



## **Key practices for social workers**

*Social workers and the law*

### **Lesley Ann Cull**

Hello, I'm Lesley Ann Cull. You're now going to hear from Stuart Vernon, a Principal Lecturer teaching in the Law School at the University of East London. He is going to be talking about Social Work education and the issues raised for social work practice by studying the law.

### **Stuart Vernon**

I'd say that they have been significant, and I think if anything, the movement has been towards recognising the importance of law, not only in social work education but obviously in social work practice. I think that's happened in three ways. I think there has been a larger input from the training agency to recognise and to encourage a more significant role for law in training. I think practitioners themselves have been calling on training institutions, the universities, to produce social workers who have, what practitioners call 'greater competence' in law. And I think there's been a huge influence from child abuse inquiries, the residential homes inquiries and now more recently the mental health inquiries. I think put those three factors together and there's been a recognition both within the profession and in the public domain that the law is a major part of social work practice and I think that is being reflected back into education.

### **Lesley Ann Cull**

Stuart tells us why he thinks it's important for social workers to study the law. He begins by discussing changes in social work education around the law.

### **Stuart Vernon**

The rules and the requirements of the diploma in social work make it very clear that law has an important part in any training course. I think the real issue is that law sets the boundaries for practice, and by that I mean it allocates the roles and the functions of social work agencies and therefore of social work practitioners. I am not saying it's determinative of practice; I'm saying that it's giving a boundary or a box within which social workers practice. Specifically what it does is to establish powers and duties and give, on some occasions rights, not only for practitioners but for service users as well. So it's about the impact on the practitioner, on the client, on the service user and on carers.

### **Lesley Ann Cull**

I asked Stuart what he considered to be the differences between the social worker-service user relationship and the lawyer-client relationship.

### **Stuart Vernon**

There's a relationship between the service users and social workers, which in some respects is similar to the relationship between lawyers and clients. That both lawyers and social workers in those respects are using the law, and they are using the law, one would imagine, for the benefit of their clients, and I think the major difference is that the relationship between the lawyer and the client is a short-term relationship. It's focused on one specific incident or task, defending someone in a criminal court. The relationship between the social worker and the service user is likely to be more long term, and likely to have broader horizons as well. And in that sense the relationship is a more complex one between social worker and service user, and therefore their knowledge and understanding of the law has to be different. They can act as gatekeepers, they can act as referrers, so knowing if a service user is facing a legal problem is a very important skill because then you can mobilise the sorts of advice and expertise that that service user needs.

**Lesley Ann Cull**

Stuart then talked about what he considered to be the key skills social workers need to develop when studying law.

**Stuart Vernon**

I think the skills in some respects are the same as anybody studying law. But there is one other skill that social work students need to develop, and that is how their legal knowledge and the values that are contained within social work law, have an impact on the sorts of situations they are going to face in practice, so it's about recognising that the law will not always tell them what they can and cannot do. What the law will sometimes do is to say to them, 'you may do this, you may do that, you may do a whole range of things', the decision on whether you want to do it is not a decision for the law, it's a decision for practice.

**Lesley Ann Cull**

I asked Stuart to say something about the similarities and the differences between legal values and social work values.

**Stuart Vernon**

There are areas of social work law where there is a coalescence between the values in the legislation and the values in practice. There are, however, I think more complex areas where there may be a tension if not even a conflict between the values of the law and the values of practice and I think the best example of that would be the use of compulsion. And that compulsion would be partly, for instance, in the Mental Health Act, the compulsory detention of someone in hospital and then possibly their compulsory treatment under the Act. And the other major area would be in the area of work with offenders, particularly the administration of community sentences. I'm saying that there has to be recognition of the valid and legitimate place of compulsion. But I think it's something that social work students find more difficult to get hold of than say the value of empowerment. What you get by looking for instance at mental health law, is to begin to understand the balance that the legislation is trying to provide between the rights of the individual, the service user, the patient, and the rights of society, and it's that balance within which practice takes place, that is so important.

**Lesley Ann Cull**

Stuart tells us about his work in the youth justice system.

