



Sentencing Act 2020

2020 CHAPTER 17

FOURTH GROUP OF PARTS Further powers relating to sentencing

PART 11

BEHAVIOUR ORDERS

CHAPTER 1

CRIMINAL BEHAVIOUR ORDERS

330 Criminal behaviour order

In this Code “criminal behaviour order” means an order which, for the purpose of preventing an offender from engaging in behaviour that is likely to cause harassment, alarm or distress to any person—

- (a) prohibits the offender from doing anything described in the order;
- (b) requires the offender to do anything described in the order.

331 Power to make criminal behaviour order

- (1) This section applies where—
 - (a) a person is convicted of an offence, and
 - (b) the prosecution makes an application to the court for a criminal behaviour order to be made against the offender.
- (2) The court may make a criminal behaviour order against the offender if it—
 - (a) is satisfied that the offender has engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person, and
 - (b) considers that making the order will help in preventing the offender from engaging in such behaviour.
- (3) But the court may make a criminal behaviour order only if it—

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- (a) does so in addition to dealing with the offender for the offence, and
 - (b) does not make an order for absolute discharge under section 79 in respect of the offence.
- (4) Prohibitions and requirements in a criminal behaviour order must, so far as practicable, be such as to avoid—
- (a) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment, and
 - (b) any conflict with the requirements of any other court order to which the offender may be subject.
- (5) The prosecution must find out the views of the local youth offending team before applying for a criminal behaviour order to be made if the offender will be under the age of 18 when the application is made.
- (6) In this section “local youth offending team” means the youth offending team in whose area it appears to the prosecution that the offender resides.

332 Proceedings on an application for an order

- (1) For the purpose of deciding whether to make a criminal behaviour order the court may consider evidence led by the prosecution and evidence led by the offender.
- (2) It does not matter whether the evidence would have been admissible in the proceedings in which the offender was convicted.
- (3) The court may adjourn any proceedings on an application for a criminal behaviour order even after sentencing the offender.
- (4) If the offender does not appear for any adjourned proceedings the court may—
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for the offender’s arrest, or
 - (c) hear the proceedings in the offender’s absence.
- (5) The court may not act under paragraph (b) of subsection (4) unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.
- (6) The court may not act under paragraph (c) of subsection (4) unless it is satisfied that the offender—
 - (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the offender does not appear for those proceedings the court may hear the proceedings in the offender’s absence.
- (7) Subsection (8) applies in relation to proceedings in which a criminal behaviour order is made against an offender who is under the age of 18.
- (8) In so far as the proceedings relate to the making of the order—
 - (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the offender;
 - (b) section 39 of that Act (power to prohibit publication of certain matters) does so apply.

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333 Requirements included in orders

- (1) A criminal behaviour order that includes a requirement must specify the person who is to be responsible for supervising compliance with the requirement.

The person may be an individual or an organisation.

- (2) Before including a requirement, the court must receive evidence about its suitability and enforceability from—

- (a) the individual to be specified under subsection (1), if an individual is to be specified;
- (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.

- (3) Before including two or more requirements, the court must consider their compatibility with each other.

- (4) A person specified under subsection (1) must—

- (a) make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
- (b) promote the offender’s compliance with the relevant requirements;
- (c) if the person considers that the offender—
 - (i) has complied with all the relevant requirements, or
 - (ii) has failed to comply with a relevant requirement,inform the prosecution and the appropriate chief officer of police.

- (5) In subsection (4)(c) “the appropriate chief officer of police” means the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the offender resides.

- (6) An offender subject to a requirement in a criminal behaviour order must—

- (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time;
- (b) notify the person of any change of address.

These obligations have effect as requirements of the order.

334 Duration of order etc

- (1) A criminal behaviour order takes effect on the day it is made, subject to subsection (2).

- (2) If on the day a criminal behaviour order (“the new order”) is made the offender is subject to another criminal behaviour order (“the previous order”), the new order may be made so as to take effect on the day on which the previous order ceases to have effect.

- (3) A criminal behaviour order must specify the period (“the order period”) for which it has effect.

- (4) In the case of a criminal behaviour order made before the offender has reached the age of 18, the order period must be a fixed period of—

- (a) not less than 1 year, and
- (b) not more than 3 years.

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- (5) In the case of a criminal behaviour order made after the offender has reached the age of 18, the order period must be—
 - (a) a fixed period of not less than 2 years, or
 - (b) an indefinite period (so that the order has effect until further order).
- (6) A criminal behaviour order may specify periods for which particular prohibitions or requirements have effect.

335 Interim order

- (1) This section applies where a court adjourns the hearing of an application for a criminal behaviour order.
- (2) The court may make a criminal behaviour order that lasts until the final hearing of the application or until further order (“an interim order”) if the court thinks it just to do so.
- (3) Section 331(1)(b), (3) and (5) and section 334(3) to (5) do not apply in relation to the making of an interim order.
- (4) Subject to that, the court has the same powers whether or not the criminal behaviour order is an interim order.

