

5 November 2018

Our ref: OIA 71381

Mr John Luke  
By email: [fyi-request-8858-3330a73f@requests.fyi.org.nz](mailto:fyi-request-8858-3330a73f@requests.fyi.org.nz)

Dear Mr Luke

### **Community Magistrates**

Thank you for your email of 12 October 2018 regarding information about Community Magistrates.

I attach the position description which includes details of remuneration and term of office.

The selection process is prescribed by the Community Magistrates Regulations 1998.

The current Community Magistrates are:

Joanna Sihamu  
Janet Holmes  
Lemalu Lauolefale  
Dianne Hale  
Lavinia Nathan  
Stevan Cole  
Philippa King  
Leigh Langridge  
Fenella Thomas  
Ngaire Mascelle  
Kathy Wilson  
Jack Best  
Sherida Cooper  
Lesley Jensen  
Robyn Paterson  
Terence Bourke  
Shaun Cole  
Simon Heale  
Sally O'Brien

Yours sincerely



Jeff Orr

**Chief Legal Counsel**

## **POSITION PROFILE**

### **COMMUNITY MAGISTRATE**

<b>Title:</b>	Community Magistrate
<b>Appointed by:</b>	Governor General on the recommendation of the Minister of Justice
<b>Term:</b>	Community Magistrate must vacate that office on attaining the age of 70 years

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#### **Community Magistrates**

The office of Community Magistrate is provided for by sections 39 to 45 of the District Court Act 2016. Community Magistrates are judicial officers who play, along with District Court Judges, a vital role in the criminal jurisdiction of the District Court.

As judicial officers, Community Magistrates must have and display integrity, independence and impartiality. The role is public and Community Magistrates, like Judges, are subject to public scrutiny.

The jurisdiction of Community Magistrates includes and expands upon that of Justices of the Peace. Community Magistrates have jurisdiction to conduct defended hearings for a wide range of non imprisonable offences. Community Magistrates can also impose sentences on persons who have been found guilty of or pleaded guilty to certain minor imprisonable offences.

Community Magistrates do not have the power to imprison offenders, but they may impose a range of other sentences, such as reparation, community-based sentences (such as community detention or community work), disqualification from driving, and fines.

Community Magistrates work in the main in criminal list work dealing with a range of appearances and applications, including plea taking, bail applications, sentencing, name suppression and media applications and s 106 applications for discharges without conviction. A Community Magistrate presiding over a list court must be able to effectively manage a wide spectrum of administrative and substantive legal tasks, and be able to switch rapidly between them.

The Community Magistrate role has helped remove a greater volume of less complex work from Judges. This has allowed judges to deal with more time consuming or complex matters that require their expertise. This enables both types of work to be resolved more quickly.

#### **Skills and Experience required for the role**

The ideal applicants will have a background and/or qualifications in law. In addition to having knowledge of the governing legislation and an interest in access to justice, applicants need to demonstrate:

- relevant tertiary qualifications and or experience

## **POSITION PROFILE**

### **COMMUNITY MAGISTRATE**

- impartiality, open mindedness and good judgment
- personal integrity
- effective communication skills
- connection to the community and an awareness of its diversity
- awareness of Tikanga Māori and the Treaty of Waitangi

#### **Key working Relationships**

- Chief District Court Judge
- District Court Judges
- Fellow Community Magistrates
- Ministry of Justice – Court Registry staff/Management and Court Security
- Department of Corrections – Prisons, Probation
- NZ Police
- Lawyers

#### **Time commitment**

Community Magistrates generally work an average of 10 days per month and are expected to be available a minimum of one to two days a week on average.

#### **Hours of Work**

The Community Magistrate's role is part-time and the workload will vary according to the needs of the Court. Hours of work are generally 8:30 am to 5:00 pm and sometimes beyond. Community Magistrates may be called upon to work on Saturdays and Public Holidays.

#### **Remuneration**

A Community Magistrate is paid for every day on which he or she attends the Court in that capacity. The current fee is around \$55 per hour with a maximum of \$455 per day. Reimbursement for out-of-pocket expenses (primarily travel) is paid if a Community Magistrate is required to attend a Court other than the Community Magistrate's normal sitting court.

