


# SERVING AS A MAGISTRATE

- a detailed guide to the role of JP







This booklet gives detailed information to help you decide whether the magistracy is right for you.

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Becoming a Magistrate DVD.....Inside back cover

# 1. YOUR ROLE

What is a magistrate? The office of magistrate (also known as Justice of the Peace or JP) has existed in England and Wales for hundreds of years. People holding the office perform an essential public service by dispensing justice within the criminal justice system and hearing a range of non-criminal cases. Today, there are about 28,000 magistrates in England and Wales and they all give their time and expertise voluntarily.

Magistrates' courts are the first tier within our justice system. They comprise:

- The Adult Court – for criminal cases involving people over 18.
- The Youth Court – for cases involving young people aged from 10-17.
- The Family Proceedings Court – where some family disputes are settled.
- The Civil Court – for civil cases and other matters like enforcing Council Tax or dealing with some licensing appeals.

Defendants who are found guilty in magistrates' courts can appeal against the verdict or sentence to a more senior court. The prosecution has a more limited right to appeal, too, but only if the magistrates have made an error of law. In practice, less than 3% of decisions in the magistrates' courts are ever appealed.

Individual magistrates do not hear cases on their own. They usually sit as one of a bench of three magistrates, together with a qualified Legal Adviser who is there to advise on points of law and procedure.

## CRIMINAL CASES

Everyone charged with a criminal offence is presumed innocent unless proved guilty, and is entitled to a fair and public hearing within a reasonable time. Magistrates, just like other judges, have to make sure this happens in their courts.

### Less serious crimes

All criminal cases start in the magistrates' courts, and 97 percent are concluded there, including sentencing. These include all 'summary' offences – such as most motoring offences, less serious assaults and many public order offences – which can be dealt with only in the magistrates' courts. For these crimes, you will set the timetable, decide bail, hear the evidence, decide whether the accused is guilty or innocent and, if guilty, decide on the most appropriate sentence. Other cases can be dealt with in either the magistrates' courts or by a judge and jury in the Crown Court. These are known as 'either way' offences

and include theft, more serious assaults and most drugs offences.

### Serious crimes

The most serious crimes, including murder, rape and robbery, all commence in the magistrates' court, but must be dealt with in the Crown Court. Your role is to send such cases to be heard in the Crown Court.

You also have to decide what should happen to the defendant during the preparation of the case, and particularly whether he or she should be released on bail. Usually, the defendant will be bailed to attend at the next hearing date. You may, however, impose conditions on that bail, such as requiring that a financial guarantee (called a surety or security) be provided, or requiring the defendant to live at a particular address, including bail hostels. For the most serious cases, you can keep a defendant in prison during this period.



## Sentencing

When sentencing, you will consider any aggravating factors and listen to any mitigating factors. You will know the range of sentences from your training, information in court and your Legal Adviser. You then decide which sentence has the greatest chance of rehabilitating the offender and preventing them from committing further offences. Where appropriate, you will also determine whether they should be required to make any reparation to the people they have affected.

For adult offenders, you can choose from a wide range of sentences, including:

- An absolute discharge – usually for a first offence when you believe a further offence is very unlikely. The offence, however, remains on the record.
- A conditional discharge – when a conviction for another offence committed up to three years before will mean the person can be sentenced for both offences.
- A community sentence.
- Fines up to £5,000 – these are probably the most used sentence.
- Compensation up to £5,000 – to compensate a victim for loss, injury or suffering.
- A prison sentence.

## Youth Courts

Most criminal cases involving young people aged 10 to 17 are dealt with in the Youth Court. The main aim of the Youth Court is to prevent offending and re-offending by young people. If you sit in the Youth Court you will receive specialist training and have a different range of sentences available. The Youth Court also has three magistrates and ideally this should include both men and women.

