Criminal justice and the Human Rights Act 1998

Sally Ireland, Senior Legal Officer (Criminal Justice), JUSTICE
Policing and public order

Relevant rights under ECHR:
Arts 5 (liberty); 10 (freedom of expression); 11 (freedom of association and assembly); Art 8 (privacy)

Relevant sections of HRA:
S2 (juris of ECtHR); 3 (legislation); 4 (incompatibility); 6 (public authorities); 19 (statements of compatibility)
Cases – statutory powers

R (Gillan) v MPC [2006] UKHL 12

R (Singh) v Chief Const W Mids [2006] EWCA Civ 1888

Blum v DPP [2006] EWHC 3209 (Admin)

See also cases under PFHA 1997
R (Gillan) v MPC [2006] UKHL 12

Ss44-47 Terrorism Act 2000

Arts 5, 8, 10, 11 ECHR

Ss3, 4 HRA
R (Singh) v Chief Const W Mids
[2006] EWCA Civ 1888

S30 ASBA 2003

Arts 10 & 11 ECHR

S3 HRA
Blum v DPP [2006] EWHC 3209 (Admin)

Ss132 and 134 SOCPA 2005

Arts 10, 11 ECHR

S6 HRA
Cases – common law powers

*Austin v MPC* [2009] UKHL 5

*R (Laporte) v Chief Const Glos* [2006] UKHL 55

See HRA cases re G20 if they arise
Austin v MPC [2009] UKHL 5

Breach of the peace

Art 5 ECHR

S6 HRA
R (Laporte) v Chief Const Glos [2006] UKHL 55

Breach of the peace

Arts 10 and 11 ECHR

S6 HRA
Legislation & codes of practice

Extension of statutory discretions:

Eg amendments to PFHA in SOCPA
Eg ASBA (dispersal etc)
Eg VCRA (directions to leave)
Procedural rights – crime and prisoners

Relevant rights under ECHR:
Arts 5, 6, 7 (no punishment without law) and 13 (right to an effective remedy)

Relevant sections of HRA:
Ss 2, 3, 4, 6
Note Article 13 ECHR not incorporated in HRA
Impact of ECHR before HRA

*Weeks v UK* (1987) 10 EHRR 293
- led to s34 Criminal Justice Act 1991

*Singh and Hussain v UK* (1996) 22 EHRR
- detention at HMP

*T v UK; V v UK* (1999) 30 EHRR 121
Domestic case-law since HRA

*R v Horncastle* [2009] EWCA Crim 964
-hearsay, CJA 2003, Art 6(3)(d) ECHR

*R v Musone* [2007] EWCA Crim 1237
-Bad character, CJA 2003, Art 6 ECHR

-*R v Davis* [2008] UKHL 36
-Anonymous witnesses, Art 6 ECHR
Legislation since HRA

Criminal Evidence (Witness Anonymity) Act 2008

Coroners and Justice Act 2009

Criminal Justice Act 2003
Further information

www.justice.org.uk

‘Paying lip-service to Article 10: legality and the right to protest’ JUSTICE Journal vol 4 no 1

A New Parole System for England and Wales, JUSTICE, 2009