COLLAS CRILL

The Child, Youth and Community Tribunal

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A key aspect of 'The Children (Guernsey & Alderney) Law, 2008' is the creation of a tribunal system called The Child, Youth and Community Tribunal. This is based on the Scottish legal system, but there are some major differences between the local Tribunal and the Scottish equivalent.

The purpose of the Tribunal is to provide an independent agency, separate from the Court, to support children and young people in need of care and protection.

Any person or agency who has concerns about a child can make a formal referral to the Tribunal. Referrals can be made by a parent, grandparent, neighbour, the Police, HSC, Family Proceedings Advisory Service, teacher or in fact anyone who has concerns for a child's well being.

Generally, most referrals come from HSC or the Police. The detailed criteria for a referral are set out in the 'Matrimonial Causes Law (Guernsey), 1939' (Section 35). In summary, the child must need help and intervention by the Tribunal must be necessary to ensure the child's protection, care, guidance or control.

The Tribunal is run by a Children's Convenor. Upon receipt of a referral, the Convenor will carry out an investigation as to the circumstances of the case. This will involve the Convenor contacting all the relevant agencies, such as HSC, schools, doctors, etc. In some circumstances the Convenor can compel disclosure information from an individual, with failure to comply with a formal request for disclosure a criminal offence.

Once the Convenor has considered all the available evidence, he will decide whether there are sufficient concerns to refer the matter to the Tribunal for consideration.

If the Convenor concludes that there is no good reason to intervene on a compulsory basis, then he will notify all the parties. In addition, the Convenor may refer the child to HSC if the child is deemed to be in need.

If the Convenor decides that compulsory intervention is required, then the child is referred to the Tribunal. The Tribunal, consisting of three panel members, will hear evidence from all the relevant agencies.

In the event that there are factual issues to be resolved, then the Tribunal will refer those matters to the Magistrate's Court for determination. Once the facts have been established, then the case is referred back to the Tribunal.

The Tribunal will then meet and make a decision as to whether a care requirement is needed. A care requirement is an order placing the child under the supervision of HSC. The Tribunal has power to impose

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conditions as part of a care requirement, controlling amongst other things where and with whom a child shall reside and with whom he will have contact.

The maximum duration of a care requirement is one year, but this can be renewed if necessary.

Flow chart of The Child, Youth and Community Tribunal:

1

Any person may refer a child to the Convenor if they believe either the child requires compulsory intervention, or intervention is necessary to provide adequate care, guidance, protection or control.

2

Convenor investigates.

Convenor decides that compulsory intervention is not necessary. The Convenor notifies relevant parties, and may refer matter to HSC if the child is considered to be in need of additional services or is disabled.

Convenor decides that compulsory intervention is necessary.

3

Convenor refers matter to Tribunal for consideration and determination. If any dispute as to material facts, case is referred to Magistrate's Court to determine.

Tribunal decides compulsory intervention not necessary.

Tribunal decides compulsory intervention is necessary and imposes a care requirement, with or without conditions.

Away from the Tribunal, the Magistrate's Court retains extensive powers to grant the following orders:

- Community Parenting Order – This order grants HSC parental responsibility for a child and enables HSC to make long term plans for the future care of a child.
- Emergency Protection Order – This order enables HSC, with Police intervention if necessary, to remove a child from a dangerous situation.
- Exclusion Order – Another emergency order which requires a specific individual presenting danger to a child to be excluded from a property.

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