



Anti-social Behaviour Act 2003

2003 CHAPTER 38

PART 3

PARENTAL RESPONSIBILITIES

Parenting orders under the 1998 Act

18 Parenting orders under the 1998 Act

(1) Section 8 of the Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) For subsections (4) and (5) substitute—

“(4) A parenting order is an order which requires the parent—

- (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
- (b) subject to subsection (5) below, to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.

(5) A parenting order may, but need not, include such a requirement as is mentioned in subsection (4)(b) above in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.”

(3) After subsection (7) insert—

“(7A) A counselling or guidance programme which a parent is required to attend by virtue of subsection (4)(b) above may be or include a residential course but only if the court is satisfied—

- (a) that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing any such repetition or, as the case may be, the commission of any such further offence, and

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

Truancy and exclusion from school

19 Parenting contracts in cases of exclusion from school or truancy

- (1) This section applies where a pupil has been excluded on disciplinary grounds from a relevant school for a fixed period or permanently.
- (2) This section also applies where a child of compulsory school age has failed to attend regularly at a relevant school at which he is a registered pupil.
- (3) A local education authority or the governing body of a relevant school may enter into a parenting contract with a parent of the pupil or child.
- (4) A parenting contract is a document which contains—
 - (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
 - (b) a statement by the local education authority or governing body that it agrees to provide support to the parent for the purpose of complying with those requirements.
- (5) The requirements mentioned in subsection (4) may include (in particular) a requirement to attend a counselling or guidance programme.
- (6) The purpose of the requirements mentioned in subsection (4)—
 - (a) in a case falling within subsection (1), is to improve the behaviour of the pupil,
 - (b) in a case falling within subsection (2), is to ensure that the child attends regularly at the relevant school at which he is a registered pupil.
- (7) A parenting contract must be signed by the parent and signed on behalf of the local education authority or governing body.
- (8) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (9) Local education authorities and governing bodies of relevant schools must, in carrying out their functions in relation to parenting contracts, have regard to any guidance which is issued by the appropriate person from time to time for that purpose.

20 Parenting orders in cases of exclusion from school

- (1) This section applies where—
 - (a) a pupil has been excluded on disciplinary grounds from a relevant school for a fixed period or permanently, and
 - (b) such conditions as may be prescribed in regulations made by the appropriate person are satisfied.
- (2) A local education authority may apply to a magistrates' court for a parenting order in respect of a parent of the pupil.

- (3) If such an application is made, the court may make a parenting order in respect of a parent of the pupil if it is satisfied that making the order would be desirable in the interests of improving the behaviour of the pupil.
- (4) A parenting order is an order which requires the parent—
 - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
 - (b) subject to subsection (5), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (5) A parenting order under this section may, but need not, include a requirement mentioned in subsection (4)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.
- (6) A counselling or guidance programme which a parent is required to attend by virtue of subsection (4)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (7) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in improving the behaviour of the pupil.
- (8) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.

21 Parenting orders: supplemental

- (1) In deciding whether to make a parenting order under section 20, a court must take into account (amongst other things)—
 - (a) any refusal by the parent to enter into a parenting contract under section 19 in respect of the pupil in a case falling within subsection (1) of that section, or
 - (b) if the parent has entered into such a parenting contract, any failure by the parent to comply with the requirements specified in the contract.
- (2) Before making a parenting order under section 20 in the case of a pupil under the age of 16, a court must obtain and consider information about the pupil's family circumstances and the likely effect of the order on those circumstances.
- (3) Subsections (3) to (7) of section 9 of the Crime and Disorder Act 1998 (c. 37) (supplemental provisions about parenting orders) are to apply in relation to a parenting order under section 20 as they apply in relation to a parenting order under section 8 of that Act.
- (4) The appropriate person may by regulations make provision as to how the costs associated with the requirements of parenting orders under section 20 (including the costs of providing counselling or guidance programmes) are to be borne.
- (5) Local education authorities, head teachers and responsible officers must, in carrying out their functions in relation to parenting orders, have regard to any guidance which is issued by the appropriate person from time to time for that purpose.

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22 Parenting orders: appeals

- (1) An appeal lies to the Crown Court against the making of a parenting order under section 20.
- (2) Subsections (2) and (3) of section 10 of the Crime and Disorder Act 1998 (appeals against parenting orders) are to apply in relation to an appeal under this section as they apply in relation to an appeal under subsection (1)(b) of that section.

23 Penalty notices for parents in cases of truancy

- (1) After section 444 of the Education Act 1996 (c. 56) (failure to secure regular attendance at school of registered pupil) insert—

“444A Penalty notice in respect of failure to secure regular attendance at school of registered pupil

- (1) Where an authorised officer has reason to believe—
 - (a) that a person has committed an offence under section 444(1), and
 - (b) that the school to which the offence relates is a relevant school in England,he may give the person a penalty notice in respect of the offence.
- (2) A penalty notice is a notice offering a person the opportunity of discharging any liability to conviction for the offence under section 444(1) to which the notice relates by payment of a penalty in accordance with the notice.
- (3) Where a person is given a penalty notice, proceedings for the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) may not be instituted before the end of such period as may be prescribed.
- (4) Where a person is given a penalty notice, he cannot be convicted of the offence to which the notice relates (or an offence under section 444(1A) arising out of the same circumstances) if he pays a penalty in accordance with the notice.
- (5) Penalties under this section shall be payable to local education authorities in England.
- (6) Sums received by a local education authority under this section may be used by the authority for the purposes of any of its functions which may be specified in regulations.

