

## Definitions

Eligibility for the magistracy is determined on the basis of whether the candidate for appointment (or serving magistrate) is either directly or closely involved in the work of the criminal justice system to the extent that there could be a perception of, or real risk of conflict of interest, bias, or compromised judicial independence if they were appointed/allowed to continue to serve. Even where an ineligibility bar is not absolute, the frequency of any contact with parties or agencies (including close friendships or family relationships) that could create a real or apparent risk to judicial independence, when certain persons or agencies appear before the court, will be taken into account in arriving at a decision in individual cases. In certain special cases it may be necessary for Judicial HR to seek a direction from the Senior Presiding Judge and/or the Lord Chancellor on the eligibility of an individual candidate/serving magistrate to be appointed/remain in office. Where this happens, the Senior Presiding Judge's / Lord Chancellor's decision will be final.

Where reference is made to spouse, civil partner, partner or close relatives in this guidance, the following definitions apply:

- **Spouse/civil partner/partner** – any person with whom the candidate has a continuing relationship, whether or not one in which the two parties live together as spouses or civil partners.
- **Close relatives** – father, mother, son, daughter, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law or step-child or persons who have any of those relationships with a partner. This includes relatives by adoption.

Occupation / Activity	Ineligible	Eligibility depends on circumstances or has conditions attached	Former employees ineligible within two years of leaving occupation	Spouses, civil partners and partners cannot be appointed to the LJA where the employee works	Magistrates should resign or transfer to a different LJA if spouse, civil partner or partner is employed in one of these occupations	Additional guidance on eligibility / attached conditions
<b>Appropriate Adults</b>		✓				<p>Generally eligible provided the magistrate undertakes this role in a different LJA to the one they are assigned to.</p> <p>Even so, magistrates should bear in mind potential for conflict of interest and disclose potential interest to parties. The parties should be asked whether they object. If a reasoned objection is made, the magistrate should stand down from hearing the case.</p> <p>Magistrates undertaking this role will be ineligible for membership of the youth panel for the LJA in which duties are carried out.</p>
<b>Bailiff</b>	✓		✓	✓	✓	
<b>Barristers (includes Solicitor Advocates)</b>		✓				<p>Generally eligible.</p> <p>Magistrates who work as barristers should not advocate in any professional activities which may create conflict or appearance of bias with magistrate service. They should not appear or advise on cases which have or are likely to come before their bench (or Crown Court to which the bench commits), or on any appeal from such a case.</p>

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<b>Care Managers</b> (involving responsibility for youth or adult offenders)		✓				<p>Advisory committees will assess the nature of duties and potential conflict. Potential conflicts may be managed by ensuring that the magistrate sits in a different LJA to the one in which they work, or through provision of guidance on appointment. Magistrates in this position should bear in mind potential for conflict of interest and disclose potential interest to parties. The parties should be asked whether they object. If a reasoned objection is made, the magistrate should stand down from hearing the case.</p> <p>Depending on responsibilities the magistrate is unlikely to be eligible to join the youth or family panel for the LJA they are assigned to.</p>
<b>Children's Guardians</b>		✓				<p>Generally eligible. (If Children and Family Court Advisory Support Service becomes part of MoJ then this would need to be reviewed as it would converge with eligibility rules for civil servants.)</p> <p>Magistrates should bear in mind potential for conflict of interest and disclose potential interest to parties. The parties should be asked whether they object. If a reasoned objection is made, the magistrate must stand down from hearing the case.</p> <p>A magistrate wishing to join the family panel will be ineligible if work for children is to be carried out within their LJA. Potential conflicts may be managed by ensuring that the magistrate sits in a different LJA to the one in which they work.</p>

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<b>Citizens Advice Bureau</b> (volunteer or employee)		✓				Generally eligible. Advisory committees should assess the nature of the work undertaken and likelihood of contact with those attending before the court. Magistrates will be advised on appropriateness of adjudicating on particular cases by the committee secretary. Where significant work is undertaken potential conflicts may be managed by ensuring that the magistrate sits in a different LJA to the one in which they work/volunteer for the CAB.
<b>Civil Servants</b> (including employees of HMCTS and other associated offices of the MoJ, including the Judicial Office, and other government Executive Agencies)		✓				Generally eligible. Must not sit on any case in which a central government department or their agency is involved (other than the Crown Prosecution Service (CPS)).  HMCTS staff, including Legal Advisers, may be appointed but <u>must not sit and work in the same cluster area</u> . Administrative staff working at a Tribunal operating in the same LJA as the bench they would serve on as a magistrate, may be appointed provided the advisory committee is satisfied that the nature of the administrative work would not create a conflict of interest.  Spouses, civil partners and partners only ineligible if there is a clear conflict.