336 Variation or discharge of order

- (1) A criminal behaviour order may be varied or discharged by the court which made it on the application of—
 - (a) the offender, or
 - (b) the prosecution.
- (2) If an application by the offender under this section is dismissed, the offender may make no further application under this section without—
 - (a) the consent of the court which made the order, or
 - (b) the agreement of the prosecution.
- (3) If an application by the prosecution under this section is dismissed, the prosecution may make no further application under this section without—
 - (a) the consent of the court which made the order, or
 - (b) the agreement of the offender.
- (4) The power to vary an order includes power—
 - (a) to include an additional prohibition or requirement in the order, or
 - (b) to extend the period for which a prohibition or requirement has effect.
- (5) Section 333 applies to additional requirements included under subsection (4) as it applies to requirements included in a new order.
- (6) In the case of a criminal behaviour order made by a magistrates’ court, the references in this section to the court which made the order include a reference to any magistrates’ court acting in the same local justice area as that court.

337 Review of orders: offenders aged under 18

- (1) If—

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- (a) an offender subject to a criminal behaviour order will be under the age of 18 at the end of a review period (see subsection (2)),
 - (b) the term of the order runs until the end of that period or beyond, and
 - (c) the order is not discharged before the end of that period,
- a review of the operation of the order must be carried out before the end of that period.
- (2) The “review periods” are—
- (a) the period of 12 months beginning with—
 - (i) the day on which the criminal behaviour order takes effect, or
 - (ii) if during that period the order is varied under section 336, the day on which it is varied (or most recently varied, if the order is varied more than once);
 - (b) a period of 12 months beginning with—
 - (i) the day after the end of the previous review period, or
 - (ii) if during that period of 12 months the order is varied under section 336, the day on which it is varied (or most recently varied, if the order is varied more than once).
- (3) A review under this section must include consideration of—
- (a) the extent to which the offender has complied with the order;
 - (b) the adequacy of any support available to the offender to help the offender comply with it;
 - (c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.
- (4) Those carrying out or participating in a review under this section must have regard to any relevant guidance issued by the Secretary of State under section 341 when considering—
- (a) how the review should be carried out;
 - (b) what particular matters the review should deal with;
 - (c) what action (if any) it would be appropriate to take as a result of the findings of the review.

338 Carrying out and participating in reviews

- (1) A review under section 337 is to be carried out by the chief officer of police of the police force maintained for the police area in which the offender resides or appears to be residing.
- (2) The chief officer, in carrying out a review under section 337, must act in co-operation with the council for the local government area in which the offender resides or appears to be residing; and the council must co-operate in the carrying out of the review.
- (3) The chief officer may invite the participation in the review of any other person or body.
- (4) In this section “local government area” means—
 - (a) in relation to England, a district or London borough, the City of London, the Isle of Wight and the Isles of Scilly;
 - (b) in relation to Wales, a county or a county borough.

For the purposes of this section, the council for the Inner and Middle Temples is the Common Council of the City of London.

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339 Breach of order

- (1) It is an offence for a person without reasonable excuse—
 - (a) to do anything he or she is prohibited from doing by a criminal behaviour order, or
 - (b) to fail to do anything he or she is required to do by a criminal behaviour order.
- (2) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months, or a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or a fine, or both.
- (3) If a person is convicted of an offence under this section, an order for conditional discharge under section 80 is not available to the court by or before which the person is convicted.
- (4) In proceedings for an offence under this section, a copy of the original criminal behaviour order, certified by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.
- (5) In relation to any proceedings for an offence under this section that are brought against a person under the age of 18—
 - (a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the person;
 - (b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (power to restrict reporting of criminal proceedings involving persons under 18) does so apply.
- (6) If, in relation to any proceedings mentioned in subsection (5), the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it must give its reasons for doing so.

340 Special measures for witnesses

- (1) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in the case of vulnerable and intimidated witnesses) applies to criminal behaviour order proceedings as it applies to criminal proceedings, but with—
 - (a) the omission of the provisions of that Act mentioned in subsection (2) (which make provision appropriate only in the context of criminal proceedings), and
 - (b) any other necessary modifications.
- (2) The provisions are—
 - (a) section 17(4) to (7);
 - (b) section 21(4C)(e);
 - (c) section 22A;
 - (d) section 27(10);
 - (e) section 32.
- (3) Rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act apply to criminal behaviour order proceedings—

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- (a) to the extent provided by rules of court, and
 - (b) subject to any modifications provided by rules of court.
- (4) Section 47 of that Act (restrictions on reporting special measures directions etc) applies with any necessary modifications—
- (a) to a direction under section 19 of that Act as applied by this section;
 - (b) to a direction discharging or varying such a direction.

Sections 49 and 51 of that Act (offences) apply accordingly.

- (5) In this section “criminal behaviour order proceedings” means proceedings in a magistrates’ court or the Crown Court so far as relating to the issue whether to make a criminal behaviour order.

341 Guidance

- (1) The Secretary of State may issue guidance to—
- (a) chief officers of police, and
 - (b) the councils mentioned in section 338(2),
- about the exercise of their functions under this Chapter.
- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.

342 Offender aged under 18: parenting order where criminal behaviour order made

See section 8(1)(b) of the Crime and Disorder Act 1998 for requirements and powers of a court to make a parenting order under that Act in a case where it makes a criminal behaviour order against an offender aged under 18.