

Criminal courts and lay people

[Law](#), [Court](#)



Criminal Courts And Lay People Criminal trials take place in either the magistrates' courts or the crown courts. Summary offences: These are the least serious offences and are heard in the magistrates' court. They include assault, battery, most driving offences such as driving without insurance and minor criminal damage up to the value of £5,000. Either-way offences: These are middle of the range offences such as theft or ABH and can be tried in the magistrates' court by a magistrate or in the crown court heard by a judge and jury. They are determined by the 'mode of trial' procedure, this is where the defendant can choose to have the trial heard in magistrates or crown court. Indictable offences: These are the most serious offences such as murder, rape, manslaughter and armed robbery. These cases must be heard in the crown court but there is always a first hearing in the magistrates court which will transfer the case to the crown court. Magistrates Courts: These are found in most towns and consist of a bench of 3 magistrates, one chair and two wingers. They hear all summary offences and most either-way offences. Magistrates decide if the defendant is guilty or not guilty, and can impose a punishment if the defendant is convicted although their powers are limited to 6 months' imprisonment and/or a £5,000 fine. Magistrates courts also deal with the early stages of criminal offences and bail applications although if the offence is indictable it is automatically transferred to the crown court. Magistrates can also deal with youths in youth court although this is specialised. Magistrates can issue arrest and search warrants and if the offence is either-way they will hear the 'mode of trial' to decide on the court. Magistrates may also send a case to the crown court for sentencing if they feel that the defendant needs a more severe sentencing than they can give.

Crown Courts These are found in larger towns and cities and hear either-way offences which are sent from magistrates' court or indictable offences. A judge presides over all cases and passes a sentence; there is no limit to the sentence they can give, although a jury will decide if a defendant is guilty or not guilty. Crown courts can sentence those sent from magistrates court and will also hear appeals from the magistrates court against sentencing.

Original and Appellate Courts * Original courts, also known as trial courts or courts of first instance, hear evidence for the first time, this can be the magistrates court or the crown court. * Appellate courts hear appeals from original courts, these consist of the crown court, the queen's bench division, the court of appeal and the supreme court.

Appeals After A Hearing In Magistrates Court When a defendant is found guilty they can appeal to the crown court where the case will be heard by a judge and two magistrates. The crown court can then confirm the conviction, overturn it or find the defendant guilty of a less serious offence. Crown court can increase or decrease the sentence or let it stand. When it is thought that a magistrate has gotten the law wrong the prosecution or defence can appeal 'by way of case stated' to the Queen's bench division of the high court. Magistrates are required to 'state the case' this is explaining the facts and the reason for their decision. The QBD can then confirm the decision, reverse it or send it back for the magistrates to reconsider. The final possible way to appeal is to the Supreme Court, this will only be allowed when there is an important point of law to be decided.

Appeals after a hearing in the Crown Court After a crown court trial the defendant is able to appeal to the Court of Appeal against the conviction, sentence or both. The CA can overturn the

defendants conviction or reduce it to a conviction of a lesser offence, For example: R V Martin 2001, a farmers conviction of murder was changed to manslaughter on the grounds of diminished responsibility. The prosecution are able to appeal against an acquittal if they can show the jury was bribed or intimidated by the defendant. An appeal can also be made if it is felt the sentence is too lenient, For example: R V Plakici 2004, the defendant was given 10 years for kidnapping girls in Eastern Europe and bringing them to London as prostitutes. The attorney general appealed to the CA and the sentence was increased to 23 years. The attorney general can appeal to CA on a point of law, In one case a WPC was mistakenly over paid, she decided to keep the money but she was charged with theft. The trial judge found her not guilty, so the attorney general appealed to the CA which declared the WPC should have been found guilty of theft. Lay Magistrates They settle minor civil and criminal cases. Lay magistrates are known as the justice of the peace, they are part time and voluntary. Lay means not professional so they are not paid apart from their expenses. There are roughly 29, 000 lay magistrates in a county, there is generally and equal men and woman and race balance. There are usually three magistrates on the bench to decide on a case but a single magistrate can sit alone to perform some duties such as issuing arrest or search warrants. Training to become a magistrate costs £5, 000 per person, however lay magistrates do not require any legal qualifications but they do require six qualities: Gooch character, Good understanding and communication, Social awareness, Maturity and sound temperament, Sound judgement and Reliability. Requirements: * Lay magistrates must be between 18 and 65 years old although it is rare to be

