

# How To Become a Magistrate

**Type of resource:** document consists of a lesson plan, handouts and trainer notes

**Resource summary:** teaching material on the UK legal system and the routes into becoming a magistrate. Includes information on the court structure and processes, and how and in what way people are sentenced. Document consists of a lesson plan, handouts and trainers' notes.

**NB:** Please refer to the PowerPoint slides available on How to Become a Magistrate and the way people are sentenced.

**Resource intended for:** course tutors and facilitators.

**Produced by:** Volunteer Centre Southwark, Active Citizens Hub

## LESSON PLAN

Introduction to Becoming a Magistrate	
<b>AIM</b>	
To develop knowledge of the key elements of a Magistrates role and examine the requirements to becoming one	
<b>LEARNING OUTCOMES</b>	
<ul style="list-style-type: none"> <li>• Awareness of the court structure</li> <li>• Understanding of each persons role within a Magistrates Court</li> <li>• Some types of decisions you will have to make</li> <li>• Know the principles that make a good Magistrate</li> <li>• The core criteria for becoming a Magistrate</li> <li>• The procedure you must go through in order to become a Magistrate</li> </ul>	

Timings	Activities		Resources	Assessment of learning
	Tutor	Learner		
0-15minutes <b>(15minutes)</b>	Introduce yourself and what you do			
	Get everyone to sign in and explain any Health and Safety issues and how to evacuate the building in an emergency and where they should assemble		<b>Signing in sheet</b>	
	Trainer must ensure that everyone has filled in a booking form and completed an enrolment survey		<b>Booking Form Enrolment Survey</b>	
	Explain what welfare facilities are available and where to locate them			
	Ask people to put their mobile phones			

	on silent or discreet and cover any other codes of conduct you wish to bring to the groups attention			
	Give an opportunity for 'any questions?'			<b>Q &amp; A</b>
	<b>Ask</b> each person to introduce themselves and state why they are interested in becoming a Magistrate	Brief introduction about who you are and why you are interested in becoming a Magistrate	<b>Candidates</b>	
15-20minutes <b>(5minutes)</b>	Using the <b>PowerPoint presentation</b> go through <b>(Slide 2)</b>  <b>Aim: To develop knowledge of the key elements of a Magistrate's role and examine how to become one.</b>  <b>LEARNING OUTCOMES:</b> <ul style="list-style-type: none"> <li>○ Awareness of the court structure</li> <li>○ Understanding of each persons role within a Magistrates Court</li> <li>○ Awareness of some types of decisions a Magistrate has to make</li> <li>○ Know the principles that make a good Magistrate</li> <li>○ The core criteria for becoming a Magistrate</li> <li>○ The procedure you must go through in order to become a Magistrate</li> </ul> <b>Ask</b> delegates if they have any questions?	View PowerPoint presentation	<b>PowerPoint</b>	<b>Q &amp; A</b>
20-30minute	<b>Court Structure</b> Using <b>question and answer</b> ask the	Question and discussion	<b>PowerPoint</b>	

<p><b>(10minutes)</b></p>	<p>group to identify any types of court in the United Kingdom</p> <p><b>Flipchart:</b> Record any responses and briefly discuss</p> <p>Use <b>PowerPoint (Slide 3)</b> to confirm types of court and <b>(Slide4)</b> to show how these courts fit into the overall court structure. Briefly discuss. Provide delegates with the structure, <b>'Court Structure' handout</b></p> <p><b>NB- For further information on the role of each course refer to Court Structure Trainers Notes.</b></p> <p><b>When going through the handout explain the split between civil and criminal:</b></p> <p><b>Civil law</b>, as opposed to criminal law, refers to that branch of law dealing with disputes between individuals and/or organisations, in which compensation may be awarded to the victim. For instance, if a car crash victim claims damages against the driver for loss or injury sustained in an accident, this will be a civil law case.</p> <p><b>Criminal law</b>, on the other hand, is enforced by the Crown as crimes are against the state.</p> <p><b><u>Thus, the Magistrates Court only</u></b></p>	<p>View PowerPoint presentation and engage in a group discussion</p>	<p><b>Flipchart</b></p> <p><b>Handout 'Court Structure'</b></p>	<p><b>Q &amp; A</b></p> <p><b>Group discussion</b></p>
---------------------------	---	--	---	--

