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Chief Probation Officers

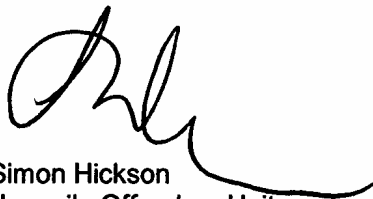
25 February 2004

**JOINT HOME OFFICE/DCA/YOUTH JUSTICE BOARD CIRCULAR:
PARENTING ORDERS AND CONTRACTS FOR CRIMINAL CONDUCT OR ANTI-SOCIAL
BEHAVIOUR**


1. Parenting orders under the Crime and Disorder Act 1998 have been available nationally since 1 June 2000. The Anti-social Behaviour Act 2003 and Criminal Justice Act 2003 amended parenting orders to increase their flexibility and widen their availability. The Anti-social Behaviour Act 2003 also introduced a statutory basis for parenting contracts. These measures will be commenced in England and Wales on 27 February 2004.
2. This circular encloses technical guidance on all parenting orders and contracts for criminal conduct or anti-social behaviour. It replaces guidance on parenting orders issued in May 2000. Separate guidance on education-related parenting orders and contracts is being published by the Department for Education and Skills.
3. This guidance was first issued in draft for consultation on 3 October 2003 and this version takes account of the feedback received. Those consulted include the Judicial Studies Board, Youth Offending Team Managers, the Welsh Assembly, the Magistrates' Association, ACPO and a wide range of voluntary organisations. The full list of those consulted is attached to this circular.
4. The Home Office with the Youth Justice Board and the Department for Constitutional Affairs will update the guidance from time to time in conjunction with users and issue amendments if necessary. The latest version will be kept on the Home Office website. The Youth Justice Board website will have a link to it. The Home Office website will also include a Welsh version of the guidance. Hard copies will be available on request. Any queries or comments about the guidance should be sent to Anthony Green, Juvenile Offenders Unit, Room 102, Home Office, 50 Queen Anne's Gate, London SW1H 9AT (anthony.green10@homeoffice.gsi.gov.uk).



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CONSULTATION LIST

1. Local Government Association
2. Department for Education and Skills (Children and Families Directorate)
3. Association of Chief Education Officers
4. National Association of Head Teachers
5. Association of Directors of Social Services
6. Youth Offending Team managers
7. Kinara Centre (Greenwich Social Services)
8. Government offices for the Regions
9. Welsh Assembly Government
10. ACPO (Youth Issues Group)
11. The Police Superintendents' Association of England and Wales
12. Police Federation of England and Wales
13. Association of Police Authorities
14. Northern Ireland Office
15. Scottish Executive
16. Law Society
17. Magistrates Association (and Youth Courts Committee)
18. The Justices' Clerks' Society
19. Crown Prosecution Service
20. Association of Magisterial Officers
21. Bar Council
22. Council of HM Circuit Judges and Council of HM Crown Court Judges
23. Justices' Chief Executives
24. Judicial Studies Board
25. Home Start UK
26. YMCA
27. National Children's Bureau
28. Trust for the Study of Adolescence
29. National Youth Agency
30. Joseph Rowntree Foundation
31. The Children's Society
32. Coram Family
33. Community Practitioners and Health Visitors Association
34. NSPCC
35. Riverside Early Years Training Centre
36. Association of LEA Advisory Officers for Multicultural Education
37. Barnardo's
38. British Youth Council
39. Children Law UK
40. Commission for Racial Equality
41. Connexions Voluntary Sector Forum
42. Family Rights Group
43. Family Service Units
44. Family Welfare Association
45. Fathers Direct
46. Grandparents Plus
47. Howard League
48. Liberty
49. NACRO
50. National Association of Youth Justice
51. NCH
52. National Council for Voluntary Youth Services
53. National Family & Parenting Institute
54. National Council for One Parent Families
55. Parenting Education and Support Forum
56. Parentline Plus
57. Positive Parenting (and Positive Parenting Publications)
58. Prison Reform Trust
59. National Council of Voluntary Child Care Organisations
60. Save the Children
61. Service Children's Education Authority
62. UK Youth Parliament
63. The Fostering Network (formerly the National Foster Care Association)
64. Policy Research Bureau
65. Centre for research into Parenting and Children, University of Oxford
66. Social work research and development Unit
67. Research Director, Centre for Crime and Justice Studies, Kings College, London
68. Centre for Research on the child and family, University of East Anglia, Norwich
69. Newcastle Centre for Family Studies
70. UK centre for evidence based policy and practice, Queen Mary College, University of London
71. Hartley-Brewer Parenting Projects
72. House of Commons Library
73. House of Lords Library

In addition we received comments from:

1. Barnardo's Blackpool Project
2. National Autistic Society
3. Contact a Family
4. Afasic
5. Kent Police
6. West Yorkshire Police (Leeds Anti-social Behaviour Unit)
7. Children's Legal Centre
8. South Derbyshire Crime and Disorder Partnership
9. East Riding of Yorkshire Council
10. Kent County Council
11. Lord Northbourne
12. Relate



**Department for
Constitutional Affairs**



Parenting Contracts and Orders Guidance

**Home Office/Youth Justice Board/Department for Constitutional Affairs
February 2004**

PARENTING CONTRACTS AND ORDERS GUIDANCE

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Section 1: Scope and status of guidance

- 1.1 This guidance is about the operation of **parenting orders**¹ and of **parenting contracts**². It is the guidance referred to in sections 25(8) and 27(4) of the Anti-social Behaviour Act 2003 ("the ASB Act 2003"). It is principally technical guidance on the provisions but also aims to reflect good practice. It does **not** offer guidance on the content or quality of parenting programmes or provide advice on engaging with parents and their children. For information on such wider topics, see 1.6 below. It replaces the guidance on parenting orders under the Crime and Disorder Act 1998 ("the CD Act 1998") issued in May 2000. The guidance is mainly intended for youth offending teams (YOTs), responsible officers and the courts but may also be of use to the police, youth offender panels, parenting programme providers, the CPS and defence lawyers.
- 1.2 The guidance only covers parenting orders and contracts arising from criminal conduct or anti-social behaviour. Separate guidance on parenting orders and contracts arising from truancy and exclusion from school has been published by the DfES³.
- 1.3 Parenting Orders under the CD Act 1998 were implemented across England and Wales on 1 June 2000. Parenting orders and parenting contracts under the ASB Act 2003 and Criminal Justice Act 2003 ("the CJ Act 2003") will be implemented on 27 February 2004.

1.4 This document provides non-statutory guidance only. It should not be regarded as providing legal advice, which should be sought if there is any doubt as to the application or interpretation of legislation. Extracts from the relevant legislation on parenting orders and contracts are included at Annex A. Key terms are defined at Annex B.

1.5 This guidance was first issued for consultation in October 2003 and this version takes into account the comments received. In conjunction with users, the Home Office will update the guidance from time to time and issue amendments to this guidance. The latest version will be held on the Home Office website. If you have any comments or queries about the guidance please contact Anthony Green, Juvenile Offenders Unit, Room 102, Home Office, 50 Queen Anne's Gate, London SW1H 9AT. Email: anthony.green10@homeoffice.gsi.gov.uk, Telephone: 020 7273 4182.

1.6 **Related material which may be helpful:**

- "National Standards for Youth Justice Services 2004" have been published by the Youth Justice Board (YJB) for England and Wales. Paragraphs 8.72-8.81 deal specifically with the parenting order. This guidance cross-refers to relevant parts of the National Standards.
- The YJB has also produced various publications on good practice in working with parents of young offenders. See in particular "Key Elements of Effective Practice – Parenting", "Key Elements of Effective Practice – Parenting (source)" and the YJB's "Effective Practice Reader on parenting" in the practitioners' portal at www.youth-justice-board.gov.uk.

¹ Under section 8 of the Crime and Disorder Act 1998 (CD Act 1998), sections 18, 26-29 & 85 of the Anti-Social Behaviour Act 2003 (ASB Act 2003) and section 324 of and schedule 34 to the Criminal Justice Act 2003 (CJ Act 2003).

² Under s25 of the ASB Act.

³ To obtain a copy contact the Parental Responsibility (Behaviour and Attendance) Team on 020 7925 5800 or access www.dfes.gov.uk/behaviourandattendance.

Section 2: Background to Parenting Programmes

a) Research evidence

- 2.1 Inadequate parental supervision is strongly associated with offending. For example, a Home Office study⁴ showed that 42% of juveniles who had low or medium levels of parental supervision had offended, whereas for those juveniles who had experienced high levels of parental supervision the figure was only 20%. The same research showed that the quality of relationship between the parent and child is crucial. Research also suggests that the children of parents whose behaviour towards them is harsh or erratic are twice as likely to offend.⁵
- 2.2 In the United States, a study as long ago as 1973 showed that by training parents in negotiation skills, sticking to clear rules and rewarding good behaviour, offending rates among children were halved.⁶ Parenting can also be an important protective factor that moderates a child's exposure to risk.⁷
- 2.3 Parenting programmes are designed to develop parents' skills to reduce parenting as a risk factor and enhance parenting as a protective factor. Throughout this guidance the term "parenting programmes"⁸ is used to refer to the variety of different approaches that may be

⁴ Graham and Bowling (1995) "Young People and Crime" Home Office Research Study 145

⁵ "Family backgrounds of aggressive youths" by DP Farrington (In "Aggressive and anti-social behaviour in childhood and adolescence" by L Hersov et al. Pergamon Press, 1978. ISBN 0080218105).