## A TYPICAL TRIAL

Magistrates' courts start between 9.30am and 10.30am and you need to be there 30 minutes beforehand. You usually sit as a bench of three, so when you arrive you find out who your two colleagues will be for the day. The court Chairman – an experienced senior magistrate – sits in the middle and is the person who addresses and controls the court. The two other magistrates – called wingers – sit on either side, but all three have equal decision making responsibility. The Legal Adviser, who's there to tell you the status of the case (for example, whether this is a first hearing and whether everyone is ready) and help with any points of law and procedure, usually sits just in front of the three magistrates.

The prosecution is the first to put its case. This is normally presented by the Crown Prosecution Service (CPS). When the prosecution has finished, it is the turn of the defence lawyer to address the court. Not all defendants are legally represented, however, so the defendant could be presenting their own case.

At the end of the trial, you leave the courtroom to consider your decision

and to record the reasons for it. The verdict is then read out in court, followed by the past record, if any, of the defendant. The defendant's personal circumstances, and anything else that might be useful in deciding what sentence should be imposed, are also heard at this point. You then leave the courtroom again to decide on the next step. This might be to request a report to be prepared, or you may be able to proceed directly to sentencing.

Throughout the trial, your task is to listen carefully to all that is said in court and to make appropriate decisions as part of a team. You have to think about all the evidence given, decide what is relevant and, if different stories are told, whom you believe in an unbiased manner. When someone has pleaded or been found guilty, you have to think about how to deal with the offender and consider:

- The punishment of offenders.
- The reduction of crime.
- The reform and rehabilitation of offenders.
- The protection of the public.
- The making of reparation by offenders to those affected by their offences.





## **FAMILY AND OTHER CIVIL CASES**

### **Family Proceedings Courts**

Some magistrates are specially trained to deal with family cases. These are usually either when a young person is at risk of serious harm, or when there is a family dispute concerning children, often when parents have split up. Again, ideally there should always be one man and one woman on the bench.

### **Licensing Courts**

Licensing Committees, made up of magistrates, used to be responsible for granting or refusing licences to people who want to sell alcohol to the public. This responsibility is now held by local authorities, but magistrates hold an appeal function so that where a decision is taken by a local authority, an applicant may appeal to local magistrates. Magistrates still form the Betting and Gaming Committees which continue to have the power to grant licences to run a betting shop.

### **Collecting fines**

Magistrates' courts deal with people who fail to pay their fines and other financial penalties.

### **Collecting Council Tax**

Magistrates' courts deal with unpaid Council Tax.

## 2. CONDITIONS OF SERVICE

### Time commitment

As a magistrate, you are required to sit for at least 26 half-day court sittings each year. A 'half-day' sitting typically lasts from 10am to 1pm or 2pm to 5pm, though you need to be there half-an-hour before to prepare. On some benches, sittings are organised on a full-day basis. You receive your schedule for sittings well in advance, but it is possible to rearrange sittings in an emergency. In addition, you will need to be available for training (see YOUR TRAINING on page 12).

You will also be expected to play a part in the life of your bench, attend bench meetings where possible, and you may undertake work out of court as a member of committees.

There is no minimum length of time for which a magistrate should be prepared to serve. However, the initial training/appraisal period usually lasts for one year to 18 months.

Please make sure you are certain that you can meet the required time commitment before applying to become a magistrate.

### EMPLOYMENT

If you are employed, you **must** establish with your employer that you will be allowed to

take reasonable time off work to undertake the duties of a magistrate. Under Section 50 of the Employment Rights Act 1996, an employer is required to do this. If you are employed, the application pack will contain a DVD, Employing a Magistrate, which you can pass to your employer. This sets out the many benefits to employers of employing a magistrate. Further information is set out in the leaflet for employers.

### ALLOWANCES

As a magistrate, you are not paid for carrying out your duties. You can, however, claim allowances (within specified limits) for travel, subsistence and financial loss, such as loss of earnings.

## 3. YOUR CREDENTIALS

Magistrates come from a whole range of backgrounds and occupations. They are men and women with sound judgement and personal integrity. They know their local community well, are able to listen to all sides of an argument and can contribute to fair and reasonable decisions. They are also reliable and prepared to give up their time to perform this vital role. Some find this easier than others, but many people in full time employment also serve as magistrates. Their employers are obliged by law to give them reasonable time off for their duties, and many also agree to pay their staff for at least a proportion of the time they spend on the bench.

