



Crime and Disorder Act 1998

1998 CHAPTER 37

PART III

CRIMINAL JUSTICE SYSTEM

Youth justice

38 Local provision of youth justice services.

- (1) It shall be the duty of each local authority, acting in co-operation with the persons and bodies mentioned in subsection (2) below, to secure that, to such extent as is appropriate for their area, all youth justice services are available there.
- (2) It shall be the duty of—
 - (a) every chief officer of police or [^{F1}local policing body] any part of whose police area lies within the local authority's area;
 - [^{F2}(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
 - (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;] and
 - (b) every [^{F3}local probation board][^{F4}, integrated care board or]^{F5}[^{F6}... [^{F7}Local Health Board]^{F8}...] any part of whose area lies within that area,to co-operate in the discharge by the local authority of their duty under subsection (1) above.
- (3) The local authority and every person or body mentioned in subsection (2) above shall have power to make payments towards expenditure incurred in the provision of youth justice services—
 - (a) by making the payments directly; or
 - (b) by contributing to a fund, established and maintained by the local authority, out of which the payments may be made.

Changes to legislation: Crime and Disorder Act 1998, Section 38 is up to date with all changes known to be in force on or before 26 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) In this section and sections 39 to 41 below “youth justice services” means any of the following, namely—
- (a) the provision of persons to act as appropriate adults to safeguard the interests of children and young persons detained or questioned by police officers;
 - [^{F9}(aa) the provision of assistance to persons determining whether youth cautions should be given under section 66ZA below;]
 - (b) the assessment of children and young persons, and the provision for them of rehabilitation programmes, for the purposes of section [^{F10}66ZB(2) or (3)] below;
 - [^{F11}(ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;
 - (bb) the supervision and rehabilitation of persons to whom such cautions are given;]
 - (c) the provision of support for children and young persons remanded or committed on bail while awaiting trial or sentence;
 - (d) the placement in local authority accommodation of children and young persons remanded [^{F12}to such accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012];
 - (e) the provision of reports or other information required by courts in criminal proceedings against children and young persons;
 - [^{F13}(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;]
 - (f) the provision of persons to act as responsible officers in relation to ^{F14}... parenting orders, child safety orders [^{F15}and reparation orders];
 - [^{F16}(fa) the provision of persons to act as responsible officers in relation to youth rehabilitation orders [^{F17}under Chapter 1 of Part 9 of the Sentencing Code];
 - (fb) the supervision of children and young persons sentenced to a youth rehabilitation order under [^{F18}that Chapter] which includes a supervision requirement (within the meaning of [^{F18}that Chapter]);]
 - (g) ^{F19}.....
 - (h) the supervision of children and young persons sentenced to a detention and training order [^{F20}(including an order under section 211 of the Armed Forces Act 2006)]^{F21}...;
 - [^{F22}(ha) supervision after the end of the term of such an order under section 256AA of the Criminal Justice Act 2003 (as applied by [^{F23}section 247 of the Sentencing Code]);]
 - [^{F24}(i) post-release supervision in accordance with a licence under section 31 of the Crime (Sentences) Act 1997 or section 250 of the Criminal Justice Act 2003 of a person sentenced to detention under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000, section 226, 226B or 228 of the Criminal Justice Act 2003 [^{F25}, section 250, [^{F26}252A,] 254 or 259 of the Sentencing Code] or section 209, 218, 221, 221A or 222 of the Armed Forces Act 2006;
 - (ia) post-release supervision under section 256B of the Criminal Justice Act 2003;
 - (ib) supervision under section 256AA of the Criminal Justice Act 2003 of a person sentenced to detention under section 91 of the Powers of Criminal Courts

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(Sentencing) Act 2000 [^{F27}, section 250 of the Sentencing Code] or section 209 of the Armed Forces Act 2006;]

^{F28}(j)
^{F29}(k) the implementation of referral orders within [^{F30}the meaning given by section 83(1) of the Sentencing Code].]