	<u>deals with criminal cases.</u>			
30-50minutes  (20minutes)	<p><b>Magistrate Court – Key People</b></p> <p><b>NB- For background reading refer to Background Reading Trainers Notes and FAQs Trainers Notes.</b></p> <p>Cover the four <b>PowerPoint slides (Slides 5,6,7,8)</b></p> <p><b>Identify and describe each persons role:</b></p> <ul style="list-style-type: none"> <li>○ Magistrates</li> <li>○ Lay Magistrate</li> <li>○ Clerk</li> <li>○ Prosecution</li> </ul> <p><b>NB- Provide delegates with a definition of the CPS:</b></p> <ul style="list-style-type: none"> <li>• <b>The CPS is responsible for prosecuting criminal cases investigated by the police in England and Wales</b></li> <li>• <b>The CPS exist to ensure that wrongdoers are brought to justice, victims of crime are supported and that people feel safe in their communities</b></li> </ul> <p>Before moving on:  <b>Q&amp;A: Who else could prosecute?</b>  <b>Flip Chart:</b> Possible other answers:  <b>Human Rights Lawyers</b>  <b>Employment Tribunal Lawyers</b></p>	View PowerPoint presentation	<b>PowerPoint</b>	<b>Group discussion</b>
		Question and discussion		<b>Q &amp; A</b> <b>Group discussion</b>

	<p><b>Taxation Lawyers</b>  <b>Corporate Lawyers</b>  <b>Anyone with a specialist field and defence specialist lawyers would also be involved.</b></p> <p>In summary refer to the <b>Others: PowerPoint slide (Slide 9)</b></p> <p>Continue to use <b>PowerPoint (Slide 10-15)</b> to cover the following roles:</p> <ul style="list-style-type: none"> <li>○ Defence</li> <li>○ Police or Authorised Person</li> <li>○ Probation</li> <li>○ Press</li> <li>○ Court Usher</li> <li>○ Public</li> </ul> <p><b>Ask</b> delegates if they have any questions</p>	View PowerPoint presentation		
50-60minutes  <b>(10minutes)</b>	<p><b>Exercise 1:</b>  Using <b>PowerPoint (Slide 16)</b> begin the exercise <b>Key People</b>. Split candidates into groups of 3-4. Provide delegates with the <b>handout Court Layout</b>. Set exercise for five minutes</p> <p>Show <b>PowerPoint (Slide 17)</b> to discuss and compare how they got on</p>	View PowerPoint presentation  Receive handout and work in groups to discuss and record on handout where key people would be located  Question and discussion	<b>PowerPoint</b>  <b>Handout &amp; pen</b>	<b>Evidencing</b>   <b>Q &amp; A Discussion</b>
60-70minutes  <b>(10minutes)</b>	<p><b>What range of matters does a Magistrates Court deal with?</b>  Display <b>PowerPoint (Slide 18)</b> and flip chart responses to questions.</p>	View power point presentation  Question and discussion	<b>Power point</b>  <b>Flip chart Pens</b>	<b>Q &amp; A Discussion</b>

	<p>Display <b>PowerPoint (Slide 19)</b> and cover <b>three</b> bullet points.</p> <p><b>NB- further information about three categories of criminal offences:</b></p> <ul style="list-style-type: none"> <li>• <b>Summary offences</b> - These are the least serious offences and are tried in the Magistrates' Court (e.g. driving offences, drunk and disorderly, common assault and criminal damage which has caused less than £5000 worth of damage).</li> <li>• <b>Triable either way offences</b> – These can be regarded as the middle range of crimes and include a wide variety of crimes (e.g. theft, assault causing actual bodily harm). These can be tried in either the Magistrates' Court or Crown Court.</li> <li>• <b>Indictable Offences</b> – These are the more serious crimes and include murder, manslaughter and rape. All indictable offences must be tried at the Crown Court, but the first hearing is dealt with at the Magistrates' Court. The magistrate will decide if the defendant should be given bail. The case is then transferred to the Crown Court.</li> </ul>			
70-80minutes	<b>Sentencing</b>	View PowerPoint presentation and refer to	<b>PowerPoint</b>	