### **AGE REQUIREMENT**

You must at least 18 years old to apply. Magistrates retire from the bench at the age of 70 and the Lord Chancellor normally expects a period of five years' service before retirement. He will not generally appoint anyone who is aged over 65.

### **FORMAL QUALIFICATIONS**

You don't need any formal or academic qualifications. Nor do you need any previous legal training or experience. A legally qualified Legal Adviser will be in court to advise on relevant aspects of the law, and you are provided with structures to assist you in your decision making, together with guidelines for sentencing.

## ESSENTIAL QUALITIES

There are, however, six key qualities which are regarded as vital if you are to perform successfully in the role of a magistrate. It doesn't matter how or where you developed these qualities. It could be through your current or previous employment, involvement in community or voluntary activities, public appointments, leisure activities, family life or academic study. The most important thing is that you can demonstrate these in the selection process and, if appointed, apply them to the role. They are:

- **Good character:** to have personal integrity and enjoy the respect and trust of others.
- **Understanding and communication:** to be able to understand documents, identify relevant facts, follow evidence and communicate effectively.
- **Social awareness:** to appreciate and accept the rule of law.
- **Maturity and sound temperament:** to have an awareness and understanding of people and a sense of fairness.
- **Sound judgement:** to be able to think logically, weigh arguments and reach a sound decision.
- **Commitment and reliability:** to be committed to serving the community, willing to undergo training and to be in sufficiently good health to undertake your duties on a regular basis.

## HEALTH AND DISABILITY

We will not be able to select you if your health prevents you from carrying out a magistrate's range of duties. However, applications are welcomed from people with a disability who are able to carry out their duties either unassisted, or with the benefit of certain reasonable adjustments made to court premises or working/sitting arrangements in accordance with section 6 of the Disability Discrimination Act 1995.

## NATIONALITY

British nationality is not a requirement, but all candidates must be willing to take the Oath of Allegiance. The Lord Chancellor will not appoint candidates who are in the process of seeking asylum.





## **OCCUPATION**

Subject to the Lord Chancellor's discretion, there are a number of offices or occupations that will act as a bar to you being appointed as a magistrate. This is because they could give cause for concern about your perceived impartiality on the bench. So, for example, you will not normally be eligible if:

- You are a member of the Police Service.
- You are a member of, or have been selected (formally or informally) as a prospective candidate for election to, any Parliament or Assembly.

There are also other occupations that could present a possible conflict of interest if you were selected as a magistrate – it isn't possible to list them all. Similar concerns apply to the occupation of your spouse, your partner or a close relative. That is why the application form asks for details about these people (see the application form's guidance notes for more information). This information won't necessarily disqualify you, but it will need to be taken into account.

## **BANKRUPTCY**

If you are an undischarged bankrupt, you will not be appointed as a magistrate because it is unlikely you would command the confidence of the public. If you have been declared bankrupt in the past, but are now solvent, we will need to consider:

- The circumstances surrounding your bankruptcy.
- When it was declared.
- The extent to which creditors were paid (particularly if they were local).
- Whether there is likely to be any adverse reaction if you are appointed.

## **CONVICTIONS, ORDERS AND MOTORING OFFENCES**

When considering candidates who have been subject to any order of a court (civil or criminal), various factors, including the nature and seriousness of the offence, will be considered before an appointment is made. Magistrates deal with motoring offences, and while minor motoring offences are not usually an issue, serious motoring offences, or persistent offending, might disqualify you. If you've had your licence suspended for less than 12 months in the past five years, or for 12 months or more in the past 10 years, you would generally not be recommended.

## 4. YOUR TRAINING

The importance of the magistrate's role is reflected in the mandatory training programme you undergo to prepare you. It is prescribed by the Lord Chancellor and will be delivered locally by your Justices' Clerk or a member of his or her team.