appointed before the age of 27 as the person needs to develop and display the 6 qualities. * Magistrates must live or work within or near the area which they are to serve * They must be committed, magistrates must be able to serve at least 26 ½ days a year, ½ day per fortnight, which prevents some people from applying as they cannot get the time off work * Magistrates are required to take an Oath of Allegiance although British nationality is not a requirement. * Some groups of people are ineligible to become a magistrate as they may have a problem being impartial, these include: members of the armed forces and police and close relatives of those who work in the criminal justice system, and those who have gone bankrupt. * All criminal convictions and civil claims must be disclosed, which is an extension of good character and integrity. The Rehabilitation of Offenders Act 1974 does not apply here so all offences must be disclosed. Selection and Appointment Vacancies for magistrates are advertised widely through the local radio, local press and workplaces, this is to try and attract more working class people. An application is made by post or online, nominations are then sent to a local group of magistrates and the local advisory committee (LAC) who conducts two stages of interviews: * The first stage is to find out personal details, and if they possess the 6 qualities and their attitudes to crime and punishment * The second stage is when applicants are given two typical case scenarios to test their judicial skills. * The names of those who pass the second stage are passed onto the Lord Chancellor and Secretary of State for Justice on behalf of the Queen. They will then examine the list and decide who should be appointed, they will look at the balance of people and identify 11 types of occupation, such as medical, educational and engineering. There is a set

maximum figure of 15% of the bench that should come from any one of these groups. Composition of the Bench Men and women are equally represented although ethnic minorities are underrepresented, 6% of the bench is ethnic minorities but 8% of the whole population is ethnic minorities. The working class is grossly under-represented. * In a report 'serving magistrates' by Her Majesty's Court and Tribunal Service (HMCTS) region, England and Wales 2012: * 92% of magistrates are white * 48% are male and 52% are female * 54% are aged 60 and over These statistics suggests that magistrates are largely middle classed and middle ages.

Magistrates Training Training to become a magistrate takes place in the local area but all content is set by the Judicial Studies Board, which is the same throughout the country but operates through the Regional Courts Board.

Magistrates have legal advisers, also known as magistrates clerks, who organise the training and are responsible for the delivery and the local magistrates training committee sets the training plan yearly. The Magistrates National Training Initiative provides the framework, under this magistrates must learn to do certain things, these include: * Managing themselves in preparing for court and their conduct in court. * Learning to work as a team member in decision making * Learning to make impartial, logical decisions.

Training is done in different stages: * Initial Training: this teaches newly appointed magistrates about court and their responsibilities. * Core Training: this is to develop necessary skills, knowledge and understanding in order to become competent * Activities: they must undertake certain activities such as observing court sessions, visiting prisons and probation service. After this stage of training they will serve as a Winger, sitting on actual cases

alongside 2 experienced magistrates. Their performance will be mentored, assisted by an experienced colleague for at least six sessions, who provide reflection on their skills and knowledge. After they have gained sufficient experience there will be an appraisal conducted to check they have achieved the key competencies, although there is extra training available for those who fail this or the LC will be asked to remove those who continuously fail. After a year magistrates will receive consolidated training, on law and procedure as well as skill development. After two years they will have the opportunity to do specialised training to sit in either youth court or family proceedings court or will be able to undertake further training to become a chairman of the bench. There are also refresher courses for new legislation and sentencing policies. Magistrates Roles: Criminal responsibilities include:

- * Bail applications
- * Deciding verdicts and sentences in summary trials and most either-way offences, which make up 97% of all criminal cases
- * Sending serious offences to Crown Court
- * Forming a youth court panel to hear cases of 10-17 year olds
- * Issuing warrants to police to arrest suspects and search premises
- * Sit alongside a judge in the Crown Court to hear appeals from the magistrates court
- * Their powers are limited to 6 months imprisonment and/or a £5, 000 fine

Retirement and Removal Magistrates must retire at 70 but they can be placed on a supplemental list and allows them to continue with certain admin duties. The LC can also dismiss for misconduct, complaints are dealt with under the Judicial Discipline (Prescribed procedures) Regulations Act 2006, or failure to meet the standards of competence set. One magistrate was removed for being a transvestite and another for taking part in a CND march, these decisions were controversial.

