

The role and proceedings in a magistrate's court



**ASSIGN
BUSTER**

The court system in the United Kingdom has continuously been changing over the year's. In the recent past; the pace of change in court reforms has been fast, this has in turn led to some important changes within the English court system. For example, before the year 1979, the Lord Chancellors department (LCD) was responsible for running all the courts except the magistrate's courts.

It is during this year(1979) when the administration of magistrate courts was transferred to a state agency referred to as the court service which was earlier responsible for administering the functions of the supreme court of England and Wales, this also consisted of the court of appeal, the high court , the crown court, county courts and several tribunals. Magistrates Courts were under the jurisdiction of local committees that were constituted under the authority of the home office until the beginning of the year 1991. Since this year, the Lord Chancellors Department took over the running of magistrates courts.

The enactment of the courts act of 2003 led to the creation of her majesty's courts service (HMCS) as the executive agency responsible for administering the English court system. The crown court on the other part is one of the courts that constitute the senior courts of Wales and England. The administration of the crown court is overseen by the HMCS and the court mainly handles appeals for decisions referred from the magistrate courts, convicting persons who have sentenced in the Crown courts, carrying out jury trials and finally, sentencing those who have been convicted in magistrate courts (Gray, 2004, p. 16).

This paper explores what happens in magistrate and crown courts and offers a comparative analysis of the two courts and seeks to create understanding of the role played by them in the administration of justice. The Role and Proceedings in a magistrate's court The first visit by any one into a magistrate's court will be characterized by so many questions. As Gibson and Watkins, 2009, p. 10, note, a first visitor will want to know why things are done in the manner they are done. Many of the criminal proceedings begin in the magistrates courts.

These proceedings range from offences relating to parking, sexual offenses, crimes committed by youthful people or juveniles and cut across to cases involving murder. Besides these hearings, Welsh, Greenwood and Banks, 2007, p. 97, add that magistrate courts also carry put proceedings relating to family issues like neglect of young children and disputes between the husband and the wife. Most of the cases that are brought in a magistrates court are concluded through acquittals, conviction and sentencing by the magistrates.

Magistrates do not work for a regular pay but in the course of their duties, they are given reasonable allowances to meet their travel, subsistence and loss of earning. According to Hunter and Roberts, 1997, p. 35, any one aged above eighteen years and has been charged with committing an offence is required to attend a hearing in the court. As mentioned earlier, a large percentage of the criminal cases in England and Wales are handled by the magistrate courts.

The cases heard in a magistrate's court are divided into summary offences (lesser offences), Either-way offences (cases that can also be heard in a

crown court before a judge) and Indictable-only offences (serious offences such as murder, manslaughter, and rape). The hearing for the case takes place in the court, members of the public have a gallery from which they sit and follow the proceedings. In cases where the accused persons are young offenders or juveniles, special arrangements are made before the trial begins (Gibson, & Watkins, 2009, p. 83).

During my visit to the magistrates' court, I noted that the nature of offences that were being heard were common offences which included affray (in which the defendant was a young man), a case involving assault occasioning actual bodily harm (ABH), this case involved two young college mates of which the defendant was a female student. The last case involved theft, a young man was accused of having shop lifted a pair of sports boots from a shopping mall.

The offences are defined in the following provisions; section 47, of the offences against the person act of 1861, Section 1 of the theft Act 1968, and Section 3 of public order act 1986. (Adopted from, Criminal Litigation & Procedure by Tyrer & Lawton, 2000, p. 119). Of the three cases, none of the defendants had a defense lawyer. In the case involving assault, the defendant appeared composed and decently dressed. When the charge was read, the defendant showed that she clearly understood the accusation against her.

The defendant pleaded guilty to the charge explaining to the magistrate that the assault was due to excess drinking that made her to be easily provoked by the plaintiff. In delivering the sentence, the magistrate read out the charges clearly to the defendant and quoted extensively on the provision

<https://assignbuster.com/the-role-and-proceedings-in-a-magistrates-court/>

section 47, of the offences against the person act of 1861. the magistrate concluded his sentencing by requiring that the she pays a fine of three thousand pounds and also ordered that the defendant restrains from excessive indulgence in alcohol consumption.

The defendant in the second case was young man and the witness was a shop attendant who worked in the shopping mall from where the defendant was accused of having committed the crime. The stolen shoes and tapes recordings from a closed circuit television (CCTV) camera inside the shop were produced and used as exhibits in the case. The prosecutor was able to prove that the defendant had committed the offence because of his alibi. Similarly, the defendant pleaded guilty and asked for forgiveness vowing never to commit the offence again.

In settling this matter, the magistrate cited the nature of the offence and considering that the young man was a first offender, the magistrate ruled that the young man be freed upon paying reparations equivalent to the price of the stolen boots. The case involving affray involved a young man who was accused of threatening a neighbor with violence in a dispute arising from a bet that was not honored relating to the outcomes of a premier league encounter between two teams playing in the champions' league.

In delivering the sentence, the magistrate ordered that the young man be remanded and the case be heard on a later date since the defendant was not apologetic to the plaintiff and was openly violent even at the hearing of the case. I was particularly impressed with the way the prosecution was able to proof that the young man had stolen the boots from the shopping mall and in the case involving affray. My surprise comes from the conduct of the first two

defendants who pleaded guilty to the charges, consequently, leaving the prosecution with no task to prove that the defendants had actually committed the offences.

The Role and Proceedings in a crown court. The national audit office, 2007, p. 4 reports that crown courts handle the most serious cases for example murder and rape. The administration of these courts is a responsibility of the HM court services and the courts often handle appeal proceedings that are brought against convictions or sentences that were initially dealt with at the magistrate's court. When a case is heard in the crown court, the judge has the authority to alter or even reverse earlier decisions made regarding the case.