⁶ "Short term behavioural intervention with delinquent families: impact on family process and recidivism by JF Alexander and BV Parsons (In "Journal of Abnormal Psychology", 81(3) 1973).

⁷ See various YJB research about parenting contributing to risk and protective factors including "Risk and Protective Factors Associated with Youth Crime and Effective Interventions to Prevent it" (2001) (research undertaken by Communities that Care) and "The evaluation of the validity and reliability of the Youth Justice Board's assessment for young offenders".

⁸ Parenting Programmes are referred to throughout the relevant legislation as "counselling or guidance programme".

used by YOTs to help parents address their child's misbehaviour as part of an overall parenting intervention. These include cognitive behaviour programmes, mentoring, parenting advice, individual family based therapy, functional family therapy, solution focussed (brief) therapy, family group conferencing and group based programmes.

- 2.4 Since being introduced through the CD Act 1998, parenting orders have been operating successfully. YOTs have established or commissioned parenting programmes to support court orders and have also worked with parents on a voluntary basis. An evaluation of the Youth Justice Board's parenting programmes by the Policy Research Bureau⁹ showed that they have a positive impact both on young people's perception of their parents and on their behaviour.
- Statistically significant positive changes were reported in parenting skills and competencies by the time parents left their programmes.
 - 90% of parents said they would recommend the programme to other parents in their situation.
 - Court ordered parents benefited just as much as voluntary participants.
 - 95% of the young people had committed an offence in the year before their parents began the programme and 89% had been convicted of an offence. Each young person had committed an average of 4.4 offences in that period.
 - In the year after their parents completed the programme, reconviction rates had fallen to 61.5% (a reduction of nearly one third), offences resulting in a

⁹ Ghate D and Ramella M (2002) "Positive Parenting: The effectiveness of the Youth Justice Board's Parenting Programme" London: YJB. (<http://www.youth-justice-board.gov.uk/Publications/Scripts/prodView.asp?idProduct=21&eP=PP>).

conviction to 56%, and the average number of offences per young person had dropped to 2.1 (a 50% reduction).¹⁰

b) Helping parents help their children

- 2.5 Parenting is a challenging job. Parents need to be able to discipline, guide and nurture their child effectively. Helping parents to develop their skills is an effective way of ensuring that problems in a child or young person's behaviour or development are not allowed to grow unchecked into major difficulties for the individual, the family and the community.
- 2.6 Help and support for the parents of young people who become involved in crime is part of a wider programme of action to support families. Parents have an important role to play in preventing their children offending: they have a responsibility to the child and to the community to supervise and take proper care of them. Some parents may need help, support, encouragement and direction. Such assistance may be provided at an early stage by or on behalf of social services or a local education authority or by a voluntary agency and could be in the form of group work or one to one counselling. Or there could be work involving the whole family or parents and child. Early advice is also available over the telephone from Parentline Plus on 0808 800 2222.
- 2.7 If the YOT becomes involved, it could work with the parents on a voluntary basis, possibly using a parenting contract. Where the voluntary approach has failed or is not appropriate YOTs can work with parents through a parenting order. This work with parents should

complement work with the child or young person.

c) Overview of parenting contracts and orders

- 2.8 The full detail of parenting contracts and orders is given in section 3 onwards, but essentially a parenting contract is an agreement negotiated between a YOT worker and the parents of the child involved or likely to become involved in criminal conduct or anti-social behaviour. A parenting order is made in similar circumstances by a criminal court, family court or Magistrates' Court acting under civil jurisdiction. However they are made, by reinforcing or securing proper parental responsibility, parenting contracts and orders are intended to prevent offending - which section 37 of the CD Act 1998 established as the principal aim of the youth justice system. Section 37 also requires all those working within the youth justice system to have regard to this aim in addition to any other duties to which they are subject. It therefore helps set the overall framework for work with young offenders and their parents. Following a judicial review, the parenting order has been held to be compliant with the Human Rights Act 1998.¹¹
- 2.9 Parenting contracts and orders can consist of two elements.
- (i) The first is a parenting programme designed to meet the individual needs of parents so as to help them address their child's misbehaviour. This is not a punishment but a positive way of bolstering parental responsibility and helping parents develop their skills so they can respond more effectively to their child's needs.

¹⁰ These results should be taken as cautiously indicative because parenting programmes contributed to these outcomes in many cases alongside other interventions with the juvenile offender. The contribution of the different programmes is not known.

¹¹ R (M) v Inner London Crown Court, [2003] EWHC 30; [2003] 1 FLR 944. [http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2003/301.html&query=\[2003\]+EWHC+301&method=all](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2003/301.html&query=[2003]+EWHC+301&method=all)

(ii) The second element specifies particular ways in which parents are required to exercise control over their child's behaviour to address particular factors associated with offending or anti-social behaviour. Examples would be ensuring that their child goes to school every day or is home during certain hours.

2.10 Under the CD Act 1998 parenting orders resulting from criminal conduct or anti-social behaviour are available in any court proceedings where:

- (a) a child safety order has been made;
- (b) an anti-social behaviour order or sex offender order has been made in respect of a child or young person; or
- (c) a child or young person has been convicted of an offence.

2.11 The availability of parenting orders has now been extended by the ASB Act 2003 and the CJ Act 2003 to allow them to be made at an earlier stage. Involving parents at an early stage helps to prevent their child's offending or anti-social behaviour from becoming entrenched and leading on to more serious problems. YOTs are now able to apply to Magistrates' Courts to make free-standing parenting orders without the child or young person being required to appear in court for offending. Under the CJ Act 2003, parenting orders – already available alongside most court sentences on a young offender – now also become available when a referral order is made or when a Youth Offender Panel¹² refers a parent back to court for failing to attend panel meetings.

2.12 The ASB Act 2003 has also introduced parenting contracts. These can provide a formal framework for work YOTs carry out with parents on a voluntary basis,

encouraging an effective partnership between YOTs and parents. YOTs have a statutory power to make a contract and in return are required to help parents deliver their part of the contract.

2.13 As contracts are voluntary there is no penalty for refusing to enter into or failing to comply with one. However, previous failure to co-operate with support offered through a contract is a relevant consideration for a court when deciding whether to make a parenting order. Therefore contracts provide YOTs with additional authority when attempting to secure voluntary co-operation from parents.

2.14 When parents are unwilling to engage with parenting support on a voluntary basis and a YOT assesses that a parent could be supported to improve the child's behaviour, YOTs can apply for a free-standing parenting order or recommend a parenting order linked to a child's conviction or another order. However before applying for an order, YOTs should normally have tried to engage with parents on a voluntary basis whether or not through a contract.

Three ways of working with parents.

1) Voluntarily

Many parents want and may even ask for support. YOTs may work with parents on a voluntary basis without using a contract or order.

2) Voluntarily with a parenting contract

If a more formal approach is useful or the parents are unwilling to co-operate, a YOT can suggest a parenting contract. Refusing to enter into a contract can be used as evidence to support an application for an order and may persuade a reluctant parent to engage.

3) Parenting order

If the parent is unwilling to co-operate, the YOT can apply for, or recommend, a parenting order.

2.15 Any parent or guardian of a child or young person may enter into a parenting contract or can be made subject to a parenting order if the relevant conditions apply. Throughout

¹² When a young offender is made subject to a referral order they are referred to a Youth Offender Panel.

this guidance references to “parent” include “guardian” and mean each and every person coming within these definitions. For the definitions of these terms see Annex B.

- 2.16 Contracts and orders may be made in respect of one or more parents or guardians depending on the circumstances but wherever possible each parent or guardian who could be supported to positively influence their child should be involved. Apart from the mother and father, this could include a step parent, a parent’s partner, grandparents or, in some circumstances, another adult significantly involved in a child’s upbringing.
- 2.17 The evaluation of the YJB’s parenting programmes has shown that few fathers have been involved in parenting programmes. However, when both parents are participating in the upbringing of a child, even when they live separately, a parenting intervention is likely to be more effective if both the mother and father are involved, unless a parent is estranged, for instance because of domestic violence or abuse (see also 2.20 below). By contrast, working with only one of the parents means that positive results achieved through one of them can be undermined by the influence of the other. Encouraging one parent to set consistent and fair boundaries will have less effect if the other parent continues to be inconsistent and unfair. Whether or not both should go on the same programme should depend on the particular needs of the parents and whether the presence of one parent is likely to reduce the impact of the programme on the other. In some cases a YOT will be able to work with one parent voluntarily but may have to explore using a parenting order to engage the other.

