

In passing sentence, the judge said that the defendants had deliberately left the public house with the intention of fighting the group from Wrexham. There could be no other sensible explanation as to what happened that day and it was clearly shown on the video. He said that the people of Chester and visitors to the city had to know that the courts would take a firm stand against this type of criminal behaviour. In addition, the evidence at Schofield's trial indicated that the numbers of the younger element in the football hooligans in Chester had grown significantly over the last two years and that was an issue that could not be ignored. The courts would not tolerate such behaviour and a message had to be sent out to people like them that such behaviour would not be tolerated. All but Schofield had pleaded guilty and they would receive credit for those pleas. Wood was the most prominent of the protagonists. He threw a bottle at the police and he had a bad record for offences of violence, including one for an offence very similar to this. Schofield was not only the oldest of the defendants, but he also directed others. He was not shown outwardly playing an active role, but by his mere presence he made sure that others were there. He was seen shouting and on a number of occasions had clearly instructed others to do things and they had followed his lead and instructions. He was the controlling mind behind what was going on. He also had a previous conviction for a very similar offence. The others had all expressed their remorse and had acted out of character.

ASBOs

The power to make an ASBO was introduced by s. 1 of the Crime and Disorder Act 1998 (CDA 1998) which came into force on April 1, 1999. In *McCann v Manchester Crown Court* [2002] UKHL 39; [2003] 1 A.C. 787; [2003] 1 Cr. App. R. 27 (p.419) Lord Slynn described the social problem that S.1 of the 1998 Act was designed to address. He referred to the fear, misery and distress that might be caused by outrageous anti-social behaviour, usually in urban areas, often by young persons and groups of young persons. He said:

PART 5 © SWEET & MAXWELL

64.

Simon Cordell's Skeleton Argument (2) Pdf

Page:26

“In recent years this phenomenon became a serious problem. There appeared to be a gap in the law. The criminal law offered insufficient protection to communities. Public confidence in the rule of law was undermined by a not unreasonable view in some communities that the law failed them.”

There are various procedures which can lead to the making of an ASBO, in particular, that which involves an application by a relevant authority (e.g., a local authority) to a magistrates' court. We are concerned with the power to make an ASBO following conviction for a relevant offence, a power granted to avoid the need to invoke the procedure in the magistrates' court and thus a further hearing. The power was granted by s. 1C of the Crime and Disorder Act 1998 (“CDA 1998”), as inserted by s.64 of the Police Reform Act 2002 and amended by s.86 of the Anti-Social Behaviour Act 2003. However, the principles are the same irrespective of the procedural route.

Section 1 C (2) of CDA 1998 provides:

“If the court considers—

1. that the offender has acted, at any time since the commencement date [1st April 1999] in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself; and
2. that an order under this section is necessary to protect persons in any place in England and Wales from further anti-social acts by him,