] has engaged in behaviour which would warrant exclusion from school on disciplinary grounds] and the prescribed conditions are met.];” and

(c) for the paragraph beginning “Decision:” substitute—

“Decision: In exercise of its powers under section 20(3) of the Anti-social Behaviour Act 2003(**a**) (“the 2003 Act”) and having complied with its duties under that section[, and having complied with its duty under section 21(1) of the 2003 Act in taking into account the failure of the persons named above to [enter into][comply with] a parenting contract][, and having complied with its duty under section 21(1A) of the 2003 Act(**b**) in taking into account the failure of the persons named above without reasonable excuse to enter into a reintegration interview], the court has decided to impose a parenting order on the person(s) named above being parent(s) of the pupil because the court considers that the order would be desirable in the interests of improving the behaviour of the pupil.”.

Amendment of Schedule 3

6. In Schedule 3 (Application for Parenting Order (Anti-social Behaviour Act 2003, section 26))—

(a) for “Child or young person’s age:” substitute—

“Child or young person’s age and date of birth (or date on which they are believed to have been born):”;

(b) after “[The child or young person is under 16. Information as to the family circumstances of the child or young person is attached.]” insert—

“It is alleged that making the order would be desirable in the interests of preventing the child or young person from engaging in further criminal conduct or further anti-social behaviour. The court is requested to make such an order in respect of [*insert person’s name*] [and] [*insert person’s name*].”.

(a) Subsection (3) was substituted by section 98(5) of the Education and Inspections Act 2006 (c. 40).

(b) Subsection (1A) was inserted by section 99(2)(b) of that Act.

[The applicant requests the court to order that the person (s) named above attend for a period of *[insert number]* months a counselling or guidance programme to be specified in directions given by the responsible officer.]; and

(c) for—

“Short description of the counselling/guidance programme to be attended by the parent(s)/guardian(s):

Further requirements to be included in the order:”,

substitute—

“Short description of such residential course to be attended by the parent(s)/guardian(s):

The applicant requests the court to order that the parent(s)/guardian(s) comply for a period of *[insert number]* months with requirements to be specified in the Parenting Order as follows:”.

7. After Schedule 4, insert the Schedules set out in the Schedule to these Rules.

13th July 2007

Phillips of Worth Matravers CJ

I concur

23rd July 2007

Jack Straw
The Lord Chancellor

SCHEDULE

Rule 7

SCHEDULES 5 TO 8 OF THE MAGISTRATES' COURTS (PARENTING ORDERS) RULES 2004

“SCHEDULE 5

Rule 7

Application for Parenting Order (Anti-social Behaviour Act 2003, section 26A)

Magistrates' Court
(Code)

Date:

Child or young person:

Child or young person's address:

Child or young person's age and date of birth (or date on which they are believed to have been born):

Parent/Guardian:

Parent/Guardian's address:

Parent/Guardian:

Parent/Guardian's address:

Applicant Local Authority:

Responsible officer:

It is alleged that:

- (a) the child or young person has acted on [*insert date(s)*] at [*insert place(s)*] in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and
- (b) the child or young person resides in the local authority's area.

Short description of acts:

[Evidence of these acts is attached.]

[The parent(s)/guardian(s) entered into a parenting contract on [*insert date*]]. [It is alleged that the parent(s)/guardian(s) have failed to comply with the parenting contract, a copy of which is attached to the application form.]

Short description of alleged failure to comply with parenting contract.]

[Evidence of this alleged failure to comply is attached.]

[It is alleged that the parent(s)/guardian(s) have refused to enter into a parenting contract.]

[The child or young person is under 16. Information as to the family circumstances of the child or young person is attached.]

It is alleged that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour. The court is requested to make such an order in respect of [*insert person's name*] and [*insert person's name*]

[The applicant requests the court to order that the person(s) named above attend for a period of [*insert number*] months counselling or guidance to be specified given by the responsible officer.]

[It is alleged that:

- (a) the attendance of the parent(s)/guardian(s) at a residential course is likely to be more effective than their attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour, and
- (b) any interference with family life which is likely to result from the attendance of the parent(s)/guardian(s) at a residential course is proportionate in all the circumstances.

The court is requested to order that the counselling or guidance programme may [include][consist of] a residential course. Evidence to support the request for a residential requirement is attached.]

Short description of the counselling/guidance programme to be attended by the parent(s)/guardian(s):

The applicant requests the court to order that the parent(s)/guardian(s) comply for a period of [*insert number*] months with requirements to be specified in the Parenting Order as follows:

SCHEDULE 7

Rule 9

Application for Parenting Order (Anti-Social Behaviour Act 2003, section 26B)

Magistrates' Court
(Code)

Date:

Child or young person:

Child or young person's address:

Child or young person's age and date of birth (or date on which they are believed to have been born):

Parent/Guardian

Parent/Guardian's address

Applicant:

Local Authority:

Responsible officer:

It is alleged that:

(a) the child or young person has acted on [*insert date(s)*] in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, and

(b) the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord.

Short description of acts:

[Evidence of these acts is attached.]

The registered social landlord has consulted the local authority in whose area the child or young person resides or appears to reside.