d) Assessment process

- 2.18 Assessment is needed to form a picture of the child and the family circumstances. This should be informed by information from other agencies. Initially the YOT will complete an ASSET assessment but where this suggests that parenting is a significant factor in the child or young person’s misbehaviour a detailed assessment of the parents should be carried out. This should identify:
- parenting risk and protective factors;
 - the individual needs and circumstances of the parents;
 - whether a programme could support the parents so they can positively influence their child and if so, what form it should take and whether it should involve a parenting contract or an order;
 - any cultural, racial, linguistic, literacy, religious or gender specific issues that may affect the kind of programme that will be effective for a particular parent;
 - the facts relating to a particular parent or child without invalid assumptions relating to culture, race or gender;
 - whether the parent has any disability, special educational need or mental health problem that would affect the parent’s ability to participate in a programme and if so, how it can be accommodated;
 - any other issue that could affect a parent’s ability to participate (such as transport or child care).
- 2.19 The parenting assessment and the ASSET assessment should be linked and may be presented in court if a YOT applies for, or recommends, a parenting order. The assessment should be updated in light of any significant new information and should be regularly reviewed.
- 2.20 Any intervention must be in accordance with any existing Child Protection Plan or care plan and be

responsive to issues that emerge during the intervention process, such as serious mental health problems, personality disorder, domestic violence or child abuse. Practitioners should follow Area Child Protection Committee procedures. **Parenting practitioners have a duty to protect children and young people. Information that emerges during the intervention or assessment process about domestic violence or abuse will need to be passed on to police and social services for action. Information about other risks may also need to be referred to the appropriate agency.**¹³

2.21 Practitioners should also establish with other agencies, including the police and social services, whether they have information regarding the family about child abuse or domestic violence. If this is the case then there must be discussion with the agencies already involved with the family to establish a joint agency approach. Protocols must be drawn up to ensure that satisfactory information and data sharing is achieved in any joint working arrangements between agencies.¹⁴

e) Co-ordinating parenting support

2.22 Parenting work can be carried out by or on behalf of a local education authority (under an educational parenting contract or order), social services, health services or by voluntary organisations. The YOT must identify any work with the child

or parents by other agencies and co-ordinate any further intervention. Other agencies may also be able to provide useful information about the child or young person's behaviour or the nature and extent of parental supervision. For instance a young person may be playing truant from school and the parent might therefore already be subject to an "educational" parenting contract or order. This should be included in the YOT assessment. When a parent is taking part in a programme it is important to inform other agencies so they are able to relate to the child and family consistently.

2.23 When arranging a contract or applying for or recommending an order, YOTs should consider whether this should also cover poor behaviour inside school and/or truancy and, if so, who should be the lead agency. Truancy and misbehaviour at school can both be risk factors associated with offending and therefore a YOT parenting intervention can address educational issues. On the other hand, educational parenting orders and contracts cannot address criminal or anti-social behaviour outside school. Therefore it will usually be appropriate for YOTs to lead in cases where the YOT and LEA both wish to work with the parents of a child or young person. However there will be cases where it will be more appropriate for the LEA to take the lead. Local protocols will need to be agreed about co-operating and supplying resources in such cases.

2.24 Local co-ordination in the delivery of parenting programmes may also help target effort where it can be most effective.

¹³ For further information the Youth Justice Board's "Effective Practice Reader on Parenting" includes detailed guidance and 'Working Together to Safeguard Children' DOH HMSO 1999 is the key reference document for inter-agency working (<http://www.doh.gov.uk/quality5.htm>).

¹⁴ See YJB "Guidance for Youth Offending Teams on Information Sharing" (2001) (<http://www.youth-justice-board.gov.uk/Publications/Scripts/prodView.asp?idproduct=74&eP=YJB>) and "Sharing Personal and Sensitive Information in Respect of Children and Young people at Risk of Offending. A Practical Guide" issued by the YJB and Association of Chief Police Officers (2003) (<http://www.youth-justice-board.gov.uk/PractitionersPortal/News/NewsArchive/InfoSharing.htm>).

f) Looked after children

2.25 "Looked after" is a term used in the Children Act 1989 to describe all children subject to a care order under section 31, or who are provided with accommodation on a voluntary basis for more than 24 hours under section 20 of the Act. Social services will already have a Care Plan for all their looked after children and will already be working with the family. A parenting order or contract should only be used after consultation with the local authority and where it is consistent with, and forms part of, the child's Care Plan. This is likely to be most appropriate where a child is placed with his or her parents, or the aim of a Care Plan is for the child to be reunited with them.

g) Feedback to courts

2.26 It would be helpful if YOTs inform all courts able to make parenting orders about parenting programmes available locally, what they can achieve, when they are likely to be effective and what is carried out voluntarily and under parenting orders.

h) Race and Diversity

2.27 The PRB evaluation¹⁵ found that the percentage of black and minority ethnic ("BME") parents on parenting programmes is close to the percentage of BME parents in the overall population (that is 8% as against 9% in the general population¹⁶). Relatively few services, however, are currently targeted specifically at BME parents. YOTs must plan how they can support the delivery of parenting programmes to BME parents and should take into account voluntary

sector organisations which have expertise in supporting BME parents.

2.28 Direct or indirect discrimination against parents on grounds of race, colour, nationality (including citizenship), or ethnic or national origin by criminal justice agencies including YOTs is unlawful under the Race Relations Act. YOTs have a duty to consider the promotion of racial equality in carrying out their work. YOTs will be aware of the need to guard against racial stereotyping and assumptions based on race or irrelevant references to race, and make due allowance for different cultural norms or customs. In parenting interventions, equal treatment will be particularly important in assessing parents and their children, making recommendations to courts and deciding whether to pursue a parent for breach of an order.

i) Disability, Mental Health and Special Educational Needs

2.29 YOT staff will of course be well aware that special educational needs, disability and mental health problems of a child (and of his or her parents) will be highly relevant to the child's (and parent's) behaviour.

2.30 Where a child (or parent) has a disability, mental health problem or special educational needs, the YOT will need to communicate with practitioners who have specialist knowledge of the child and parents in order to determine whether a parenting intervention is appropriate and if so what form it should take, depending on the needs of the child and parents. A specialist involved in the assessment process will therefore inform the nature of any subsequent parenting intervention.

2.31 Parenting programmes will need to be tailored to address specific needs. A child's (or parent's) disability, special educational needs

¹⁵ Ghate D and Ramella M (2002) "Positive Parenting: The effectiveness of the Youth Justice Board's Parenting Programme" London: YJB

¹⁶ 2001 census figures.

or mental health problem will also have a bearing on any requirements set out in a parenting contract or order, if it has been found appropriate to make one.

- 2.32 The parenting programme should be designed to ensure that parents with disabilities, mental health problems or special educational needs are not excluded or discriminated against and are able to access the same quality and level of support and have their parenting support needs met.

Section 3: Parenting contracts

a) Description of a parenting contract

- 3.1 A parenting contract is a voluntary written agreement between a YOT worker and the parents or guardians of a child or young person. A contract consists of two elements:

- (a) a statement by the parents or guardians that they agree to comply for a specified period with requirements specified in the contract; and
- (b) a statement by the YOT agreeing to provide support to the parents or guardians for the purpose of complying with the contract.

- 3.2 The requirements in (a) may include, in particular, a requirement to attend a parenting programme.

b) When would a parenting contract be made?

- 3.3 Parenting contracts are not intended to replace all voluntary work with parents but to provide an additional option backed by statute. As many parents want support, YOTs will often be able to work effectively with them without using a contract. Where a parent is reluctant to engage or would benefit from a more formal arrangement, a YOT may wish to negotiate a parenting contract.

- 3.4 The purpose of a parenting contract is to prevent the child or young person from engaging or persisting in criminal conduct or anti-social behaviour. Whether a parenting contract will serve this purpose will be determined by the YOT in light of the assessment.

- 3.5 A YOT worker may negotiate a parenting contract when a child or young person has been referred to the YOT and he or she has reason to believe that the child or young person has engaged, or is likely to engage, in criminal conduct or anti-social behaviour. Whether or not they accept that their child's behaviour is criminal or anti-social, the phrase "is likely to engage" allows for work with parents without giving the child or young person a reprimand or final warning or charging them with a view to court proceedings.

- 3.6 The phrase also allows early supportive work with parents who have consented to be referred to a YOT as their child has been identified as being at risk of engaging in criminal conduct or anti-social behaviour. Where a child has not engaged in criminal conduct or anti-social behaviour, the referral to the YOT and any subsequent intervention must be on a voluntary basis.

- 3.7 Children referred to a YOT, when a parenting contract may be suitable, will include:

- a child convicted of an offence;
- a child who is referred to the YOT in connection with a reprimand or a final warning;
- a child under 10 that a member of the YOT has reason to believe has committed an act, which if the child had been older, would have constituted an offence;
- a child identified as being at risk of offending by a Youth Inclusion Support Panel.

c) **Negotiating a contract**

- 3.8 If a YOT considers a parenting contract would be useful, the YOT worker should first consult with other agencies working with the child or young person or with the parents or guardians, to establish both how a parenting contract would fit in with any existing interventions and whether other agencies should be involved in the work on the contract.
- 3.9 It will be for the YOT worker to decide how best to engage the parents in discussions leading to a contract depending on the circumstances. Usually both parents or guardians should be involved and, subject to age, maturity and understanding the child or young person as well.
- 3.10 The parents and where appropriate their child should be asked to outline their views on the misbehaviour, how they believe it should be tackled and what they think of the idea of a parenting contract. The YOT worker should outline what a parenting contract is and why one may be appropriate. The parents and YOT worker will also be able to discuss support the parents would like and what the YOT is able to provide. The aim should be to work in partnership to improve the behaviour of the child or young person.
- 3.11 All efforts to engage the parents using a contract should be recorded as this would be a relevant factor in any subsequent application for a parenting order.
- 3.12 If a contract is negotiated, the specified requirements for the parents under s25(3)(a) of the ASB Act 2003 will need to be designed to prevent criminal conduct or anti-social behaviour or further criminal conduct or anti-social behaviour. Parents should be asked about any requirements they would find helpful in addition to those the YOT suggest.

