



District Judge (Magistrates' Courts) 2021

Shortlist Assessment Test

22 November 2021

Feedback Booklet

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Instructions:

The test contained 10 multiple-choice questions.

The questions were based on scenarios that may be encountered in the role as a District Judge (Magistrates' Courts).

There were ten questions, each question attracted a maximum score of 5, and only one answer attracted the 5 marks. The remaining answers attracted between 0-4 marks.

Applicants had 45 minutes to complete the test and a total of 50 marks were available.

Question 1

A case is listed before you in the Family Proceedings Court for first directions hearing. A father seeks a contact order in respect of his 9 year old son. This is the father's first application. He has not had contact with the child since his marriage 5 months ago. The child resides with the maternal grandmother under a residence order. She opposes the application on the basis that the child is refusing to attend contact. He is said to be fearful of his father. The grandmother has a brief video of the child saying he hates contact and that the father shouts at him and calls him names. It is alleged that the father left the child alone with his partner for protracted periods during contact. The grandmother suggests that a referral should be made to the Court Children's Officer ("CCO"). The father opposes this course as he seeks contact immediately. He contends that the grandmother is frustrating contact and has told people that he is a bad father. You are informed that it would take 16 weeks for the CCO to ascertain the child's wishes and feelings and report to the court.

Do you;

- a) Transfer the case to the Family Care Centre on the grounds of the grandmother's implacable hostility. **(0 marks)**
- b) Adjourn the case for two weeks without order and direct a representative of the Court Children's Service to attend court and explain the delay. **(2 marks)**
- c) Decline to engage the CCO and direct the parties to file statements of evidence and fix a date for hearing. **(1 mark)**
- d) Make a referral to the CCO, list the case for hearing as soon as the report is available and make an interim order for indirect contact. **(5 marks)**
- e) Decline to make a referral to the CCO, make an order for direct contact in the contact centre and list the case for review in 2 months' time. **(3 marks)**

Question 2

The defendant enters a guilty plea by post to a speeding offence. The PPS advise you that the defendant was detected travelling at 110 mph on the motorway, the speed limit being 70 mph. It was 8:00 am on a Saturday morning and the road conditions were poor as it was raining heavily at the time. The police could not issue a fixed penalty due to the excessive speed. The defendant has failed to send her driving licence to the court. She has no previous convictions. In her plea by post she advises that she is a nurse working in the Covid-19 recovery ward of the local hospital and is the sole carer for her father. The defendant is unable to attend court as she has taken her father away for a month's holiday. She has included a contact telephone number in her plea by post.

Do you;

- a) Pass the case for your clerk to email the Driving and Vehicle Licensing department in order to obtain a copy of her licence and upon receipt of same disqualify her from driving and impose a fine. **(0 marks)**

- b) Direct your clerk to email the Driving and Vehicle Licensing department in order to obtain a copy of the defendant's driving licence and adjourn the case to a date until after the defendant's holiday. Direct the PPS to make contact with the defendant advising her that she may be disqualified from driving, can attend court on the next date or make further written representations. **(5 marks)**

- c) Adjourn the case to a date after the defendant's holiday and ask your clerk to notify the defendant that you are considering imposing a driving disqualification but will give the defendant an opportunity to attend court or make further written submissions as to why you should not do so. **(4 marks)**

- d) Deal with the case and disqualify the defendant from driving due to the excessive speed and impose a fine. **(0 marks)**

- e) Adjourn the case for one week and direct the PPS to contact the defendant to advise her that the court is considering imposing a driving disqualification

and she should contact the court before the next court date if she wishes to oppose same. **(2 marks)**

Question 3

A defendant who is Polish appears before you in answer to a summons alleging one charge of criminal damage. The representative from G4S has informed your clerk that the defendant does not wish to be represented by a solicitor and wants to plead guilty as he intends to return to Poland as soon as possible. He has brought along a friend to translate for him. The PPS have not arranged for an interpreter to attend as it was a first appearance summons. The defendant has only motoring offences on his criminal record. The charge relates to a window and television the defendant damaged which belonged to his now ex-partner. The PPS do not have a note regarding the cost of the damage. He has brought £300.00 to court. The PPS don't know if there is a domestic abuse log in existence, but are asking that the court impose a restraining order on the defendant given the nature of the charge.

