

Lay People and Legal Personnel



Types of Lay People



Jurors – a jury is a group of 12 citizens (aged 18-75 inclusive, registered as a parliamentary or local government voter and ordinarily residents in the UK/Channel Islands/Isle of Man for at least 5 years after their 13th birthday), who are summoned to court to serve as arbiter of facts in criminal cases and decide the verdict (guilty or not guilty); jurors swear in the Holy Book or the Queen to give a fair verdict and need to be able to sit in a jury for a two-week period

Disqualification:

Juries Act 1974 amended by the CJA 2003: *if the person has been imprisoned or on detention + mentally disordered people are excluded do not qualify for jury service*; being a hospital resident requiring regular treatment by a medical practitioner a person being under guardianship (s.87 Mental Health Act 1983) + determined by a judge to be mentally incapable of serving (Part 7 of the Mental Health Act); custody or detention for life; detention during Her Majesty's pleasure or life imprisonment

Excusals or deferral from serving:

- being too ill to attend court
- disability that makes it impossible to serve
- mothers with small children
- examinations
- already booked holidays
- business appointments that cannot be undertaken by anyone else
- CJA 2003: police and judges cannot be jurors (performing their civic duty is their responsibility anyway)

Vetting:

- police checks are made to the jurors to eliminate those, who are disqualified
- wider background check that checks for political affiliations that can be carried only under the Attorney General's permission or used in exceptional cases

Challenging a jury:

- 15 potential jurors on the list, only 12 are selected
- to the array: challenging the whole jury due to it being chosen in an unrepresentative or biased way
- for cause: challenging the rights of an individual juror
- prosecution's right to stand by jurors: a juror can be put in the back of the list of potential jurors

Deciding the verdict (secretly in the jury room)

- majority verdict: 10-2 or 11-1
- unanimous verdict: 12-0
- minimal number of judges: 9 (need to vote unanimously)

Role/work:

- sit and hear evidences + decide verdict in secrecy
- in civil cases decide the liability of facts + amount of damages
- jurors chose a foreman, who states the decided verdict

Advantages

- public confidence
- jury equity
- open system of justice
- secrecy of jury room
- impartiality

Disadvantages

- perverse decisions
- secrecy
- racial bias
- media influence
- lack of case understanding
- jury tampering
- high acquittal rate
- compulsory service
- horrific cases



Magistrates – unpaid, part-time judges who have no legal qualifications and hear cases in the Magistrate Court; magistrates need to have a good character + understanding and communication + social awareness + maturity and sound temperament + sound judgement + commitment and reliability; need to be able to serve for 26 half days a year; aged 18-65 on appointment, but can serve until the age of 70; need to be able to assimilate factual information and make reasoned decisions upon it; Magistrates need to be a local resident

-District Judges need to have been a lawyer for at least 7 years and get paid as a judge

Appointment:

- appointed by the Lord Chief Justice on the advice of Local Advisory Committees (comprised of a max. of 12 members);
- anyone can apply to be a magistrate;
- interview consisting of 2 stages (1st stage – exploration into the candidate's personal attributes and attitude towards various criminal cases; 2nd stage – testing the candidate's potential judicial aptitude by discussing at least two criminal cases) => advisory committees then submit the names of successful applicants

Composition:

'middle-class, middle-aged and middle-minded people'
53% - women (compared with 22% in HC, 32% District judges); 11% - from ethnic minorities (compared with 5% in the professional judiciary); 4% - have disabilities (disabled people are encouraged to apply)

Training:

- new Magistrates => introductory and core training + activities
- training sessions => junior magistrates perform 'wingering'
- appraisals => after a minimum of 2 years the Magistrate is checked if he acquires the needed competences

Role/work:

- issue writs; pre-trial hearings; grant extension for detention; general administrative work; issue warrants, hear applications for bail and custody
- sit and hear evidence; decide verdict; dismiss case; send case to Crown Court; hear minor family cases; enforce non-payment of debt/tax/utilities; create legally binding decisions
- sit with a Crown Court (CC) judge hearing CC appeals; sentencing