<p><b>(10minutes)</b></p>	<p>Provide delegates with the <b>handout Sentencing</b>. Using both the handout and the <b>PowerPoint slide (Slide 20)</b> cover the five options.</p>	<p>the handout for more details on the five options available to Magistrates.</p>		
<p>80-95minutes</p> <p><b>(15minutes)</b></p>	<p>Display <b>PowerPoint (Slide 21)</b></p> <p><b>Question: What qualities and skills does a magistrate need to have?</b></p> <p><b>Nolan Principles – The seven principles of public life</b>  <b>Ask</b> the group whether anyone has heard of the Nolan principles. If so, what do they mean?</p> <p><b>Background: The ‘Nolan Principles’ code of practice has been written with regard to the seven principles of public life identified by the Nolan Committee in their First Report on Standards in Public Life in May 1995 and subsequently endorsed by the Government. For further information refer to the handout.</b></p> <p>Before referring to slide hand delegates a handout on the Nolan Principles. Refer to <b>PowerPoint slide (Slide 22)</b> and go through each slide.</p> <p>Have a <b>group discussion</b>. Prompts:</p> <ul style="list-style-type: none"> <li>• <i>What does it mean to be objective?</i></li> <li>• <i>Why is objectivity so important?</i></li> </ul>	<p>Think about whether you have heard on the Nolan Principles before and if so can you remember any of them?</p> <p>View the PowerPoint slide and refer to handout for greater detail on each of the principles.</p> <p>Engage in group discussion about particular principles and what they mean to you.</p>	<p><b>Power point</b>  <b>Flipchart</b>  <b>F.C. Pens</b></p>	<p><b>Q &amp; A</b></p> <p><b>Group discussion</b></p>



	<ul style="list-style-type: none"> <li>• <i>What does integrity mean?</i></li> <li>• <i>How vital is honesty?</i></li> <li>• <i>What would the implications be if there was no accountability?</i></li> </ul>			
95-115minutes  <b>(20minutes)</b>	<p><b>Case Studies - Practical</b> View <b>PowerPoint slide (Slide 23)</b></p> <p>Split the delegates into groups of three. Explain to them that you will be giving them details of a case and they have five minutes to discuss and agree on a decision. Ask delegates to select a lead to report back to the group. Reveal the three case studies on the <b>PowerPoint slide (Slide 24)</b> and assign each group with one:</p> <ul style="list-style-type: none"> <li>• Mr S</li> <li>• Miss M</li> <li>• Mr W</li> </ul> <p>Encourage delegates to refer to their <b>handout on Sentencing</b>.</p> <p>After five minutes ask each group to report back. When every group has shared their conclusions reveal the additional information on <b>PowerPoint slide (Slide 25)</b>.</p> <p><i>Have a group discussion about ...</i></p>	<p>Get into groups of three. You will be assigned a case study to consider in your group. Discuss the case and determine an appropriate sentence. After five minutes one person from the group is to report back.</p> <p>The trainer will then reveal some further information. Does this affect the decision you came to?</p>	<b>PowerPoint</b>  <b>Handout</b> <b>'Sentencing'</b>	<b>Evidencing</b>  <b>Group disucssion</b>
115-120minutes  <b>(5minutes)</b>	<p><b>What are the criteria for becoming a Magistrate?</b> View <b>PowerPoint slide (Slide 26)</b> and highlight that there is no formal</p>	View PowerPoint presentation	<b>PowerPoint</b>	

	<p>qualification or training needed. There are however six key personal qualities which must be demonstrated.</p>			
<p>120-130minutes  <b>(10minutes)</b></p>	<p><b>Applying to become a Magistrate</b> Refer to <b>PowerPoint slide (Slide 27)</b> and cover the bullet points. Refer to the below information for further details on the points covered.</p> <p><b>Issues for consideration:</b></p> <ul style="list-style-type: none"> <li>• <b>Availability</b> (can you commit to required time and training? Initially 18 hours and meetings – outside working hours)</li> <li>• <b>Time away from work</b> (can you manage time off? If you are employed, employers are legally required to give you enough time off for magistrate duties)</li> <li>• <b>Which court will you work in?</b> (There are more than 360 courts in England and in Wales. There is a CourtFinder on the Direct.gov.uk website)</li> </ul> <p><b>Recruitment:</b> Magistrates are recruited by local Advisory Committees. Recruitment takes place at different times from area to area, so it is important to check when it is happening in your area. You can telephone your local Advisory Committee to find out when they will be recruiting and discuss any other</p>	<p>View PowerPoint presentation</p>	<p><b>PowerPoint</b></p>	

queries you may have.

**Visit a Magistrates' Court so as to make an informed decision:** It is recommended you visit at least once during a general session in the 12 months before you apply. If invited to an interview you will be asked about your visits.

Before submitting your application form you are required to attend court on two separate occasions and sit on cases, this is asked of you in the application form and at the initial interview. Be truthful on your form and try to give as much detail supporting your case as possible, despite this being a voluntary position, it is a very tough process. There are two interview stages and a test at the second interview.

