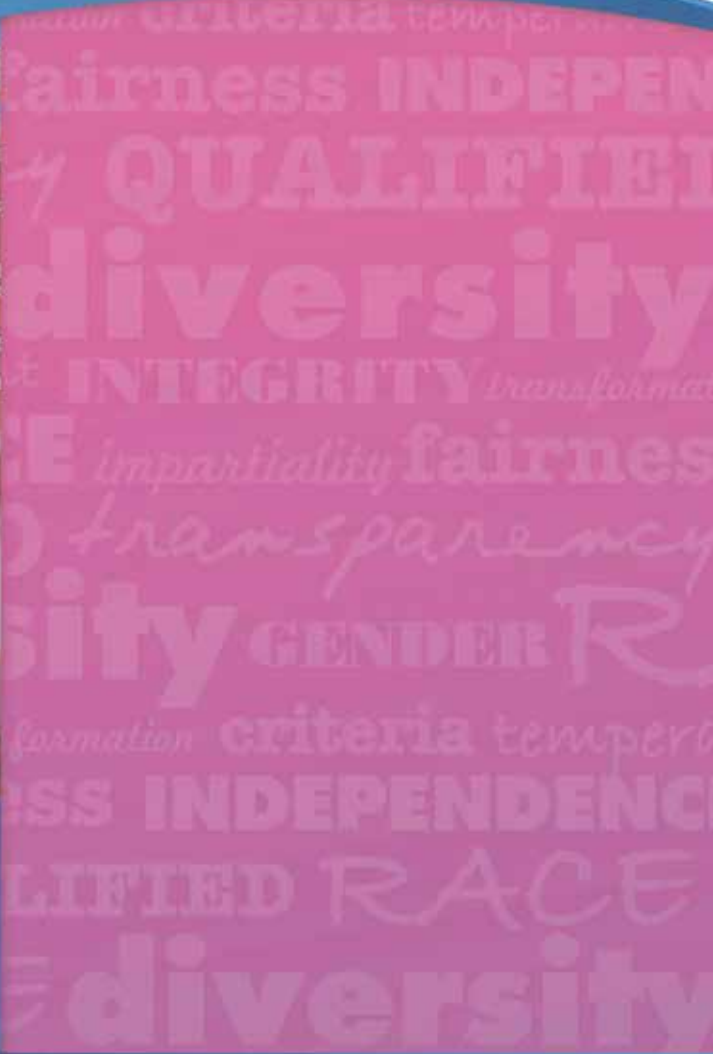
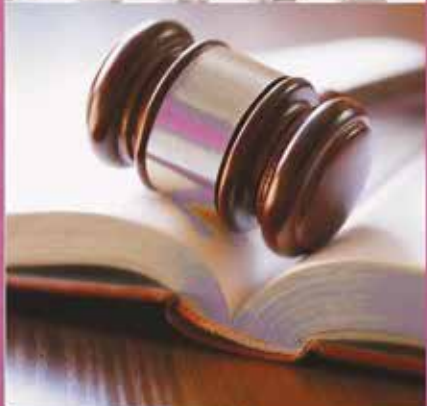


