

13.8 The Youth Court Those who turn 18

R v Ford 2018 EWCA Crim 1751 D was charged with section 18 and appeared at the Youth Court aged 17. The case was adjourned so the defence could read the papers. On the next appearance D was aged 18. D pleaded to section 18 and possession of an offensive weapon. D was committed for sentence under Powers of Criminal Courts (Sentencing) Act 2000 s 3. At the Crown Court, D received 6½ years in all. Held. We assume the magistrates purported to commit D under section 3B because that is the section for those who require additional sentencing powers. To use Magistrates' Court Act 1980 s 24 (which enables those who turn 18 to be dealt with in the Youth Court) the defendant must be aged 17 when the court determines mode of trial, see *R v Islington North Juvenile Court ex parte Daley* 1982 75 Cr App R 280 (House of Lords). So, there was no power to take D's plea or commit him to the Crown Court. Everything after that was invalid, so we quash D's sentence, acting as Judges of the Divisional Court. One of the judges then sat as a District Judge at the Youth Court and committed the matter for trial. The same Judge sat as a Crown Court Judge, took the pleas, heard the case opened, listened to the mitigation, sentenced D to 4 years 8 months and passed some ancillary orders.

13.20 Para title change and this text replaces the original text in the para:

13.20 Youth Court and appeals etc. Automatic anonymity Reporting restrictions

Restrictions on reports of proceedings in which children or young persons are concerned.

Children and Young Persons Act 1933 s 49(1)¹ No matter relating to any child or young person concerned in proceedings to which this section applies shall while he is under the age of 18 be included in any publication if it is likely to lead members of the public to identify him as someone concerned in the proceedings.

(2) The proceedings to which this section applies are:

- (a) proceedings in a youth court;
- (b) proceedings on appeal from a youth court (including proceedings by way of case stated);
- (c) proceedings in a magistrates' court under Schedule 2 to the Criminal Justice and Immigration Act 2008 (proceedings for breach, revocation or amendment of youth rehabilitation orders);
- (d) proceedings on appeal from a magistrates' court arising out of any proceedings mentioned in paragraph (c) (including proceedings by way of case stated).

(3) In this section "publication" includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings.

(3A) The matters relating to a person in relation to which the restrictions imposed by subsection (1) above apply (if their inclusion in any publication is likely to have the result mentioned in that subsection) include in particular:

- (a) his name,

¹ As amended by Youth Justice and Criminal Evidence Act 1999 s Sch 2 para 3(2). In force 13/4/15

(b) his address,

(c) the identity of any school or other educational establishment attended by him,

(d) the identity of any place of work, and

(e) any still or moving picture of him.

(4) For the purposes of this section a child or young person is “concerned” in any proceedings if he is:

(a) a person against or in respect of whom the proceedings are taken, or

(b) a person called, or proposed to be called, to give evidence in the proceedings.

(4A)-(10) [see [13.21](#)]

(11) In this section: ‘programme’ and ‘programme service’ have the same meaning as in [Broadcasting Act 1990](#),...

The general prohibition on reporting matters that might lead to identifying any person under the age of 18 involved in the offence before trial is in [Youth Justice and Criminal Evidence Act 1999 s 44](#). The restriction ceases to apply when the individual becomes aged 18.

For the principles about Youth Courts see *Judicial College on Reporting Restrictions in the Criminal Courts 2015*, www.banksr.com Other Matters Other Documents Reporting Restrictions pages 11 and 14.

13.27 Power and duty to remit etc.

R v Dillon 2017 EWCA Crim 2642 D was sent to the Crown Court with an adult, AD, on a £102,000 fraud charge. D pleaded guilty and his sentence was adjourned. AD was dealt with at a separate hearing. On D’s resumed hearing he was now aged 18. D’s role was assessed at the lowest end and he was of good character. The pre-sentence report recommended a Referral Order but it said that order would need a remittal to the Youth Court. The matter was put back and it was suggested the Judge could sit as a district judge. The Judge made a Youth Rehabilitation Order. Held. The pre-sentence report was correct about the Referral Order. The case should have been remitted immediately after the plea (see *R v Lewis* 1984 [above]) because there was no issue of disparity and there was no direct link with AD. The Youth Court is given exclusive competence to make a Referral Order and the Judge could not acquire that by sitting as a district judge. There would have been no extra delay as a pre-sentence report was required. At the Youth Court a Referral Order had to be made. Neither we nor the Crown Court can make a Referral Order. Given the delay, the errors and D’s good performance with the Youth Rehabilitation Order, we substitute a conditional discharge.

Note: Whether the Judge purported to act as a district judge or just sat as a Crown Court judge is not clear. Ed.