Do you;

- a) Allow the defendant's friend to translate for him, hear the facts from the PPS, impose a suspended prison sentence on the defendant, order him to pay £500.00 compensation and impose a restraining order on him due to the fact that this was a case involving domestic violence. **(0 points)**

- b) Refuse to allow the defendant's friend to interpret as he is not a court appointed interpreter and adjourn the case to allow such an interpreter to be appointed. **(2 marks)**

- c) Adjourn the case for one week to allow the PPS to obtain a figure for the cost of the damage and to ascertain if there is a domestic abuse log and advise the defendant to return to court on the next occasion. **(2 marks)**

- d) Deal with the case and allow the defendant's friend to interpret. You impose a suspended prison sentence, refuse to impose a restraining order as there is

insufficient evidence to necessitate it and make no order for compensation as there is uncertainty about the value of the damaged goods. **(1 mark)**

- e) Using the defendant's friend as an interpreter, advise the defendant that he may wish to obtain legal advice and that he may be entitled to legal aid. Having done so, adjourn the case and direct that a court-appointed interpreter attend court on the next occasion. You direct the PPS to obtain details regarding the cost of the damage and to ascertain if there is a domestic abuse log. **(5 marks)**

Question 4

In your Domestic Proceedings Court list is an application for a non-molestation order (NMO) is listed for inter parties hearing. Statements of evidence have been filed. The written application reveals a cogent *prima facie* case that it would be appropriate to grant an order. All parties are present and represented. Counsel for the respondent tells you that the factual circumstances giving rise to the application are also the subject of an ongoing criminal investigation. The respondent is accused of assaulting his wife, the applicant. Presently, the case is with the Public Prosecution Service for a decision in relation to charging. It is not known when a decision will be made, but it will take some months. Conditions of police bail prohibit the respondent from contacting the applicant. Counsel for the respondent applies to have the NMO proceedings adjourned until after the anticipated criminal proceedings have been dealt with. The adjournment application is opposed by the applicant. A NMO granted on an *ex parte* basis expires today. The respondent will consent to an order for one further month only without prejudice to his right to contest whether that order should be made final.

Do you;

- a) Grant an order on a without prejudice basis until further order and adjourn the case generally as the applicant is *prima facie* deserving of the court's protection. Her right to seek that protection is outweighed by the practical difficulties the respondent might encounter in his defence of the application for a NMO and in his criminal trial potentially being prejudiced. **(2 points)**

- b) Adjourn the hearing as there is a statutory bar on NMO applications proceeding in advance of related criminal proceedings. **(0 points)**

- c) Adjourn without order to a date when more is known about the anticipated criminal proceedings, noting that a decision on whether to prosecute the respondent will take some time, but there are conditions of bail that prohibit the respondent from having contact with the applicant. **(0 points)**

- d) Adjourn for one month with order as it is better for the applicant and respondent not to be required to give contested evidence on the same issues in different courts, where different rules of evidence may apply. **(3 points)**

- e) Refuse the application to adjourn the hearing and determine the application on its merits as there is an obligation on the DPC to deal with applications expeditiously, having considered the issue of risk of prejudice to the criminal proceedings and the potential for substantial delay. **(5 points)**

Question 5

A defendant appears before you on an overnight charge relating to possession of drugs with intent to supply same and possession of criminal property. The defendant is in custody and is applying for bail. The application is opposed. The officer in charge of the case advises the court that the defendant was driving his car to the airport and Class A drugs with a street value of £100,000.00 were located in the boot together with £58,000.00 cash and 19,000.00 Euros. The defendant's phone was seized but cannot yet be examined as the defendant has refused to provide the relevant PIN. The police believe that the defendant was about to take a flight to Spain where they believe he owns property.

The defendant's solicitor applies for legal aid for their client.

Do you;

- a) Grant the defendant's application for legal aid and proceed to deal with the application for bail. **(4 marks)**

- b) Refuse the application for legal aid on the basis that the defendant clearly has access to large amounts of cash/property and can afford to pay for his legal fees. **(2 marks)**

- c) Grant the application for legal aid on a limited basis for as long as the defendant remains in custody ruling that the entitlement to legal aid can be revisited if the defendant is admitted to bail. **(5 marks)**

- d) Adjourn the application for legal aid and proceed to deal with the application for bail. **(0 marks)**

- e) Adjourn the application for legal aid for one week to allow the solicitor an opportunity to obtain proof of means and the application for bail to the same date so that the solicitor will be remunerated for moving the bail application. **(0 marks)**