(5) The Secretary of State may by order amend subsection (4) above so as to extend, restrict or otherwise alter the definition of “youth justice services” for the time being specified in that subsection.

Textual Amendments

- F1 Words in s. 38(2)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), ss. 99, 157\(1\), Sch. 16 para. 235](#); S.I. 2011/3019, [art. 3](#), Sch. 1 para. (nnn)(iii)
- F2 S. 38(2)(aa)(ab) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 39, 41\(1\), Sch. 3 para. 3\(2\)](#); S.I. 2008/504, [art. 3\(1\)](#)
- F3 Words in s. 38(2)(b) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 para. 151](#); S.I. 2001/919, [art. 2\(f\)\(ii\)](#)
- F4 Words in s. 38(2)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 4 para. 53](#); S.I. 2022/734, [reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)
- F5 Words in s. 38(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 85\(b\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F6 Words in s. 38(2)(b) substituted (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\), arts. 1, 3\(1\), Sch. 1 para. 35\(3\)](#)
- F7 Words in s. 38(2)(b) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\), art. 3, Sch. para. 29\(2\)\(b\)](#)
- F8 Words in s. 38(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 85\(c\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F9 S. 38(4)(aa) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 24 para. 15\(a\)](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F10 Words in s. 38(4)(b) substituted (8.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 24 para. 15\(b\)](#) (with s. 135(4)); S.I. 2013/453, [art. 4\(f\)](#)
- F11 S. 38(4)(ba)(bb) inserted (16.11.2009 in relation to specified areas, otherwise prosp.) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 148\(1\), 153\(7\), Sch. 26 para. 34\(3\)](#); S.I. 2009/2780, [art. 2\(1\)\(d\)](#)
- F12 Words in s. 38(4)(d) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 37](#); S.I. 2012/2906, [art. 2\(j\)](#) (with art. 7(2)(3))
- F13 S. 38(4)(ee) inserted (27.2.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), ss. 29\(2\), 93\(1\); S.I. 2003/3300, art. 3\(a\)\(iii\)](#)
- F14 Words in s. 38(4)(f) omitted (23.3.2015) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 28](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, [art. 4\(f\)\(vii\)](#)
- F15 Words in s. 38(4)(f) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 153\(7\), Sch. 4 para. 49\(a\)](#); S.I. 2009/3074, [art. 2\(p\)\(v\)](#)
- F16 S. 38(4)(fa)(fb) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 153\(7\), Sch. 4 para. 49\(b\)](#); S.I. 2009/3074, [art. 2\(p\)\(v\)](#)
- F17 Words in s. 38(4)(fa) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 154\(a\)](#) (with Sch. 27); S.I. 2020/1236, [reg. 2](#)
- F18 Words in s. 38(4)(fb) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 154\(b\)](#) (with Sch. 27); S.I. 2020/1236, [reg. 2](#)
- F19 S. 38(4)(g) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6\(2\), 149, 153\(7\), Sch. 4 para. 49\(c\), Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(p\)\(v\)\(u\)\(xvi\)](#)

