

Legal Process

The Judiciary is an arm of the government responsible for interpreting the law. Within the Judiciary, there are tiers/hierarchies. One such on the lower division is the Magistrate Court. This is often led by a Magistrate who is in that position as a volunteer. This study reviews the appointment, roles and responsibilities of the Magistrates in the UK. An overview will be given of the Magistrate courts process, and a comparison made with similar provisions in another sovereign country. The study will be summarised with an analysis of the advantages and disadvantages with recommendations noted for reform.

The Judiciary is the arm of government responsible for interpreting and giving effect to the law/legislation. In the UK, the Judiciary is made up of the following Courts in order of hierarchy:

- The Supreme Court which is also known as the Apex court/final court of appeal
 - The Court of Appeal (Criminal division and civil division)
 - The High Court (Queen's bench Division, Chancery Division, Family division; Divisional Court, Administrative Court)
 - Tribunals; Crown court; county Courts
 - Magistrate Courts

The concept of Magistrates also known as Justice of the peace in the UK dates as far back as 1361, when the Justices of the Peace Act 1361 was enacted. This legislation is still active in England and Wales in an amended version. Today, Magistrates are usually volunteers who apply through a process and are vetted and trained to fill the role. Each Magistrate court can hear criminal cases and private family cases. There is usually a lead magistrate for a team of three to oversee proceedings. (UK Govt., 2022)

Proceedings are also attended by a court-appointed legal advisor who acts as a steer to ensure the magistrates are following the right legal procedure.

It is noteworthy that all criminal litigation originates in the magistrate courts. Capital Crime is usually passed on to higher Courts – the Crown Court. A magistrate has the authority to remand an offender in custody or grant bail conditions. Punitive measures can also be meted out as fines, prison custodial sentences of up to twelve months and the sentence of carrying out community service.

In Family cases, Magistrates can make court orders prohibiting domestic abuse and child custody arrangements.

There are laid down requirements for anyone interested in applying for a Magistrate position to include:

- Aged between 18-74
- Personal Qualities of social awareness, people skills and community service,
- Effective communication and documentation skills
- Critical and logical analysis skills to weigh evidence
- Evidence of good character including good financial standing

There are also some restrictions that apply to individuals already employed in roles that may lead to a conflict of interests, such as social workers and those involved in family welfare, prison personnel and officials, private detectives, and educational welfare officers, anyone in the policing profession. These persons cannot be appointed as Magistrates while in their job roles.

As Volunteers, many Magistrates carry out their roles alongside their full-time jobs. Magistrates serve on the bench for a minimum of five years and must attend Court for a

minimum of thirteen days a year. On becoming a Magistrate there is training given for about 3-5 days as well as meetings with an assigned Mentor. Subsequent years are characterised by one to two days of training annually. There are allowances specified for Magistrates who may incur some financial loss in the course of time spent carrying out the responsibilities in their role (Magistrate Association, 2022).

Some advantages of the Magistrate courts system include local knowledge of the community demographics, culture and interest, a balance of three magistrates sitting at any time to oversee a proceeding, the fact that the Magistrates are lay members of the public and there is minimal cost attributed to the engagement of these as volunteers. On the other hand, the fact that there is no specified qualification or requirement for this role means that it is possible to have unequal representation as it is impossible to see the selection process as a clearcut tick box exercise. Also, from this study, it has been observed that the average citizen is not aware that the role of the Magistrate is a volunteer role and those from unprofessional backgrounds can suitably apply. This indicates the utilisation of this volunteering opportunity as a tool of prestige by citizens of better means. Magistrates coming from a wide range of background are therefore likely to see things differently, and this will lead to delay and inconsistencies in decision making. This may be of negative impact especially in cases of juvenile offenders before the court.

Another responsibility of the Magistrates is to preside over the Youth Court (UKCLE, 2022). The Youth Court is a private proceeding not accessible to the general public as the subjects are aged between ten years old and eighteen years old. Until recently there was a requirement to have one male and one female present in the Youth Court. The current position of the Law on this is yet to be ascertained in view of a dynamic modern society and identification culture.

A comparative Analysis of the Magistrate Court in the UK and other Countries.

Like the UK, Australia appears to have the same level of roles and responsibilities in the jurisdiction of the Magistrate Courts, for criminal matters as a court of the first instance, minor offence, family court, youth court and a distinct inclusion of taxation issues especially around the commonwealth matters (Queensland court, 2022). The latter is not specified within the remit of the magistrate Courts in the UK.

In other Commonwealth countries, such as the west African country of Nigeria, Magistrates are appointed as part of the Judiciary and with remuneration from the government as a paid profession. It is observed that those areas have lower courts such as customary courts to adjudicate in local community matters. This places the magistrate court at a slightly higher hierarchy, unlike the UK Court. It is also a requirement that the magistrates appointed are registered members of the legal profession as barristers/solicitors prior to being appointed to the bench.

Reformation of the role of magistrates

In 2013, the UK Department of Justice held a national consultation on how to reform the role of magistrates. This was critically examined by Donoghue (2014), who analyses the factors that led to the need for reformation. These factors include: the closure of courts for various reasons, a decline in the number of magistrates across the nation, budget cut-backs impacting on essential administrative processes and breeding a hostile work environment due to pressure, reduced caseloads and treatment of the magistrates as court staff. The UK Govt. Have since made progress towards inculcating a staggering transformation of the system with a deliberate move to place the magistrates at the heart of the community also via neighbourhood panels. This also means the Magistrates will be one of the closes departments to work closely to the police who also derive their power from the people, and community. It is envisaged that there will be more interest generated within the community for suitable volunteers to apply for magistrate vacancies in their local areas.

In conclusion, it can be seen that all magistrate functions across the compared regions are localised summary courts of judgement. In spite of the changing economic dynamics leading to budget cuts, it is imperative to prioritise the proper training and incorporate a collaborative approach in fostering relations between the Judiciary, other arms of government and the community. Regardless of the hierarchy of the Magistrate court, the fact that it is a court of the first instance in many cases with a direct link to the immediate community makes it an indispensable part of the system that can contribute effectively to a preventative approach in the criminal justice system.

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