# UNDER PRESSURE: THE MAGISTRACY AFTER COVID-19

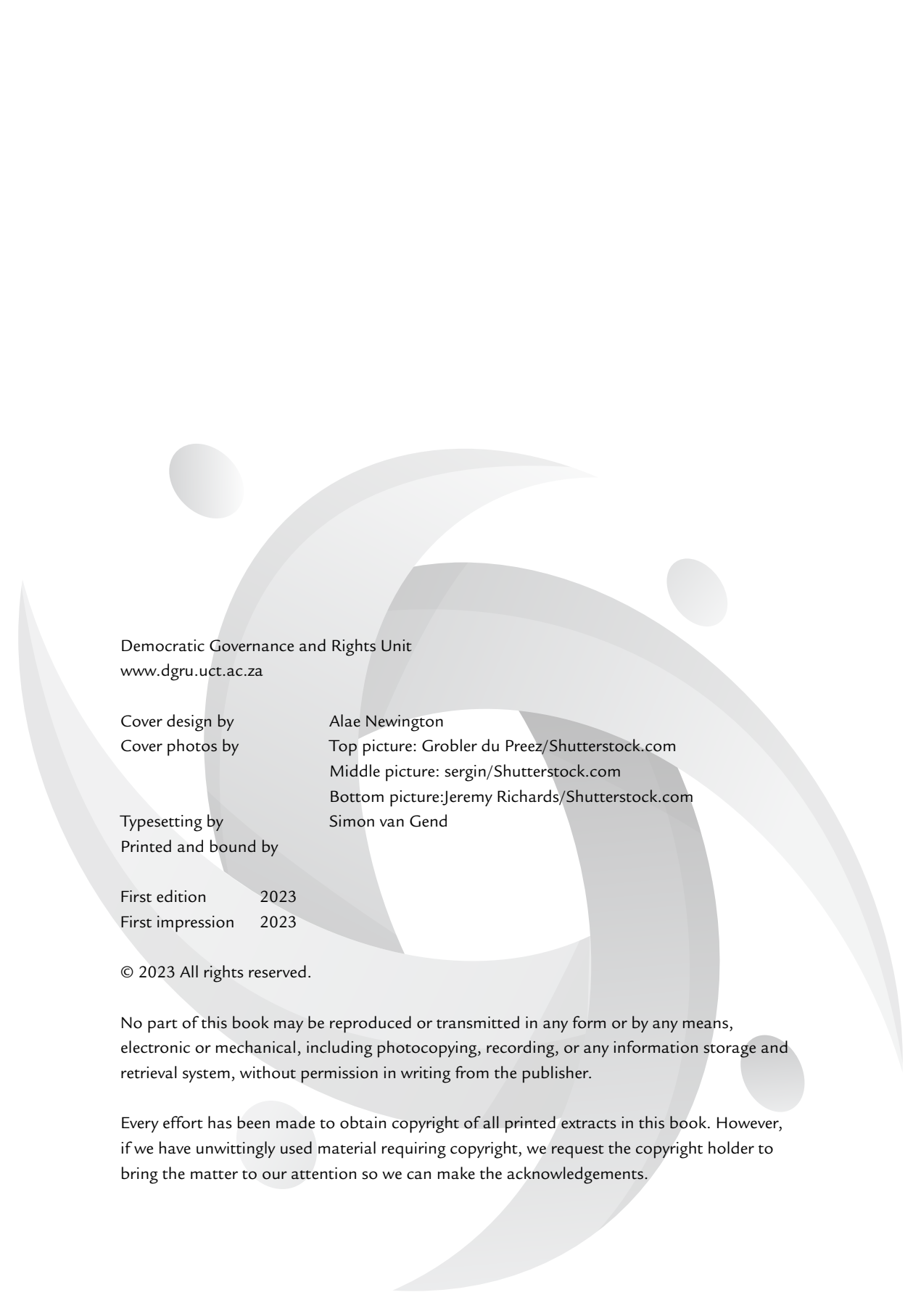


# Under Pressure: The Magistracy after Covid-19

The 2022 Survey of South African  
Magistrates' Perceptions of their  
Work Environment



Matthias Krönke · Vanja Karth · Alison Tilley · Chris Oxtoby · Zikhona Ndlebe  
Mbekezeli Benjamin · Vuyani Ndzishe · With editing by Jean Redpath



Democratic Governance and Rights Unit  
[www.dgru.uct.ac.za](http://www.dgru.uct.ac.za)

Cover design by  
Cover photos by

Alae Newington  
Top picture: Grobler du Preez/Shutterstock.com  
Middle picture: sergin/Shutterstock.com  
Bottom picture: Jeremy Richards/Shutterstock.com  
Simon van Gend

Typesetting by  
Printed and bound by

First edition 2023  
First impression 2023

© 2023 All rights reserved.

No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or any information storage and retrieval system, without permission in writing from the publisher.

Every effort has been made to obtain copyright of all printed extracts in this book. However, if we have unwittingly used material requiring copyright, we request the copyright holder to bring the matter to our attention so we can make the acknowledgements.



# Contents

---

## Executive Summary

1. Introduction
2. Methodology
3. Findings
  - 3.1 Threat, physical harm and sexual harassment
  - 3.2 Experience and knowledge of sexual harassment
  - 3.3 Perception and experience of corruption
  - 3.4 Working hours, workload and time allocation
  - 3.5 Sources of stress
  - 3.6 Court infrastructure and court staff
  - 3.7 Lockdown effects
  - 3.9 Job satisfaction
  - 3.9 Profession entry and professional development
  - 3.10 Major issues in the magistracy
5. Recommendations
  - 5.1 Recruitment and vetting process
  - 5.2 Safety and security
  - 5.3 Workload and stress





# Executive Summary

---

This report is part of the Democratic Governance and Rights Unit's (DGRU) research project on the South African Magistracy.