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- F20** Words in s. 38(4)(h) inserted (28.3.2009 for specified purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383(2), **Sch. 16 para. 153**; S.I. 2009/812, **art. 3(a)(b)**; S.I. 2009/1167, **art. 4**
- F21** Words in s. 38(4)(h) repealed (30.11.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), ss. 6(2), 149, 153(7), **Sch. 4 para. 49(d)**, **Sch. 28 Pt. 1**; S.I. 2009/3074, **art. 2(p)(v)(u)(xvi)**
- F22** S. 38(4)(ha) inserted (1.2.2015) by **Offender Rehabilitation Act 2014** (c. 11), s. 22(1), **Sch. 3 para. 9(2)** (with **Sch. 7 para. 2**); S.I. 2015/40, **art. 2(u)**
- F23** Words in s. 38(4)(ha) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 154(c)** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**
- F24** S. 38(4)(i)-(ib) substituted for s. 38(4)(i) (1.2.2015) by **Offender Rehabilitation Act 2014** (c. 11), s. 22(1), **Sch. 3 para. 9(3)** (with **Sch. 7 para. 2**); S.I. 2015/40, **art. 2(u)**
- F25** Words in s. 38(4)(i) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 154(d)** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**
- F26** Word in s. 38(4)(i) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021** (c. 11), s. 50(1)(i), **Sch. 13 para. 17(2)**
- F27** Words in s. 38(4)(ib) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 154(e)** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**
- F28** S. 38(4)(j) omitted (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by virtue of **Sentencing (Pre-consolidation Amendments) Act 2020** (c. 9), s. 5(2)(3), **Sch. 2 para. 119(4)**; S.I. 2012/1236, **reg. 2**
- F29** S. 38(4)(k) inserted (26.6.2000) by 1999 c. 23, s. 67(1), **Sch. 4 paras. 25, 28** (with **Sch. 7 paras. 3(3), 5(2)**); S.I. 2000/1587, **art. 2**
- F30** Words in s. 38(4)(k) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 154(g)** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**

Commencement Information

- I1** S. 38 wholly in force; S. 38 not in force at Royal Assent see s. 121. S. 38(4) in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8); S. 38(1)-(3)(5) in force at 30.8.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, **art. 3(1)**, **Sch. 1** (subject to savings in art. 9); s. 38 in force at 1.4.2000 by S.I. 2000/924, **art. 2**

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Changes and effects yet to be applied to :

- s. 38(4)(i) words substituted by [2021 c. 11 Sch. 13 para. 37\(2\)](#)
- s. 38(4)(ee) words substituted by [2006 c. 48 Sch. 14 para. 36](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(1C) inserted by [2010 c. 17 s. 40\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 40 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A inserted by [2010 c. 17 s. 41\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A repealed by [2014 c. 12 Sch. 11 para. 24\(c\)](#)
- s. 9(2)(d) and word inserted by [2010 c. 17 s. 41\(4\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2)(d) and word omitted by [2014 c. 12 Sch. 11 para. 26\(4\)\(a\)](#)
- s. 9(2AA) inserted by [2010 c. 17 s. 41\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2AA) repealed by [2014 c. 12 Sch. 11 para. 26\(5\)](#)
- s. 41(5)(i)(ii) words substituted by [2021 c. 11 Sch. 13 para. 37\(3\)](#)
- s. 47(A1) inserted by [2022 c. 35 s. 12\(2\)](#)
- s. 47(1)-(1F) substituted for s. 47(1) by [2022 c. 35 s. 12\(3\)](#)
- s. 47(4)(a) word substituted by [2022 c. 35 s. 12\(6\)\(b\)](#)
- s. 47(4)(a) words renumbered as s. 47(4)(a) by [2022 c. 35 s. 12\(6\)\(a\)](#)
- s. 47(4)(b) and word inserted by [2022 c. 35 s. 12\(6\)\(c\)](#)
- s. 47(4A) inserted by [2022 c. 35 s. 12\(7\)](#)
- s. 50A(6) inserted by [2022 c. 35 Sch. 2 para. 8\(2\)\(b\)](#)
- s. 51(2A)-(2E) inserted by [2022 c. 35 s. 10\(4\)](#)
- s. 51(3A)(3B) substituted for s. 51(3)-(12) by [2022 c. 35 s. 10\(5\)](#)
- s. 51A(A1) inserted by [2022 c. 35 s. 10\(7\)](#)
- s. 51A(3A)-(3E) inserted by [2022 c. 35 s. 10\(9\)](#)
- s. 51A(4A)(4B) substituted for s.0051A(4)-(10) by [2022 c. 35 s. 10\(10\)](#)
- s. 52(2A) inserted by [2022 c. 35 s. 10\(11\)](#)
- Sch. 3 para. 3(11A) inserted by [2003 c. 44 Sch. 3 para. 71\(d\)](#)