

THE MAGISTRATES' ASSOCIATION

YOUTH COURTS COMMITTEE

Policy Paper on Alcohol

THE ISSUES

It is now generally accepted that the UK is experiencing an epidemic of alcohol-related problems. More and more people, including young people, are becoming addicted to alcohol and “binge drinking” is causing major problems on the streets of all our towns and cities.

This increasing dependence on alcohol has adverse effects on the drinkers themselves, their families and friends, their local communities and society in general.

First and foremost are the effects on the health of the individual. The Office for National Statistics states that there were 9,031 alcohol-related deaths in the UK in 2008. This figure has consistently increased since the early 1990s. However, estimates of the annual total number of deaths in which alcohol has played a role can vary widely depending upon the criteria used. For example, a report by the Prime Minister's Strategy Unit for the National Alcohol Harm Reduction Strategy estimated 15,000 to 22,000 deaths per year. Long term misuse of alcohol can lead to diseases such as cirrhosis of the liver and pancreatitis, and can predispose to certain malignancies, including cancer of the breast, oesophagus, stomach, liver and bowel. Binge drinking results in an increase in accidents and can result in death as a result of inhalation of vomit. And the use of alcohol increases underlying aggressive tendencies, resulting in injuries to other people.

This in turn leads on to the economic effects and again these involve the individuals themselves, their families and friends, their local communities and society in general. Chronic alcoholism has a major detrimental effect on the individual, who may well become unemployed and unemployable. At the other end of the scale, the National Audit Office estimates that alcohol-related diseases cost the NHS £2.7 billion per year. Calculations released in 2008 put the cost of alcohol misuse to society at £17.7 billion to £25.1 billion per year.

However we analyse the figures, the problem is huge.

Magistrates frequently deal with offences that are often directly related to the use of alcohol. These include offences of violence from common assault to murder, and including domestic violence, anti-social behaviour, driving under the influence of alcohol, criminal damage, etc.

No one group can “solve” this huge problem and there is some reassurance in the fact that, immediately following the General Election in May 2010, HM Government published *The Coalition: our programme for government*. Section 6 (Crime and Policing) includes the following proposals:

- We will ban the sale of alcohol below cost price.
- We will review alcohol taxation and pricing to ensure it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industries.
- We will overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems.
- We will allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
- We will double the maximum fine for under-age alcohol sales to £20,000.
- We will permit local councils to charge more for late-night licences to pay for additional policing.

The purpose of this Policy Brief is to suggest how magistrates can play their part in tackling this enormous problem, which is causing major adverse effects on our society.

The individual magistrate

As individuals, magistrates can complain, for example, when they see promotions encouraging excessive drinking at supermarkets, railway stations etc, or when they find their local streets, bars, parks and hospitals are populated by drunks who shout abuse at passers-by. They can take the opportunity to speak to police officers and to local and national politicians, encouraging them to take effective action.

Magistrates in the community

Magistrates have valuable links with their local communities. They can raise the problems caused by alcohol in their various roles, for example in hospitals and Primary Care Trusts, in schools and colleges, when meeting local police, probation services, etc. They can help to produce fact sheets relating to the local situation, particularly emphasising offences resulting from alcohol abuse. They can help to build awareness of the problem and can emphasise that there are alternative ways for people to enjoy themselves, without drinking to excess, such as participation in sports.

The Magistrates' Association's "Magistrates in the Community" (MIC) project supports magistrates when they talk to audiences about their role in court, and the consequences of crime. Magistrates visiting schools and colleges have an ideal opportunity to relay important messages about alcohol abuse and all its various consequences, including the consequences of having a criminal record so far as future employment prospects, insurance cover, and even foreign travel are concerned.

Parents also need to understand the harmful effects of alcohol on the health and well being of their children. An excellent example of a project which demonstrates the harmful effects of alcohol on the health of individuals and the adverse effects of a criminal record on future employment prospects is the *Consequences Day* project in Harrogate (*Magistrate*, November 2008, page 309). This not only concentrates on the negative aspects of alcohol but also offers positive actions that can be taken through the health and leisure services available in the area.

Other agencies

Other agencies will clearly be well aware of the impact of alcohol on their clients but it will still do no harm for magistrates to enquire appropriately.

As an example, Cheshire Probation Service (*The Sentencer*, April 2010) has trained all staff to both screen offenders to identify alcohol issues and also to deliver brief interventions to offenders to tackle problem drinking. It has been estimated that nearly 60% of all offences are linked to alcohol, compared with about 18% of all offences related to illegal Class A drug use. They emphasize that local services need to develop a joint approach to tackle the harm alcohol causes for both individual health and crime and disorder.

