

LEVEL 4 ASSESSMENT SPECIFICATION

Student name:	MOHAMMED FAZLUL KARIM	Student ID number:	2223961
Programme:	CertHE Law and Legal Practice, Professional Policing BSc Professional Policing		
Module:	Legal Process		
Module code:	BMPL4005, BMLW4006	Contribution to Overall Module Assessment (%):	50%
Lecturer:	Zita Draper and Sian Turvey	Internal Verifier:	Sian Turvey and Zita Draper
Assignment Title:	The Magistracy	Word count (or equivalent):	1500
Submission deadline:	By 23:59 on Friday 5 th May 2023	Return date of provisional marks & written feedback:	5 th June 2023

Table of Contents

Introduction.....	2
What is Magistrate.....	2
Magistrates in the United Kingdom and their responsibilities.....	2
Advantages of Magistrates in the Exercise of Justice.....	3
Disadvantages of Magistrate in the exercise of Justice.....	4
Conclusion.....	6
References.....	7

List of Figures:

Figure 1: Process of appointing Magistrates In the UK.....	3
Figure 2: Advantages of appointing Magistrates.....	5

Introduction:

To maintain proper law and order situation in any country, it is necessary to have a smooth legislative process into action. Without this, the system may get interrupted in various ways and people may suffer from delays in the justice process. Magistrates are a very integral part of the legal process of the United Kingdom (Mena, 2016). They play special roles in mitigating minor and local offences. In this work, various aspects related to the magistrates will be discussed. The concept and conditions of magistrates in the UK will be presented. Also, the focus will be provided on the advantages and disadvantages of the magistrates in the justice exercise process of the UK will be analyzed.

What is a magistrate?

Usually, legal decisions are primarily made by judges in the UK. However, there are a lot of legal decisions which are not specifically made by judges; rather these decisions are made by ordinary individuals and these people work in various fields. These people do not even have any sort of connection to the law. These people are called magistrates as they hear different cases of the respective communities in their courts. This is why, magistrates are also called the Justices of the Peace as they use their sense of fairness in the judgement process (Naughton, 2017). The magistrates are also entitled to listen to the arguments of various parties, provide judgement and represent their respective communities.

Magistrates in the United Kingdom and their responsibilities:

Currently, nearly 12,210 people across the UK work as magistrates. They are volunteers and hear cases in their community courts. Usually, 3 magistrates hear

each case and one of the most trained and experienced ones presides over the bench. However, all of them have equal positions in case of giving judgement. To be a magistrate in the UK, a person needs to go through several processes. Any individual between **18 to 74 years of age** can apply for being a magistrate through the dedicated website. The person need not have a legal educational or professional background to become a magistrate. Rather, they are given the necessary training by the judicial system (Pycroft & Clift, 2014). However, there are certain qualifications that the person must embody.

The person must be **socially aware**, mature, fair in judgement, reliable, committed to serving the community etc. The person also needs to analyze documents, judge evidence and arguments, think logically and be of good character. However, the person cannot be guilty of any previous criminal cases. Also, the applicant cannot have a job role that is conflicting with the interest of the respective position. After the application is made and the qualifications are met, the **local advisory committees** including previous magistrates recommend the appointment. Then, the Senior Presiding Judge makes the appointment. Above all, the appointer looks for five major attributes in a person. They are the ability to make fair and transparent judgements, understand various perspectives, communicate respectfully, demonstrate self-awareness and work professionally. After being a magistrate, a person needs to discharge **several responsibilities**.

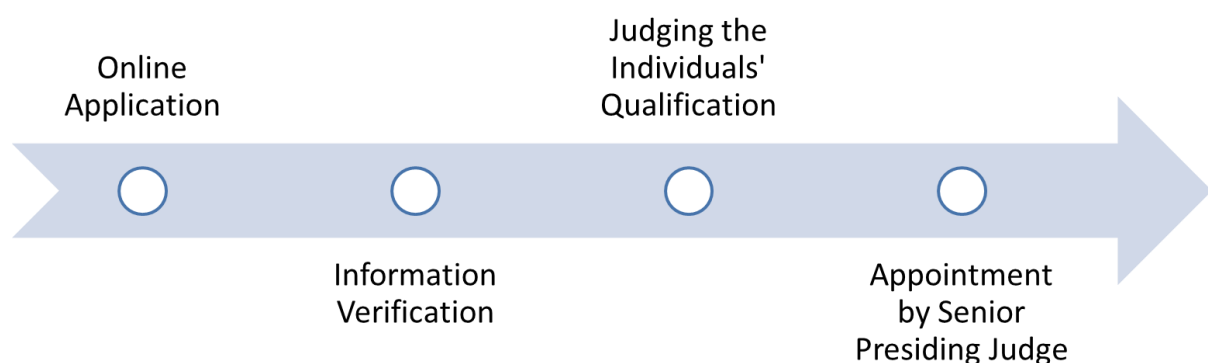


Figure 1: Process of appointing magistrates in the UK

Source: (Cunneen & Hoyle, 2018)

The foremost responsibility of any magistrate is to volunteer in hearing the cases in the community. Usually, they sit in the criminal, family or youth courts. However, training is necessary before sitting for any hearing as a magistrate. In the first year,

the magistrate needs to attend training sessions for 3 to five days. One needs training of 1-2 days each year after the first year. Occasional meeting with the mentors is also necessary. Again, while being appointed, a person must agree to serve for at least 5 years in this post. The minimum **serving day tenure** is 13 full days each year. However, the magistrates can fulfil the obligation by halving the days and serving for 26 half days. And, if someone is sitting in more than one type of court, he will have to serve at least 15 full days in each type of court. If a magistrate sits in the criminal court, the person can hear all types of summary offences like criminal assault with minor injuries, minor damages, motoring offences, burglary, drug abuse etc.

