

2004 No. 247 (L.3)

**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

The Magistrates' Courts (Parenting Orders) Rules 2004

<i>Made</i> - - - - -	<i>1st February 2004</i>
<i>Laid before Parliament</i>	<i>6th February 2004</i>
<i>Coming into force</i> - -	<i>27th February 2004</i>

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

Citation, interpretation and commencement

1. These Rules may be cited as the Magistrates' Courts (Parenting Orders) Rules 2004 and shall come into force on 27th February 2004.
2. In these Rules the "2003 Act" means the Anti-social Behaviour Act 2003(b).

Parenting Orders under the Anti-social Behaviour Act 2003

3. An application for a parenting order made under section 20 of the 2003 Act shall be made by complaint and in the form set out at Schedule 1 or a form to like effect.
4. A parenting order made under section 20 of the 2003 Act shall be in the form set out at Schedule 2 or a form to like effect.
5. An application for a parenting order made under section 26 of the 2003 Act shall be made by complaint and in the form set out at Schedule 3 or a form to like effect.
6. A parenting order made under section 26 of the 2003 Act shall be in the form set out at Schedule 4 or a form to like effect.

Parenting Orders under the Crime and Disorder Act 1998

7. A parenting order made under section 8 of the Crime and Disorder Act 1998(c) shall be in the form set out at Schedule 5 or a form to like effect.

Parenting Orders under the Powers of Criminal Courts (Sentencing) Act 2000

8. A parenting order made under paragraph 9D of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000(d) shall be in the form set out at Schedule 6 or a form to like effect.

(a) 1980 c. 43; section 144 was amended by section 125(3) of, and paragraph 25 of Schedule 18 to, the Courts and Legal Services Act 1990 and by sections 78(2) and 90(1) of, and paragraphs 26 and 29 of Schedule 11 and paragraphs 95 and 116 of Schedule 13 to, the Access to Justice Act 1999.
(b) 2003 c. 38.
(c) 1998 c. 37; section 8 was amended by section 18 of the Anti-social Behaviour Act 2003.
(d) 2000 c. 6; paragraph 9D of Schedule 1 was inserted by section 324 and paragraph 6 of Schedule 34 to the Criminal Justice Act 2003.

Application for variation or discharge

9. An application for the variation or discharge of an order made under section 20(3) or section 26(3) of the 2003 Act, or under paragraph 9D of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 shall be made by complaint to the magistrates' court which made the order, and shall specify the reason why the applicant for variation or discharge believes the court should vary or discharge the order, as the case may be.

Dated 1st February 2004

Falconer of Thoroton, C.

SCHEDULE 1

Rule 3

Application for Parenting Order (Anti-social Behaviour Act 2003, section 20)

..... Magistrates' Court
(Code)

Date:

Child or young person:

Child or young person's address:

Child or young person's age:

Parent:

Parent's address:

which is in the area of [] Local Education Authority

Parent:

Parent's address:

which is in the area of [] Local Education Authority

Applicant Local Education Authority:

It is alleged that:

- (a) the child or young person has been excluded from school on disciplinary grounds; and
- (b) the prescribed conditions are satisfied in that [insert details].

[The parent(s) entered into a parenting contract on [date].] [It is alleged that the parent(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) 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:

- (a) the attendance of the parent at a residential course is likely to be more effective than their attendance at a non-residential course in improving the child's or young person's behaviour; and
- (b) 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.

The court is requested to order that the counselling or guidance programme may include a residential element.]

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

Further requirements to be included in the order:

SCHEDULE 2

Rule 4

Parenting Order (Anti-social Behaviour Act 2003, section 20)

..... Magistrates' Court

(Code)

Date:

Person(s) named in order:

Age(s): years (if under 18)

..... years (if under 18)

Address(es):

.....

.....

Applicant Local Education 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 been excluded from [details of school at which the child or young person is registered] and that the prescribed conditions are met in that [insert details].

Decision: In exercise of its powers under section 20(3) 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 21(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 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.

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.

[The court is satisfied that the requirements of section 20(7) and (8) of the 2003 Act have been met and the counselling or guidance programme may be or include a residential course.]

[(In the event that the child/young person is under 16.) The court has complied with its duties under section 21(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 21(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 20(4)(a) and (b) of the 2003 Act should be listed here.

SCHEDULE 3

Rule 5

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

..... Magistrates' Court
(Code)

Date:

Child or young person:

Child or young person's address:

Child or young person's age:

Parent/Guardian:

Parent/Guardian's address:

Parent/Guardian:

Parent/Guardian's address:

Applicant:

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; or
- (b) the child or young person has on [*insert date(s)*] at [*insert place(s)*] engaged in criminal conduct.

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 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:

- (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 criminal conduct or 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):

Further requirements to be included in the order:

SCHEDULE 4

Rule 6

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

..... Magistrates' Court
(Code)

Date:

Person(s) named in order:

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

Address(es):
.....
.....