3.13 Examples are:

- to ensure their child stays away unless supervised from a part of town where he or she has misbehaved;
- to ensure their child is effectively supervised at certain times;
- to ensure their child avoids contact with certain disruptive individuals;
- to ensure their child avoids contact with someone he or she has been harassing;
- to ensure their child attends school regularly;
- to ensure that they (the parents) attend all school meetings concerning their child.

3.14 Where there is separate work being carried out with the child it may be helpful for the contract to support this or bring together work involving parents and child. For instance the requirements of a parenting contract could mirror requirements agreed in an Acceptable Behaviour Contract.¹⁷

3.15 Contracts should normally include a parenting programme, arranged by the YOT and based on an assessment of the parents' needs.

3.16 The contract will need to be written in language the parents can understand (including a translation where appropriate) and should balance specific and general requirements (specific requirements are normally clearer about what parents or guardians should actually do while general requirements are normally clearer about aims).

3.17 A YOT may include more than one parent or guardian in a contract or negotiate separate contracts with different parents or guardians of a child. Considerations should include whether the parents or guardians have agreed to the same specific

¹⁷ see "Guide to Anti-social Behaviour Orders and Acceptable Behaviour Contracts", Home Office, 2002. (www.crimereduction.gov.uk/asbos9.htm)

requirements, whether the contracts will cover the same period and the preference of the parents or guardians.

3.18 The YOT's side of the contract must include a statement that it agrees to provide the parents with support for the purpose of complying with the requirements. This statement should detail the specific support the YOT has agreed to provide, such as the parenting programme. The YOT can also include any other action it has agreed to take.

3.19 The parents and a representative of the YOT (preferably the person who will deliver the YOT's part of the contract) must sign the contract and they should each be given a copy. It may also be helpful to give a copy to other agencies working with the family. Where the parents are unable to read, the contract should be explained to them and they should be asked to sign and keep a copy.

d) Length of contracts

3.20 The ASB Act 2003 does not specify a time limit for contracts so duration is a question of what is reasonable and effective. A contract should end at the same time as a parenting programme if it includes no other requirements.

e) Delivering the contract

3.21 A particular YOT worker must be responsible for delivering the YOT's part of the contract and for helping to manage its overall outcome. This will require regular contact with the parents to discuss progress and any problems in meeting the contract's requirements; and contact with other interested agencies such as the provider of a parenting programme or, where truancy is an issue, the school authorities.

f) Parents who refuse to enter into a parenting contract or with whom it is impossible to agree a contract

3.22 Parenting contracts are designed to be voluntary. If a parent refuses to enter into one the YOT worker should seek constructively to meet all legitimate concerns and ensure that a written record is kept of all efforts to negotiate a contract. This should include whether the parents were at least willing to meet to discuss the possibility and if so what was said. If the conditions at s26(3) are met and a parent or guardian refuses to enter into a contract or fails to agree to an appropriate contract to try to secure agreement, the YOT worker may wish to warn of the intention to apply for a free-standing parenting order and that the court will take into account the refusal to enter into a parenting contract (s27(1)(a) of the ASB Act 2003).

g) Non-compliance by parents

3.23 The YOT should work with the parents to gain their co-operation and compliance with the contract but will have to judge whether any failure to comply is reasonable and whether the contract remains useful and should continue. There is no penalty for failing to comply with a parenting contract but it would be a relevant consideration for a YOT in deciding whether to apply for, and a relevant consideration for a court in deciding whether to make, a parenting order.

3.24 Any failures to comply must therefore be recorded and acted upon. The YOT worker should contact the parents to seek an explanation. If it is reasonable and overall the contract is still proving useful then the non-compliance and reasons should all be recorded and the contract should continue as normal. If the explanation shows that the contract is proving difficult to comply with through no fault of the parents, the YOT worker should meet the

parents to review and, if appropriate, amend the contract.

- 3.25 If no explanation is given or the YOT worker is not satisfied with the explanation, they should serve the parents with a warning and keep a record of it. If repeated failures to comply are seriously undermining the contract's effectiveness, the YOT worker should meet the parents or guardians to discuss how the contract can be made to work. If the conditions at s26(3) of the ASB Act 2003 are met, the YOT worker should remind them that if the contract fails, the YOT would be able to apply for a free-standing parenting order and that a court would take account of how far the parents had complied with the contract. In light of this meeting, the YOT worker should decide whether the non-compliance is undermining the contract to the extent that the YOT needs to apply for a parenting order or whether to persevere with the contract. The YOT worker must record the decision and reasons. This can be used in any future application for a parenting order.

h) Non-compliance by YOTs

- 3.26 The YOT worker responsible for the contract should ensure that the parents receive all the support that the YOT agreed to provide. Where for any reason the YOT fails, or will clearly fail to meet one of the contract's requirements, the YOT worker should contact the parents and provide a full explanation. As with non-compliance by parents, this should be recorded on file. The YOT worker should also encourage the parents to voice any concerns they have about the delivery of the YOT's side of the contract and explain how they can make a complaint to the YOT manager if concerns cannot be addressed.

Section 4: Parenting orders

- 4.1 The procedure for making free-standing parenting orders set out in section 5 is different from that for orders linked to a conviction or order on the child, set out in section 6. The content and operation of the actual order will be the same, as in sections 7-9.

Section 5: Free-standing parenting orders

a) Availability of the order

- 5.1 YOTs should form a view about the suitability of a parent for a parenting order following assessment of the child and family circumstances. YOTs can apply to the Magistrates' Court for a parenting order in respect of a parent or guardian of a child or young person who has been referred to them.
- 5.2 The intention is to steer the child away from criminal conduct or anti-social behaviour. Free-standing orders require parents to co-operate to tackle early patterns of offending or anti-social behaviour.
- 5.3 A YOT should normally only apply for a free-standing order after a parent has failed to co-operate in a parenting contract.
- 5.4 The YOT could apply after failed attempts to gain parental co-operation on a voluntary basis without attempting a contract but a court might well require evidence of refusing to enter into or non-compliance with a contract.
- 5.5 To make a free-standing parenting order, a Magistrates' Court needs to be satisfied of two conditions:
- (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 further criminal conduct or anti-social behaviour.

5.6 The first condition requires Magistrates to make a finding about alleged criminal conduct or anti-social behaviour by the child or young person. The legislation does not specify a standard of proof for this, but courts might in practice insist on a criminal standard of proof.¹⁸ The second condition is a judgement, so does not involve a standard of proof. Note sections 7 and 8 of this guidance which will have a bearing on evidence.

b) Evidence that the child or young person has engaged in criminal conduct or anti-social behaviour

5.7 A child referred to a YOT will generally have been involved in criminal conduct or anti-social behaviour and may have already received a police reprimand or final warning. If parents deny past involvement by their child, YOTs will need to present evidence and ensure any witnesses or agency workers involved are able to attend. If a YOT is not sure whether there is sufficient evidence it should seek legal advice before applying.

5.8 The supporting evidence could include witness statements of officers who attended incidents or of people affected by the behaviour, evidence of complaints recorded by the police, statements from professional witnesses, video or CCTV evidence, previous convictions, reprimands and final warnings and copies of custody records of previous arrests relevant to the application.

c) Evidence that making the order would be desirable in the interests of preventing further criminal conduct or anti-social behaviour

5.9 The court has discretion to consider all the circumstances of the case in deciding whether it is desirable to make a parenting order, including the evidence of parents and other witnesses in court. The YOT's assessments of the child or young person and the parents or guardians and details of its ability to provide the parenting programme should be presented in a report supporting the application.

5.10 The YOT should also provide evidence of any experience of trying to engage with the parents through a parenting contract. Magistrates are obliged to take into account any refusal by a parent or guardian to enter into, or failure to comply with, a parenting contract. The YOT needs to be clear what evidence there is of this. If parents or guardians are ready to engage fully with voluntary support, a parenting order would not usually be desirable.

d) Application form and time limits

5.11 Applications should be by complaint to the adult Magistrates' Court. A form is attached at Annex D.

5.12 Under Section 127 of the Magistrates' Court Act 1980 a complaint must be made within six months of the criminal or anti-social behaviour concerned. If that is done, a summons may be issued later, but not so late as to cause unreasonable delay to the prejudice of the parents.

Section 6: Parenting orders linked to conviction or other order

a) Availability

6.1 A court can make a parenting order in any proceedings where:

¹⁸ See for instance the case of McCann where the House of Lords held that anti-social behaviour orders are civil orders to which the criminal standard of proof applies to the past acts of anti-social behaviour.