**Application:** Once these steps are completed you can apply. Once you are ready to apply, the process is as follows:

- complete the application form
- your local Advisory Committee assesses your application
- the Advisory Committee may then invite you to attend a first interview, which may be

	<p>followed by a further interview - if you are successful at the interviews, the Advisory Committee recommends you for appointment by the Lord Chancellor.</p> <p>You can apply either online or by post.</p> <p><b>Inform delegates it takes at least a year from application to appointment.</b></p> <p>Provide delegates with the link details for further information and details on where to get on application pack as on <b>Power Point (Slide 28)</b></p>			
<p>130-135minutes</p> <p><b>(5minutes)</b></p>	<p>Using <b>PowerPoint (Slide 29)</b> review the aims and learning outcomes.</p> <p><b>Aim: To develop knowledge of the key elements of a magistrate's role and examine how to become one.</b></p> <p><b>LEARNING OUTCOMES:</b></p> <ul style="list-style-type: none"> <li>○ Awareness of the court structure</li> <li>○ Understanding of each persons role within a Magistrates Court</li> <li>○ Some types of decisions you will have to make</li> <li>○ Know the principles that make a</li> </ul>	View PowerPoint presentation	<b>PowerPoint</b>	<p><b>Q &amp; A</b></p> <p><b>Discussion</b></p> <p><b>Review</b></p>

	<p>good Magistrate</p> <ul style="list-style-type: none"> <li>○ The core criteria for becoming a Magistrate</li> <li>○ The procedure you must go through in order to become a Magistrate</li> </ul> <p>Before moving on to final point <b>ask</b> the question:</p> <p>So.... Does anybody still want to become a magistrate?</p>			
	<p><b>Closing</b></p> <p>Ask delegates if they have any questions about the topics covered in today's training. Close with the <b>PowerPoint slide (Slide 29)</b> with the SVC contact details for any further information.</p> <p>Before leaving ensure all delegates will out an <b>Evaluation Form</b></p>	<p><b>Feedback on learning</b></p>	<p><b>PowerPoint</b></p> <p><b>Evaluation sheet</b></p>	<p><b>Q &amp; A</b></p>
<b>FINISH</b>				

### DIFFERENTIATED LEARNING

<p><b>Identify specific needs:</b> <i>(i.e. for slower learners)</i></p>	<p><b>Point in Session:</b></p>	<p><b>Materials:</b></p>
<p><b>Extension work:</b> <i>(i.e. for faster learners)</i></p>	<p><b>Point in Session:</b></p>	<p><b>Materials:</b></p>

## Handout

### TRAINERS NOTES

#### Sentencing

Before each defendant is sentenced, the prosecution reads out previous convictions. These may affect the sentence imposed so in a joint trial people may well end up with different sentences for the same offence. Courts are required to give credit for a plea of guilty entered at the earliest opportunity (i.e. at the first hearing), and this should be reflected by a reduction of any fine (not compensation) or sentence by up to a third.

#### **Sentencing options, in increasing order of severity, are:**

**a. Absolute discharge** this is a conviction, but the magistrates decide to take no further action against you. It basically means that the court has found that you are technically guilty but that there is no moral culpability. Usually for a first offence where a further offence is very unlikely. The offence, however, stays on record.

**b. Conditional discharge** Given for a set period of up to two years. If you're convicted of another offence within the period of the conditional discharge, you will be in breach of it and could be given a further sentence for the first offence at the same time as you're sentenced for the second one.

**c. Fine** Used in 80% of magistrates' court convictions. The amount should be linked to your ability to pay, but often defendants are all given the same regardless of their income. You'll be asked what your income is. If you intend to pay the fine, this isn't a problem, but if you intend not to pay, you might want to think twice before giving this information since it might mean that at a later date the money can be taken from your wages or dole. You do not have to provide this information, but what might happen if you don't is that the magistrates get miffed, say they'll have to assume you've got lots of money, and give you a bigger fine than they might otherwise have done. Fines up to £5000.

**d. Community service** The court can sentence you to between 40 and 240 hours. If you do not consent to it you may well get prison instead. Before the court can impose a community service order they must obtain a pre-sentence report, which will usually require an adjournment.

**e. Prison** Immediate imprisonment is uncommon for minor political offences, unless the defendant has a number of previous convictions. Courts should not sentence someone to prison who has not already served a sentence unless they are 'of the opinion that no other method of dealing with him [sic] is appropriate'. In addition, courts should not pass a sentence of imprisonment on someone who has not previously been to prison unless they are legally represented, but this condition can be waived if you have refused legal representation. They should also not sentence anyone to prison without a pre-sentencing report unless they have previously served a prison sentence, although this will be waived if you refuse to co-operate with it.

