

# Youth Court Guide

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Book review by Sally Ramage

What is a youth court? A youth court is a summary court (i.e. a magistrates court) composed of justices specially appointed, who sit for the purpose of hearing any charge against a child or young person and who also exercise any other jurisdictions conferred on youth courts by the Courts Act 2003 and other relevant statutes. The Crime and Disorder Act 1998 states that the principal aim of the youth justice scheme is to prevent offending by children and young persons and that it shall be the duty of all persons and bodies carrying out functions in relation to the youth justice scheme to have regard to that aim (S. 37(1)-(2)). The persons and bodies prescribed as working within the youth justice scheme include local authorities, probation services, voluntary agencies, the police and the courts.

The general public do not have a right of access to proceedings in a youth court. In *R ( On the application of Davies) v Solihull Justices* [2008] EWHC 1157 (Admin), it was held that even when the accused youth had been excluded from the court premises due to his disorderly behaviour, this misbehaviour did not justify excluding him from his own trial.

Although general consensus around youth violence and offending in general, is that it is better for policies and programmes to invest in and support young people and their families through preventive approaches, than to exclude or incarcerate them (Shaw, 2001; Thornton et al. 2002), we still need to deal with the reality of youth crime in the youth court, whilst recognising the rights of children and young people, including their rights to public space. A literal epidemic of gun violence by young men has focused attention on the urgency of the need for prevention policies and programmes (Fagan, 2002; Reich, Culross & Berman, 2002). There has been an increase in youth homicides due to guns and knives (HMIC, 2004; Bullock & Tilley, 2002) and the *Manchester Multi-Agency Gang Strategy* (MMAGS), a Crime and Disorder Reduction Partnership based on strong police and local government involvement (set up in 2001) tackles street gangs using firearms in that city, combining tough law enforcement and deterrence with supportive programmes for at-risk and convicted youth, (HMIC, 2004 p.33). Whilst some argue for less restrictive methods of curbing bad behaviour, nevertheless, the state needs to implement order by way of the youth court which deals with high-risk youth and their families, and punitive enforcement and crime control, albeit costly, is necessary. Many more lawyers need to be aware of this area of the law.

The youth court should not be seen as a punitive tool only, but, ultimately, it provides a service for dysfunctional families and damaged children; promote the family as the true home for good direction, support, teaching of values, and advice to children; create child advocacy centers to support and advise young people; promote and enforce parenting classes; enforce parental responsibility and accountability law; and support parents who lack basic parenting and family management skills. When earlier in 2010 Fiona Pilkington was driven to suicide by a gang of persistent, badly behaved youth, the public were quick with criticism of the police for their

alleged non-actions against those youth. The inquest into the tragic deaths of Fiona Pilkington and her daughter established deaths as a result of a concerted campaign of bullying by a gang of youths. When things go wrong, the public are quick to blame governmental agencies- one good reason for the youth court.

Development over time will bring the results people want to see in our young people. Through the youth court and subsidiary agencies, the violent, criminal, badly behaved young people who cause shame to this nation will be imparted, in time, and through changes in policies and regulations, with the life skills needed; and hopefully, an appreciation and contribution in sport, an appreciation of art and culture, and an appreciation of other people and their contribution to society. Five years after the case of *Hirst v United Kingdom (No. 2)*, in *Greens and M.T. v United Kingdom* (Application Nos 60041/08 and 60054/08), judgment on 23 November 2010 was given in Brussels against the United Kingdom to remedy an electoral law breach found by this court five years ago. At best, for now, we have the youth Court. Articles 3, 41 and 46 of the convention, having been found to be breached. When prisoners are able to vote, the message sent out will be that they are a valued member of society and such measures are a step in the right direction of meaningful punishment, restoring interest in politics, becoming socially aware and responsible. So often, rights are demanded without the attached responsibilities (very ably explained by Dr Rory O'Connell, School of Law, Queen's University Belfast '*Positive Obligations and Election Rights in Protocol 1*', at the Annual Workshop of the School of Law, Queen's University Belfast on Wednesday 24 March 2010, the seminar titled 'Positive Obligations and the European Convention on Human Rights').

In this fourth edition of *Youth Court Guide* its success speaks for itself. . It consists of a comprehensive work of sixteen chapters and appendices. Topics flow naturally from the framework of the youth court system, prosecution and the constitution of the court, attendance at the youth Court and the Human Rights Act 1998; venue of proceedings; the youth court hearing; adjournments and remands; referral orders; deferment of sentence; discharges; reparation orders; financial orders; youth rehabilitation orders; old youth community orders; custodial orders; breach, revocation and amendment of youth rehabilitation orders; reparation orders; additional powers and ancillary orders to the youth court; common problems in the youth court; anti-social behaviour orders in the youth court; the mentally disordered juvenile and appeals.

This lawbook for the practitioner boasts an impressive table of cases and table of statutes, both up-to-date. Some very important chapters re those including the Human Rights Act 1998 (chapter 4); custodial orders (chapter 10); and importantly, breaches (chapter 11); not to omit ASBOs (chapter 14) and appeals (chapter 16). We remind ourselves that youth violence prevention is not an intractable problem but a behaviour that can be understood, treated and prevented with orders such as ASBOs. As regards human rights, there are six cases cited from the European Court of Human Rights in Brussels, including the recent case *Al Khawaja v UK* [2009] 49 EHRR 1.

Youth Justice is often updated by regulations, as included in chapter 13 by the Criminal Procedure Rules 2010 and the Youth Court Amendment Rules in Chapter 2. The Prosecution of Offences (Youth Court Time Limits) (Revocation and Transitional Provisions Regulations) 2003 (SI 2003/917) provide that there are no maximum periods in proceedings in youth courts.

A welcome addition in this book is the Coroners and Justice Act 2009 at page 228 of Chapter 7. Another welcome addition to the book is evidence of bad character in pages 238 to 241 of chapter 13 and this is often skirted over in other texts on the youth court, although the authors acknowledge on page 239 that detailed description of evidential points is outside the scope of this work, presumably meaning that such detail belongs to a textbook on evidence. The precedent caselaw of *R v Hanson* [2005] EWCA Crim 824 is cited along with a very useful summary of the case on pages 240 to 242. Next edition will also hopefully deal with the relevant sections of the Policing and Crime Act 2009 and the Crime and Disorder Act 2010.