Question 6

A representative of the Chief Constable appears before a Youth Court that you sit in seeking the imposition of a Violent Offences Prevention Order (VOPO). It is argued that a VOPO imposing prohibitions on the behaviour of a youth is necessary to mitigate the risk of serious violent re-offending. The youth is aged 17 years old. He was the accused in a wounding case, where he stabbed the victim with a broken bottle, which was finalised some weeks prior by way of youth conference order. An application for a VOPO was not moved at the conclusion of that case. Since disposal of the wounding case, the youth has been arrested for a further serious assault offence and is now subject to conditions of police bail pending investigation. Hearsay evidence is adduced before you by the applicant. The Trust accommodate the youth and the complainant in the new case in the same children's home. The youth and his social worker have been served with the application and given notice of the listing. The youth's parents are unaware of the application. The youth's solicitor tells you that the youth disputes the new offence, but instructs him that he consents to a VOPO until he reaches majority as he has been told by the police that this will allow him to remain living in the children's home.

Do you;

- a) Applying a risk assessment and taking account of the rules of the children's home, the conditions of the recently imposed youth conference order and the conditions of police bail, decline to make the VOPO. **(5 mark)**
- b) Refuse the application as neither of the youth's parents are aware of the application and the imposition of a VOPO might interfere with the youth's right to private and family life. **(1 mark)**
- c) Decline to make a VOPO as the application is not moved by the PPS and invite the Chief Constable to liaise with the PPS and have the matter re-listed before you. **(0 points)**

- d) Applying a risk assessment, make a full VOPO to cover the period until the youth reaches 18 years with conditions that are clear, proportionate and necessary to protect the public from serious violent harm. **(0 points)**

- e) Make an interim VOPO as the risk is of such a degree as to justify that and it is necessary to secure immediate protection of the public from the risk of serious violent harm. Adjourn for full hearing. **(3 points)**

Question 7

The defendant faces charges of common assault and threats to kill his girlfriend and the case is listed for contest today. At an earlier review a different Judge refused an application by the PPS that the complainant be afforded special measures permitting her to give evidence by live link. There is no note on the court papers as to why the application was refused. Neither the PPS prosecutor nor counsel for the defendant was present when the application was refused. The reasons for refusal are not clear. The prosecutor advises you that when speaking to the complainant today she presented as tearful. She gives a history of anxiety and has prescribed anti-depressant medication with her today.

The prosecutor renews an application that the complainant be afforded special measures. It is contended that the court now has the benefit of information as to the complainant's presentation and medical history. You have not read the statements in advance as the case had been listed for contest. Counsel for the defendant strongly objects to the application. It is submitted that the application has already been refused after being determined on its merits. The complainant should give evidence in open court. Defence counsel also states that his client has been in custody for some 3 months and is anxious to have the case dealt with.

Do you;

- a) Having ascertained that the case could be dealt with in two weeks, adjourn the case to allow the PPS to obtain a medical report from the complainant's General Practitioner regarding her history of anxiety and to comment on whether giving evidence in open court in view of the defendant would affect her ability to give evidence. **(2 marks)**

- b) Refuse the application as the PPS did not give the defence sufficient notice of the application and they had ample opportunity to do so. Furthermore, there is no medical evidence supporting the application. **(1 mark)**

- c) Indicate to the defence that the defendant should consent to the application for a special measures direction as if the application is opposed you will adjourn the case in order to allow the PPS to obtain medical evidence and that could mean he is remanded in custody for a protracted period. **(0 marks)**

- d) Having heard submissions from both the PPS and defence, grant the application for a special measures direction and proceed to hear the contest. **(5 marks)**

- e) Refuse the application for a special measures direction but advise the PPS that you will keep the issue under review and if you detect that the witness is having difficulty in giving evidence you will revisit the matter. **(3 marks)**

Question 8

A bail application is listed before you. The applicant is charged with robbery and has a criminal record with convictions for violence and dishonesty offending. The applicant has previously been refused bail by the Magistrates Court and High Court on the basis of risk of re-offending. It transpires that the application for bail is on compassionate grounds to permit the applicant to attend his estranged step-father's funeral mass, the burial and a meal at a local restaurant. An application for compassionate bail by a co-accused to attend the birth of his child was recently refused by the High Court. The

applicant's siblings are in attendance at court. They are of good character and willing to perform the function of surety and chaperone the applicant throughout his release. The prosecution was put on notice and is prepared to deal with the application. A police officer is present to give oral evidence. The prosecution advocate contends that no documentary evidence has been supplied substantiating the bereavement and the defendant appears unable to provide his solicitor with the personal details of the supposed deceased such as date of birth and last known address. The applicant's solicitor informs you that an adjournment of the case would be unsatisfactory as the funeral is scheduled to take place tomorrow morning.

