

TITLE	Victim Surcharge – Approach To Ordering Payment From Offenders under 18
From:	Justice Reform, Justice Policy Group Ministry of Justice
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This circular supersedes:	
This circular is for:	<p>Lord Chief Justice, Deputy Chief Justice, Senior Presiding Judge for England and Wales, Chief Officers of Police in England and Wales, Director of Public Prosecutions, Chief Crown Prosecutor, Cluster Managers Crown Courts, HMTCS Area</p> <p>Directors, Clerks to the Justices, Legal Services Commission, Attorney Generals Office</p> <p>Department of Health, Directors of Social Services, Police Forces in England and Wales, Lords Justices of Appeal, Supreme Court Judges, Queen's Bench</p> <p>Division, Crown Court Judges, Circuit Judges, Administrators and Group Judges,</p> <p>District Judges (Magistrates' Courts), Chairmen of the Justices, Council of Circuit Judges, Local Government Association, Magistrates' Association, Judicial Studies Board, Bar Council, Criminal Bar Association, Law Society, Victim Support, Youth Offending Teams</p>

Approach to ordering the Victim Surcharge

Purpose of this Circular

The purpose of this circular is to remind judges and magistrates of their powers under section 137 of the Powers of Criminal Courts (Sentencing) Act 2000 when an offender under 18 is ordered to pay the Victim Surcharge.

Background

Changes to the Victim Surcharge payable under section 161A of the Criminal Justice Act 2003 were introduced through the Criminal Justice Act 2003 (Surcharge) Order 2012 which came into force on 1 October 2012. All revenue raised through the Surcharge is ring fenced to fund emotional and practical support services for victims of crime. It is the objective of the policy to ensure that offenders, including those under 18, take responsibility for their offending behaviour and make greater reparation for the harm they have caused.

Section 137 of the Powers of Criminal Courts (Sentencing) Act 2000 provides that the parent or guardian of a person under the age of 18 may become liable for certain financial impositions ordered by the court, those impositions including the victim surcharge. Several cases have been brought to our attention by the Youth Justice Board where this legislation has resulted in the parent or guardian of a juvenile becoming liable to pay the Surcharge when they have in fact been the victim of the offence.

Approach

The court has the discretion not to order the parent or guardian to pay the Surcharge on the child's behalf if having had regard to the circumstances of the case, it considers that it would be unreasonable to make such an order (see section 137(1A)(b) of the Powers of Criminal Courts (Sentencing) Act 2000). The court might conclude that where a parent has been the victim of the child's offending that it would be unreasonable to

require the parent to pay the Victim Surcharge on the child's behalf. Whilst the Surcharge would still need to be ordered, the court could use its discretion in such a case to defer its payment until such as a time as it considers the child would be likely to be able to pay the Surcharge themselves, for example, after turning 18.

Useful Links

The Criminal Justice Act 2003 (Surcharge) Order 2012

www.legislation.gov.uk/uksi/2012/1696/contents/made

Criminal Justice Act 2003

www.legislation.gov.uk/ukpga/2003/44