444B Penalty notices: supplemental

- (1) Regulations may make—
 - (a) provision as to the form and content of penalty notices,
 - (b) provision as to the monetary amount of any penalty and the time by which it is to be paid,
 - (c) provision for determining the local education authority to which a penalty is payable,
 - (d) provision as to the methods by which penalties may be paid,

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- (e) provision as to the records which are to be kept in relation to penalty notices,
 - (f) provision as to the persons who may be authorised by a local education authority or a head teacher to give penalty notices,
 - (g) provision limiting the circumstances in which authorised officers of a prescribed description may give penalty notices,
 - (h) provision for or in connection with the withdrawal, in prescribed circumstances, of a penalty notice, including—
 - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
 - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates (and any offence under section 444(1A) arising out of the same circumstances),
 - (i) provision for a certificate—
 - (i) purporting to be signed by or on behalf of a prescribed person, and
 - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate,to be received in evidence of the matters so stated,
 - (j) provision as to the action to be taken if a penalty is not paid in accordance with a penalty notice,
 - (k) provision for or in connection with the preparation of codes of conduct in relation to the giving of penalty notices,
 - (l) such other provision in relation to penalties or penalty notices as the Secretary of State thinks necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) or section 569(4), regulations under subsection (1)(b) may make provision for penalties of different amounts to be payable in different cases or circumstances (including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid).
- (3) Local education authorities, head teachers and authorised officers shall, in carrying out their functions in relation to penalty notices, have regard to any guidance which is published by the Secretary of State from time to time in relation to penalty notices.
- (4) In this section and section 444A—
- “authorised officer” means—
 - (a) a constable,
 - (b) an officer of a local education authority in England who is authorised by the authority to give penalty notices, or
 - (c) an authorised staff member,
 - “authorised staff member” means—
 - (a) a head teacher of a relevant school in England, or
 - (b) a member of the staff of a relevant school in England who is authorised by the head teacher of the school to give penalty notices,

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“penalty” means a penalty under a penalty notice,
“penalty notice” has the meaning given by section 444A(2),
“relevant school” means—
(a) a maintained school,
(b) a pupil referral unit,
(c) an Academy,
(d) a city technology college, or
(e) a city college for the technology of the arts.”

- (2) In section 572 of that Act (service of notices and other documents) for “served on any person may be served” substitute “served on, or given to, any person may be served or given”.
- (3) In paragraph 1(2) of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers of community support officers to issue fixed penalty notices) after paragraph (a) insert—
“(aa) the power of a constable to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil);”.
- (4) After paragraph 1(3) of that Schedule insert—
“(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in sub-paragraph (2)(aa), sub-paragraph (1) shall have effect as if for the words from “who he has reason to believe” to the end there were substituted “in the relevant police area who he has reason to believe has committed a relevant fixed penalty offence”.”
- (5) In paragraph 2 of that Schedule (power to detain etc) after sub-paragraph (6) insert—
“(7) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in paragraph 1(2)(aa), sub-paragraph (2) of this paragraph shall have effect as if for the words “has committed a relevant offence in the relevant police area” there were substituted “in the relevant police area has committed a relevant offence”.”
- (6) In paragraph 1(2) of Schedule 5 to that Act (powers of accredited persons to issue fixed penalty notices) before paragraph (b) insert—
“(ab) the power of a constable to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil);”.
- (7) After paragraph 1(3) of that Schedule insert—
“(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in sub-paragraph (2)(ab), sub-paragraph (1) shall have effect as if for the words from “who he has reason to believe” to the end there were substituted “in the relevant police area who he has reason to believe has committed or is committing a relevant fixed penalty offence”.”
- (8) In paragraph 2 of that Schedule (power to require giving of name and address) after sub-paragraph (3) insert—

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- “(4) In its application to an offence which is an offence by reference to which a notice may be given to a person in exercise of the power mentioned in paragraph 1(2)(ab), sub-paragraph (1) of this paragraph shall have effect as if for the words “has committed a relevant offence in the relevant police area” there were substituted “in the relevant police area has committed a relevant offence”.”
- (9) The National Assembly for Wales may by order amend sections 444A and 444B of the Education Act 1996 (c. 56) by removing the words “in England” in each place where they occur.
- (10) Where an order is made under subsection (9), any functions of the Secretary of State under sections 444A and 444B of the Education Act 1996 which by virtue of the order become exercisable in relation to Wales are to be treated as if they had been transferred to the National Assembly for Wales by an Order in Council under section 22 of the Government of Wales Act 1998 (c. 38).