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<b>Community Safety Partnerships</b> (formerly Crime & Disorder Reduction Partnership) (membership of)	✓			✓		<p>Magistrates may attend meetings of CSPs as non-members, but must not discuss individual cases, individual offenders, bail or sentencing policy.</p> <p>Magistrates who are either elected members or employees of local authorities should not be involved in CSPs as part of their work. Refer to paragraphs 2.32-2.34 in these Directions.</p> <p>Advisory committees should consider whether the work of a spouse, civil partner or partner creates a conflict of interest requiring advice or appointment to an alternative LJA.</p>
<b>Councillors</b> (elected – all tiers of local government, including Parish Councils)		✓				<p>Generally eligible.</p> <p>In line with section 41 of the Courts Act 2003 magistrates must not sit on cases either at the</p> <p>Magistrates' Court or on appeal to the Crown Court involving the local authority of which they are an elected member. This will include cases dealt with on the family panel to which the local authority is a party. If magistrates need advice on the appropriateness of sitting on any individual cases they should speak with their bench chairman, justices' clerk or deputy, or the legal adviser at their court.</p> <p>Advisory committees should consider level of involvement in Community Safety Partnership or other crime reduction bodies to determine whether there is a conflict of interest or advice should be given. Refer to paragraphs 2.32-2.34 in these Directions.</p>

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<b>Crime Prevention Panel</b> (member)		✓				Generally eligible. Magistrates should bear in mind potential for conflicts of interest from contact with police officers. Magistrates must take care to maintain judicial independence and must not discuss individual cases, or justify/defend the sentencing policy of the bench.
<b>Crown Prosecution Service</b> (prosecutors and employees) - Includes independent assessors working for the CPS and advising on, for example, the handling of complaints about CPS processes	✓		✓	✓		
<b>Crown Prosecution Service Inspectorate Inspector</b> (both full time salaried and part time volunteer)		✓				Generally eligible. Must not adjudicate on any cases for which they may have prior knowledge as a result of carrying out inspections of operational processes at local CPS offices, including reviews of case handling.

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<b>Educational Welfare Officers</b>		✓				<p>Generally eligible.</p> <p>Advisory committees will assess the workload for potential conflict of interest. Potential conflicts may be managed by committees/ secretaries giving advice on when magistrates may be disqualified from sitting or ensuring that the magistrate sits in a different LJA to the one in which they work.</p> <p>Magistrates may not be eligible to join the youth panel or family panel for the LJA. Advisory committees/justices' clerks will advise on individual cases.</p>
<b>Family Mediation Service</b>		✓				<p>Generally eligible.</p> <p>Advisory committees will assess the workload for potential conflict of interest.</p> <p>Magistrates may be appointed to same LJA in which mediation duties are carried out subject to advisory committee/justices' clerk being content (not required for magistrates who are trustees of the Family Mediation Service).</p> <p>Depending on workload may be ineligible to join Family Panel for the LJA they are assigned to.</p>
<b>Health Authorities (employee)</b>		✓				<p>Generally eligible.</p> <p>Magistrates must not sit on any case in which their employer is involved.</p>

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<b>Highways Agency</b> (traffic officer)	✓		✓	✓	✓	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merit, including geographical range of duties and possible overlap with the remit of the bench).
<b>H.M. Forces</b>		✓				<p>Generally eligible.</p> <p>Candidates must be able to assure the advisory committee that they are unlikely to be posted abroad in the foreseeable future.</p> <p>If magistrates in H.M. Forces are posted elsewhere within England and Wales, general directions on transfers will apply. If posted abroad, they must be treated sympathetically; general expectation is that leave of absence will be granted. Contact Judicial HR Team if advice is needed in any special/unusual cases.</p> <p>Spouses, civil partners and partners may be disqualified if they intend to move with serving member to another posting.</p>
<b>Independent Custody Visitors</b> (replaces lay visitors). As appointed by Police & Crime Commissioners who are also responsible for their training	✓					



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<b>Independent Monitoring Boards</b> (formerly called Boards of Visitors to a Prison)		✓				Generally eligible. Advisory Committee will assess level of contact with prisoners likely to appear before the courts within the LJA, to assess likely conflict or risk of disqualification. Magistrates should not sit on Boards covering remand prisons serving the Local Justice Area in which they usually sit. Magistrate will be advised on appropriateness of adjudicating on particular cases or may be appointed to LJA for another area.
<b>Interpreters</b>		✓				Generally eligible. Magistrates must not interpret: <ul style="list-style-type: none"> <li>• within their own LJA;</li> <li>• in the Crown Court in any case originating from within their own LJA; or</li> <li>• assist the police or a government department, or a person under questioning, in the LJA in which they serve or in that of their place of residence (if different).</li> </ul>
<b>Lay Observers</b> (who inspect prisoner transport/holding conditions)		✓				Generally eligible. Advisory committees will assess level of contact with prisoners appearing before courts in their area. Magistrates will be advised on appropriateness of adjudicating on particular cases by the committee secretary/justices' clerk and may be appointed to an alternative LJA. Lay Observers are not permitted to carry out duties in courthouses within their LJA.