#### **Term**

A Community Magistrate vacates office on attaining the age of 70. A Community Magistrate may resign earlier by writing to the Minister of Justice. The Governor General may remove a Community Magistrate from office for neglect of duty, bankruptcy, misconduct, inability or disability affecting performance of duty

#### **Pre- appointment Training**

Post interviews and prior to any appointment being made, selected applicants will be required to undertake a structured course of pre-appointment training. Selection for this training does not constitute appointment as a Community Magistrate.

## **POSITION PROFILE**

### **COMMUNITY MAGISTRATE**

#### **Appointment to the role**

In accordance with the Community Magistrates Regulations 1998, only the names of those candidates whom the Chief District Court Judge is satisfied have been satisfactorily trained will be forwarded to the Minister of Justice. The Minister will then consider the candidates and makes formal recommendations to the Governor General as to who should be appointed.

#### **Selection Criteria**

Any adult member of the community can qualify for appointment as a Community Magistrate, except: practising lawyers, Police officers, employees of the Ministry of Justice, the Department of Corrections, anyone contracted to carry out security work in prisons, and social workers employed by the Ministry of Social Development.

There is no specific formal qualification required by statute for Community Magistrates. However, due to the nature of the work a background and/or a qualification in law is preferred.

The suitability of applicants is determined by the extent to which they meet a number of criteria. The criteria provide a framework for the selection process; no applicant is expected to fully meet every criterion.

The criteria are described below in summary:

#### **Relevant qualifications and or experience**

Successful applicants will be well educated and have sound knowledge of the governing legislation and an interest in access to justice issues. Applicants must demonstrate:

- experience in dispute resolution techniques and/or conflict management
- the ability to conduct inquiries and possess experience in writing reasoned and logical decisions or comparable report writing skills
- experience in a variety of social settings, and to have worked well within an organisation that imposed administrative requirements

#### **Impartiality, open mindedness and good judgment**

Applicants must be able to demonstrate an ability to make fair, competent and impartial decisions. Applicants should be:

- sufficiently confident to avoid any influence on decisions through flattery or criticism
- free from overt and strongly held beliefs or interests that might cause, intentionally or unintentionally, bias or raise concerns of bias in the decision-making process
- able to quickly bring together a mass of information, assess the facts, isolate relevant issues, and make reasoned, logical and consistent decisions in accordance with the law in open public court

## **POSITION PROFILE**

### **COMMUNITY MAGISTRATE**

#### **Personal Integrity**

Applicants are required to adhere to the principle of the rule of law and should be able to demonstrate a reputation for being honest and highly principled. Applicants should have:

- some experience of having to work within an ethical framework
- an ability to work with a particular value system that governs personal and sometimes private behaviour
- the ability to establish and maintain positive and professional working relationships with members of the Judiciary, fellow Community Magistrates, Police, Government agencies, lawyers and Ministry of Justice (court registry staff, managers and Security)

#### **Effective communication skills**

Applicants must demonstrate a high level of competence in oral and written communication and have the ability to:

- communicate effectively with all persons
- speak in a way that is easily understood by the relevant audience and be a receptive listener
- remain calm, courteous and consistent in attitude when dealing with different people in different situations
- treat all persons with respect
- write clearly and precisely

#### **Connection to the community and an awareness of its diversity**

An applicant may demonstrate aspects of this competency by his or her:

- involvement in the community, involvement in community groups, experience in the voluntary sector, and/or chosen career/s
- awareness of the rights of others not to be discriminated against because of cultural background, ethnic origin, religious beliefs or gender
- general ability to deal with all cultural differences in a sensitive and competent manner

#### **Awareness of Tikanga Māori and the Treaty of Waitangi**

An applicant may demonstrate aspects of this competency by his or her:

- awareness of, and interest in, the implications of the Treaty of Waitangi and its place in New Zealand's constitution
- ability to relate well to Māori,
- understanding of Māori needs, customs and protocols