

Judicial review of Magistrates Courts – update on recent case law

Two recent decisions of the Administrative Court show common place problems in the Magistrates' Courts can readily lend themselves to a remedy by judicial review

Youths with ADHD may need intermediaries R (AS) v Great Yarmouth Youth Court [2011] EWHC 2059 (Admin) – A psychiatric report diagnosed the Defendant with ADHD and said he struggled when complex words were used. This would lead to frustration, including a refusal to answer questions as he concentrated on previous ones put. It recommended the use of registered intermediary. The Court refused stating he did not “have any greater difficulties in this than many other youths who appear before the court”. That may be so but it left the Defendant at risk of criticism that he was “dissembling” or “prevaricating” in his answers. In short, he may not receive a fair trial. The Court quashed the decision and remitted the case back for the decision to be taken afresh.

Powers to correct a sentence under the slip rule R (Trigger) v Northampton Magistrates Court [2011] EWHC 149 – This case had a complex history. A suspended sentence was first handed down in February 2009 that was unlawful. It was not corrected at the time. During 2010 the Defendant appeared again several times for other matters including breaches. In September the Court listed the matter under s.142 to correct the original mistake and sentenced him to 8 weeks imprisonment. The High Court reviewed the case law on the slip rule and said: in contrast to the Crown Court there is no time limit on re-opening a sentencing decision, the power can be used to increase a sentence, but if so used must be done speedily.

Observations – These cases demonstrate the versatility of judicial review – the first shows how it can be used before proceedings are completed and the second shows how it can be used to challenge matters usually reserved for the Crown Court. Most of all, the first case shows the value of judicial review as a way of overturning embedded practices in certain Court centres.