In 2019, the DGRU conducted its inaugural survey of South African Magistrates, investigating their perceptions of their work environment. The research highlighted several challenges that Magistrates face, ranging from high work pressure to inadequate physical infrastructure and administrative support. This 2022 iteration of the survey sought to track change in these measures and to introduce a new set of questions relating to issues of concern.

More magistrates responded in 2022 than in 2019. The profile of respondents is broadly in line with that of the magistracy in relation to seniority and gender, while minority racial groups are somewhat better represented in the survey than in the magistracy. Significant differences by race were however not observed and accordingly the survey was not weighted. Responses were received from all provinces.

The 2022 survey reveals a magistracy under increasing pressure, both from within and outside it. Almost a quarter of magistrates have received physical harm or threats in the last 12 months relating to their work, while 16 percent of female magistrates have been sexually harassed or know a magistrate who has been sexually harassed – with the most commonly identified perpetrator being another magistrate.

Perceptions of corruption within the ranks of the judiciary and the magistracy have worsened but remain better than the perceptions of citizens. Nevertheless, the fraction of magistrates being aware of attempted bribery

The findings reveal that some of the greatest challenges faced by our courts – how court users are treated – have largely been resolved.

of a magistrate is at 1 in 8, with other magistrates being identified in 1 in 10 cases as the bribe offeror, is cause for concern.

Reported working hours remain very high for some magistrates but not for others, with time in court taking up the bulk of their time. This must be reconciled with court hours data, which should be carefully scrutinised and disaggregated to better identify the courts and magistrates under pressure. Most magistrates continue to report being under a great deal of stress, with the vast majority reporting multiple symptoms of stress.

Court infrastructure and court staff ratings have not improved, and Covid-19 did not yield improved IT and other resources, yet it increased the pressure on magistrates in terms of backlogs created and management of restrictions.

Remuneration and benefits, court infrastructure and resources, morale in the magistracy, and ability to attract and retain the best people, were most likely to be identified as major issues in the magistracy. Remuneration, benefits, and career pathways were identified as key to retaining skills in the magistracy, while opportunities for career progression and mental health support were highly likely to be identified as important. The survey reveals a magistracy under pressure and in need of support and attention to the key issues identified.



# 1. Introduction

---

This is the second iteration of a survey of South African Magistrates about their work environment. Comparison with the 2019 baseline survey permits the tracking of change over time. Questions in 2019 and 2022 related to workload, administrative and mental health, court infrastructure, safety and security, and stress levels. New questions in 2022 related to corruption, sexual harassment, and issues relating to career progression.

This report, as well as previous research<sup>1</sup>, and the companion report “South African Magistrates Courts: A Court User Perspective” are a part of the DGRU’s efforts to better understand trends in the South African judiciary over the past 15 years.<sup>2</sup> This second iteration of the South African Magistrates’ Perception survey was made possible due to the generous support of the Millennium Trust.

---

1 <https://www.magistratesmatter.co.za/wp-content/uploads/2020/08/Magistrates-Matter-Judicial-Officer-Survey-Perceptions-of-work-environment.pdf>

2 For additional information on the decreasing levels of public confidence, see [Moosa and Hofmeyer \(2021\)](#).





## 2. Methodology

---

The survey comprised 48 questions administered on survey monkey, eliciting responses from 230 magistrates from among the country's 1726 magistrates (13 percent). The respondents completed the survey between February and August 2022.

The survey targeted all magistrates. Respondents were contacted via email lists from the Magistrate Commission, the Association of Regional Magistrates of Southern Africa (ARMSA), the Judicial Officers Association of South Africa (JOASA), and the DGRU. Compared to the 2019 survey of 165 respondents, this larger sample reduced the margin of error slightly from 7 percent to 6 percent (with a confidence level of 95%).