[The parent(s)/guardian(s) entered into a parenting contract on [*insert date*].] [It is alleged that the parent(s)/guardian(s) have failed to comply with the parenting contract, a copy of which is attached to this application form.]

Short description of alleged failure to comply with parenting contract.

Evidence of this alleged failure to comply is attached.]

[It is alleged that the parent(s)/guardian(s) have refused to enter into a parenting contract.]

[The child or young person is under 16. Information as to the family circumstances of the child or young person is attached.]

It is alleged that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour. The court is requested to make such an order in respect of [*insert person's name*] [and] [*insert person's name*].

[The applicant requests the court to order that the person(s) named above attend for a period of [*insert number*] months counselling or guidance to be specified given by the responsible officer.]

It is alleged that:

(a) the attendance of the parent(s)/guardian(s) at a residential course is likely to be more effective than their attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour; and

(b) any interference with family life which is likely to result from the attendance of the parent(s)/guardian(s) at a residential course is proportionate in all the circumstances.

The court is requested to order that the counselling or guidance programme may [include][consist of] a residential course.

Evidence to support the request for a residential requirement is attached.

Short description of the counselling/guidance programme to be attended by the parent(s)/guardian(s).

The applicant requests the court to order that the parent(s)/guardian(s) comply for a period of [*insert number*] months with requirements to be specified in the Parenting Order as follows:

SCHEDULE 8

Rule 9

Parenting Order (Anti-social Behaviour Act 2003, section 26B)

Magistrates' Court
(Code)

Date:

Person(s) named in order:

Age(s) years (if under 18)
 years (if under 18)

Address(es):

Applicant Registered Social Landlord:

Local Authority:

Responsible Officer:

[insert child's/young person's name] of *[insert address]*, who is believed to have been born on *[insert date of birth]*, has behaved in a manner which is anti-social, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself and the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord.

Decision: In exercise of its powers under section 26B(2) of the Anti-social Behaviour Act 2003 (the "2003 Act") and having complied with its duties under that section[, and having complied with its duty under section 27(1) of the 2003 Act in considering the failure of the persons named above to [enter into][comply with] a parenting contract], the court has decided to impose a parenting order on the person(s) named above because the court considers that the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour.

The requirements of the order are as follows:

[insert person's name] shall for a period of *[insert length of requirement]* beginning with the date of the order comply with such requirements as are listed in the Schedule to the order.

[insert person's name] shall for a concurrent period of *[insert length of requirement]* not exceeding three months attend a counselling or guidance programme as directed by the responsible officer.

[[insert person's name] shall on *[insert dates]* attend a residential course at *[insert address]* as directed by the responsible officer. The court is satisfied that the requirements of section 26B(6) and (7) of the 2003 Act have been met.]

[(In the event that the child/young person is under 16.) The court has complied with its duties under section 27(2) of the 2003 Act and has obtained and considered information about the child's young person's family circumstances, and the likely effect of the order on those circumstances.]

The court has complied with its duties under section 27(3) of the 2003 Act, and has explained to the person(s) named above the effect of the order and its requirements, what may happen if he/she/they fail(s) to comply with these requirements (as set out in section 9(7) of the Crime and Disorder Act 1998), and that the court has power (under section 9(5) of the Crime and Disorder Act 1998) to review the order on the application of the person(s) named above or the responsible officer.

Justice of the Peace

[or By order of the Court,
Clerk of the Court]

SCHEDULE

Any Requirement(s) imposed by the court under section 26B(3)(a) and (b) of the 2003 Act should be listed here."

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Magistrates' Courts (Parenting Orders) Rules 2004 (S.I. 2004/247(L. 3)) ("the principal Rules"). They amend Schedules 1 and 2 of the principal Rules consequent upon the amendment of section 20 of the Anti-social Behaviour Act 2003 ("the 2003 Act") by section 98 of the Education and Inspections Act 2006 ("the 2006 Act", rules 4 and 5 respectively). They amend Schedule 3 of the principal Rules (rule 6). Rule 3 inserts rules 7 to 10 of, and rule 7 inserts Schedules 5 to 8 to, the principal Rules. These provisions set out the procedure in relation to parenting orders under sections 26A and 26B of the 2003 Act, and provide forms in relation to these parenting orders.

Parenting orders were introduced by the Crime and Disorder Act 1998. Section 20 of the 2003 Act made parenting orders available in respect of pupils excluded from school, and section 98 of the 2006 Act amended section 20 to extend the availability of parenting orders to situations where a pupil has engaged in behaviour which would warrant exclusion from school immediately (but where the school deals with the behaviour in a different way). Sections 26A and 26B of the 2003 Act were inserted by section 24 of the Police and Justice Act 2006 and extend the situations in which parenting orders can be made. Section 26A sets out provisions for local authorities to apply for parenting orders where the child has been engaging in anti-social behaviour and the child resides, or appears to reside, in the local authority's area. Section 26B sets out provisions for registered social landlords to apply for parenting orders where the child has been engaging in anti-social behaviour and the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord. Parenting orders may require the parent(s) or guardian(s) of the child to attend a counselling and guidance programme. Parenting orders may include other requirements including a requirement to attend a residential course.

These Rules come into force on 1st September 2007.

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MAGISTRATES' COURTS, ENGLAND AND WALES

PROCEDURE

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