

A)

B) **Explain the different roles of Lay Magistrates and Juries in criminal cases.**

C) **Compare and comment on the selection of Magistrates and Juries.**

Lay Magistrates deal with a wide variety of cases, the majority trying minor criminal cases, however they do have some civil functions as well. The main criminal cases they are involved with include trying summary offences, a large amount of the triable either way offences which in turn makes up about 97% of all criminal trials. Also mode of trial proceedings to decide whether the triable either way offence should be tried in the Magistrates Court or the Crown Court. Included also in the magistrates variety of cases are sentencing committals, this is where magistrates send defendants to the Crown Court because their sentencing powers are not adequate enough. Early administrative hearings in indictable offences to deal with bail and give legal aide, prior to a case being sent to the Crown Court is also dealt with by the Lay magistrate. Lay magistrates are also expected to deal with youth Court cases, issuing warrants of arrest and or deciding bail applications.

The advantages of using Lay magistrates is that it involves using members of the community and provides a wider-cross section of the bench then you would get with the professional judges. They also have local knowledge and it is cheap for the defendant because magistrates are not paid. Many of the cases are dealt with relatively quickly and there are few appeals from the magistrates' decisions.

Lay magistrates to be appointed must live within 15 miles of the commission area. They are normally aged between 27 -65 on appointment and sit at least 26 half days per year. There are six key qualities set out by the Lord Chancellor. To become a magistrate you must not have any serious criminal convictions, undischarged bankrupts and or be a member of the police or traffic wardens. Lay magistrates are meant to represent a wider cross-section of the community, but with these factors in place we can see that they are filling that quality which may result biases occurring towards the younger generations. The following disadvantages show this in effect. Lay magistrates have been quoted to be:

*"Middle-class, middle-aged and middle-minded"*

With little in common with the young working-class defendant that are the vast majority of the defendants. Also Lay magistrates have shown a tendency to be prosecution biased, they acquit about only 25% of their cases. Also lay magistrates are not educated in law.

This is where Juries may be useful. In criminal cases usually there are 12 appointed jurors selected at random from the Register of Electors.

To qualify as a juror the person must be between 18 and 70 and ordinarily a resident of the UK, The Channel Islands or the Isle of Man for at least 5 years since their 13 birthday. These few qualification can also hinder cases because there are no standards of educational qualifications so there is an increased failure to understand the cases they are involved with.

Jurors are only used when the defendant pleads not guilty. The judge decides points of law and the jurors decide the facts. They jury should come up with a unanimous verdict of guilty or not guilty, if this is not the case they must have a majority vote either 10-2 or 11-1.

The advantage of a jury trial is public confidence and is preferred than a verdict by a single judge. Juries also makes law more open as points have to be explained to the jury and the whole process is public. Finally a random cross -section

should mean an impartial jury cancelling out each other's biases. The following quote by Lord Devlin nicely rounds up the advantages to juries:

*"Trial by jury is the lamp that shows that freedom still lives"*

Again there are disadvantages to system as there were for Lay magistrates. A major problem with juries is that they have a failure to understand the issues involved. Also the compulsory nature of having to do jury service is unpopular plus no reasons have to be given for the verdict given. Unlike the Lay magistrates the whole process is slow and expensive.

When comparing the two selection processes of both the Lay magistrates and the jury we see they are both with faults and advantages. A trial by jury may in the end give a more rounded cross-section of the public than the slightly elitist Lay magistrates. Juries do not have the advantage of training and knowledge of the law, which is given to the Lay magistrate by the clerk. This results in a failure to understand what is going on in the proceedings, while a Lay magistrate has the experience and information to understand.