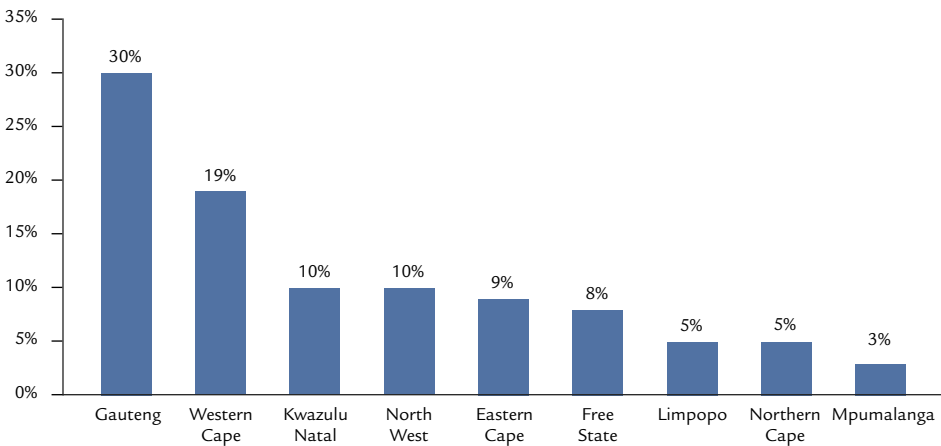
As this is a self-selected sample, the profile of the magistracy must be compared to the profile of the respondents and explored for a need for weighting. Checking magistrate seniority and gender against data on the composition of the magistracy suggests the sample is reasonably representative by seniority and gender, although regional court magistrates are somewhat better represented in the survey than they are in the magistracy.

By race, according to the annual judiciary report 2021/2022 of the South African judiciary, 52 percent of all ranks of magistrates are black African, 12 percent Coloured, 10 percent Indian and 25 percent white. Almost a third of respondents did not fill out all the questions about racial demographics at the end of the survey. The profile of those who did respond, suggests a lower fraction of black Africans (24 percent) than in the magistracy among the respondents, and a higher fraction of all other groups (18, 16 and 41 percent Coloured, Indian and White

**Table 1:** *Seniority in the magistracy and survey sample*

	Survey Sample		Magistrates 2020	
	Count	% of total	Count	% of total
Regional Court President	4	2	9	<1
Regional Court Magistrate	55	27	339	20
Chief Magistrate	3	1	16	1
Senior Magistrate	16	8	118	7
District Court Magistrate	129	62	1244	72

respectively). In any event, marked differences in findings by race not attributable to sample error did not emerge. Accordingly, the survey was not weighted. While there were responses from all provinces, only Gauteng and Western Cape had a sufficient number of responses (more than 30) to permit reliable disaggregation at provincial level.

**Figure 1:** *Province of respondent*

# 3. Findings

---

## 3.1 Threat, physical harm and sexual harassment

---

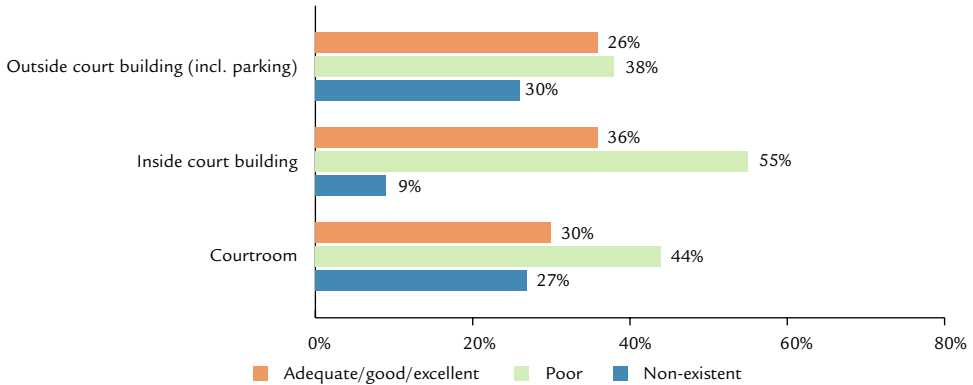
The independence of the judiciary is fundamental to the operation of the justice system. Where magistrates are threatened in relation to their work, their independence is almost inevitably comprised at a subconscious level, even if they are ostensibly able to shrug it off.

The 2019 survey had an alarming finding that almost half (44 percent) of magistrates had experienced a threat at some point in their career as a magistrate. The 2022 survey attempted to gauge the current nature of threats to magistrates by asking about actual harm or threats they have experienced in the last 12 months. In the 12 months prior to the survey, almost a quarter (23 percent) of magistrates said that they were personally threatened or harmed because of their work ‘once or twice’. A further 10 percent said that this happened a ‘few times’. These two figures combined means that a third had been threatened or harmed in the last year. In the Western Cape, this was as high as 39 percent (4 in 10). Such a degree of direct harm and threat to magistrates is of serious concern and is a reflection of deteriorating control by the state of safety in South Africa.