The training will help you develop all the knowledge and skills you need to become an effective and confident magistrate. It is based on a competence framework and includes:

- Reading and distance learning exercises that cover the role and responsibilities of a magistrate.
- Induction and core training before you sit in court. This will normally be for the equivalent of three days (18 hours) and may be delivered: over a long weekend; in a series of short evening sessions over several weeks; over three separate week days; or as a residential course. For more details about how this training is delivered in your area, contact the Justices' Clerk at your local magistrates' court.
- A minimum of three court observations.
- A visit to a prison establishment, a young offender institution and a probation service facility.
- Consolidation training. You will receive this after about a year. It will normally be for the equivalent of two days (12 hours) and, like the core training, may be delivered in a variety of ways (see above).

As well as training in law and procedure, you will also focus on developing the skills you need, such as:

- structured decision-making
- communicating
- listening
- awareness of community needs
- respect and lack of bias or prejudice
- problem solving
- team work

During your induction and core training, you will be in a group with other new magistrates recruited at the same time as you. The group's size will depend on the numbers recruited in your area. The training will be delivered using a variety of methods, which may include pre-course reading, small group work, use of case studies, role play, formal tutor input, group discussion, computer-based training and CCTV.



## **MENTORING**

The training scheme recognises that the most effective way to develop as a magistrate is to learn from the experience of sitting in court. To assist this process, all new magistrates are provided with a mentor – an experienced magistrate who has been specially trained to take on the role. Your mentor will advise, support, and guide you, especially during the first few months of your service as a magistrate. During your first year you will have six formal sittings attended by your mentor, each of which is followed by an opportunity to discuss the day’s business with your mentor. You will reflect on how you have applied the knowledge and skills you developed during your induction and core training and, using the competence framework, consider whether or not you have any further training and development needs.

## **APPRAISAL**

After you have been sitting for about a year you will be ready for your first appraisal. This takes place during a normal sitting and is conducted by an appraiser who is an experienced magistrate specially trained for the role. Following the sitting, you and your appraiser use the competence

framework for magistrates to assess your performance and identify if you have any outstanding training needs.

All magistrates are appraised every three years in each of the judicial roles they undertake in the magistrates’ court.

### **UPDATE TRAINING**

The law and procedures that affect the magistrates' court change from time to time and you will be expected to keep up to date. When there are major changes in legislation, you will be provided with written material or formal training to help you learn and apply the new law.

### **CONTINUATION TRAINING**

In addition to the update training, you are required to attend continuation training every three years prior to your appraisal. Continuation training will focus on magistrates' key skills, making judicial

decisions and working as an effective member of a team.

### **ADDITIONAL TRAINING**

If you wish to become a court Chairman, or to work in the Youth Court or Family Proceedings Court, there is extra training to prepare you for these roles because you need to achieve additional competences.

We recognise that magistrates are volunteers and that your time is valuable, so every effort is made to provide all training at times and places convenient for the bench.

## 5. YOUR SELECTION

Before making an application, you should visit a magistrates' court to observe what happens when it is sitting in general session, and be prepared to discuss the experience and your views on it at interview. Your local court will advise when it's best to attend and in which courtrooms to observe – a list of courts is included in the application pack, or you can find it on the 'Apply page' at [www.magistrates.gov.uk](http://www.magistrates.gov.uk).

If you are employed, you must also establish with your employer that you will be allowed to take reasonable time off work (under Section 50 of the Employment Rights Act 1996) to undertake the duties of a magistrate. It really is vital to have the support of your employer to become a magistrate.

Magistrates in England and Wales are appointed by the Secretary of State and Lord Chancellor on behalf of, and in the name of, The Queen. Candidates are recommended to the Secretary of State and Lord Chancellor for appointment by local Advisory Committees. These consist of local people, including some magistrates. In making their recommendations, Advisory Committees not only consider the personal suitability of candidates, but also the number of vacancies and the need to ensure that the composition of each bench broadly reflects the diversity of the community it serves.