- (a) a child safety order has been made;
 - (b) an anti-social behaviour order or sex offender order has been made in respect of a child or young person;
 - (c) a child or young person has been convicted of an offence; or
 - (d) a referral order has been made or when a parent is referred back to court by a Youth Offender Panel after failing to attend panel meetings.¹⁹
- 6.2 This means that parenting orders can be made in any of the following courts:
- (i) a Family Proceedings Court;
 - (ii) a Magistrates' Court acting under civil jurisdiction;
 - (iii) all criminal courts, i.e. a Youth Court, an adult Magistrates' Court or the Crown Court.
- 6.3 The parenting order is made under the court's own motion (suggested forms for the order are at Annex E). The consent of the parent or guardian is not required.
- 6.4 There are conditions, one of which must apply before the court can make a parenting order. They are that the order would be desirable in the interests of preventing:
- (a) a repetition of the kind of behaviour which led to a child safety order, an anti-social behaviour order or a sex offender order being made; or
 - (b) the commission of further offences, where the child or young person has been convicted of an offence or issued with a referral order.
- 6.5 There is an additional condition when a Youth Offender Panel refers a parent back to court. The court

would only be able to make a parenting order if it is proved to its satisfaction that the parent has failed without reasonable excuse to attend panel meetings **and** that the order would be desirable in the interests of preventing the commission of further offences. The Home Office will publish revised guidance on referral orders.

6.6 The court has discretion to consider all the circumstances of the case in deciding whether it is desirable to make a parenting order. The court may wish to consider, for example, how much help, support and encouragement the parent or guardian has offered the child, and whether they are willing to receive assistance and support from the YOT or other provider on a voluntary basis. Where the parent is fully co-operating or willing to co-operate voluntarily a parenting order will not usually be desirable. If the parent has attended a programme without changing his or her behaviour, then an order might be called for.

6.7 The suitability of a parent or guardian for a parenting order is normally determined by an assessment process carried out by a practitioner from a YOT. If the assessments provide evidence that parents could be supported to positively influence their child's behaviour and the parents are not willing to engage with support voluntarily it will usually be appropriate to recommend a parenting order to the court. A judgement about the suitability of a parenting intervention and recommendations are usually made in a pre-sentence report ("PSR"). The recommendation takes into consideration the potential needs of both the parents or guardians and the child and the likely effectiveness in terms of changing their behaviour.

6.8 When preparing PSRs in cases where a parenting order is inappropriate due to, for example, domestic

¹⁹ As a result of the CJ Act 2003.

- violence, abuse or continuing civil disputes, practitioners will need to take into account the level of information the court needs to make a decision. It may be that detailed sensitive information will not be necessary and that a general phrase such as 'while family tensions or civil matters are to be resolved' will be sufficient for the purpose.
- 6.9 Where a child or young person under the age of 16 has been convicted of an offence or made subject to an anti-social behaviour order, the court is obliged to make a parenting order if it is satisfied that it is desirable to do so in the interests of preventing further offending or anti-social behaviour by the child or young person. If it is not so satisfied, the court must state this in open court and explain why. The only exception is that, when a referral order is made, the court retains discretion whether or not to make a parenting order.
- 6.10 Before making a parenting order with a referral order the court has to consider a report by an "appropriate officer" because the court needs to have the information necessary to decide whether a parenting order would be desirable. An "appropriate officer" can be an officer of a local probation board, a social worker or a member of a YOT. The report should say which requirements should be included in the order and why they are in the interest of preventing further offending and, where the child or young person is below 16, give information about the person's family circumstances and the likely effect of the order on them.
- 6.11 If the court is considering serious offences when a referral order could be made and a PSR is required, in appropriate cases, the court may request a parenting assessment at the same time.
- 6.12 Parenting orders would normally only be made at the same time as referral orders if there is enough already known about the parents and family circumstances to enable a satisfactory report to be written in the time before the hearing. This would usually be where the YOT has already attempted to engage with parents, for instance where a young person has received a Final Warning with an intervention. In this case the YOT may be able to provide the court with a report describing the attempts to engage the parents, with an update of the original parenting assessment in the time between notification and court appearance.
- 6.13 Where the parents are not already known to the YOT in this way, the court will want to provide the opportunity for the Youth Offender Panel to engage parents and young people in agreeing a contract which could include provision of parenting support on a voluntary basis or through a parenting order. If the parents do not attend the panel their case can be referred back to court, and the YOT would provide an assessment. The court would then consider whether a parenting order is desirable.

Section 7: Procedural points common to all parenting orders

a) Information about family circumstances

- 7.1 Before making a parenting order where the child or young person is under the age of 16, the court must obtain and consider information about the parent's or guardian's family circumstances and the likely effect of the order on those circumstances. Where a young person is aged 16 or 17, the court may obtain such information but is not required to do so.
- 7.2 This recognises that juveniles aged 16 and 17 are at a transitional stage

between childhood and adulthood. Their emotional, social, intellectual and physical development and circumstances will vary greatly. Some may have left school, be living independently of their parents and possibly have family responsibilities of their own. Others may be in full-time education and fully dependent upon their parents.

7.3 The YOT's assessment (see section 2d) and subsequent report, should cover the family circumstances although the court may decide to obtain further information by questioning the YOT officer in court or the parents or guardians if they are in court.

b) Parental attendance at court

7.4 The Government believes that parents need to be in court when their children appear so as to support them and help take responsibility for tackling their offending behaviour. Magistrates' Courts, including Youth Courts, and Crown Courts, have powers to enforce parental attendance at court where appropriate. It is usually desirable to ensure both parents attend court and are involved in any parenting intervention. **An important exception to this may be where one parent has a history of being violently or sexually abusive towards the child or other parent.**

7.5 In discussions and correspondence with parents before coming to court, whenever possible YOTs will wish to encourage them to attend court. However, parents, particularly single parents, will sometimes find it difficult to attend court hearings. YOTs should explain that if a parent cannot attend court, reasons should be communicated to the court and that if valid reasons are not provided, any parent who does not attend will risk being made subject to a parenting order. YOTs will also wish to consider whether a non-resident

parent should be encouraged to attend. The courts can adjourn to secure attendance and have power to require attendance if thought necessary. But against this they will also weigh up the desirability of completing proceedings.

(i) In a criminal court or a Magistrates' Court acting under civil jurisdiction

7.6 Section 34A of the Children and Young Persons Act 1933 provides that, where a child or young person is charged with an offence or is for any other reason brought before a court, the court may in any case and shall in the case of a child or young person who is under the age of 16 require a person who is a parent or guardian to attend the court during all stages of the proceedings, unless the court is satisfied that it would be unreasonable to do so.

7.7 The court can issue a summons to secure the attendance of the parents or guardians.

7.8 Section 34A applies to Crown Courts and Magistrates' Courts when dealing with either civil or criminal proceedings against the child or where the child's actions are the subject of a parenting order application. Because the provision relates not only to offences but to cases where the child or young person is for any other reason brought before the court, section 34A applies in the case of all proceedings in relation to parenting orders where the child or young person is brought before the court and his or her actions act as the trigger for the parenting order. Parents who fail to attend such hearings will be subject to the existing rules of those courts.

(ii) In a Family Proceedings Court

7.9 These courts hear applications for Child Safety Orders. The child is not required to attend, but under the

Family Proceedings Courts (Children Act 1989) Rules 1991 the court may require a parent or guardian to attend.

(iii) In an adult Magistrates' Court (where an application is made for a free-standing parenting order).

7.10 When a YOT applies for a free-standing parenting order the parents should be summonsed to attend the proceedings on the laying of a complaint.

(iv) Where a parent fails to attend

7.11 It is important that courts do not simply make an order on the parent who attends court rather than on an absent parent. Often it is just the mother who attends court whereas engaging both the mother and father will be most effective in tackling their child's misbehaviour. In fact where one or both parents do not attend and there is no reasonable explanation, this may lend weight to an existing recommendation for a parenting order. Where there has been no recommendation for a parenting order, particularly if there were a pattern of non-attendance without valid reasons, then the court may consider whether there is now sufficient evidence for an order. Alternatively, the court may consider whether the YOT should be asked to re-assess the need for an order and return to the court at a later date with a recommendation (if proceedings involving the child have not been completed) or an application for a free standing order (if proceedings have already been completed).

c) Explaining the order to the parent

7.12 Before making a parenting order the court must as required by s9(3) of the CD Act 1998, explain clearly to the parent or guardian the effect of the order and of its requirements; the consequences which may follow

if he or she fails to comply with any of them; and that the court has the power to review the order on the application of the parent or guardian or of the responsible officer. This requirement can be dealt with if the parent or guardian is present in court using an interpreter where appropriate.

7.13 Experience has shown it is crucial how a parenting order is explained to parents or guardians. It should be stressed that parenting orders are not a punishment and emphasis should be placed on building parents' existing strengths and skills.

7.14 It is highly desirable for parents to be present in court but a parenting order can be made in their absence. Where the parent or guardian is not present, the court will need to find a different way to comply with s9(3) before it can make a parenting order. One would be to write to the parents or guardians (provided literacy is not a problem), explaining that the court has decided to make a parenting order on them and when the hearing will be, the effect of the order, the nature of its requirements and the consequences of non-compliance; and to invite the parent or guardian to attend the hearing. The YOT or other agency responsible for the proceedings could deliver the letter. There must be proof that the letter has been served.

