



Use of Section 9 Reports in Youth Court

Dominic Goble JP, member of the MA's Youth Courts Committee, explains Section 9 reports

What is a Section 9 report?

In 1969 the Children and Young Persons Act enabled a court to order investigations and ask for information to be laid by a local authority or local education authority into the home surroundings, school record, health and character of a child who is before the court.

Why did the provision fall out of use?

The Crime and Disorder Act 1998 heralded Youth Offending Teams. This was a multidisciplinary model of multiagency working with seconded police officers, social workers, educationalists and community psychiatric nurses (CPNs) all working together. They would produce information for court and present recommended rehabilitation programmes to be incorporated into court orders. This collaborative approach produced a holistic assessment of the offender and their offending behaviour; in essence, it embraced the primary tenets of a problem solving approach. Information was comprehensive, which benefitted the quality of decision making.

Over the intervening years, the YOT model has been varied in different parts of the country. In some areas, secondees and the multidisciplinary team approach is under stress. While other areas have sought to embrace the integration of local services seeking to maintain a collaborative approach.

Children who offend often present a complex and challenging biography. For a youth court to discharge its two primary duties of reducing reoffending and considering the welfare of the child, a breadth of information from a variety of professionals is often required.

How can it be useful in court?

Section 9 investigations are not limited to information required for sentencing. Information may be sought by the court at any time under its Article 61 responsibilities to ensure everyone has a fair trial. For example: If a child is brought before court for charge or trial but is of no fixed abode and has no identifiable means of support, the court may seek to enquire whether such a child is able to fully

Children and Young Persons Act 1969, Part 1, Section 9.

Investigations by local authorities.

(1) Where a local authority or a local education authority bring proceedings for an offence alleged to have been committed by a young person or are notified that any such proceedings are being brought, it shall be the duty of the authority, unless they are of opinion that it is unnecessary to do so, to make such investigations and provide the court before which the proceedings are heard with such information relating to the home surroundings, school record, health and character of the person in respect of whom the proceedings are brought as appear to the authority likely to assist the court.

(2) If the court mentioned in subsection (1) of this section requests the authority aforesaid to make investigations and provide information or to make further investigations and provide further information relating to the matters aforesaid, it shall be the duty of the authority to comply with the request.

engage in a fair trial and order a Section 9 investigation by social services. This may prompt the local authority to act under Section 47 of the Children's Act 1989, which confers comprehensive duties and powers on a local authority to investigate a child who is suffering, or is likely to suffer, significant harm and take any action to safeguard or promote the child's welfare.

Sentencing?

Good decision making is wholly reliant on good information. A comprehensive youth court order will often require agencies to work together in supporting the rehabilitation of children who offend. Across the country there are many examples of YOTs, social services and others working together in a coordinated way. Sadly, this is not always the case.

On occasions, a Youth Bench may find that there are specific issues associated with the child's situation that must be addressed if the Youth Order is likely to be effective. If the concerns are to be addressed in the pre-sentence report, it is sometimes sufficient for a Bench to make their observations known to the YOT in open court. However, as recognised by the Carile report, sometimes the YOT are not the agency best placed to report on the court's concerns, and they are not well placed to seek the necessary information from other agencies. On those occasions a well pronounced requirement for a Section 9 investigation is appropriate.

Clearly, the Bench should know what aspect of information it is seeking and why. It is recommended that when a court orders a Section 9 investigation it should be accompanied with a direction under the criminal procedure rules 3.5(2)(a). This places an individual (usually the legal advisor sitting on the day) in charge of actively managing the case to ensure the Section 9 report is both obtained and then laid before the appropriate magistrates.

To whom does it apply?

Any organisation that is a pure public authority or exercises its responsibilities as a public authority is bound under the duty to make investigations of its own volition and to make further investigations and lay further information if so requested by a court. Most requests for further information are likely to be aimed at youth offending teams, social services and governing councils. The Act also mentions local education authorities and although many schools now operate as academies, the Academies Act 2010 recognises academy proprietors as public bodies.

What are the implications?

Ordering what may be perceived as additional information from social services and others will undoubtedly add to their burdens of work, and this must be considered. Consequently, any court that seeks to use this power should be mindful of the work and costs involved and therefore announce their reasons for requesting the investigation and seeking the information.

Footnote

1 Human Rights Act 1998, Schedule 1, Part 1, Article 6, Right to a fair trial. <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/5>

Mrs Lorraine Lewis, Legal Advisor

I had never heard of the use of ordering local authorities to carry out investigations under Section 9 of the Children and Young Persons Act 1969. I was not alone in this because other youth court users had not heard of it, including the Local Authority. It was brought to my attention by Mr Goble who is the Chairman of the Northamptonshire Youth Panel. Mr Goble asked me to conduct some research into what section 9 investigation entailed and how it could be used in the youth court.

When I initially researched the use of ordering local authorities to conduct investigations, I could not really see the benefit of using it. My initial thoughts were that the Youth Offending Service (YOS) would conduct assessments about the youth at first appearance and at sentence. They would therefore be in a position to gather and provide information to the court, which included information from the Local Authority. YOS could also refer a youth to a Local Authority if they felt the local authority needed to be involved.

However, I then thought of the times in court where a youth had a particularly difficult background or was particularly vulnerable. The court knew the Local Authority was involved but the information from YOS to the court fell short of what was needed for either case management or sentencing purposes. This had the potential to impact how the youth engaged with the court and sentencing process.

The Local Authority would be in a better position to provide the court with the full picture about home life, school life and medical history.

I remember when the magistrates ordered the first investigation under Section 9 of the Children and Young Persons Act 1969 in the youth court. No one knew what it was. However, youth court users were intrigued to learn what it was, what it would achieve and how it would assist the youth.

I contacted the Local Authority and explained to them what the court had ordered. There was a lot of panic and calls about what was expected of them because they had never done anything like this before. However, once I explained what it was they said they would attend court with a report for the magistrates.

At the next hearing the Local Authority attended and presented a full report about the youth. The YOS, Defence solicitor and Youth Magistrates were then able to ask questions. No one was left in any doubt about the history of the youth and what the future plans were for this youth. This information to this detail would not have been in possession of YOS knowledge. It meant that the court could tailor how they dealt with the youth to his needs so that he could comply with court orders.

In the vast majority of cases YOS will be the people who will provide information about the youth to the magistrates. However, there will be a few cases where the court identifies that a youth has complex needs and a difficult background. It will be in these circumstances that ordering the Local Authority to conduct a Section 9 investigation will be of benefit to the court.