

## **MULTIPLICITY OF OFFENCES IN MAGISTRATES' COURTS**

In England and Wales, a magistrates' court is a lower court which holds trials for summary offences and preliminary hearings for more serious ones. Some civil matters are also decided here, notably family proceedings. The jurisdiction of magistrates' courts and rules governing them are set out in the Magistrates' Courts Act 1980.

Virtually all criminal court cases start in a magistrates' court, and more than 90 per cent will be completed there.

The more serious offences are passed on to the Crown Court, either for sentencing after the defendant has been found guilty in a magistrates' court, or for full trial with a judge and jury.

Almost all criminal proceedings start at a magistrates' court. Summary offences are smaller crimes that can be punished under the magistrates' court's limited sentencing powers – community sentences, fines, short custodial sentences. Indictable offences, on the other hand, are serious crimes (rape, murder); if an initial hearing at the magistrates' court finds there is a case to answer, they are committed to the Crown Court, which has a much wider range of sentencing power. Either-way offences will ultimately fall into one of the previous categories depending on how serious the particular crime in question is.

In criminal matters, magistrates' courts (formerly known as a police courts) in England and Wales have been organized to deal with minor offences in a speedy manner. All criminal cases start here and over 95 percent of them will end here too – only the most serious ones go to Crown Court.

Summary offences are the least serious criminal offences. They include driving offences, vandalism, criminal damage of small extent, low level violent offences and being drunk and disorderly. This kind of small criminality will be dealt with in summary proceedings at a magistrates' court, and the defendant has no right to a jury trial and no formal indictment is necessary. Both verdict and sentence are solely in the hands of judges and magistrates.

The sentencing powers of magistrates' courts are therefore limited. For one summary offence, they can inflict imprisonment of up to six months. When dealing with two or more separate either-way offences, the maximum total custodial sentence is 12 months. The maximum fine available is usually £5,000, though for certain specified offences maximum fines permitted to magistrates may be higher (for example, for fly tipping up to £50,000). There is no maximum aggregate fine (in the case of two or more offences). Some driving offences are punished by licence points and/or disqualification from driving for a period of time.

There are four types of sentence available to the magistrates - a discharge (either conditional or absolute); a financial penalty; a community order, which must include at least one of twelve possible conditions (such as supervision, unpaid work, curfew, treatment programmes for issues such as domestic violence or sexual offending, drug and alcohol rehabilitation, etc.); or custody (either immediately or as a suspended sentence). The majority of sentences will be non-custodial sentences. For either way offences, if the magistrates feel that their powers of sentencing are insufficient, they can send the case up to a judge at the Crown Court, who can impose more severe sentences.

Often the point is to achieve restorative justice (compensation of victims of crime) and reformation of the offenders. These alternative punishments are called community sentences. A community sentence would usually consist of community payback, a duty to work between 40 and 300 hours unpaid in the community. This is often complemented by some kind of programme or treatment, offering a helping hand to offenders, and engaging them at the same time – ending a drug habit, coping with a mental illness, skills and qualifications for work, and more. Also, the judge (or magistrate) may issue orders with rules such as curfew, restraining orders (cannot go near their victim, for example) and many others. During serving of community sentences, similarly to suspended sentence, offenders usually will be supervised by a probation officer.

Either way offences can be dealt with either by the magistrates' court or in the Crown Court. There will be a hearing to decide on venue, hearing an outline of the case from both prosecution and defence. The guideline is whether, taking the prosecution case at its most serious, the court believes that a magistrates' court has sufficient powers of sentence. If so, the case will be accepted, and a date will be held for a subsequent hearing in a magistrates' court – otherwise the case will be sent to the Crown Court, as with Indictable offences below. The maximum custodial sentence the magistrates can impose for an either-way offence is six months. However, if the offender is guilty of two or more either-way offences, the maximum aggregate sentence is twelve months. The maximum fine for an either-way offence is £5,000, and there is no maximum aggregate.

Indictable offences, very serious crimes, will be sent to the Crown Court. Before August 2013, this was a two part process of committal and then sending.

For all cases, including indictable ones, the magistrates will have to decide, however, if the defendant is to be released on bail or remanded into custody. In law in England and Wales, bail is automatically granted unless the court believes there is a chance the defendant will either abscond, reoffend during the bail period, or interfere with witnesses or the case in general.

Juvenile justice deals with criminal offences by young people, who have reached the age of criminal liability (ten years old), but are not yet adults (have not reached 18). These cases are heard by specially trained magistrates sitting in a youth court. They have the power to impose a sentence of youth detention known as a detention and training order (DTO) for a period of up to two years.

Some civil matters, including non-payment of council tax, are heard by magistrates. Family proceedings may be held before specially trained magistrates in family proceedings courts within magistrates' courts.

Ukraine's judicial system is made up of courts of general jurisdiction and the Constitutional Court of Ukraine. Courts of general jurisdiction form the unified system of courts. The Constitutional Court of Ukraine is the single body of constitutional jurisdiction in Ukraine. The judicial system ensures access to justice for each individual according to the procedure established by the Constitution of Ukraine and Ukrainian laws. Establishment of emergency and special courts shall not be allowed.

Under the Constitution the judiciary in Ukraine is administered by the Constitutional Court and by the courts of general jurisdiction.

At the bottom of the judicial pyramid are the district (town) courts and military tribunals where litigation begins. Most litigation occurs in these courts (97 % of all criminal cases and 99 % of all civil cases are examined in the principal link of Ukrainian judicial system – the courts of districts and towns).

The authority of local courts include: a) the cases in the first instance, are attributed by the law to its jurisdiction; b) review of criminal and civil cases as well as cases on administrative offenses; c) consideration of economic cases arising from commercial relations as well as other cases attributed by the law to their jurisdiction; d) administrative cases related to the legal relationship in public administration and local government (cases of administrative jurisdiction); e) consideration of administrative jurisdiction in the military sphere, carried out by military courts. Jurisdiction certain categories of cases to local courts, as well as their consideration determined by procedural law.

#### Список використаних джерел

1. [http://www.lawhandbook.org.au/01\\_02\\_01\\_magistrates\\_court](http://www.lawhandbook.org.au/01_02_01_magistrates_court)
2. <https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/magistrates-court/>
3. <https://www.qld.gov.au/law/court/courts/magistrates-court/about-magistrates-courts>
4. [https://en.wikipedia.org/wiki/Magistrates%27\\_court\\_\(England\\_and\\_Wales\)](https://en.wikipedia.org/wiki/Magistrates%27_court_(England_and_Wales))
5. <http://www.hse.gov.uk/enforce/enforcementguide/court/magistrates-intro.htm>
6. [http://ebrary.net/1556/law/local\\_courts\\_ukraine](http://ebrary.net/1556/law/local_courts_ukraine)
7. <http://konfist.fl.kpi.ua/ru/node/862>