Do you;

- a) Refuse to determine the application as the High Court has previously refused bail, is acquainted with the history of the case and that of the co-accused and the application is properly moved before the High Court. **(1 point)**
- b) Refuse to determine the application as statute requires that an application for compassionate bail be moved before the High Court. **(0 points)**
- c) Pass the case and invite the applicant's solicitor to obtain evidence to substantiate the bereavement with the assistance of the sureties and police officer. **(5 points)**
- d) Hear the application and determine it on its merits, refusing it on the basis that there are no grounds for admission to compassionate bail in the absence of evidence for the contention that the applicant has suffered a bereavement of a close relative. **(3 points)**
- e) Given the urgency of the matter, hear the application and undertake an evaluative process assessing possible future risks to the public in the prevention of crime, administration of justice and the risk of the applicant interfering with the course of justice. Grant the application with stringent conditions as the sureties are present at court and of good character. **(2 points)**

Question 9

You finish your list at 1:30 pm and have risen when your clerk advises you that the police have just lodged papers regarding a first appearance charge sheet for a defendant who is in police custody. The police have advised your clerk that the defendant has been causing trouble in the cells since he was arrested in the early hours of the morning. His clothes were seized for forensic analysis and he is refusing to put on alternative clothing provided to him by police and is wearing only his boxer shorts. The defendant is applying for bail and police are objecting to same. The defendant is legally represented. Your clerk asks whether you prepared to deal with the case.

Do you;

- a) Return to court and inform the defendant's solicitor that bail is refused as the defendant is showing a flagrant disregard for the authority of the court by refusing to wear the clothes supplied by the police. **(0 marks)**
- b) Refuse to deal with the case as the list has finished and inform your clerk that it can be listed tomorrow. **(0 marks)**
- c) Return to court and, having received assurances from the custody staff that the defendant is clothed from the waist down, deal with the case. **(5 marks)**
- d) Return to court and advise the defendant's solicitor that you will not hear the bail application unless the defendant puts on the clothes provided to him by the police as the defendant is not showing the court the respect it deserves. **(2 marks)**
- e) Return to court and deal with the application for bail in the absence of the defendant, not allowing the defendant to attend via Sightlink. **(3 marks)**

Question 10

You are sitting in Lisburn Family Proceedings Court in early July. A mother intends to move from Lisburn to Bangor where she is about to complete on the purchase of a new home with her partner, who is from Bangor. She seeks a specific issue order to permit her to change her children's school to one nearby the new home. She intends to move in mid-August in order that the children attend the new school at the commencement of the school year in September. The mother alleges a history of domestic violence in her relationship with the father, which he denies. The father has a previous conviction for drugs offences. The father has issued a cross-application by which he seeks a prohibited steps order to prevent the change of school and a residence order. He asserts that the intended move will negatively impact his contact and the children's education and that the children's best interests would be served by a transfer of residence to him, to allow the children to remain in Lisburn and in their current school. The children are said to be settled in their school, to have established friendships with classmates and to regularly attend sporting activities in Lisburn. The father alleges that the move is designed to cut him out of the children's lives. He currently has contact two days per week, collecting the children after school and returning them to their mother at 6:00 pm and one overnight contact on alternate weekends which takes place in the paternal grandmother's home. The children are aged 5 and 6.

Do you;

- a) Grant the father an interim prohibited steps order preventing the mother from changing the children's school and list for hearing without input from the Court Children's Officer. **(3 marks)**
- b) Adjourn both applications and encourage the parties to resolve their differences amicably in the best interests of the children. **(0 marks)**
- c) List a *Re L* hearing in order for the court to make findings on the domestic violence allegations before determining any other matter. **(0 marks)**

- d) Direct the parties to file statements of evidence and list the case for hearing on the residence and school change issues in early August and direct the CCO to mediate with the parties on contact. **(5 marks)**

- e) With reference to the welfare checklist, direct the Court Children's Officer to prepare a report on the children's wishes and feelings about relocation, change of school and contact. **(1 mark)**