Further questions related to security inside and outside the court building, as well as the court room itself. More than a quarter indicated non-existent security within the court room, and outside the court building, including parking. Very high percentages said that security in these locations was “poor” which suggests that the DOJCD should pay particular attention to these issues. Court

‘In the 12 months prior to the survey, almost a quarter (23 percent) of magistrates said that they were personally threatened or harmed because of their work ‘once or twice’.’

‘More than a quarter indicated non-existent security within the court room, and outside the court building, including parking.’

**Figure 2:** Security in and around the court building, and inside the court room

orderlies from SAPS are mandated to provide security within the courtroom, yet security in this location was identified as “poor” by almost half (44 percent). Read together with our accompanying Court User Survey which identified SAPS members as likely to be involved in assault at court, suggests SAPS must pay serious attention to the quality of persons allocated to court duty. Given the threats to magistrates, better attention must be paid to security in the immediate vicinity of the court building, especially if it is necessary for magistrates to traverse the area outside the court building (where there is no direct access from parking to the court building).

### 3.2 Experience and knowledge of sexual harassment

The survey asked respondents whether they or a magistrate they know has been sexually harassed in the past two years. Around 1 in 8 (13 percent) said they or a magistrate they know has been sexually harassed ‘once or twice’ over the past two years. Women magistrates were twice as likely to say that they know of at least one or two cases (16 percent vs 8 percent), suggesting the survey may have captured some degree of actual experience. Considering the sensitivity of the topic, the results might indeed underestimate the prevalence of sexual harassment in the magistracy.

‘Around 1 in 8 (13 percent) said they or a magistrate they know has been sexually harassed ‘once or twice’ over the past two years.’

‘The most frequently identified perpetrators of sexual harassment of magistrates, were in fact fellow magistrates (peers = 38 percent), more senior magistrates (25 percent), and lawyers (13 percent).’

‘Of further concern is that as many as 16 percent of female respondents said that if they themselves were a victim, they would not report it, because it would not make a difference or would be worried about negative consequences.’

The subsequent question asked those who said they had experienced sexual harassment (or know of a magistrate who was sexually harassed), who the perpetrator was. Because the number of respondents answering this question is small (N = 24), these results need to be interpreted with caution. The most frequently identified perpetrators of sexual harassment of magistrates, were in fact fellow magistrates (peers = 38 percent), more senior magistrates (25 percent), and lawyers (13 percent).

This is the first time that the extent of sexual harassment within the magistracy has been measured. It strongly suggests that the magistracy is not immune to the sexual harassment which occurs in broader society, and even in the courts. It further suggests that some magistrates are themselves the perpetrators of this harassment. Of further concern is that as many as 16 percent of female respondents said that if they themselves were a victim, they would not report it, because it would not make a difference or would be worried about negative consequences.

In the companion Court User Survey, some 2 percent of court users said they, or a person they knew, experienced sexual harassment when at court. Confining the results to female court users, raises this 3 percent. This suggests the courts are not particularly safe places from sexual harassment.

### 3.3 Perception and experience of corruption

Closely allied to threats and physical harm in undermining the justice system, is corruption. The survey shows the situation has worsened since 2019.

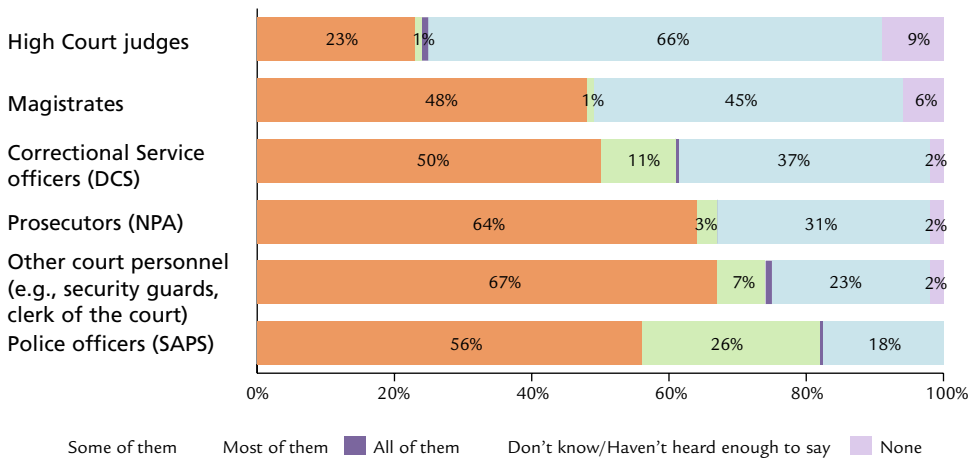
#### 3.3.1 Perceptions of corruptness of criminal justice system actors