7.15 A court may include more than one parent or guardian in an order or issue separate orders to different parents or guardians. Consideration should include whether the parents or guardians are being asked to comply with the same requirements over the same period. All parents or guardians named in an order should be given copies.

Section 8: Requirements of parenting orders

8.1 The requirements in parenting orders or in directions given under them should, as far as practicable, avoid any conflict with the parent's religious beliefs and any interference with the times when the parent normally works or attends educational courses.

a) Parenting programme

8.2 The core requirement of a parenting order is that the parent attends a parenting programme.²⁰ Details and duration of the programme are specified in directions given by the **responsible officer**. All orders must include this, unless the parent or guardian has previously received a parenting order. The programme can last for up to three months. The arrangements should be as flexible as possible, and take account of programme availability and timing. It may be provided by the responsible officer or for example the local authority social services department or a local voluntary sector organisation working with parents. The local authority youth justice plan should set out the general arrangements for delivering parenting orders.

8.3 The **court** will need to decide the length of the order. This needs to allow sufficient time for:

- assessing parents;
- any individual work needed to prepare the parents for the programme;
- any waiting time before the programme can start;
- the programme itself;
- the time any specific requirements should run (see 8.12 below).

8.4 The responsible officer will need to assess what kind of programme is required, in consultation with the provider. This should cover for example who will provide the sessions; whether they should be group, individually or family-based; and whether there are particular cultural and social factors to be considered.

8.5 During the programme the responsible officer and the programme provider (if different) will need to monitor the parents' progress at suitable intervals.

8.6 The parent might also find it helpful to be involved in some voluntary follow-up work when the order has been completed, such as attending a parent support group.

b) Residential requirement

8.7 A parenting order can include a residential course but only if two conditions are met:

(a) that the attendance of the parent or guardian 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 a repetition of the behaviour which led to the making of the order; and

(b) that any likely interference with family life is proportionate in all the circumstances.

8.8 This is designed to ensure that residential requirements are made only where proportionate under Article 8 of the European Convention on Human Rights – right to respect for private and family life.

8.9 A YOT recommending a parenting order with a residential component should provide evidence that these conditions are met. An example

²⁰ Referred to in legislation as a counselling or guidance programme.

would be where the parent's home life is so chaotic that he or she needs a structured setting where sustained counselling and guidance can be undertaken.

8.10 For the court to decide whether any likely interference with family life is proportionate the YOT will need to explain the programme. This need not be continuous; a small number of residential weekends structured within a wider non-residential programme may be suitable. Arrangements for the care of the child (and any siblings and dependants) will be a crucial consideration. Voluntary attendance by the child and siblings may be desirable as intensive family work can be particularly effective.

8.11 Residential parenting support is currently being piloted on a voluntary basis and will be fully evaluated. This will inform the development of residential work and practical guidance. YOTs will need to meet all statutory requirements for such courses (depending on their content and format) covering health and safety, criminal record checks and registration with the National Care Standards Commission.

c) Specific requirements

8.12 The court may also include in a parenting order specific requirements for the parent to comply with for not more than 12 months. These may be what the court considers desirable to prevent any repetition of the particular behaviour which led to the child safety, anti-social behaviour or sex offender order, or any further offence by the child or young person. Although discretionary, it may be helpful to include further requirements such as for supervision.

8.13 These requirements would need to be tailored to address the problems which led to the parenting order and

should, if possible, be linked to the requirements of any order imposed on the child or young person. They could include requiring the parent to ensure that the child:

- attends school or other relevant educational activities, such as mentoring in literacy or numeracy or a homework club;
- attends a programme or course to address relevant problems, such as anger, management or drug or alcohol misuse.
- avoids contact with disruptive and, possibly, older children;
- avoids unsupervised visits to certain areas; such as shopping centres;
- is at home during certain hours at night and is effectively supervised.

8.14 Failing without reasonable excuse to comply with the order is a criminal offence. Therefore the requirements must be clear enough for a parent or guardian to know when they are breaching them and for the responsible officer to be able to monitor compliance.

Section 9: Managing parenting orders and further court involvement

a) Role of the responsible officer

9.1 A parenting order must specify a responsible officer, who will generally be a member of a YOT or may be a social worker from a local authority social services department, a probation officer or a person nominated by the chief education officer who is working outside the team, such as an education welfare officer or social worker. The responsible officer will need to provide or arrange for the provision of the parenting programme, and supervise any other requirements included in the order.

9.2 Where a member of the YOT is not due to attend court, the relevant social worker or other person who is

there will need to consult the YOT before giving advice to the court.

9.3 Where a parenting order is made and the young offender, is or is going to be, supervised by the YOT, it may be appropriate for a member of the team to act as responsible officer under the parenting order, to help ensure a coherent approach to the family situation as a whole. Similarly, where the child is being supervised by a social worker, for instance under a child safety order, it may be appropriate for a social worker from the social services department to act as responsible officer under the parenting order.

9.4 Under paragraph 8.74 of the YJB National Standards for Youth Justice Services 2004 the initial contact between the responsible officer and the parent should take place before the end of the working day after the order is made. This should be an opportunity for the responsible officer to explain further to the parent the nature of the parenting order (and provide him or her with a copy of the order), its purpose and how it will work in practice. The practical details of the requirements will need to be set out, the monitoring arrangements described and the consequences of failure to comply with any requirements explained. Under paragraph 8.75, if the counselling or guidance programme under the order is to be provided by someone else he or she should meet the parent up to two weeks before the programme is due to start.

9.5 The relationship between the parent or guardian and the responsible officer will be vital to the successful completion of the order. During the order, the responsible officer should maintain good contact with the parent or guardian. This should help monitor compliance. If the requirements are proving difficult to comply with through no fault of the

parent or guardian, the responsible officer may apply to the court for the order to be varied.

b) Variation and discharge

9.6 During a parenting order, the court which made it, may vary or discharge it, on the application of the responsible officer or the parent or guardian. Application is by complaint. These are civil procedures and are governed by sections 51-57 of the Magistrates' Courts Act 1980 and Rules 4 and 98 of the 1981 Rules. These sections and Rules deal with, amongst other things, issuing summonses and parties failing to attend court.

9.7 The order can be varied either by an addition or replacement of any provision that could originally have been included, or by cancelling any provision.

9.8 Parenting orders may be varied for a number of reasons, for example where the family moves to another area or where the original requirements are not proving effective.

9.9 An order may be discharged for instance if the parent has fully complied with the requirements and the behaviour of the child has improved.

9.10 Where an application to discharge a parenting order has been dismissed, no further application may be made without the court's consent. This is largely to prevent spurious or repeat applications.

c) Appeals

9.11 Where a parenting order has been made:

- in the same proceedings as a child safety order, an appeal against it

can be made to the High Court (the Divisional Court of the Queen's Bench Division);

- in the same proceedings as a referral order, an anti-social behaviour order or sex offender order, an appeal against it can be made to the Crown Court.

9.12 Appeals against a free-standing order can be made to the Crown Court.

9.13 Where a child or young person has been convicted of an offence, a person subject to a related parenting order has the same right of appeal against it as if he or she had committed the offence leading to the order. For example, if the parenting order were made in a youth court, the appeal would be to the Crown Court and if the parenting order were made in the Crown Court, the appeal would be to the Court of Appeal.

d) Breach and monitoring compliance

9.14 The parenting order is primarily designed to help parents or guardians to address their child's behaviour. The responsible officer should aim to secure and maintain the parent's co-operation and compliance with the requirements of the order to ensure that it is successfully completed, and will need to make a judgement about what is reasonable in all the circumstances of the case.

9.15 If different from the responsible officer, the programme provider should immediately report any failure by the parent to attend the parenting programme so the responsible officer can respond promptly.

9.16 How the responsible officer monitors specific requirements will depend on the circumstances. For example, where attending school is a requirement, the responsible officer should ask the school authorities to

inform him or her of any non-attendance. Where the parents are required to ensure their child does not go to a particular area unsupervised, the responsible officer may be informed of a breach after the police receive a complaint about further anti-social or criminal behaviour by the child in that area.

9.17 Where the suspected breach is of a specific requirement, the responsible officer will need to consider the extent to which the parents have tried to meet the requirement and how far they are able to control their child's behaviour. Where the parents have made all reasonable efforts to control the child, even if he or she commits a further offence, this will not constitute a breach of a specific requirement.

9.18 Under paragraph 8.78 of the National Standards, if a parent fails to comply with a requirement of the order the responsible officer should contact the parent within one working day by visit, telephone or letter. If there is no acceptable reason for the failure, the responsible officer should give the parent a written warning and if possible a warning in person. Any important correspondence such as this must be sent by registered post and produced in any subsequent breach hearing.

9.19 If the parent has good reason for the failure to comply with the parenting order, the responsible officer may need to consider applying to the court to vary the terms of the order.

9.20 Under paragraph 8.79 of the National Standards, if there is more than one unacceptable failure to comply within three months the responsible officer should meet the parent to review the order and how it can be made to work. It may be appropriate to draw up a new plan with the parents better suited to their needs and circumstances. If the responsible officer cannot make

contact with the parents or agree a positive way forward the responsible officer should consider whether the failure should be reported to the police for investigation. Whatever is decided, the responsible officer should ensure that a written record is kept.

