

The Law in Action

With Owen Durrett and Jeff Ballard

As the audience started to arrive for our exploration of the law, one speaker was stuck in traffic and the other off on paternity leave, but after an anxious few minutes Jeff Ballard arrived as a substitute for our scheduled speaker, Matthew Edom, and Owen raced in just as we opened the proceedings. Disaster averted. And in spite of the inauspicious start, the presentations we were given made for a very interesting and engaging evening.

Jeff began by explaining that he is the NE & SE Area Manager for Hampshire County Councils Youth Offending Team, based at Rushmoor Borough Council. He went on to give a brief overview of the legislation that has brought us to our current position with regard to youth offending and probation. Whereas the probation service works as a discreet unit, focusing principally on safe-guarding, with limited interaction with outside bodies, the Youth Offending Team is a multi-partner agency that brings together the local authorities, police, social services and education authorities to turn young lives around and prevent re-offending.

Funded mainly by the Treasury, with contributions from the police, healthcare providers and the Probation Service, Hampshire was an early adopter of the Youth Offending Team idea, which has seen significant changes over the last two years, as the police led an initiative to deal with as many young offenders as possible before they reach court. A range of measures, including youth condition cautions, education, training and apprenticeships, have been introduced, with remarkable success.

The North East Team is currently managing 28 cases. They aim to visit each individual within ten days to devise a plan. Once a contract has been agreed, a referral order is usually the next step, and a report prepared for presentation to a panel consisting of two volunteers and one staff member. The severity of the offense dictates what happens next. There is a childrens home for extremely difficult offenders, though most cases will go to the Youth Crime Prevention Service, who will decide which measures are appropriate. One option is restorative justice, which brings victim and offender together to find a way for the offender to make amends. In more serious cases, the offender may be tagged so that his or her movements can be monitored and restricted. Custody is the last resort, though it may be used to provide respite for parents.

Through measures such as these, the number of first-time offenders going to prison has halved, and Hampshire has been particularly successful, achieving half the national rate. Accommodation is a key factor in achieving this success, along with well-established and highly effective schemes such as the Duke of Edinburghs Awards and the Princes Trust Awards.

Jeff ended by telling us about a pilot scheme in Rushmoor in which two extra probation officers are working with 18-21 year olds, to help young people make the transition into productive adulthood.

Owen Durrett began by explaining that Magistrate and Justice of the Peace are exactly the same thing. He sits on the North Hampshire Bench which comprises 155 magistrates. The profession dates back 650 years and requires no legal training. 1919 saw the first female magistrate, and since 1979 appointments have been by application rather than invitation as previously. Magistrates must be between 18 and 70 years old and of good character, with empathy and good communications skills, social awareness, sound judgement, commitment and reliability.

Owen sits about 50 times a year.

All criminal cases start in a Magistrates Court; 95% cases are dealt with in their entirety there, while 5% proceed to Crown Court. In addition, appeals against Magistrates Court decisions go to Crown Court.

Lay (volunteer) Magistrates sit in threes, while District Judges (professional Magistrates) can sit alone. A legal advisor sits immediately in front of the bench ready to deal with points of law or case history. The accused sits in a secure dock to one side.

Cases routinely heard by Magistrates include: driving offences; shoplifting; assault; drink or drug-related crimes; environmental and wildlife crimes.

The process begins with arrest, after which the accused is taken to a custody suite and charged. The defendant is then sent to court to plead guilty or not guilty. If the plea is not guilty, the case is adjourned and a trial will follow. Bail can be set, or a custodial sentence imposed if there is the risk of flight, witness intimidation or further offences. Bail may be unconditional, which ironically will have some conditions attached, or conditional in which case a range of measures can be considered, such as tagging, reporting to police the day before the case is to be heard, restrictions of movement. Custody is very much a last resort.

If a defendant is found guilty, the Magistrates will take several things into account when considering sentence: whether the victim was vulnerable; whether a weapon was used; whether it was a group action; whether it was racially motivated; whether there was a breach of trust. They will take culpability into account, so that intent to harm, recklessness, knowledge of the risks and negligence will influence their decision, in addition to any other mitigating or aggravating factors. A criminal record, lack of remorse, failure to adhere to a previous order, or an offence carried out while the defendant was on bail/license will also influence the sentence.

In rare cases, the sentence may be to discharge, either conditionally or unconditionally, but more likely a fine, based on ability to pay, will be imposed or a community punishment order put in place, with prison only the very last option. In practice, young people are rarely sent to prison, with the authorities doing all they can to turn young lives around before it's too late.

The aim of sentencing is to punish, of course, but a sentence can also act as a deterrent, as an imperative to reform and rehabilitate, protect the public and help to make reparation. A community order can require unpaid work, education or training, supervision, prohibited activities and exclusions. Mental health problems may require residential care, and where drugs and alcohol have been aggravating factors, treatment programmes may be ordered.

Owen pointed out the consequences of a criminal conviction: loss of job, or exclusion from some jobs; public shame; criminal record; visa/travel restrictions and high insurance premiums.

In addition to Magistrates Courts, there are specialist Family Proceedings Courts, dealing with issues such as protection, contact, adoption and parental responsibility, and a Youth Court system for 10-17 year-olds, with specialist Magistrates sitting in a less formal court, talking directly to the young people rather than through lawyers, and with sentences aimed at behaviour change.

In addition to his bench duties, a Magistrate can issue search warrants, witness documents and hear statutory declarations. All in all, therefore, the role of a Magistrate is wide-ranging and stimulating.

This was an important and very serious topic that could have made heavy going, but we were extremely fortunate in our speakers. Both presentations contributed to a very illuminating and thought-provoking evening.