The 2019 and 2022 survey asked magistrates the same question that the Afrobarometer survey series asks citizens: ‘How many of the following people do you think

are involved in corruption, or haven't you heard enough about them to say?' The difference between the 2019 survey and the 2022 survey is significant. Magistrates are 11 percentage points more likely to believe there is corruption among other magistrates, in 2022, than in 2019. This is a marked increase, unlikely to be attributable to sample error. Almost half (49 percent) of magistrates say some, most or all magistrates are involved in corruption.

'Magistrates are 11 percentage points more likely to believe there is corruption among other magistrates, in 2022, than in 2019.'

**Figure 3:** *Perceptions of involvement in corruption of criminal justice system actors*



Furthermore magistrates are more likely now than in 2019 to say that *judges* are corrupt, with the fraction of that view increasing by a third, to comprise a quarter of respondents (25 percent). By contrast, the view that some or most SAPS are corrupt was stable at a very high 82 percent. This suggests perceptions of the police have not improved, while perceptions about judicial officers have worsened.

'Almost half said some, most or all of their magistrate colleagues are corrupt, and an even higher fraction thought the same of other criminal justice system actors (see figure above).'

Almost half said some, most or all of their magistrate colleagues are corrupt, and an even higher fraction thought the same of other criminal justice system actors (see figure above). The increasing likelihood of magistrates to perceive that actors in the justice ecosystem are comprised of corrupt persons is likely to increase the pressure on them in making decisions in court, particularly when this is coupled with threats.

The views of magistrates are likely to be more experience-based than that of citizens; it is accordingly some comfort that their views about the extent to which their magistrate colleagues are corrupt, are less jaundiced than that of citizens, a significant fraction of whom think some (44 percent) most (20 percent) or all (16 percent) judicial officers are corrupt (compared to (48 percent of magistrates saying some are corrupt and 1 percent think all are (see table below).

**Table 2: Perceptions of involvement in corruption: Citizens and Magistrates**

Actor		None	Some	Most	All	Don't know
Citizens' views of	Magistrates & judges	12%	44%	20%	16%	8%
	Police	5%	36%	29%	27%	3%
Magistrates' views of	Judges	9%	23%	1%	0%	66%
	Magistrates	6%	48%	1%	0%	45%
	Police	0%	56%	26%	1%	18%

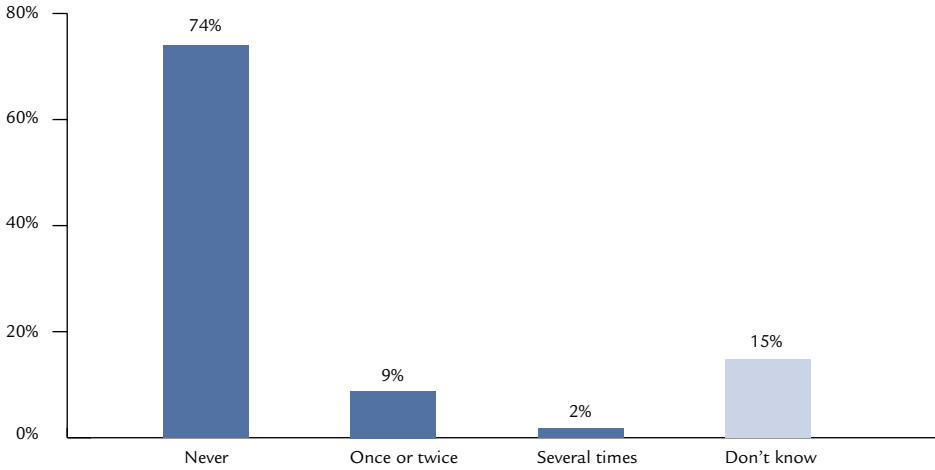
### 3.3.2 Experience or knowledge of bribery

These perceptions may be influenced by experience of bribery. Just over 10 percent said they or a magistrate they know was offered a bribe “once or twice” or “several times” in the last two years, and amongst these, lawyers were most likely to be identified as the ones offering bribes. An environment in which there is bribe-offering creates another source of pressure on magistrates, as it means they are less able to trust other actors in the criminal justice system.

