

## 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 family 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 Office 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.

In this guidance, the 'family panel area' to which the Magistrate is assigned may include more than one 'Local Justice Area'. In case of any query on geographical eligibility, advice should be sought from the Advisory Committee for the relevant area.

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.

This guidance applies to candidates or magistrates in the family court.

Occupation/Activity	Ineligible for appointment	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 family panel area where the employee works	Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations	Additional guidance on eligibility/attached conditions
<b>Adoption Agency Employees (see separate Foster Carers)</b>		✓		✓	✓	Generally eligible Cannot be assigned to a family panel which covers the area of their employment responsibilities
<b>Appropriate Adults</b>		✓				Generally eligible Cannot be assigned to a family panel which covers the area of their responsibilities  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.
<b>Bailiff</b>	✓		✓	✓	✓	
<b>Barristers (includes Solicitor Advocates)</b>		✓				Generally eligible  Magistrates who work as barristers should not advocate in any professional activities which may create conflict or appearance of bias with their role as a magistrate. They should not appear or advise on cases which have or are likely to come before the family court to which they are assigned, or on any appeal from such a case

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<b>Care Managers</b> (involving responsibility for youth or adult offenders)		✓		✓	✓	Generally eligible  Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Children's Guardians (CAFCASS or independent children guardians)</b>		✓		✓	✓	Generally eligible  Cannot be assigned to a family panel which covers the area of their employment responsibilities
<b>Citizens Advice</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 Advisory Committee Secretary. Where significant work is undertaken potential conflicts may be managed by ensuring that the magistrate sits in a different family panel area to the one in which they work/volunteer.

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<b>Civil Servants (including employees of HMCTS and other associated offices of the MoJ, including the Judicial Office, and other government executive agencies)</b>		✓				<p>Generally eligible.</p> <p>Must not sit on any case in which a central government department or their agency is involved (other than the Child Maintenance Service)</p> <p>HMCTS staff, including Legal Advisers and Court Ushers/ Court Clerks who work in Magistrate courts cannot work in the same area as they are applying to or sitting in.</p> <p>Admin staff who work in a Courts and Tribunals Service Centres may not be appointed to the same Local Justice Area or family panel area where they work.</p> <p>Spouses, civil partners and partners only make candidate/magistrate ineligible if there is a clear conflict.</p>
<b>Child Contact Centre Staff (Employees and Volunteers)</b>		✓		✓	✓	<p>Generally eligible</p> <p>Cannot be assigned to a family panel which covers the area of their employment and/or volunteering responsibilities.</p>

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<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 at the family 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, Senior Legal Manager, or the legal adviser.</p> <p>Advisory Committees will need to assess the feasibility of appointing a local authority member to the family panel where their authority may bring public law cases, based on an assessment of court listing practices.</p>
<b>Crown Prosecution Service Lawyers and Associate Prosecutors</b> Includes independent assessors working for the CPS and advising on, for example, the handling of complaints about CPS processes		✓				<p>Generally eligible.</p> <p>Cannot be assigned to a family panel which covers the area of their employment responsibilities.</p>

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<b>Crown Prosecution Service Employees</b>		✓				Generally eligible Cannot be assigned to a family panel which covers the area of their employment responsibilities
<b>Educational Welfare Officers</b>	✓			✓	✓	
<b>Expert Witnesses in the family court</b> (non exhaustive e.g. psychologist, psychiatrist, family assessors)		✓				Generally eligible  Magistrates must not accept instructions from parties appearing: <ul style="list-style-type: none"> <li>• within any tier of family court in their own family panel area;</li> <li>• within any magistrates' court in the area of their family panel</li> <li>• assist any party or a government department, in the family panel area in which they serve</li> </ul>
<b>Family Mediation Services</b> (Mediators and employees)		✓		✓	✓	Generally eligible  Cannot be assigned to a family panel which covers the area of their employment or business responsibilities.

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<b>Foster Carers</b> (Local authority & private agency)		✓		✓	✓	Generally eligible Cannot be assigned to a family panel which covers the area of the Local Authority they are associated with.
<b>Health Authorities</b> (employee)		✓				Generally eligible. Magistrates must not sit on any case in which their employer is involved.
<b>H M Forces</b>		✓				Generally eligible Candidates must be able to assure the advisory committee that they are unlikely to be posted outside England & Wales in the foreseeable future 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 Office HR Team if advice is needed in any special/unusual cases. Spouses, civil partners and partners may be disqualified if they intend to move with serving member to another posting.

<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>
<b>Interpreters</b>		✓				Generally eligible.  Magistrates must not interpret: <ul style="list-style-type: none"> <li>• within any tier of family court in their own family panel area;</li> <li>• within any family court in the area of their family panel</li> <li>• assist any party or a government department, in the family panel area in which they serve</li> </ul>
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>



<b>Local Authority employees</b> (excluding teachers and social workers)		✓		✓	✓	<p>Generally eligible</p> <p>Magistrates must not sit on cases, either at the family court, involving the local authority of which they are an employee. 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, Senior Legal Manager, or the legal adviser.</p> <p>Advisory Committees will need to assess the feasibility of appointing a local authority employee to the family panel where their authority may bring public law cases, based on an assessment of court listing practices.</p>
<b>Local Children Safeguarding Boards</b>		✓		✓	✓	<p>Generally eligible</p> <p>Cannot be assigned to a family panel which covers the area of their employment or business responsibilities.</p>
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>
<b>Mackenzie Friends</b>	✓		✓	✓	✓	