The maximum sentence a magistrates' court can impose is six months for one offence and twelve months for two or more offences (but note again that magistrates may send a convicted defendant to Crown court for sentencing if they feel that this is insufficient and the offence carries a possible sentence greater than six months).

### *Court costs and compensation*

Whatever your sentence, you will usually be ordered to pay court costs. On a guilty plea the usual figure is around £50. For a trial lasting a day in the magistrates' court the costs could be between £100 and £200. You may also be ordered to pay compensation if you've been convicted of criminal damage or assault. Both costs and compensation are pursued in the same way as fines (see below).

### *Right to Appeal*

If you are convicted you have an automatic right to appeal in the Crown Court against conviction and /or sentence. You must apply to the Crown court within 21 days of the conviction. The appeal will take the form of a complete re-trial, and will be heard by a district judge and two lay magistrates. Anything said by defence or prosecution witnesses in the original trial can be presented as evidence if there are discrepancies

An advantage of appealing is that the district judge will be able to understand any technical legal arguments you are presenting. Many cases are lost in the magistrates court simply because the magistrates do not understand the law!

Disadvantages are that the prosecution will have had the opportunity to "tighten up" its case and close any loopholes originally available to you. Prosecution witnesses will know your defence strategy and be able to prepare answers to your questions accordingly. Also if you lose, you may receive a heavier sentence and the costs will definitely be increased.

If you wish you can appeal against the sentence if you feel your sentence was unduly harsh. Again this must be within 21 days of conviction.

When sentencing, you will consider any aggravating and mitigating factors. You will know the range of sentences from your training, information in court and your Legal Adviser. You will then decide which sentence has the greatest chance of rehabilitating the offender and stopping them from re-offending. You will also decide whether they must make any reparation to the people they have affected.

HANDOUT

Court Layout – Exercise 1





## **Handout**

### **Nolan Principles**

#### **Summary of the Nolan Committee's First Report on Standards in Public Life:**

At the request of the Prime Minister, the Nolan Committee spent six months inquiring into standards in British public life. They concentrated on Members of Parliament, Ministers and Civil Servants, executive Quangos and NHS bodies.

The committee could not say conclusively that standards of behaviour in public life have declined. They could say that conduct in public life is more rigorously scrutinised than it was in the past, that the standards which the public demands remain high, and that the great majority of people in public life meet those high standards. But there are weaknesses in the procedures for maintaining and enforcing those standards. As a result people in public life are not always as clear as they should be about where the boundaries of acceptable conduct lie. This they regard as the principal reason for public disquiet.

This leaflet summarises the Committee's unanimous conclusions and lists its recommendations.