A finding of particular concern is that 10 percent of those aware of a bribe to a magistrate, identified another magistrates as offering the bribe. This may explain the sharp increase since 2019 in the fraction of magistrates saying that their colleagues are corrupt.

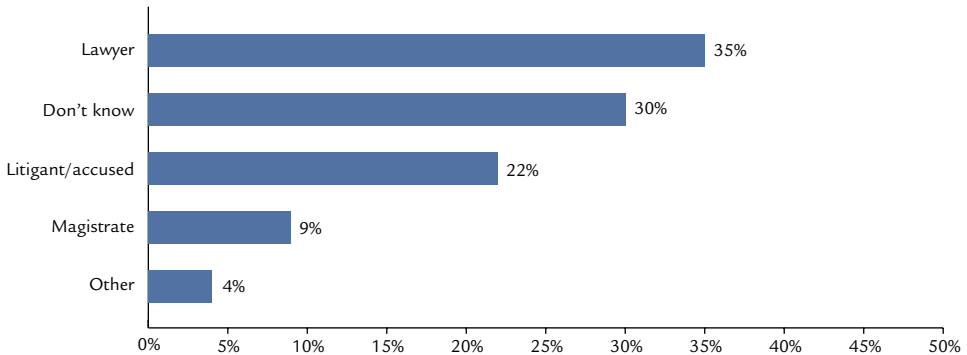
‘A finding of particular concern is that 10 percent of those aware of a bribe to a magistrate, identified another magistrates as offering the bribe.’

**Figure 4:** Knowledge of magistrate being offered a bribe, last two years



How often, if ever have you or a magistrate you know been offered a bribe in the past two years?

**Figure 5:** Identify of person offering bribe, last two years



Who approached you/the magistrate you know?

About half of respondents said that the purpose of the bribe was directly related to the outcome (36 percent said the purpose was to make the process to go in someone's favour and 9 percent to avoid a conviction), while 13 percent said the purpose was to tamper with the process (9 percent said speed up or finalise a process and 4 percent said make documents disappear). These findings suggest that a non-trivial share of magistrates is exposed to corrupt



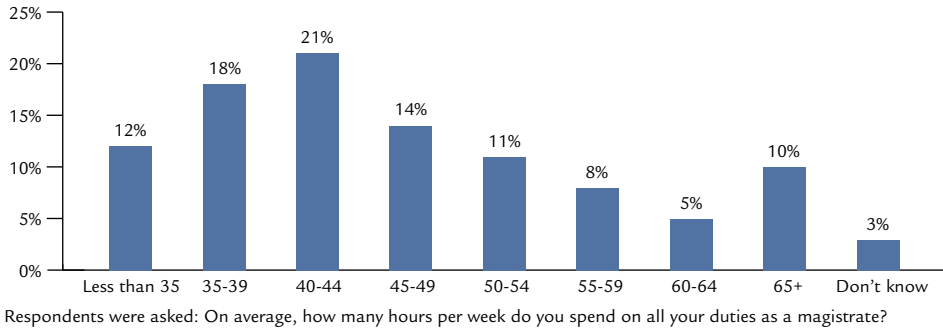
behaviour, and that the attempts of corruption are directed at both the process and outcomes of the proceedings.

### 3.4 Working hours, workload and time allocation

‘More than 40 percent of magistrates in Regional Courts say that they are working more than 50 hours a week.’

South African courts are often criticised in the media for frequent postponements and delays. Yet a significant fraction of magistrates (34 percent) reported working for more than 50 hours per week, while a significant minority (15 percent) of magistrates reported working 60 hours or more each week. More than 40 percent of magistrates in Regional Courts say that they are working more than 50 hours a week. At the same time, 1 in 8 reported working less than 35 hours.

**Figure 6:** Number of hours per week spent on duties as magistrate



‘Half of magistrates (52 percent) said their workload was too high, while 44 percent said it was manageable, and only 4 percent said it was too low.’