Applicant Youth Offending Team:

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] *[engaged in criminal conduct]* *[delete as applicable]*.

Decision: In exercise of its powers under section 26(3) 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] [criminal conduct] *[delete as applicable]*.

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 26(7) and (8) 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 26(4)(a) and (b) of the 2003 Act should be listed here.

SCHEDULE 5

Rule 7

Parenting Order (Crime and Disorder Act 1998, section 8)

..... [Family Proceedings][Youth][Magistrates’] Court
(Code)

Date:

Person(s) named in order:

Age(s): years (if under 18)

..... years (if under 18)

Address(es):

.....

.....

Responsible officer:

[[insert child’s/young person’s name] of [insert address] who is believed to have born on [insert date of birth], has been [made subject to a [child safety order][anti-social behaviour order][sex offender order][referral order]][found guilty of an offence, namely, [brief details of offence and statute]]. [The above named has been convicted of an offence under [section 443][section 444] of the Education Act 1996] [delete as applicable].

Decision: In exercise of its powers under section 8 of the Crime and Disorder Act 1998 (the “1998 Act”) and having complied with its duties under [section 9(1) and (2)] [section 9(2) and (2A) (in the case of a referral order) (a)] of the 1998 Act, 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 [a repetition of the kind of behaviour which led to the imposition of a [child safety order][anti-social behaviour order][sex offender order]][the commission of further offences by the child or young person][the commission of further offences under [section 443][section 444] of the Education Act 1996] [delete as applicable].

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 8(7A) of the 1998 Act(b) have been met.]

[(In the event that the child/young person is under 16.) The court has complied with its duties under section 9(2) of the 1998 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 9(3) to 9(7) of the 1998 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, and that the court has power 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 8(4)(a) and (b) of the 1998 Act should be listed here.

(a) Section 9(2A) was inserted by section 324 and paragraph 2 of Schedule 34 to the Criminal Justice Act 2003.
(b) Section 8(7A) was inserted by section 18 of the Anti-social Behaviour Act 2003.

Parenting Order (Powers of Criminal Courts (Sentencing) Act 2000, Schedule 1, paragraph 9D)

..... Magistrates' Court
(Code)

Date:

Person(s) named in order:

Age(s): years (if under 18)

..... years (if under 18)

Address(es):

.....

.....

Child or young person:

Applicant Youth Offender Panel:

Responsible officer:

[insert parent's name] of [insert address], the parent of [insert name of child or young person], has failed without reasonable excuse to comply with the order made under section 20 of the Powers of Criminal Courts (Sentencing) Act 2000 (the "2000 Act") to attend meetings of the youth offender panel dated [insert date(s)], a copy of which is attached to this order.

Decision: Having complied with its duties under paragraph 9D of Schedule 1 to the 2000 Act(a), the court has decided to impose a parenting order on the person(s) named above because the court is satisfied that the order would be desirable in the interests of preventing the commission of any further offence by the child or young person.

The requirements of the order are as follows:

[insert person's name] shall for a period of [insert length of requirement] not exceeding twelve months 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 paragraph 9D(5) of Schedule 1 to the 2000 Act have been met.]

[(In the event that the child/young person is under 16.) The court has complied with its duties under paragraph 9D(6) of Schedule 1 to the 2000 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 paragraph 9D(7) of Schedule 1 to the 2000 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

(a) Paragraph 9D of Schedule 1 was inserted by section 324 and paragraph 6 of Schedule 34 to the Criminal Justice Act 2003.

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 paragraph 9D(2) of Schedule 1 to the 2000 Act should be listed here.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure in relation to parenting orders under sections 20 and 21, and sections 26 and 27 of the Anti-social Behaviour Act 2003, and provide forms in relation to these parenting orders. They also provide a form for parenting orders made under section 8 of the Crime and Disorder Act 1998, and a form for parenting orders made under paragraph 9D of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000. The procedures to be followed when applying for and varying or discharging parenting orders are also set out.

Parenting orders were introduced by the Crime and Disorder Act 1998. Sections 20 and 26 of the Anti-social Behaviour Act 2003 and section 324 of the Criminal Justice Act 2003 extend the situations in which parenting orders can be made. Sections 20 and 21 set out provisions for local education authorities to apply for parenting orders where the child has been excluded from school. Sections 26 and 27 set out provisions to extend the circumstances for parenting orders in respect of criminal conduct or anti-social behaviour. Parenting orders require the parent(s) or guardian(s) of a child who has been excluded from school, failed to attend school regularly or who is involved in anti-social or criminal behaviour, to attend a counselling and guidance programme if it is desirable in the interests of improving the child's/young person's behaviour or school attendance, or in preventing the child or young person from engaging in further criminal conduct or anti-social behaviour. Parenting orders may include other requirements including a requirement to attend a residential course.

These Rules will come into force on 27th February 2004.

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**MAGISTRATES' COURTS, ENGLAND AND WALES
PROCEDURE**

The Magistrates' Courts (Parenting Orders) Rules 2004

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