The selection process to join the magistracy is necessarily rigorous. It consists of the following stages:

- First, you need to complete an application form. There is one in the pocket at the back of this booklet, or you can download a form from our web site, [www.magistrates.gov.uk](http://www.magistrates.gov.uk). This can be printed off and mailed, or you can attach it to an email.
- Your application form is first sifted to check you are eligible to apply.
- Then, if you are eligible, you will be invited to a first interview.
- If you are successful at the first interview, you will be invited to a second interview where you will discuss some practical examples of the sort of cases magistrates deal with.
- We then make background verification checks to look into any conflicts of interest and exceptional circumstances.
- Finally, the view of the Advisory Committee is placed before the Lord Chancellor who will make the appointments.

We will notify you by post following each stage of the selection process. We will also notify you by post – within 10 days – of the final decision being made.

## **THE OATH**

If you are appointed, you will be required to swear or affirm that you “will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law” and that you “will well and truly serve our Sovereign Lady Queen Elizabeth the Second in the office of Justice of the Peace, and will do right to all manner of people after the laws and usages of this realm without fear or favour, affection or ill will”.

## **REFERENCES**

You need to provide details of three referees, one of whom should be your employer (if applicable). Referees must not be anyone (such as a solicitor, police officer or probation office) who is likely to appear before the court to which you might be appointed.

## **EQUAL OPPORTUNITIES**

Equality of opportunity will be afforded to all candidates regardless of age, disability, gender, marital status, sexual orientation, racial group, community background, religion or whether or not they have dependents. One of the Lord Chancellor’s objectives is, in fact, to attract a broad range of candidates with differing backgrounds and experience. Applications are therefore encouraged from all sections of the community.

## 6. YOUR QUESTIONS

### **What exactly do magistrates do?**

Magistrates, also known as Justices of the Peace, carry out their duties locally and deal with almost 97 percent of criminal cases. They consider the evidence in each contested case and reach a verdict. When a defendant is found guilty, or pleads guilty, they decide on the most appropriate sentence.

### **What type of cases will I be dealing with?**

You will be dealing with the less serious criminal cases, such as theft, criminal damage, assaults, public disorder and motoring offences. When sitting in the Family Proceedings Court, you will deal with a range of issues affecting families and children. In the Youth Court you will deal with criminal cases against 10-17 year olds. And, if you join the licensing committee, you will be dealing with licensing applications from betting shops and gaming clubs.

### **Will I sit on my own?**

No. You normally sit as one of a 'bench' of three magistrates, including one who has been trained to take the 'Court Chairman' role. The 'Court Chairman' speaks for the bench and helps to guide it through its business. There is also always a legally qualified Legal Adviser to advise on law and procedure.

### **What sort of people become magistrates?**

Magistrates come from a wide range of backgrounds and occupations. They are people with personal integrity and a good knowledge of their local community. They also have the ability to listen to all sides of an argument and contribute to fair and reasonable decisions. They must, of course, be reliable and have time to give to this important task.

**Do I need formal qualifications, or a knowledge of the law?**

No. Formal or academic qualifications are not required. Nor is knowledge of the law, because each bench sits with a qualified legal adviser who is there to advise on relevant aspects of the law. Sentencing guidelines are also provided.

**Do I get any training?**

Yes. You are given a programme of practical training that prepares you to sit in court. This is compulsory and involves talks and discussions and practical exercises, observing in court and visits to prison establishments.

**Is being a magistrate time consuming?**

You are required to sit for a minimum of 26 half-days each year and to be available for full day sittings, although the average magistrate sits for about 35 half-days a year. Arrangements for sittings are worked out well in advance on a rota basis and it is usually possible to make changes in an emergency. Training and meetings are an additional commitment. If you have more time to spare, you can volunteer, when sufficiently experienced, for extra sittings or you can train to join the Family or Youth Panels or the Betting and Gaming Committees.

**How are magistrates selected and appointed?**

Magistrates are appointed by the Secretary of State for Constitutional Affairs and Lord Chancellor, on the advice of local Advisory Committees. If you're interested in being appointed, you first need to complete an application form. The Advisory Committee may then invite you to a first interview and, if successful, a second interview to discuss the duties of a magistrate, your views on crime and punishment, and what qualities you might bring to the magistracy. Remember that not everyone who applies will be interviewed, and not everyone who is interviewed will be appointed.