9.21 Failure to comply with a parenting order is not an arrestable offence for the purposes of the Police and Criminal Evidence Act 1984 (PACE). If it is reported to them, the police will give the results of their investigation to the Crown Prosecution Service, which will decide whether or not to prosecute. The CPS will have to satisfy itself that there is sufficient evidence to prosecute, and then consider whether or not it is in the public interest to bring a prosecution, having regard to all the circumstances of the case. If the parenting order was made in the family proceedings court, the CPS will only have access to the court papers with the leave of the relevant justices' clerk or the court.

9.22 If a prosecution is brought and the parent pleads not guilty, there will be a summary trial to decide whether the parent has failed without reasonable excuse to comply with a requirement of a parenting order. This will be heard in the adult Magistrates' Court. Where the parent pleads guilty the case will proceed to sentence.

9.23 If the parent is convicted, he or she will be liable to a fine not exceeding level 3 on the standard scale (up to £1,000). The offence is not a recordable offence for the purposes of PACE. The decision on the nature and level of penalty to impose will be a matter for the court following consideration of all the facts of the case, such as the family circumstances and the means of the parents. The court could impose any sentence available for a non-

imprisonable offence – that is a fine up to £1,000, absolute or conditional discharge, community order or curfew order.²¹ Courts cannot re-issue parenting orders in breach proceedings.

9.24 Under section 127 of the Magistrates' Court Act 1980 there is a six-month time limit for bringing breach proceedings. They can be brought after an order has expired but early action will allow the Court more options, for instance to vary the order so as to require the parent to attend a new parenting programme and fulfil specific requirements to exercise control over the child.

e) **Legal services and representation**

9.25 Public funding may be available in some circumstances. Parents may seek advice from a solicitor as to the availability of help, or contact the Legal Services Commission on 020 7759 0000 or at www.legalservices.gov.uk.

Enquiries

- Please put any enquiries about this guidance to Anthony Green (Tel. 020 7273 4182) of the Home Office Juvenile Offenders Unit, 50 Queen Anne's Gate, London, SW1H 9AT.
- Please put any enquiries about operational matters and the National Standards on Youth Justice to Roger Cullen at the Youth Justice Board, 11 Carteret Street, London, SW1H 9DL.

²¹ These other sentencing options derive from the Powers of Criminal Courts (Sentencing) Act 2000. The Community Order and Curfew Order will be replaced by the new generic community sentence introduced through the Criminal Justice Act 2003. Courts will be notified when this sentence is implemented.

Process for dealing with breach of parenting order - summary

1. If a parent fails to comply with a requirement of the order, the responsible officer should make contact with the parent within one working day by visit, telephone or letter.
 - If there is no acceptable reason for the non-compliance, the responsible officer should give the parent a written warning and if possible a warning in person.
 - If the parent has good reason for the failure to comply with the requirements of the parenting order, it may be appropriate for the responsible officer to consider whether to apply to the court for the terms of the order to be varied.
2. If there is more than one unacceptable failure to comply within a period of three months, the responsible officer should meet the parent to review the order and how it can be made to work. A written record is kept.
3. Responsible officer should consider whether the failure to comply should be reported to the police for investigation.
4. If reported to police, police then investigate.
5. Failure to comply with a parenting order is not an arrestable offence. Police will give the results of their investigation to the CPS.
6. CPS will have to satisfy itself that there is sufficient evidence to prosecute and decide whether or not it is in the public interest to bring a prosecution.
7. If decision to prosecute, case is heard in the adult Magistrates' Court. The hearing will determine whether the parent is guilty of failing without reasonable excuse to comply with a requirement of a parenting order.
8. Court will determine whether to impose on conviction:
 - a fine not exceeding level 3 on the standard scale **and/or**
 - any sentence available for a non-imprisonable offence, i.e.
 - ❖ absolute or conditional discharge,
 - ❖ community order
 - ❖ curfew order

Annex A: Relevant legislation

Sections 8-10 of the Crime and Disorder Act 1998

8. Youth crime and disorder – Parenting orders

- (1) This section applies where, in any court proceedings-
- (a) a child safety order is made in respect of a child;
 - (b) an anti-social behaviour order or sex offender order is made in respect of a child or young person;
 - (c) a child or young person is convicted of an offence; or
 - (d) a person is convicted of an offence under section 443 (failure to comply with school attendance order) or section 444 (failure to secure regular attendance at school of registered pupil) of the Education Act 1996.
- (2) Subject to subsection (3) and section 9(1) below, if in the proceedings the court is satisfied that the relevant condition is fulfilled, it may make a parenting order in respect of a person who is a parent or guardian of the child or young person or, as the case may be, the person convicted of the offence under section 443 or 444 ("the parent").¹
- (3) A court shall not make a parenting order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area in which it appears to the court that the parent resides or will reside and the notice has not been withdrawn.
- (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.
- (6) The relevant condition is that the parenting order would be desirable in the interests of preventing-
- (a) in a case falling within paragraph (a) or (b) of subsection (1) above, any repetition of the kind of behaviour which led to the child safety order, anti-social behaviour order or sex offender order being made;
 - (b) in a case falling within paragraph (c) of that subsection, the commission of any further offence by the child or young person;
 - (c) in a case falling within paragraph (d) of that subsection, the commission of any further offence under section 443 or 444 of the Education Act 1996.
- (7) The requirements that may be specified under subsection (4)(a) above are those which the court considers desirable in the interests of preventing any such repetition or, as the case may be, the commission of any such further offence.
- (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
 - (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.²
- (8) In this section and section 9 below "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 probation board;
 - (b) a social worker of a local authority social services department;
 - (c) a person nominated by a person appointed as chief education officer under section 532 of the Education Act 1996; and
 - (d) a member of a youth offending team.³

9 Parenting orders: supplemental

Where a person under the age of 16 is convicted of an offence, the court by or before which he is so convicted-

- (a) if it is satisfied that the relevant condition is fulfilled, shall make a parenting order; and
- (b) if it is not so satisfied, shall state in open court that it is not and why it is not.

¹ This subsection was previously amended by Youth Justice and Criminal Evidence Act 1999 and later the Powers of Criminal Courts (Sentencing) Act 2000 to preclude making a parenting order with a referral order. The CJ Act 2003 removes this restriction and restores the original wording to the subsection.

² Subsection 7A allows a parenting order to include a residential course and was inserted by the ASB Act 2003.

³ This subsection was amended by the Criminal Justice and Court Services Act 2000 to allow a person nominated by a chief education officer to act as responsible officer and also renames a probation officer as an officer of a local probation board.

- (1A) The requirements of subsection (1) do not apply where the court makes a referral order in respect of the offence.⁴
- (1B) If an anti-social behaviour order is made in respect of a person under the age of 16 the court which makes the order –
- (a) must make a parenting order if it is satisfied that the relevant condition is fulfilled;
 - (b) if it is not so satisfied, shall state in open court that it is not and why it is not.⁵
- (2) Before making a parenting order-
- (a) in a case falling within paragraph (a) of subsection (1) of section 8 above;
 - (b) in a case falling within paragraph (b) or (c) of that subsection, where the person concerned is under the age of 16; or
 - (c) in a case falling within paragraph (d) of that subsection, where the person to whom the offence related is under that age,
- a court shall obtain and consider information about the person's family circumstances and the likely effect of the order on those circumstances.
- (2A) In a case where a court proposes to make both a referral order in respect of a child or young person convicted of an offence and a parenting order, before making the parenting order the court shall obtain and consider a report by an appropriate officer—
- (a) indicating the requirements proposed by that officer to be included in the parenting order;
 - (b) indicating the reasons why he considers those requirements would be desirable in the interests of preventing the commission of any further offence by the child or young person; and
 - (c) if the child or young person is aged under 16, containing the information required by subsection (2) above.
- (2B) In subsection (2A) above “an appropriate officer” means—
- (a) an officer of a local probation board;
 - (b) a social worker of a local authority social services department; or
 - (c) a member of a youth offending team.⁶
- (3) Before making a parenting order, a court shall explain to the parent in ordinary language-
- (a) the effect of the order and of the requirements proposed to be included in it;
 - (b) the consequences which may follow (under subsection (7) below) if he fails to comply with any of those requirements; and
 - (c) that the court has power (under subsection (5) below) to review the order on the application either of the parent or of the responsible officer.
- (4) Requirements specified in, and directions given under, a parenting order shall, as far as practicable, be such as to avoid-
- (a) any conflict with the parent's religious beliefs; and
 - (b) any interference with the times, if any, at which he normally works or attends an educational establishment.
- (5) If while a parenting order is in force it appears to the court which made it, on the application of the responsible officer or the parent, that it is appropriate to make an order under this subsection, the court may make an order discharging the parenting order or varying it-
- (a) by cancelling any provision included in it; or
 - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (6) Where an application under subsection (5) above for the discharge of a parenting order is dismissed, no further application for its discharge shall be made under that subsection by any person except with the consent of the court which made the order.
- (7) If while a parenting order is in force the parent without reasonable excuse fails to comply with any requirement included in the order, or specified in directions given by the responsible officer, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 7(A) In this section “referral order” means an order under section 16(2) or (3) of the Powers of Criminal Courts (Sentencing) Act 2000 (referral of offender to youth offender panel).⁷

⁴ This subsection was initially inserted by the Powers of Criminal Courts (Sentencing) Act 2000 and has now been amended by the CJ Act 2003 to give courts discretion to make a parenting order when they make a referral order.