However one magistrate was reprimanded after being overheard complaining about ‘bloody foreigners’ in Manchester. Advantages of Magistrates: * They provide a cross section of society: this is partly true as there is a good gender balance and ethnic minorities are increasingly represented, However they are still mostly middle aged or old and mainly from the middle class so they have little in common with the young working class males who make up the majority of defendants. * Local Knowledge: as magistrates live or work near the courts they know the local area, However as they are mainly middle class they are more likely from wealthier areas so they may have little insight into the people lives who appear in court. Although this does help with sensitive sentencing when taking into account local problems, For example: under the Drugs Act 2005, police are allowed to test people arrested for ‘trigger crimes’ such as theft, robbery and taking without consent,. There are pilot schemes in 3 areas with high drug-related crimes which help magistrates to sentence appropriately and get those defendants into drug assessments and into treatment. Paul V DPP 1989, court had to decide if a kerb-crawler was likely to cause nuisance to other persons in the neighbourhood, this was appropriate as they knew this residential area had a problem with kerb crawling. * Cost: magistrates are not paid apart from their expenses so it is a relatively cheap system and there is no need for a district judge * Availability of judges: there are approximately 1, 000 judges would need to be appointed if magistrates were replaced * Few appeals/ Public confidence: it can be argued that their decisions are sound as there are few appeals made. The Judicial Studies Annual Report 2003 showed that out of 1. 9 million cases, only 13 were

wrongly decided on a point of law and under 3, 000 had their convictions overturned. These reports have shown people have great confidence in the magistrates system

Disadvantages of Magistrates:

- * Unrepresentative of society: although magistrates are now from a wider social background than the judiciary, magistrates are still predominantly white, middle-class, middle-aged and middle-Englanders. Although there are huge efforts to attract a more diverse range of magistrates to disprove this. Despite the minimum age dropping from 27 to 18 in 2004 only 5% of magistrates are under 40, 2/3rds are from a professional background, 2/5ths are retired and young magistrates are criticised for their lack of life experience.
- * Inconsistent sentencing: there are huge criticisms in imposing sentences and refusing bail applications. However sentencing guidelines increased efforts to reduce inconsistencies, For example: For those convicted, given custodial sentences for burglary 2005: Bristol 23%. Bath 17%. North somerset 8%
- * Magistrates accused of showing bias towards police and CPS: this is supported by a low number of acquittals (20%) in magistrates courts in comparison to jury trials. Magistrates tend to believe the police as witnesses as is shown in Birmingham Justices ex P Jowitt 1974, evidence was given by only one police witness and one defendant. The defendant was convicted when the chairman of the magistrates stated that his principle was to always believe the evidence of a police officer. The conviction was quashed as any reasonable person would believe the chairman was biased and there had not been a fair trial. There are also many alike cases seen by magistrates such as TV license evaders so they do not always hear the actual evidence so the convictions are therefore rubber stamped.
- * Reliance on Legal Advisers:

there is a suggestion that there is too much reliance on legal advisers, Legal advisers should not be involved with any decision making but it can be seen that magistrates often confer with legal advisers. Jury Service: 500, 000 people are summoned for jury service each year. Service will continue until the trial ends, even lengthy ones. Jurors may be given accommodation if it is a high profile case until a verdict is decided. If a person does not reply to a summons or fails to attend without a good reason or unfit through drink or drugs, they will be prosecuted and fined. It is a civic duty, jurors are summoned by the Jury Central Summoning Bureau and is prepared on a random basis. Juries Qualifications Criminal Justice Act 2003 introduced new rules for qualifications needed for jury service. This widened the range of potential jurors and limited the powers of those who try to avoid jury service. Those working as solicitors, judges and police were not eligible for jury service but now they are. Those who work in the medical profession could be excused but now they are obliged to serve. As a result of this, jurors now come from a much wider range of society. Jurors need three basic qualifications: * Aged between 18 and 70 * Resident in the UK for the last 5 years since the age of 13 * Registered as an elector Some people are disqualified from becoming a juror: * Criminals sentenced to life * Criminals sentenced to 5 or more years imprisonment * Anyone sentenced to any term in prison or a community order or on bail are disqualified for 10 years. * The mentally ill: Anyone who is a resident in a mental institution, receiving regular treatment from a doctor for mental health problems, even depression. * The incapable: those who cannot speak English, The blind as they cannot view evidence and the deaf as they need an interpreter who

