

Directed Study - Lay Magistrates

Lay Magistrates – or Justices of the Peace – Have been an important part of our legal system for hundred of years. They deal with approximately 98% of all criminal cases.

- a) Describe the selection, Training and role of lay magistrates.
- b) Discuss the advantages and disadvantages of using lay magistrates in the English legal system.

a) Every Year approximately 1500 lay magistrates are appointed, These people are appointed by the lord chancellor apart from in Lancashire where they are appointed by the Chancellor for the Duchy of Lancaster, on behalf of the queen. The Lord Chancellor depends on recommendations by the local advisory committee a method that is criticized often. Because the membership of the committees used to be secret but have been published since 1993, the committees are usually made up of ex-justices of the Peace, the county's lord lieutenant is usually the chairman. Half the members of such committees have to retire every three years; the maximum number on a committee is 12 and must be a mixture of magistrates and non-magistrates.

Potential candidates can be recommended by anyone, one can also put ones own name forward to be considered, but names are usually put forward by groups such as political parties, trade unions and chambers of commerce. Committees have also put adverts in newspapers to try and get as wide a range of possible candidates as possible, in Leeds radio advertisements have been used to encourage people to come to Magistrates court open days. There is an intention to get a panel that is as representative of the population as possible. In 1966 the Lord Chancellor gave a directive to try and get a balance of peoples political allegiances in order to try and get a representative panel of the population this caused a stir at the time as it could cause positive discrimination to come into play. Now Lord Irvine (current Lord Chancellor) is attempting to find a good way to find a good social balance on panels, although he has concluded that for the moment political balance is still the most practical method available. An occupational balance is also currently looked upon by using 11 broad bands of occupations, it has been recommended that no more than 15% of panels should come from the same band. The committees will interview candidates and submit the names of suitable candidates to the Lord Chancellor. Once appointed Magistrates may sit till they are 70.

The Magistrates Committee of the Judicial Studies Board conducts magistrates Training. A syllabus has been constructed to tell lay magistrates what they have to cover when training, this training is carried out in local areas due to the large numbers of magistrates. 1998 saw the introduction of the law magistrates new training initiative this indicated 4 basic competencies in: an applied understanding of the framework within magistrates operate, an ability to follow basic law and procedure, an ability to think and act judicially, an ability to work as an effective member of a team. New Magistrates keep a log of progress and has a mentor who is an experienced magistrate. In the first 2 years of a magistrates sitting, between 8 and 11 of their sessions will be mentored during this time they are required to go to 7 training sessions during which there will be an appraisal of the magistrate to ensure they have gained the required competencies. Magistrates that do not show the competencies will be given extra training; if this is not sufficient then they will be referred to the advisory committee, which may recommend the Lord Chancellor removes them. This

scheme uses “on the job” training and is seen as a step forward from the old system whereby there was no check on the magistrate’s receptiveness of the training.

The role of a lay magistrate is particularly wide and mainly concerns criminal cases, lay magistrates try 97% of criminal cases plus preliminary hearings in the remaining 3% of criminal cases including remand hearings, bail applications etc. They may also deal with civil matters such as utility bills etc. in addition to this they may also provide licenses for alcohol sale and betting and gaming licences. They may also become members of the youth panel but must be under 65 and a youth panel must include at least 1 male and 1 female, they can also go on the family court panel if required to hear cases involving such family cases such as protection against violence and adoption orders and proceedings dealing with the Children Act 1989.

b) Some of the key problems involving lay magistrates is the provision of a panel with a cross section of society even though there is a relatively high amount of female lay magistrates with 49% of magistrates being women, Although there is a shortage of ethnic minority magistrates although it is considerably better than in the judiciary, Lay Magistrates tend to be of middle class, middle aged and middle minded there is not a true cross section of the local community and will have little in common with the majority of the defendants, One of the main advantages of lay magistrates is their knowledge of the local area and knowledge of local problems and issues as they have to live within 15 miles of the courts commission, however as most of the lay magistrates are from middle classes this could be a disadvantage as they may have stereotypical views of local peoples backgrounds and the poorer areas. Another pro of the lay magistrate system is their cost because they are not paid it is thought that replacing them with paid judges would be about £100 million each year. Another advantage is the training that lay magistrates receive being that they are not complete amateurs and that most of their decisions require common sense rather than professional training, however there is the criticism that the training varies in quality and is sometimes unsatisfactory given the high workload. There have been a number of studies involving the huge inconsistencies in sentences Youth courts have also seen a huge inconsistencies in the sentencing given being that courts in the north of England were tougher than the southern courts but there were also variations between courts. The lack of legal knowledge may be offset by the presence of a legally qualified clerk; this will not prevent inconsistencies in sentences, as they are not allowed to interfere with the magistrate decisions on sentencing.

It has sometimes been said that the police are too prosecution biased believing the police too much. Which is believed to result in the low acquittal rates of the magistrate’s court. Although there is comparatively fewer appeals in the magistrates courts and many are against sentence not against guilt. From this it can be argued that lay magistrates do a very good job despite being amateurs.