

Criminal Justice and Courts Bill

Youth cautions and conditional cautions: involvement of appropriate adults

Background

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 abolished reprimands and final warnings and replaced them with a new system of youth cautions and youth conditional cautions which came into force on 8 April 2013. This new formal youth out-of-court disposal framework provides a proportionate and effective resolution to offending and supports the principal statutory aim of the youth justice system of preventing offending by children and young people.¹

This provision makes a minor and technical change to the new formal youth out-of-court disposal legislative framework in light of the judgment *HC vs. (1) Secretary of State for the Home Department and (2) Commissioner of Police for the Metropolis* [2013] EWHC 982 (Admin). The change provides that where a youth caution or conditional caution is given to a 17 year old, this must be done in the presence of an appropriate adult. Up to now this requirement, as set out in the Crime and Disorder Act 1998, applied only to 10 to 16 year olds.

What is the current position?

In dealing with any offence committed by a child or young person aged 10 to 17 years of age the police may:

- take no further action;
- use a community resolution, for example an instant apology and reparation for a minor first time offence;
- a youth caution;
- a youth conditional caution; or
- charge the child or young person with the offence.

A youth caution can be used as an alternative to prosecution in certain circumstances for any offence where the child admits the offence, there is sufficient evidence for a realistic prospect of conviction but it is not in the public interest to prosecute.

A youth conditional caution is a youth caution with conditions attached to it which may, for example, include a requirement to pay a financial penalty or a requirement to attend at a specific place for a specified number of hours. Where there is no reasonable excuse for non-compliance with those conditions criminal proceedings may be brought.

What are the proposed changes?

This clause removes the age restrictions in respect of which children and young people must have access to an appropriate adult when being given a formal youth out-of-court disposal. Currently an appropriate adult need only be present when a youth caution or youth conditional caution is given to a 10 to 16 year old.

¹ As established by s.37 of the Crime and Disorder Act 1998.

How will it work?

This clause allows for an appropriate adult to be available, where a youth caution or conditional caution is given to a 17 year old, to provide advice to the child or young person, ensure that the police are treating them fairly and assist them with communicating with the police. An “appropriate adult”, for example, may be a parent, guardian, local authority social worker, from a voluntary organisation or some other responsible adult aged 18 or over who is not a police officer or employed by the police.