would be a 13th member of the jury room which is not allowed. Some groups of the jury are excused, these include: * The armed forces are automatically excused if the CO writes a letter to court declaring that this person cannot be spared * Members of parliament * Others can be excused at the discretion of the court: students with exams, operations or holidays booked, those who have served on the jury within the last 2 years can all defer their jury service to a later date, the deferral if successful must be carried out within 12 months.

Role of the jury — Criminal Cases At the end of a trial the judge will sum up the case to the jury and explain the law. The 12 members then withdraw to the jury room to consider the verdict which is highly secret, once a decision is reached the jury will return to the court room and give their verdict, although they do not have to offer an explanation for their decision.

Contempt of Court Act 1981 states it is an offence for anyone to disclose information relating to the discussion of the jury, in *R V Young* 1995, the jury were found to have consulted an Ouija board so a retrial was ordered. If the jury cannot get a unanimous decision the judge may give permission to reach a majority verdict which is usually 11-1 or 10-2, this prevents an obstinate person making a decision, and they must wait at least 2 hours 10 minutes before this can happen

Role of the jury — Civil cases: Juries are rarely used in civil cases, they are only used in cases where the claimants reputation has been damaged, For example: Sonia Sutcliffe, the wife of the Yorkshire ripper, sued *Private Eye* magazine when it wrote that she had known all along that her husband was a killer. A 12 man jury is used in such cases. The jury have 2 roles to perform in civil cases: * To decide which side has won the case * To decide the amount of damaged to award the claimant

Role of the jury — Coroners court: This uses a jury of between 7 and 11 members to decide the cause of death. This is used when a person has died in prison or police custody or where there has been an accident or public disaster. They are also asked to decide the cause of death in homicide cases. The role of the jury here is to decide whether or not the death was accidental, unlawful or suicide. Also they can deliver an open verdict when the cause of death was unclear. Advantages of Jury Trials: * Public trust: the advantage of participation of the general public, they are viewed as serving society as a whole, they are everyday people and not totally removed from society. * Secrecy of the jury room: R V Karakaya 2005, at the conclusion of a trial relating to sexual offences the jury bailiff found evidence of information from the internet that has been introduced by a juror into the jury room. This breached an important rule of procedure as no new evidence can be admitted to assist jury deliberations as it causes unsafe convictions. There are calls for the jury to explain their reasons, For example: in the Michael Jackson trial jurors appeared on TV to explain their decisions, an example that some journalists believe should be adopted in the UK. * Impartiality of the Jury: due to random selection it is representative of all walks of life. 12 people with different perspectives have a greater chance of achieving justice in a case than a single judge. * Jury Equity: Lord Devlin said that juries provide a balance against the power of the government. R V Ponting 1985. However producing a perverse verdict can also be seen as a disadvantage of using a jury. Disadvantages of Jury Trials: * Risk of jury knobbling: there are real risks of intimidation of the jurors as defendants may try to manipulate their decisions. The government sought to tackle this

problem in section 44 CJA 2003 giving an option of trial by judge alone where the circumstances warrant it. * Preverse decisions: R V Connor and Rollock 2004, a juror complained that other members of the jury had been prepared to 'toss a coin' to determine the verdict * Lack of Understanding: in cases such as complex fraud trials, Roskill Committee, the government committed to reforming the law accordingly. Some jurors just 'go with the flow' of others decisions so they can finish up and go home.