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<b>Licensees</b>		✓				<p>Generally eligible.</p> <p>Magistrates who hold a premises licence or a club premises certificate under the Licensing Act 2003 must not sit on any appeals against the decisions of any licensing authority.</p> <p>Magistrates who have a financial interest in any business to which a premises licence or club premises certificate is granted must not sit on any appeals against the decisions of any licensing authority.</p> <p>Same conditions apply to spouses/civil partners /partners.</p>
<b>Local Authority employees</b> (including local Trading Standards Officers, but not including teachers and social workers)		✓				<p>Generally eligible.</p> <p>Magistrates must not sit on any case (in the adult criminal court, the family proceedings court, or the youth court) in which their employer is involved.</p> <p>See also paragraphs 2.32-2.34 in these Directions regarding potential disqualification if work is directly involved with CSPs.</p>

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<b>Local Children Safeguarding Boards</b>		✓				<p>Generally eligible.</p> <p>Magistrates should bear in mind potential for conflict of interest and disclose potential interest to parties. The parties should be asked whether they object. If a reasoned objection is made, the magistrate must stand down from hearing the case.</p> <p>Nature of role and work will be assessed to determine whether conflict exists that presents an ineligibility for joining the family panel.</p>
<b>Mackenzie Friends</b>		✓				<p>Generally eligible.</p> <p>Cannot be appointed to same LJA in which duties are carried out.</p> <p>Magistrates will be advised on appropriateness of adjudicating on particular cases.</p>
<b>Member of UK or European Parliament, Welsh Assembly</b>		✓				<p>Generally eligible.</p> <p>Magistrates should be appointed to a different LJA to the constituency concerned.</p> <p>Magistrates who are formally or informally adopted as prospective candidates must not sit in the same LJA as the constituency concerned until the result of the election is known.</p> <p>If elected they must seek transfer to a different LJA or, if not possible, resign/leave the active list (and may request that their name be entered in the supplemental list).</p>

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<b>Ministers of Religion</b>		✓				Generally eligible. Potential conflicts may be managed by ensuring the magistrate sits in a different LJA to the one in which they work. Where a candidate is, or a magistrate becomes, a minister of religion, they need to satisfy themselves that their pastoral duties do not conflict with those of a magistrate. For example, it would be inappropriate for a magistrate to be chaplain to the police or at a H.M. Prison Service establishment in the LJA in which they sit. If advisory committees wish to make a case to deviate from this direction they must consult the bishop, or any equivalent, to seek agreement to the appointment before seeking a dispensation from the Lord Chief Justice (and Lord Chancellor as appropriate). Judicial HR should be approached for advice in handling any such cases.
<b>National Crime Agency</b> (includes employees in Serious Organised Crime Agency who will transfer to the new Agency in 2013)	✓				✓	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits).

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<b>Neighbourhood Watch</b> (member)		✓				<p>Generally eligible.</p> <p>Advisory committees will assess the nature of the role and activity undertaken.</p> <p>Magistrates will be advised on appropriateness of adjudicating on particular cases by the committee secretary/justices' clerk. Where activity involves significant potential conflict of interest, appointment may not be permissible within the LJA in which the activity takes place.</p> <p>For example, it would not be appropriate for magistrates to get involved with local patrol-type activity that could assist the police in mounting prosecutions (e.g. collecting evidence on motorists exceeding speed restrictions).</p>
<b>NSPCC</b> (employee)		✓				<p>Generally eligible.</p> <p>Consider nature/location of work and likelihood of candidate appearing as witness before the bench. Role must always be disclosed in an application to join the family panel.</p>
<b>Parole Board</b> (member)		✓				<p>Generally eligible.</p> <p>Magistrates must not adjudicate on matters of which they have prior knowledge or which involve people who are known to them.</p> <p>Magistrates would be expected to refrain from dealing with prisoners who have appeared before them in court.</p>

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<b>Party Political Agent</b> (full time/paid)		✓				Magistrates must seek transfer to a different LJA or, if not possible, resign/leave the active list (and may request that their name be entered in the supplemental list).
<b>Police</b> (civilian employee)	✓		✓	✓*	✓*	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits). * Eligibility of spouse/civil partner/ partner as well as close family member/relative can be dependant on committee's assessment of role. If in doubt, seek advice from the Judicial HR Team.
<b>Police Community Support Officer</b>	✓		✓	✓	✓	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits).
<b>Police and Community Partnerships</b> or Community Police Engagement Groups (member of)		✓				Generally eligible. Magistrates should bear in mind potential for conflicts of interest, or appearance of bias arising, from contact with police officers. Magistrates must not discuss individual cases or justify/defend the sentencing policy of the bench.