---

#### **The Seven Principles of Public Life**

##### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

##### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

##### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

##### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

##### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

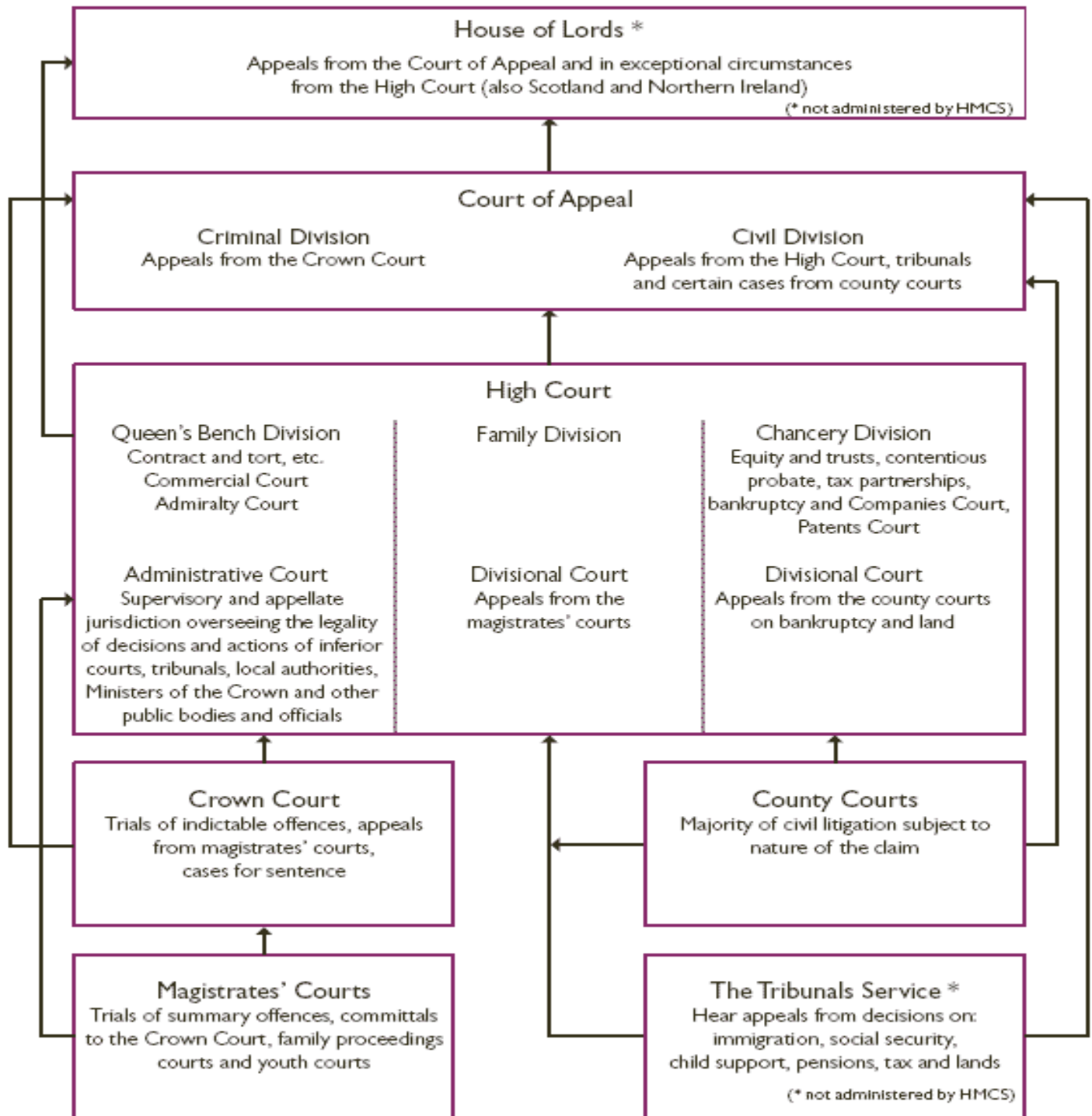
Holders of public office should promote and support these principles by leadership and example.

**These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.**

**HANDOUT**

**The Court Structure of Her Majesty's Courts Service (HMCS)**

Her Majesty's Courts Service carries out the administrative and support for the Court of Appeal, the High Court, the Crown Court, the magistrates' courts, the county courts and the Probate Service.



## Trainer's notes

### Frequently Asked Questions (FAQs) – Magistrates

#### Why do we have magistrates?

The part played by lay magistrates in the judicial system of England and Wales can be traced back to the year 1195, when Richard I (The Lionheart) commissioned knights as magistrates to preserve the King's Peace and uphold the law.

Since then, magistrates have remained a vital part of the judicial system - there are nearly ten times more magistrates than there are judges, and they deal with 95 per cent of all criminal offences.

#### What's the difference between a judge and a magistrate?

Paid judicial office-holders like judges must be fully qualified barristers or solicitors for a minimum time period (at present, seven years since qualifying).

In the case of the magistracy, no academic qualifications are needed, and all necessary training is given on appointment. There is continuous training for both judges and magistrates throughout the time they serve the justice system.

#### Who decides if you can become a magistrate?

The Lord Chancellor appoints magistrates on the advice of local advisory committees. An application form must be filled in, references are followed up and at least one, usually two interviews are held before a decision is made.

Following the Constitutional Reform Act 2005 transitional arrangements for the appointment of magistrates have been put in place. In this interim period recommendations on the appointment of magistrates continue to be made by local advisory committees, these are then passed to the Lord Chief Justice for approval, before being submitted to the Lord Chancellor to make the appointment.

#### Is the magistracy representative of the community?

Magistrates come from a wide range of backgrounds and occupations. For many years the numbers of women and men serving as magistrates are roughly equal. After specific initiatives to encourage members of ethnic communities to apply to become magistrates in recent years, some 8.5 per cent of magistrates are now from a minority ethnic background - only slightly less than the proportion of ethnic minorities in the overall population. It is important that the local bench of magistrate reflects the community in which it serves. More younger people are being sought to balance benches at the moment.

### How much do magistrates get paid?

They aren't. Magistrates give up their time for the vital task of administering justice on a voluntary basis. Many employers allow time off with pay but if a magistrate suffers loss of earnings or is self-employed, they may claim a loss allowance at a set rate. Travel and subsistence allowances may also be claimed.