During the trial, the judge and a jury that consists of around twelve people hear the case. Members of the jury who hear the case are required to come up with their own verdict regarding the matter in the proceedings. The defendant will be present together with defense and prosecution lawyers, together with members of the public who follow the court proceedings from the public gallery. At times, members of the press may be present in the court to follow on the proceedings.

The length of time a case may last in the crown will mostly depend on the nature of the case and the complexity involved in the gathering and presenting the evidence. So, the trials could last for a day or proceed for several weeks and even months. Cowie, Bradney and Burton, p. 317, explain that cases in a crown court are heard before a judge and jury; they however note that a small number of all the cases that appear in crown are acquitted or convicted through jury trials.

An observation by Cownie, Bradney and Burton (p. 317) is that most of the defendants in the crown court end up pleading guilty and the judge plays a critical role in the acquittal of those defendants who enter a not guilty plea. According to Gray, 2004, p. 16, offenses tried in a crown court can be categorized into four classes namely, Class 1 (murder, treason and other related crimes), class 2 (Manslaughter and murder, rape cases), class 3 (indictable and various either-way offenses) and finally class 4 (robbery, assault and offenses causing serious bodily harm).

During my visit to the crown court, I heard a case that involved a middle aged man, thirty five years of age who was charged with an indictable-only offense. The man was charged with grievous bodily harm which is a contradiction to the provisions of section 18, Offence Against the person act 1861. Alongside this, the man was also facing an acquisition of affray which is a contradiction to section 3 public order act of 1986. These two incidents were tied to a fight that took place in the city centre between supporters of opposing teams.

The defendant was represented by a lawyer and this is one of the cases in which the prosecution was put to task to prove that the defendant had committed the offence. The case also involved the jury which ruled that owing to the extensive damages to property and the disruptions of activities at the city centre occasioned by the brawl, the defendant had a case to answer despite not pleading guilty. This case had received great coverage from the press and public interest in the case was also high.

The case was not concluded as I had anticipated and the case was deferred to a later date owing to the need for the prosecution to finalize investigations

on other co-defendants who were still in police custody. Comparative analysis Looking at proceedings that are handled in the two courts, both courts carry out trials that fall in either one of the following offenses; summary offenses which are often petty offenses mainly tried in the magistrates courts. In the magistrates' court, an important distinguishing note between the magistrates' court and the Crown is that the proceedings do not involve a judge or a jury (Cullingworth, 2001 . p. 205).

The magistrates, unlike the judge who sits in the Crown court, the maximum sentence that the magistrate can give to a defendant who is proven as guilty is six months, this is different from the sentences in the Crown court where the judge together with the jury can give a sentence that is more than six months. On the same note, the maximum amount of money that can be paid as fines in a magistrate courts differs from that which the judge can quote at the conclusion of a proceeding in a Crown court.

This maximum amount is three thousand pounds. In regard to the second category of offenses, which are triable either-way offenses, proceedings can be held in any of the two courts. Most often, a case is referred to the Crown court by the magistrates court if the defendant has been charged with the same offence more than twice or when there are multiple charges in which the magistrate feels there is need to refer the case to the crown court (Hannibal & Mountford, 2007, p. 39).

Such cases include serious offenses like assault and rape. Pertaining to the last category of offenses, which are indictable offenses, proceedings can only be conducted in the crown court. The nature of offenses is regarded as serious and the trials may take considerable time because the cases

involved are complex. Such complex cases include trials for armed robbery, major fraud cases, rape, and grievous bodily harm . These offenses have harsh sentences that may include the defendant being sentenced to life in prison.

Both courts have a shared responsibility of administering justice, though this is done at different administrative levels with majority of the criminal cases being tried in the magistrates' court with some being referred to the crown court for further consideration. Conclusion The magistrate and crown courts were created to serve the need of administering justice as part of the English court systems. Many of the criminal cases are heard in magistrates' courts which do not have a judge or jury during the proceedings.

The nature of sentences that a magistrate can order are generally not severe because the maximums sentence period is six months and the fine is set at a maximum of three thousand pounds. On the other hand the proceedings in Crown court often involve a jury, a judge, defense lawyers and the director of prosecution. Since the Crown court handles cases that are complex in nature, the English court system has made the process of justice administration easier as magistrates' courts can be effectively used to divert sizeable number of cases that could end up being pushed in Crown courts.

Keeping in mind the crucial role played other courts like the county and youth courts and the presence of a state agency solely responsible for administration of the courts, which is her majesty's courts service, (HMCS), the English justice administration systems are quite efficient.

References

1. Cownie, F, Bradney, A & Burton, M, 2007, English legal system in context, Oxford University Press, Oxford.
2. Cullingworth, N, 2001, Edexcel BTEC first public services textbook, Nelson Thornes, Cheltenham. Gibson, B & Watkins, M, 2009, The Magistrates ' Court: an Introduction, 5th Ed, Waterside Press, Sheffield.
3. Gray, D, 2004, BTEC National in Public Services, Heinemann. Hannibal, M& Mountford, L, 2007, LPC Handbook on Criminal Litigation 2007-2008, Oxford University Press, Oxford Hunter, J& Roberts, C. A, 1997, Studies in crime: an introduction to forensic archaeology, Routledge, London.
4. National Audit Office, 2009, Administration of the Crown Court, The Stationery Office, London. Tyrer, J& Lawton, D, 2000, Criminal Litigation & Procedure, Routledge, London Welsh, T, Greenwood, W& Banks, D, 2007, McNae's essential law for journalists, Ed19, Oxford University Press, Oxford. .