**Stuart Vernon**

I sit as a magistrate in Hounslow in West London and as part of my duties sit in the youth court. I have been doing so for the last 10 years. The youth court is an exclusively criminal jurisdiction court for dealing with prosecutions against children and young people, that's the age range of 10 up to the age of 18.

**Lesley Ann Cull**

What is the role of the Social Worker in the youth court?

**Stuart Vernon**

I suppose the most important role is as the author of pre-sentence reports which will provide the youth court with important information about the offence and the offender, which will allow the court then to make an appropriate decision about sentence, and for me that's their most important role. The other role would be as supervising officers for supervision orders, or for community service orders, and you may well encounter social workers in those situations coming into the youth court to take what are called 'breach proceedings', a situation where someone has been sentenced to a supervision order and has breached that order. The supervising officer, the social worker, will bring the case and the person back to court for a decision on whether the order should continue, or whether the person should be re-sentenced for the original offence. I think the pre-sentence report is of central importance. It is a report that is commissioned by the court and it's a report which provides that added information which allows the court to make a more informed and more appropriate decision on the sentence. The value of the pre-sentence report will be determined by a number of factors. One of which is the relationship between the bench and the youth justice team, the social workers and probation officers working with in the youth justice team. The better that

relationship the more influential the pre-sentence report. And the other thing that sentencing magistrates are looking for is a report which is logical, credible, and produces a proposal for sentence which flows from the other information.

**Lesley Ann Cull**

In what ways does Stuart see the youth court as a welfare system as opposed to a punitive one?

**Stuart Vernon**

The youth court is required to have regard to the welfare of the child in everything that it does. In that sense the youth court has a welfare context to its work. I would say that there are occasions when that welfare context gets lost and a much more punitive context imposes itself. So for me it would be better to understand the youth court as working on a continuum between welfare and punitivism. In some circumstances, particularly for the younger offender and for the more minor offences, there is a very important place for 'welfarist' decision making. At the latter end, at the top end of the continuum where you are looking at older more serious young people who offend, in those circumstances there is a greater role for punitivism. But that's the nature of professional practice and the skill of the professional practitioner is being able to recognise when the interests both of the offender and of society, require a more punitive response than a welfare response. I think what an experienced social work practitioner working in the youth justice field will tell you, is that even within what is perceived as a punitive sentence by the court, there is still space for welfarist intervention. I'm not here talking about custodial sentencing, I am talking about community sentencing.

**Lesley Ann Cull**

I asked Stuart how welfare professionals could best support and prepare children and parents or guardians for their appearance before the youth court.

**Stuart Vernon**

By letting them know what's going to happen, by being able to describe to them the physical structure of the court, by being able to tell them who is going to be there and what their roles are, and also I think probably in conjunction with a lawyer, being able to tell the child or young person almost what the worst-case scenario is, so that things don't come as a shock, and so that people, parents particularly, are prepared for what might happen. And that's partly to do with good legal representation as well. So there is a partnership between social worker and lawyer and between the parents and the child and young person.

**Lesley Ann Cull**

In what ways does Stuart consider the youth court to be fair, open and impartial?

**Stuart Vernon**

Fairness, as an absolute concept, is probably not something that any court is necessarily going to provide. But I think what the youth court can do is to provide fairness according to the rules. So that what you are looking at is a procedure which is appropriate, lawful, proper, one that doesn't tend to impose unnecessary messages about punishment or whatever. So fairness according to the rules in that sense. Openness, well openness, no – in the sense that it's a closed court, the public are not allowed in to the youth court, but open in the sense that what's going on is explained, I think is enormously important. And that, I think, is the responsibility of the magistrates and of the clerk to the court. Impartiality? Well, the magistrates are there to make sure that any decision is made on the basis of the facts and the law. In that sense they are impartial, but I think a lot of people who've been in the youth court and in the adult magistrates' courts, or in the crown court for that matter, would come out and say that the law itself is not impartial. But that's another matter. The magistrates are there to deal with the law as it is, not as they would wish it to be.