### Do magistrates have to wear special clothes to sit in court?

No. In fact, magistrates should not wear anything that detracts from the dignity of their office, draws attention to them personally or declares them to be a member of a particular organisation or club - this avoids any perception of bias in favour of, or against, anyone being dealt with by the court. An exception is made for forms of dress dictated by a particular religion or ethnic background.

### What happens when magistrates break the law?

Magistrates are subject to the law just as everyone else is, and must maintain the dignity, standing and good reputation of the magistracy at all times. Those found to have brought the magistracy into disrepute - for example, by breaking the law - are liable to face disciplinary action.

### How do you know if a case is held in a magistrates' court or a crown court?

All criminal cases start in a magistrates court or youth court. The vast majority will remain there, providing the offence is not considered so serious that only a crown court can deal with it.

A magistrates court can issue fines, conditional discharges, community sentences and terms of imprisonment.

Offences fall into three categories, which dictate where they will be dealt with:

- Summary offences - where the defendant is not entitled to trial by jury and must be dealt with by magistrates. These include motoring charges and minor assaults;
- Either-way offences - such as theft, handling stolen goods and more serious assaults. Procedures take place to decide where the case will be held. The defendant can be tried by magistrates or can request a jury trial at the crown court;
- Indictable-only offences - These include murder, manslaughter, rape and robbery, and must be dealt with by a judge at the crown court.

Magistrates also decide some civil matters, including family work and local government matters such as non-payment of council tax.

### Why do magistrates sit as a panel of three?

Magistrates normally sit as a 'bench' of three magistrates, including one who has been trained to take the chair; the other two are referred to as 'wingers'. Although the chair speaks on behalf of the bench, all three magistrates have equal decision making responsibility. Whenever possible, a bench should be mixed in

terms of gender, ethnicity, occupation, magisterial experience etc so that there is the broadest representation on the bench when dealing with cases. Magistrates will always have the benefit of advice on the law and legal procedures from a legally qualified legal adviser sitting in court.

### How do they work out how much to fine you as a punishment?

There are official legal minimum and maximum payments for each offence. What an offender might be fined within those depends on their individual circumstances and ability to pay.

### What happens to people who don't pay their fine?

If you are in arrears with a fine and do not make any arrangements to pay, the court can also:

- Use private bailiffs to seize your goods;
- Make deductions from your wages or benefit;
- As a last resort, the court could order you to be sent to prison. There must be a hearing before this happens.

### Why are there different courts for young people under 18?

Youth courts are part of the magistrates' court, and they deal with young people aged 17 and under. Youth courts are presided over by at least two magistrates, who have special knowledge and experience of youth justice issues. Under-16s must be accompanied by a parent or guardian or social worker, and the language used is likely to be simpler and easier to understand.

### Why are magistrates sometimes known as 'beaks'?

The term 'beak' has been used to signify a judge or magistrate for several centuries, but there are several theories as to why this might be.

One is that the term comes from an Old English word, beag, meaning a necklace worn as a badge of office. It is also thought that the word might have evolved from harman beck, which from the mid-16th to the early 19th century meant a constable, beadle or parish officer.

## TRAINERS NOTES

### Court Structure

#### The Royal Courts of Justice

The Royal Courts of Justice houses an administrative group which is divided into a number of divisions each of which has its own courts. The Royal Court of Justice building accommodates both the Court of Appeal and the High Court.

#### The Court of Appeal consists of two divisions:

- the civil division which hears appeals from the High Court
- the criminal division which hears appeals from the Crown Court

#### The High Court deals with higher level civil disputes. There are three divisions of the High Court:

- the Queen's Bench Division
- the Chancery Division
- the Family Division

#### The Administrative Court (formerly known as the Crown Office) is one of the most varied in terms of what it covers. The type of cases it deals with are:

- Judicial Reviews
- Statutory appeals and applications
- Applications for Habeas Corpus
- Applications under the Drug Trafficking Act 1994 and the Criminal Justice Act 1988

In addition to the Court of Appeal and the High Court the Group is responsible for the Office of the Judge Advocate General (OJAG).

#### The County Court

There are 216 county courts dealing with the majority of civil cases, as well as some family and bankruptcy hearings.

A large number of cases come before the county courts and it is here that all but the most complicated civil law proceedings are handled.

#### Civil cases include:

- Claims for debt
- Personal injury
- Breach of contract concerning goods or property
- Family issues such as divorce or adoption
- The repossession of houses

- Each court has Bailiffs who enforce court orders and seek to collect money if a judgment has not been paid.