⁵ This subsection was inserted by the ASB Act 2003 and strengthens the link between anti-social behaviour orders and parenting orders.

⁶ Subsections 2(A) and 2(B) have been inserted by the CJ Act 2003 and require courts to consider a report before making a parenting order with a referral order.

⁷ This subsection was inserted by the CJ Act 2003.

10 Appeals against parenting orders.

- (1) An appeal shall lie-
 - (a) to the High Court against the making of a parenting order by virtue of paragraph (a) of subsection (1) of section 8 above;
and
 - (b) to the Crown Court against the making of a parenting order by virtue of paragraph (b) of that subsection.
- (2) On an appeal under subsection (1) above the High Court or the Crown Court-
 - (a) may make such orders as may be necessary to give effect to its determination of the appeal; and
 - (b) may also make such incidental or consequential orders as appear to it to be just.
- (3) Any order of the High Court or the Crown Court made on an appeal under subsection (1) above (other than one directing that an application be re-heard by a Magistrates' Court) shall, for the purposes of subsections (5) to (7) of section 9 above, be treated as if it were an order of the court from which the appeal was brought and not an order of the High Court or the Crown Court.
- (4) A person in respect of whom a parenting order is made by virtue of section 8(1)(c) above shall have the same right of appeal against the making of the order as if-
 - (a) the offence that led to the making of the order were an offence committed by him; and
 - (b) the order were a sentence passed on him for the offence.
- (5) A person in respect of whom a parenting order is made by virtue of section 8(1)(d) above shall have the same right of appeal against the making of the order as if the order were a sentence passed on him for the offence that led to the making of the order.
- (6) The Lord Chancellor may by order make provision as to the circumstances in which appeals under subsection (1)(a) above may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under paragraph 2 of Schedule 11 (jurisdiction) to the Children Act 1989 ("the 1989 Act").
- (7) Except to the extent provided for in any order made under subsection (6) above, no appeal may be made against any decision of a kind mentioned in that subsection.

Schedule 1, Part 1A⁸ of Powers of Criminal Courts (Sentencing) Act 2000

Referral of parent or guardian for breach of section 20 order

Introductory

9A

- (1) This Part of this Schedule applies where, under section 22(2A) of this Act, a youth offender panel refers an offender's parent or guardian to a youth court.
- (2) In this Part of this Schedule—
 - (a) "the offender" means the offender whose parent or guardian is referred under section 22(2A);
 - (b) "the parent" means the parent or guardian so referred; and
 - (c) "the youth court" means a youth court as mentioned in section 22(2A).

Mode of referral to court

9B

The panel shall make the referral by sending a report to the youth court explaining why the parent is being referred to it.

Bringing the parent before the court

9C

- (1) Where the youth court receives such a report it shall cause the parent to appear before it.
- (2) For the purpose of securing the attendance of the parent before the court, a justice acting for the petty sessions area for which the court acts may—
 - (a) issue a summons requiring the parent to appear at the place and time specified in it; or
 - (b) if the report is substantiated on oath, issue a warrant for the parent's arrest.
- (3) Any summons or warrant issued under sub-paragraph (2) above shall direct the parent to appear or be brought before the youth court.

⁸ Part 1A was inserted by the CJ Act 2003 to allow courts to make parenting orders where a parent fails to attend meetings of a Youth Offender Panel.

Power of court to make parenting order: application of supplemental provisions

9D

- (1) Where the parent appears or is brought before the youth court under paragraph 9C above, the court may make a parenting order in respect of the parent if—
 - (a) it is proved to the satisfaction of the court that the parent has failed without reasonable excuse to comply with the order under section 20 of this Act; and
 - (b) the court is satisfied that the parenting order would be desirable in the interests of preventing the commission of any further offence by the offender.
- (2) 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 sub-paragraph (3A) 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.
- (3) The requirements that may be specified are those which the court considers desirable in the interests of preventing the commission of any further offence by the offender.
- (3A) A parenting order under this paragraph may, but need not, include a requirement mentioned in subsection (2)(b) above in any case where a parenting order under this paragraph or any other enactment has been made in respect of a parent on a previous occasion.
- (3B) A counselling or guidance programme which a parent is required to attend by virtue of subsection (2)(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 the commission of any further offence by the offender, and
 - (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.
- (4) Before making a parenting order under this paragraph where the offender is aged under 16, the court shall obtain and consider information about his family circumstances and the likely effect of the order on those circumstances.
- (5) Sections 8(3) and (8), 9(3) to (7) and 18(3) and (4) of the Crime and Disorder Act 1998 apply in relation to a parenting order made under this paragraph as they apply in relation to any other parenting order.

Appeal

9E

- (1) An appeal shall lie to the Crown Court against the making of a parenting order under paragraph 9D above.
- (2) Subsections (2) and (3) of section 10 of the Crime and Disorder Act 1998 (appeals against parenting orders) apply in relation to an appeal under this paragraph as they apply in relation to an appeal under subsection (1)(b) of that section.

Effect on section 20 order

9F

- (1) The making of a parenting order under paragraph 9D above is without prejudice to the continuance of the order under section 20 of this Act.
- (2) Section 63(1) to (4) of the Magistrates' Courts Act 1980 (power of Magistrates' Court to deal with person for breach of order, etc) apply (as well as section 22(2A) of this Act and this Part of this Schedule) in relation to an order under section 20 of this Act.

Sections 25-29 of the Anti-Social Behaviour Act 2003

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 Free-standing 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,

“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 Crime and Disorder Act 1998 (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,”.

Annex B: Definitions

“Child” means a person under the age of 14 but any reference in this guidance to a child should be taken as including a young person unless the context indicates otherwise.

“Young person” means a person who has attained the age of 14 and is under the age of 18.

“Parent” Any reference to “parent” includes a reference to “guardian” and the term “parent” has the same meaning as that contained in section 1 of the Family Law Reform Act 1987. That is either of the child or young person’s natural parents whether or not they were married to each other at the time of the child or young person’s birth. Throughout this document references to “parent” include “guardian” and mean each and every person coming within the definitions and should not be taken to mean that provisions only apply to “parent” in the singular.

“Guardian” is defined with reference to section 107 of the Children and Young Persons Act 1933, and includes any person who, in the opinion of the court, has for the time being the care of the child or young person. This is not the same as a guardian appointed under section 5 of the Children Act 1989, but may include people who may not have parental responsibility for the child or young person as defined by the 1989 Act, such as step parents.

“Criminal conduct” is conduct that constitutes a criminal offence and in the case of conduct of a person under the age of 10, conduct that would constitute an offence were they not under that age.

“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. For further information see Guide to ASBOs and ABCs.
(www.crimereduction.gov.uk/asbos9.htm)

“Parenting Programmes” refers to counselling or guidance programmes.

Annex C: Example parenting contract

Copy for Parent/Carer and YOT

Personal details

Name _____ YOT ID _____

Youth Offending Team _____

date _____

Main objective

We are going to support you to prevent your child from engaging in criminal conduct and/or anti-social behaviour, by working on:

Major targets for the next three months

	What are our targets?	How is this going to be done?	Who is going to do it?
1			
2			
3			
4			
5			

Future targets

To achieve these targets

I/We (the parent/s) agree to:

(Please detail)

The YOT agrees to:

(Please detail)

Consent – Parent or Carer

I/We also understand and agree that information about me/us has been and will continue to be collected for the purpose of assessing and providing appropriate Youth Justice Services. The Youth Offending Team (YOT) may also use this information for service planning, monitoring and research purposes. This information may also be shared with external agencies and providers of relevant services that the YOT needs to consult and work with to ensure that I/we are provided with the most appropriate services.

I/We understand that this information will be stored either electronically or in the manual records by the YOT for case management purposes for the length of the programme and for (x) months following, to monitor and evaluate the effectiveness of the plan. The YOT will keep the information updated and notify all recipients of any changes to ensure corrections are made

Complaints procedure provided and understood	<input type="checkbox"/>	Date:
Information exchange policy provided and understood	<input type="checkbox"/>	Date:
Legal rights and responsibilities information provided and understood	<input type="checkbox"/>	Date:

Important dates

When are we next going to meet? _____ How often do we meet? _____

Are there any other important dates? _____

Date of review/plan: _____

End of contract: _____

Contact details

Parenting Support practitioner’s name: _____

Practitioner’s tel. No: _____ If unavailable contact: _____

Agreeing the intervention plan/contract:

I/We have agreed the parenting support plan and will work with the YOT as detailed above to prevent our child from engaging in criminal conduct and/or anti-social behaviour.

I/We also agree to the information sharing under the Data Protection Act.

Signed (Parent/s) _____ Date:

The YOT will provide the support detailed above and has provided and explained the relevant information as indicated.

Signed (Practitioner) _____ Date:

Annex D: Suggested form to apply for free-standing parenting orders

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:

Annex E: Suggested forms of parenting orders

A) 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.

B) 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) 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 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.

C) 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 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.