Advantages of Magistrates in the Exercise of Justice:

Though magistrates are not professional judges, they play a significant role in the justice system of the UK. The most important advantage is that magistrates help in keeping the justice **system running**. The UK is already in shortage in terms of professional judges. The absence of magistrates would demand more time from judges even in terms of cases that can be judged easily like simple burglary, family issues etc. 90% of the criminal cases in the justice system end in magistrate courts. Also, magistrates comprise 85% of the justice system. Thus, magistrates help greatly in bringing efficiency to the overall justice system of the UK. The involvement of lay magistrates helps a lot in ensuring the participation of the **general people** in the justice system (Genn, 2019). Because of this, the overall justice system becomes more empathetic, democratic and inclusive. 49% of magistrates are women. Again, 19% of the magistrates represent different ethnic minorities.

This diversity ensures the participation of people from all arenas in the justice system. Because of lay magistrates, people of the **local community** can get into the justice system. Hence, they can employ nuanced local news, views, norms etc. in the sentencing consideration. This both speeds up the proceedings of the courts and ensures the representation of the voices of the local community. In the case ***Paul Chambers V Director of Public Prosecutions [2012] EWHC 2157 (QB)***, the defendant was accused with the charge of kerb-crawling. The magistrates of the court knew that it was the problem in the context of the locality of the court and hence he was sentenced guilty. The involvement of the magistrates ensures a **balanced view** in the judgement process (McAvinchey, 2020). In every bench, 3

magistrates are there and all have equal rights. Hence, the judgment process becomes multilateral and balanced. Most importantly, magistrates save **tons of costs** for the justice system.



Figure 2: Advantages of appointing magistrates

Source: (Murschetz, 2019)

Being volunteers, magistrates are paid very less as they do not take as much time as professional judges. Mostly the magistrates are unpaid unless they have any specific financial loss to show. Thus, this system saves the cost of 12,000 more judges amounting to more than £650 million each year. Magistrates ensure the **availability of justice** provisions too. Suddenly employing so many judges or reaching too many courts might be cumbersome for the government and the general people respectively. However, 12,000 magistrates ensure quick access and availability of justice services to general people. The presence of the magistrates also ensures the increase of **legal awareness** among the general people. For example, each magistrate is assigned a legal adviser who trains and mentors them in necessity. Thus, the knowledge of legal issues gets introduced more in society.

Disadvantages of Magistrate in the Exercise of Justice:

Employing magistrates has several disadvantages too. Being a magistrate does not require **many qualifications**. This is why, anyone can apply for the post. However, that person may not have the proper legal and analytical skills that are needed to provide proper justice to people. They may unwillingly fall for wrong judgements because of their lack of qualifications. Often there might be a great **difference of views** between the magistrates and defendants because of less representation of all classes of people (O'Neill, 2019). 49% of the magistrates are more than 60 years old but the average age of the defendants is 25.37% of the magistrates representing professional and middle-class backgrounds.

This difference also induces differences in consideration at the time of judgement. Inconsistency in judgment might also arise from the magistrates. The **pace of judgement** can vary a lot from magistrate to magistrate. Some might be quite slow in the judgement process. Some might forget the critical elements of the process since they are supposed to sit only for 13 days a year in the judgement process. Again, in ABH cases 21% of the defendants were found guilty in Liverpool but in Sussex, it was 64%. In many cases, the magistrates try to become biased in terms of sentencing people. The **prosecution bias** may arise from the fact that the police or other parties found the evidence with much hardship.

And hence, only they can be right. In the case ***R v Bingham [1991] Crim LR 43***, the defendant was held guilty as the magistrates blindly believed in the evidence of the police. He was later acquitted by the high court. The magistrate might become **over-reliant** on the legal advisors. They might lack knowledge about the proper way of handling an issue and recent legal developments. As a result, they may resort to their assigned legal advisors who might not have a proper understanding of the case in point (Genn, 2019). Also, the magistrates might provide faulty judgements which may increase the problem of the upper court.

Conclusion:

The judicial system of any country should be very agile, inclusive and justified. This is why, proper resources should be employed in this system. But, lack of manpower might falter the process a lot. Magistrates help the justice system of the UK in surviving such problems. More than 12,000 lay magistrates work voluntarily in the UK (Murschetz, 2019). Because of this, the overall process becomes faster, less costly, more culturally centric etc. However, biases, inexperience, lack of proper skills etc. often harm the intent of the profession. Proper and more rigorous training can help in mitigating the disadvantages largely.

References:

- Cunneen, C. and Hoyle, C. (2018) *Debating restorative justice*. Oxford: Hart.
- Genn, H. (2019) *Judging civil justice*. Cambridge, UK: Cambridge University Press.
- McAvinchey, C. (2020) *Women and the Criminal Justice System*. London: Bloomsbury Methuen Drama.
- Mena, J. (2016) *Public Accounts Committee 1st report. efficiency in the criminal justice system: Efficiency in the Criminal Justice System*. London: Dandy Booksellers Ltd.
- Murschetz, V. (2019) "The expert witness in the inquisitorial justice system compared with the adversarial systems of the UK," *The Expert Witness, Forensic Science and the Criminal Justice Systems of the UK*, pp. 127–139.
- Naughton, M. (2017) *The innocent and the criminal justice system: A sociological analysis of miscarriages of justice*. Basingstoke, Hampshire: Palgrave Macmillan.
- O'Neill, A. (2019) "Culture clash? the UK tradition of Open Justice and the Court of Justice of the European Union," *Shaping EU Law the British Way* [Preprint].
- Pycroft, A. and Clift, S. (2014) *Risk and rehabilitation: Management and treatment of substance misuse and mental health problems in the criminal justice system*. Bristol: Policy Press.