



Crime and Disorder Act 1998

1998 CHAPTER 37

PART IV

DEALING WITH OFFENDERS

CHAPTER I

ENGLAND AND WALES

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;
 - (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;

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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—
- (a) give any reprimand or warning at a police station and, where the offender is under the age of 17, 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;
 - (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 social services department;
 - (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.
- (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.

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—
- (a) shall assess any person referred to them under subsection (1) above; and

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- (b) 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—
- (a) what should be included in a rehabilitation programme arranged for a person under subsection (2) above;
 - (b) the manner in which any failure by a person to participate in such a programme is to be recorded; and
 - (c) 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—
- (a) shall not make an order under subsection (1)(b) (conditional discharge) of section 1A of the 1973 Act 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 so, shall state in open court that it is of that opinion and why it is.
- (5) The following, namely—
- (a) any reprimand of a person under section 65 above;
 - (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.