All Probation Offender Managers in Cheshire have been trained in the use of the Alcohol Use Identification Test (AUDIT), an internationally validated screening tool providing information about the nature of the alcohol problem. They have also been trained to deliver brief and extended interventions to offenders who are problem drinkers as opposed to alcohol dependent. Offenders who are assessed as dependent drinkers are referred to specialist community based alcohol services who work in partnership with Cheshire Probation Service.

The Alcohol Activity Requirement (AAR) is part of a Community or Suspended Sentence Order introduced by the Criminal Justice Act 2003. It is a structured, evidence-based intervention used across health services which can be delivered by suitably trained non-specialist alcohol staff. Probation Offender Managers deliver five planned sessions with the offender to help them to (a) gain a better understanding of their alcohol consumption and associated risks; (b) examine the health problems linked to alcohol misuse; and (c) be able to develop strategies to reduce the level of consumption.

Research is being undertaken to assess the effectiveness of this and other alcohol interventions in health outcomes, reducing alcohol consumption, and reducing alcohol-related offending.

The criminal court

Many offences brought before the criminal court are directly related to alcohol. These include offences of violence, ranging from common assault to murder, and including domestic violence, anti-social behaviour, driving under the influence of alcohol, criminal damage, etc. The defence often uses the phrase “committed in drink”, presumably in an attempt to mitigate, and of course this is entirely irrelevant. The result of the assault, road accident, criminal damage etc is in no way reduced by the fact that the defendant did not go out in order to commit the offence. It is manifestly obvious that alcohol impairs judgement and increases aggression, and if an individual drinks to excess, he must accept the consequences. Where an offence has been “committed in drink” or alcohol fuelled, this must be treated as an aggravating feature. This is in line with the Sentencing Guidelines Council Guidance on the “Overarching Principles of Seriousness”.

Magistrates should explore the contribution of alcohol to the offence. If a pre-sentence report is required, they should ask Probation to address the issue of alcohol.

And the sentence and reasoning should include a mention of alcohol if this is relevant to the case.

The youth court

Similar comments apply here and in some ways it is even more important to tackle the issue at this early age, in anticipation that the problem can be successfully addressed before it becomes more deeply entrenched. Magistrates should ask the Youth Offending Service (YOS) to investigate the contribution of alcohol to both the offence and the offender. Referral Orders and Youth Rehabilitation Orders should address the issue of alcohol as appropriate. If the necessary expertise is unavailable locally, magistrates should ask searching questions of the appropriate authorities. However, unlike in the adult court, an offence committed in drink *may* not be an aggravating factor for the offence as under-age drinking can sometimes be through experimentation and lack of understanding.

The family court

Alcohol abuse by parents can have a major impact on families, generating significant problems, which have to be dealt with by the family courts.

Licensing

In April 2010, the Judicial Policy and Practice Committee of the Magistrates' Association issued a Policy Brief on Licensing, and this present document should be read in conjunction with that document.

Specifically considering the supply of alcohol to young people, it is presumably being supplied by shops and supermarkets, by parents and by other individuals. We should investigate whether the present legislation is sufficient to prosecute the suppliers. If it is, are the powers used sufficiently, are they sufficiently strong, and do magistrates sentence appropriately? If the present legislation is inadequate, should the Magistrates' Association press for greater powers, particularly regarding parents allowing young people access to alcohol?

KEY RECOMMENDATIONS

- Magistrates can raise the problems caused by alcohol in their various roles in the local community.
- Magistrates can actively participate in events, meetings, and discussions in the local community.
- Magistrates can make themselves aware of and actively encourage the efforts of their local probation service etc in addressing the issue of alcohol abuse.
- All probation staff, and Youth Offender Services staff should be trained in the recognition of alcohol abuse and be able to refer appropriately.
- In the criminal court, magistrates should explore the contribution of alcohol to the offence and ask Probation to address the issue of alcohol in the pre-sentence report.

- The sentence and reasoning should include a mention of alcohol if this is relevant to the case and the offence has been committed while in drink or fuelled by alcohol. Magistrates should identify this as an aggravating factor when assessing the seriousness of an offence.
- In the youth court, magistrates should ask the Youth Offending Service (YOS) to investigate the contribution of alcohol to both the offence and the offender.
- Referral Orders and Youth Rehabilitation Orders should address the issue of alcohol if appropriate.
- Magistrates in the youth court should ask searching questions of the appropriate authorities if the necessary expertise is unavailable locally.
- In the family court, magistrates should consider addressing problems related to alcohol.
- This document should be read in conjunction with the Policy Brief on Licensing, issued by the Judicial Policy and Practice Committee of the Magistrates' Association in April 2010.

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