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<b>Police and Crime Commissioner</b>	✓			✓	✓	Expectation is that magistrates will resign absolutely from judicial office if elected as a Police and Crime Commissioner (PCC) – or appointed as a Deputy PCC - and they may not be entered in the supplemental list. Magistrates must take leave of absence from the bench if running for election as a PCC. Same conditions apply to spouses, civil partners, partners and close relatives.
<b>Police and Crime Panels (member)</b>		✓				Generally eligible. Magistrates should inform their committee secretary/justices' clerk if they accept membership of a Police and Crime Panel (PCP). Magistrates should seek advice from their bench chairman and/or justices' clerk if they are asked to undertake a duty as a PCP member that risks conflict with the perception of their judicial independence.
<b>Police Officer</b>	✓		✓	✓	✓	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits).

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<b>Police</b> (non-staff support workers, including civilians or volunteers who carry out regular non-operational work for the police but are not employees of the force: for example, car mechanics, training officers, agency contract staff doing ad hoc project work, including taking transcripts of witness statements)		✓				Consider nature/location of work. Ineligible if in regular contact with officers working in the same LJA. Consider number and nature of police connections. Final decision on appropriateness of level of contact between magistrates and police officers in the same LJA rests with the advisory committee secretary/justices' clerk following consultation with the Judicial HR Team who may also, in certain circumstances, seek a direction from the Senior Presiding Judge.
<b>Police Special Constable</b>	✓		✓	✓*	✓*	Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits). *As some areas have a single police command unit or single LJA for the cluster area, this may make application of the general guidance on spouses etc unduly restrictive. Advisory committees will need to assess nature and extent of work where applicant is spouse/civil partner/partner/close relative of a Police Special Constable and the likelihood of cases involving the Special Constable appearing before the court they would sit at, if appointed.



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<b>Prison Service</b> (prisons officers and all other employees who work in penal establishments or who transport prisoners)	✓		✓			Same rules apply to spouses, civil partners and partners.
<b>Prison after-care work</b>		✓				<p>Generally eligible.</p> <p>Magistrates must not participate in any professional activities (including payment-by-results schemes contracted out by central government) which may create conflict or appearance of bias – this may depend on whether contracts and funding are determined on conviction or breach rates.</p> <p>Advisory committees will assess the nature of work, location and level of contact with those appearing before the court to determine whether potential conflict can be resolved by advice or assignment to a LJA other than where work is carried out. Magistrates must not adjudicate on matters of which they have prior knowledge or which involve people who are known to them.</p> <p>Magistrates would be expected to refrain from dealing with former prison inmates/prisoners on remand who have appeared before them in court.</p>

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<b>Probation Trust Board</b> (member)		✓				<p>Magistrates must not serve as chairmen, or voting members of Probation Trusts as there is a potential risk of conflict of interest associated in them doing so. Magistrates may attend Probation Trust meetings, so long as they do so in an 'observer' or 'advisor' capacity, rather than as a formal member.</p> <p>Magistrates may serve as formal members (although not as chairmen) of a Probation Trust outside the LJA in which they sit, provided that their membership is not as a result of (or can in any way be attributed to) their role as a magistrate.</p> <p>Magistrates who sit exclusively in the Family Proceedings Court may hold formal membership of a Trust within their LJA (as well as act as chairman to a Trust) so long as their membership, or status as chairman, is not as a result of (or can in any way be attributed to) their role as a magistrate.</p> <p>Magistrates who are appointed Probation Trust chairmen or members can choose to stand down as a magistrate or resign from their position on the Probation Trust. Alternatively, these magistrates can apply to have their names entered in the supplemental list and continue to serve on the Trust before seeking to return to active magistracy duties at a later date. (As above, their appointment should not be as a result of (or in any way attributable to) their role as a magistrate.)</p>

