

MAGISTRATES 2: ADVANTAGES & DISADVANTAGES

MERITS	CRITICISMS
1. Providing a cross-section of society The system involves members of the community and provides a wider cross-section of society than professional judges. For example, 47% of magistrates are women compared against 5% of professional judges. Even though there is a shortage of ethnic minority magistrates, there is more involvement than in the main judiciary.	Lay magistrates tend to be 'middle-class, middle-aged and middle-minded' they are not a true cross-section of the local community, and will have little in common with the young working-class defendants who make up the majority of defendants.
2. Local knowledge Since magistrates have to live within 15 miles of the area, it is intended that they should have local knowledge of particular problems in the area.	As most magistrates come from the professional and managerial classes, it is unlikely that they live in, or have any real knowledge of, the problems in the poorer areas.
3. Cost The use of unpaid lay magistrates is cheap. The cost of replacing them with paid stipendiary magistrates has been estimated at £100 million a year. The cost of a trial in the magistrates' court is also much cheaper than in the Crown Court.	
4. Training Improved training means that lay magistrates are not complete 'amateurs'.	There are criticisms that the training is variable in quality and inadequate for the workload. This poor training may be the cause of marked variations in sentencing and granting of bail between different benches.
5. Inconsistency in sentencing A study by Professor Diamond in 1991 found that lay magistrates were more lenient in the sentences they passed than stipendiary magistrates.	Several studies in recent years have revealed worrying differences in the number of defendants sent to prison. A study of sentencing by Liberty showed that in 1990 twice as many defendants were sent to prison by magistrates in Greater Manchester compared to Merseyside. 1995 Home Office figures revealed that there were major differences in sentencing practice for the same type of offence, eg, of those convicted of common assault, London magistrates sent about one out of every three offenders to prison, while in Northampton no offenders were jailed.

6. Advice of the clerk

The lack of legal knowledge of lay magistrates should be offset by the fact that a legally qualified clerk is available to give advice.	This will not prevent inconsistencies in sentencing since the clerk is not allowed to help the magistrates decide on a sentence. In some courts it is felt that the magistrates rely too heavily on their clerk.
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7. Prosecution bias

Comparatively few defendants appeal against the magistrates' decision, and many of the appeals are against sentence and not against findings of guilt. In 1995 there were almost 25,500 appeals out of 1.5 million criminal cases. Rather less than half of the appeals were completely successful.	It is often said that lay magistrates tend to be prosecution-biased, believing the police too readily. There is a low acquittal rate in magistrates' courts; for instance the CPS report 1994/5 showed that of 93,000 defendants who pleaded not guilty, only 22% were acquitted.
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Adapted from J. Martin, *The English Legal System*.