## **The Crown Court**

The Crown sits in 77 locations in England and Wales and deals with more serious criminal cases transferred from the magistrates' court such as:

- Murder
- Rape
- Robbery
- It also hears appeals against decisions made in the magistrates' courts and deals with cases sent from magistrates' courts for sentence.

## **The Magistrates' Court**

The magistrates' courts are a key part of the criminal justice system – virtually all criminal cases start in a magistrates' court and over 95% of cases are also completed here. In addition, magistrates' courts deal with many civil cases, mostly family matters plus liquor licensing and betting and gaming work. Cases in the magistrates' courts are usually heard by panels of three magistrates (Justices of the Peace), of which there are around 30 000 in England and Wales.

## **The Youth Court**

Almost all 10 to 17 year olds will have their case dealt with in the Youth Court (however in certain circumstances they can be tried in an adult court). The Youth Court is a specialised form of magistrates' court. As in the magistrates' court, the case will be heard by magistrates or by a District Judge (magistrates' courts). The Youth Court is not open to the general public and only those directly involved in the case will normally be in court.



## **TRAINER NOTES:**

### **Background Information**

#### **Origins of the Magistrate Court**

The origins of the magistrate system can be seen to have been initiated in the 12<sup>th</sup> century. Richard 1 (Richard the Lion Heart) commissioned certain knights in England to keep the Kings peace in unruly areas. By the 14<sup>th</sup> Century, a new phrase had been coined to describe individuals who accepted the responsibility of keeping the peace. The title Justice of the Peace (JP) was initiated during the reign of King Edward III and referred to "good and lawful" men to be appointed in every county to guard the peace. The Magistrate system has evolved since its early inception and now deals with over 95% of all prosecuted crime and is responsible for handing out over £336m in financial penalties per year (Source DCA)

#### **What is a Magistrate?**

In the courts of England & Wales, it is the function of a magistrate to hear prosecutions for summary offences. Magistrates' sentencing powers are limited compared to that of the Crown Court, extending to shorter periods of Custody, fines, probation and community service orders and a miscellany of other options. Magistrates hear committal proceedings for indictable offences, and establish whether sufficient evidence exists to pass the case to a higher court for trial and sentencing.

As a magistrate you will perform a vital public service.

You will hear less serious criminal cases such as minor theft or motoring.

You may also deal with a range of non-criminal cases affecting families & Children, young people or civil cases involving matters like licensing or council tax.

There are 30,000 Magistrates roughly in England & Wales who commit their time voluntarily.

The bench is made up of three people (magistrates) and a qualified legal adviser to help on points of law and procedure.

**Court Chairman** – experienced Senior Magistrate that sits in the middle.

**The Wingers** – two other magistrate.

The Magistrates all have equal decision making responsibility, but it is the chairman addresses and controls the court.

#### **Training**

Reading & distance learning which covers your role & responsibilities

Induction & core training, which is three day (18hrs) maybe over a long weekend, or short evenings over three separate week days

A minimum of three court observations

A visit to a prison establishment, young offenders Institute and probation service.

Consolidation training which 12 hours after 1 year.

You receiving mentoring and will have regular appraisals.

There is no minimum time for which a magistrate should serve, however the initial training/appraisal period usually 1 year to 18mths.

#### **Sentencing**

You will consider any aggravating & mitigating factors.

You will know a range of sentencing from your training, information from the court & legal advisers.

You will decide when sentencing which judgement has the greatest chance of rehabilitating the offender & stopping them from re-offending.

- **An absolute Discharge**-usually for a first offence where a further offence is very unlikely. The offence however stays on the record.

- **A conditional discharge** – if convicted for another offence in a specified period, the person can be sentenced for both offences.
- **Community sentence options**
- **Fines** up to £5000
- **Compensation** up to £5000 to compensate a victim for loss, injury or suffering.
- **Prison** sentence option.

**NB-** Youth court has different range of sentencing.

Magistrates have power to pass summary offenders to higher courts for sentencing when, in the opinion of the magistrate, a penalty greater than can be given in magistrate court is warranted.

### **Civil Cases**

Family proceedings Courts – specially trained to deal with family cases

### **Licensing Courts**

Local Authorities are now responsible for giving or refusing licenses to people who want to sell alcohol to public. Applicants may appeal to local magistrates against LA decisions. Magistrates are usually from betting and gaming committees.

### **Collecting fines**

Magistrates deal with people who fail to pay fines & other financial penalties. Collecting Council Tax-unpaid council tax.