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<b>Probation Assistant</b> (those in direct contact with offenders)	✓		✓	✓*		* Advisory committees to assess the nature of the role undertaken by a spouse, civil partner or partner – i.e. if member of back-office staff without direct contact with offenders, this might not be an eligibility bar. Advice on unusual cases can be sought from the Judicial HR Team by the committee secretary/justices' clerk.
<b>Probation Officer</b> (including private contractors or voluntary sector delivering court-ordered rehabilitation or punishment)	✓		✓	✓*		* Eligibility may depend on nature of the role undertaken by a spouse, civil partner or partner. Advice must be sought from the committee secretary/justices' clerk (who may refer to the Judicial HR Team for advice).
<b>Probation Prosecutors</b>	✓		✓	✓		Same guidance applies to spouses, civil partners, partners, family members and close relatives.
<b>Relate Counsellor</b> (or similar)		✓				Advisory committees must consider nature of work and likely contact with those appearing before the court, and risk of conflict of interest, when assessing whether situation can be dealt with by guidance or determination that applicant/magistrate cannot be appointed to same LJA in which duties are carried out (does not apply to magistrates who are Trustees of the Family Mediation Service).  Magistrates undertaking this role may be ineligible for appointment to the family panel for the LJA and must disclose on application to the panel.

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<b>RSPCA</b> (employee or volunteer)		✓				Consider nature/location of work. Advisory committees must assess the level of contact with police if applicant is an Inspector, to determine if there is conflict of interest. Magistrates must not adjudicate on animal cruelty/dangerous dog cases, or appear in connection with cases brought within their own LJA.
<b>Samaritans</b>		✓				Generally eligible. Magistrates will be advised on appropriateness of adjudicating on particular cases.
<b>Security Officer</b>		✓				Consider nature/location of work, likelihood of candidate appearing as witness before the bench and level of contact with police. Advisory committees may determine the applicant cannot be appointed to the same LJA where they carry out their work.
<b>Sheriffs</b>		✓				Generally eligible. Magistrates may not sit in LJA in which they are Sheriff. Magistrates may not serve as bench chairman while they are Sheriff.

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<b>Social Worker</b>		✓				<p>Generally eligible.</p> <p>Advisory committees to assess nature of work and potential conflict which may be managed by ensuring that the magistrate sits in a different LJA to the one in which they work or by provision of advice on disqualification from dealing with certain cases.</p> <p>There is no restriction on magistrates employed as social workers being appointed to the Family Panel, provided appointment is made in accordance with section 41 of the Courts Act 2003 (not sitting on proceedings brought by the local authority they work for; they may sit on private or public cases brought by other local authorities).</p>

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<b>Solicitor</b>		✓				<p>Generally eligible.</p> <p>Solicitor and partners of the firm cannot appear before magistrates assigned to the same LJA (see <a href="http://legislation.gov.uk/ukpga/1974/69/section/38">Solicitors Act 1974 (legislation.gov.uk) section 38 of the Solicitors Act 1974</a> – opens web browser).</p> <p>Magistrates whose spouse/civil partner/partner is a solicitor should not sit on any case involving the firm.</p> <p>Magistrates who work in a solicitor's firm (or whose spouse or partner works in that firm) should not sit on any matter which in any way involves that firm.</p> <p>Magistrates who have a close relative employed in a solicitor's firm must not sit on any matter in which the relative appears or has advised. If the relative regularly appears in court on behalf of the firm, the magistrate should apply to transfer to another LJA.</p>
<b>Store Detective</b>	✓		✓			
<b>Traffic Warden</b>	✓					<p>Local authority parking attendants are not disqualified but are subject to local authority restrictions.</p>
<b>Victim / Witness Support Scheme</b> (member of)		✓		✓		<p>Generally eligible.</p> <p>Magistrates cannot be appointed to same LJA in which duties are carried out.</p> <p>Magistrates will be advised on the appropriateness of adjudicating on particular cases by committee secretary/justices' clerk.</p>

Occupation / Activity	Ineligible	Eligibility depends on circumstances or has conditions attached	Former employees ineligible within two years of leaving occupation	Spouses, civil partners and partners cannot be appointed to the LJA where the employee works	Magistrates should resign or transfer to a different LJA if spouse, civil partner or partner is employed in one of these occupations	Additional guidance on eligibility / attached conditions
<b>Youth Offender Panel/Team/ Referral Panel</b> (member, volunteer or employee of). Also includes employees of <b>Youth Justice Boards</b>	✓		✓			Magistrates must not be members or employees of YOP/YOT or Referral Panels. Magistrates may attend YOT business or liaison meetings in their magisterial capacity, but must not discuss individual cases or justify/defend the sentencing policy of the bench.  Magistrates may attend steering committees but must not become involved in operational matters.
<b>Restorative Justice Panels</b>	✓		✓			As for Youth Referral Panels above.