24 Interpretation

In this section and sections 19 to 21—

“the appropriate person” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the National Assembly for Wales,

“child of compulsory school age” has the same meaning as in the 1996 Act, and “child” is to be construed accordingly,

“head teacher” includes acting head teacher, teacher in charge and acting teacher in charge,

“local education authority” has the same meaning as in the 1996 Act,

“parent”, in relation to a pupil or child, is to be construed in accordance with section 576 of the 1996 Act, but does not include a person who is not an individual,

“pupil” is to be construed in accordance with section 3(1) and (1A) of the 1996 Act,

“registered pupil” has the meaning given by section 434(5) of the 1996 Act,

“relevant school” means—

- (a) a qualifying school as defined in section 1(3) of the Education Act 2002 (c. 32), or
- (b) a pupil referral unit as defined in section 19(2) of the 1996 Act,

“responsible officer”, in relation to a parenting order, means one of the following who is specified in the order, namely—

- (a) an officer of a local education authority, and
- (b) a head teacher or a person nominated by a head teacher,

but a person falling within paragraph (b) may not be specified in the order without his consent,

“the 1996 Act” means the Education Act 1996 (c. 56).

*Criminal conduct and anti-social behaviour***25 Parenting contracts in respect of criminal conduct and anti-social behaviour**

- (1) This section applies where a child or young person has been referred to a youth offending team.
- (2) The youth offending team may enter into a parenting contract with a parent of the child or young person if a member of that team has reason to believe that the child or young person has engaged, or is likely to engage, in criminal conduct or anti-social behaviour.
- (3) A parenting contract is a document which contains—
 - (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
 - (b) a statement by the youth offending team that it agrees to provide support to the parent for the purpose of complying with those requirements.
- (4) The requirements mentioned in subsection (3)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (5) The purpose of the requirements mentioned in subsection (3)(a) is to prevent the child or young person from engaging in criminal conduct or anti-social behaviour or further criminal conduct or further anti-social behaviour.
- (6) A parenting contract must be signed by the parent and signed on behalf of the youth offending team.
- (7) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (8) Youth offending teams must, in carrying out their functions in relation to parenting contracts, have regard to any guidance which is issued by the Secretary of State from time to time for that purpose.

26 Parenting orders in respect of criminal conduct and anti-social behaviour

- (1) This section applies where a child or young person has been referred to a youth offending team.
- (2) A member of the youth offending team may apply to a magistrates' court for a parenting order in respect of a parent of the child or young person.
- (3) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied—
 - (a) that the child or young person has engaged in criminal conduct or anti-social behaviour, and
 - (b) 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.
- (4) A parenting order is an order which requires the parent—
 - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and

- (b) subject to subsection (5), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (5) A parenting order under this section may, but need not, include a requirement mentioned in subsection (4)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.
- (6) A counselling or guidance programme which a parent is required to attend by virtue of subsection (4)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (7) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further criminal conduct or further anti-social behaviour.
- (8) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.

27 Parenting orders: supplemental

- (1) In deciding whether to make a parenting order under section 26, a court must take into account (amongst other things)—
 - (a) any refusal by the parent to enter into a parenting contract under section 25 in respect of the child or young person, or
 - (b) if the parent has entered into such a parenting contract, any failure by the parent to comply with the requirements specified in the contract.
- (2) Before making a parenting order under section 26 in the case of a child or a young person under the age of 16, a court must obtain and consider information about the child or young person's family circumstances and the likely effect of the order on those circumstances.
- (3) Subsections (3) to (7) of section 9 of the 1998 Act (supplemental provisions about parenting orders) are to apply in relation to a parenting order under section 26 as they apply in relation to a parenting order under section 8 of that Act.
- (4) Members of youth offending teams and responsible officers must, in carrying out their functions in relation to parenting orders, have regard to any guidance which is issued by the Secretary of State from time to time for that purpose.

28 Parenting orders: appeals

- (1) An appeal lies to the Crown Court against the making of a parenting order under section 26.
- (2) Subsections (2) and (3) of section 10 of the 1998 Act (appeals against parenting orders) are to apply in relation to an appeal under this section as they apply in relation to an appeal under subsection (1)(b) of that section.

29 Interpretation and consequential amendment

(1) In this section and sections 25 to 28—

“anti-social behaviour” means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as the person,

“child” has the same meaning as in the 1998 Act,

“criminal conduct” means conduct which—

(a) constitutes a criminal offence, or

(b) in the case of conduct by a person under the age of 10, would constitute a criminal offence if that person were not under that age,

“guardian” has the same meaning as in the Children and Young Persons Act 1933 (c. 12),

“parent” includes guardian,

“responsible officer”, in relation to a parenting order, means a member of a youth offending team who is specified in the order,

“the 1998 Act” means the Crime and Disorder Act 1998 (c. 37),

“young person” has the same meaning as in the 1998 Act,

“youth offending team” means a team established under section 39 of the 1998 Act.

(2) In section 38(4) of the 1998 Act (meaning of “youth justice services”) after paragraph (e) insert—

“(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;”.