### **How do you ensure benches represent their local community?**

Benches should, as far as possible, reflect the communities they serve. Each year, the Advisory Committees look at the needs of their benches, not only in terms of the numbers required, but also to maintain a balance of gender, ethnic origin, location, occupation, industry, age, disability and social background.

### **Are there any restrictions on who may apply?**

Yes. Candidates should live or work near to the bench to which they apply to be appointed. Very few people are automatically disqualified, but an undischarged bankrupt may not be appointed, nor anyone who has been convicted of a serious offence. Minor motoring offences will not normally disqualify you. Work for court associated organisations (such as the police, probation or prison service) or a relationship with someone working for them, will need special consideration to avoid any conflict of interest arising, and may debar you from appointment.

### **What are the age limits?**

Normally, only people between 18 and 65 years of age are considered. Magistrates must retire from the bench at the age of 70.

### **Do I get paid?**

No. Magistrates give up their time for the vital task of administering justice on a voluntary basis. However, many employers allow time off with pay for magistrates. If you do suffer loss of earnings, you may claim a loss allowance at a set rate. You can also claim allowances for travel and subsistence.

### **How long does the appointment process take?**

Depending on when you apply, the appointment process from your application to beginning your duties can take between 6-12 months. You will be kept informed of the progress of your application throughout this time.

### **How do I find out more about the application process?**

There is a leaflet in this application pack listing the phone number of your local Advisory Committee who will be able to help. The list is also available online at [www.magistrates.gov.uk](http://www.magistrates.gov.uk) under 'useful links'.

## 7. YOUR COLLEAGUES

What do magistrates themselves think of the experience of serving on the bench? Here five serving magistrates share their thoughts.



“Every year I get 18 full days with pay to sit in court. If I need more days, I work a few extra hours at other times or, occasionally, I use one of my annual leave days. My manager is very flexible. At work I manage people and, in a sense, manage customers, so serving on the bench really fits with my job role. I’m also a mentor – both at work and for other magistrates – so the two roles really complement each other.”

**Manjit Buttar**

Group Station Manager, London Underground

“I tend to make myself available two to three times a month, including weekends. When we’re considering sentencing, we work within very strict guidelines. What we tend to do is rehearse the sentence we’re going to give with our Clerk to see whether it will cause any difficulty. If I were a defendant myself, I’d like to know I’m being tried and sentenced by someone with a degree of common sense and who can relate to my situation. I consider myself fortunate because I’ve been given the privilege of representing the common person in the judicial system.”

**Alika Gupta**

Programme Leader, Qualifications and Curriculum Authority



“Before I joined the bench I suppose my impression of magistrates was coloured by the misconceptions that everybody shares – of the country squire, the privileged middle-aged gentleman. But as soon as I joined I realised there is a very interesting range of people of all ages and all backgrounds. It has taught me an awful lot. I get to consider a range of people and events that I don’t normally come across. Everyone brings a different set of problems into court, and you have to keep an eye on the human aspects behind the offending behaviour.”

**Geoff Pinney**

Laboratory Manager, Royal Berkshire Hospital

“I became a magistrate in 1990. I saw an advertisement saying that more younger black magistrates were needed. I think they wanted a bit more cultural input when deliberating about young people of ethnic origins. And, yes, I do enjoy it. I get a sense of satisfaction from serving the local community and from adjudicating and ensuring that people in society are being treated fairly for the way they live.”

**Grantley Yearwood**  
Aircraft Technician, British Airways



“Serving as a magistrate is totally different from what people expect. You’re mixing with very like-minded people, and you don’t need a legal background – just a lot of common sense. Serving certainly makes you face and confront your prejudices. I know I’ve become much more tolerant of people – I now tend to look at their problems, rather than just being judgmental about them.”

**Jenny Kerr**  
Self-employed Conference Organiser and Event Planner



[www.magistrates.gov.uk](http://www.magistrates.gov.uk)