<b>Medical professional working directly with children (e.g. doctors, nurses, counsellors, psychiatrists, psychologists, psychotherapeutic counsellors etc.)</b>		<p style="text-align: center;">✓</p>				<p>Generally eligible.</p> <p>Cannot be assigned to a family panel which covers the area of their employment or business responsibilities.</p>
<b>Member of Parliament or Welsh Assembly</b>		<p style="text-align: center;">✓</p>				<p>Generally eligible.</p> <p>Magistrates should be appointed to a different family panel area to the constituency concerned.</p> <p>Magistrates who are formally or informally adopted as prospective candidates must not sit in the same family panel area as the constituency concerned until the result of the election is known.</p> <p>If elected they must seek transfer to a different family panel area or, if not possible, resign/leave the active list (and may request that their name be entered in the supplemental list).</p>
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

<b>Ministers of Religion</b>		✓				Generally eligible. Potential conflicts may be managed by ensuring the magistrate sits in a different family panel area 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. 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 Office HR should be approached for advice in handling any such cases.
<b>National Crime Agency</b>		✓		✓	✓	Generally eligible  Cannot be assigned to a family panel which covers the area of their employment responsibilities  Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits).
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

<b>NSPCC</b> or other similar children charities (Employee)		✓		✓	✓	Generally eligible  Cannot be assigned to a family panel which covers the area of their employment responsibilities  Where the Magistrate has any employment responsibility nationally, the AC must assess the feasibility of appointment to the family panel, and the Magistrate must not adjudicate on any matter in which their employer is a party to proceedings
<b>Party Political Agent</b> (full time/paid)		✓				Generally eligible.  Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Police Community Support Officer</b>		✓				Generally eligible. Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Police and Community Safety Partnerships or Community Police Engagement Groups</b> (member of)		✓				Generally eligible  Cannot be assigned to a family panel which covers the area of their responsibilities
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

<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 Advisory Committee Secretary/Senior Legal Manager if they accept membership of a Police and Crime Panel (PCP)  Magistrates should seek advice from their Bench Chairman and/or Senior Legal Manager if they are asked to undertake a duty as a PCP member that risks conflict with the perception of their judicial independence.
<b>Police (Civilian employee)</b>		✓		✓	✓	Generally eligible. Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

<b>Police Officer</b>		✓		✓	✓	<p>Generally eligible</p> <p>Cannot be assigned to a family panel which covers the area of their employment responsibilities.</p> <p>Less restrictive conditions apply to family members and close relatives only, not other relatives (but consider each case on merits – particularly if the person is working in a child protection role as part of their employment responsibilities).</p>
<b>Police Special Constable</b>		✓		✓	✓	<p>Generally eligible</p> <p>Cannot be assigned to a family panel which covers the area of their employment responsibilities</p> <p>Same conditions generally apply to family members and close relatives only, not other relatives (but consider each case on merits).</p>
<b>Prison Service and Prison Escort Contract Services</b> (prisons officers and all other employees who work in penal establishments or who transport prisoners)		✓				<p>Generally eligible.</p> <p>Need to ensure that the magistrate does not work in a prison or escorts prisons in a prison in the family panel area to which the magistrate is assigned.</p> <p>Same rules apply to spouses, civil partners and partners.</p>
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

<b>Private Detectives</b> (whether self-employed or working for an agency)	✓					
<b>Probation Service</b> (those in direct contact with offenders)		✓		✓	✓	Generally eligible Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Relate Counsellor (or similar charities)</b>		✓				Generally eligible. Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Samaritans</b>		✓				Generally eligible Magistrates will be advised on appropriateness of adjudicating on particular cases
<b>Sheriffs</b>		✓				Generally eligible Magistrates may not sit in Family Panel area in which they are Sheriff Magistrates may not serve as bench chairman while they are Sheriff
<b>Social Workers</b> (local authority employees and independent social workers)		✓		✓	✓	Generally eligible. Cannot be assigned to a family panel which covers the area of their employment responsibilities.
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>

Solicitors		✓				<p>Generally eligible.</p> <p>Solicitor and partners of the firm cannot appear before magistrates assigned to the same family panel area (see <a href="#">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 family panel area</p>
Occupation/Activity	Ineligible for appointment	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 family panel area where the employee works	Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations	Additional guidance on eligibility/attached conditions



<b>Teachers (Local Authority or otherwise privately employed)</b>		✓				Generally eligible  Teachers may be assigned to a family panel area in which the school is based, but magistrates must not sit on any cases involving their employing local authority or a child who is enrolled at the school in which they work. Where there may otherwise be a conflict of interest, if magistrates need advice on the appropriateness of sitting on any individual cases, they should speak with their Bench Chair, Senior Legal Manager, or the legal adviser.
<b>Occupation/Activity</b>	<b>Ineligible for appointment</b>	<b>Eligibility depends on circumstances or has conditions attached</b>	<b>Former employees ineligible within two years of leaving occupation</b>	<b>Spouses, civil partners and partners cannot be appointed to the family panel area where the employee works</b>	<b>Magistrates should resign or transfer to a different family panel area if spouse, civil partner or partner is employed in one of these occupations</b>	<b>Additional guidance on eligibility/attached conditions</b>
<b>Youth Offender Panel/Team/Referral Panel</b> (member, volunteer or employee of). Also includes employees of <b>Youth Justice Boards</b>		✓				Generally eligible.  Cannot be assigned to a family panel which covers the area of their YOP/YOT responsibilities.
<b>Restorative Justice Panels</b>		✓				Generally eligible.  Cannot be assigned to a family panel which covers the area of their YOP/YOT responsibilities.