Removal:

Lord Chancellor (with the Lord Chief Justice's concurrence) can remove Magistrates for:

- misbehaviour/incapacity
- failing to meet characteristics/ standards of the role
- neglecting duty/refusing to take part in an activity

Local Advisory Committees – they are responsible for selecting suitable candidates for the magistracy; all names of the 12 members must be officially published; have regards to the composition of local benches (numbers needed to process the work, balance of gender, ethnic status, geographical spread, occupation and social background); they make advertisements for becoming a magistrate

Clerk/legal advisor – legally trained senior clerk; needs to have been a qualified solicitor/barrister for at least 5 years; assists in decision making and should retire with the Magistrates when they go to make their decision; deal with routine administrative matters; can issue warrants for arrest, extend police bail; adjourn criminal proceedings and deal with Early Administrative Hearings.

Legal personnel

Solicitors – need to have completed A-Levels (2 yrs); graduated with a Law Degree LLB (Hons. – 3 yrs); need to Join the Law Society; need to pass a Legal Practice Course (1 yr; train client interviewing, negotiating, drafting documents, doing legal research + emphasis on business management); do a Training Contract in a law firm (2 yrs, can also be in the CPS)

or
do any degree + a Common professional Exam or a Graduate Diploma in Law (need to study the 7 subjects the LLB course offers = ELS, Tort, Crime, Contract, Equity and Trusts, Family, Land)

Total time: 8 years

Work/role:

advise clients; interview clients; negotiate on behalf of clients; write letters on behalf of clients; draft legal docs; draft wills; deal with conveyancing; create a brief for barristers; prepare case; do administrative work

Advocacy rights:

advocates of the Magistrates and County Courts
a certificate for advocacy enables them to appear in higher courts

Barristers – need to have completed A-Levels (2 yrs); graduated with a Law Degree LLB (Hons. – 3 yrs); need to join one of the 4 Inns of courts (Inner Temple, Middle Temple, Gray's Inn, Lincoln's Inn); pass the Bar Professional training course (1 yr; case preparation and legal research, written skills, writing advice, drafting documents, conference skills, negotiating, advocacy); need to do Pupillage (being a pupil of a barrister, on the job training: 1 placement for 2 months or 2 placements each for 6 months)

or
do any degree + a Common professional Exam or a Graduate Diploma in Law (need to study the 7 subjects the LLB course offers)
Total time: 7 years (8 with a conversion course if not done a Law degree)

Work/role:

self-employed; write opinion of cases; give legal advice; draft legal documents; part of a chamber and the clerk of the chamber manages their work; 70% are based in London; cannot refuse taking a case

Advocacy rights:

full rights of advocacy in England and Wales

Legal executives – need to have completed GCSEs (end in Yr 11); do the PHDL examinations; work in a solicitors firm/govt dept for 5 years; become a fellow of CILEx (Chartered Institute of Legal Executives)

or
do any degree + a Common professional Exam or a Graduate Diploma in Law (need to study the 7 subjects the LLB course offers)
Total time: 7 years (8 with a conversion course if not done a Law degree)

Work/role:

handle various legal aspects of a property transfer; assist in the information of a company; draft wills; advise people with matrimonial problems; advise clients accused of serious crimes

Advocacy rights:

some rights of audience = can appear to make applications where the case is not defended in family matters and civil cases in the County Court

QCs – more senior barristers; 'talking silk'; usually earn more than judges.

Advocacy rights – rights to appear in different courts; legal executive have some rights of audience (can appear to make applications where the case is not defended in family matters and civil cases in the Country Courts); solicitors can appear in the Magistrates and Country courts (if they obtain a certificate for advocacy enables them to appear in higher courts); barristers have full rights of audience and can present cases in England and Wales.

Clementi Report of 2004 indicates a fusion in the profession