Unsurprisingly given their reported working hours, most magistrates were of the view that their workload is too high. Half of magistrates (52 percent) said their workload was too high, while 44 percent said it was manageable, and only 4 percent said it was too low. This has remained virtually unchanged compared to the results of the 2019 survey, despite Covid-19 having had various impacts (see below). This suggests the same fraction of magistrates in the same locations have experienced the additional stress which has recently arisen, rather than it increasing the fraction of magistrates experiencing stress. This is

further suggested in the wide variation in hours of work and perceptions of workload within the magistracy, which suggests magistrates may not be optimised in terms of their distribution geographically and among types of courts.

A new question in the survey asked magistrates to estimate how they allocate their time. Overall, on average magistrates said they spend 59 percent of their time presiding over cases in court, and 13 percent of their time on administrative work. As always, averages obscure the full picture: the median, and minimum and maximum values provide an indication of a degree of variation, with mediation reducing in prominence (median = 0), and it being apparent that some magistrates spend 90 percent of their time on administrative work. These are likely to be the Chief Magistrates or Regional Court Presidents. It is debatable whether this is a good use of a senior magistrates' time.

**Table 3: Estimates of magistrate time allocation (percent)**

	Presiding over cases in court	Chamber work: mediation	Chamber work: Preparing for cases	Chamber work: Writing judgements	Administrative work
<i>Average</i>	59	6	11	15	13
<i>Median</i>	60	0	10	15	10
<i>Minimum</i>	5	0	0	0	0
<i>Maximum</i>	100	60	55	50	90

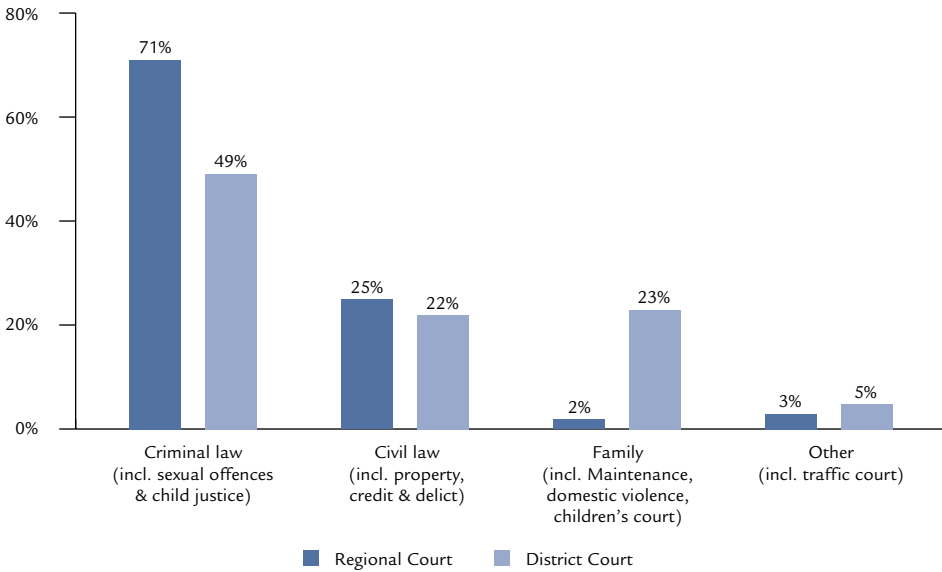
The fraction of time spent presiding over cases reported by magistrates is difficult to reconcile with average court hours reported on by the DOJCD, approaching only 2 hours per day, as 60 percent of 40 hours is 4.8 hours per day over a 5 day week. The possibility exists there are anomalies in the DOJCD calculations, such as calculating the average including circuit courts in which the courts do not sit on some days and which do not have a dedicated magistrates. The latest judiciary report suggests separate measurement of civil and criminal court hours may be the reason; in any event, accurate measurement of court hours

'Accurate measurement of court hours is an issue which must urgently be clarified as it is key to understating the efficiencies or lack thereof in the courts.'

is an issue which must urgently be clarified as it is key to understating the efficiencies or lack thereof in the courts, in terms of distribution of magistrate skills.

Magistrates said that a third of their time is related to chamber work (6 percent mediation, 11 percent preparing for cases, 15 percent writing judgements). This varies somewhat by court type. Regional Court respondents said they spend two thirds of their time presiding over cases, and only two percent of their time on mediation in chambers, while District Court Magistrates on average spend 58 percent and 7 percent on these tasks respectively.

**Figure 7:** *Types of cases magistrates deal with*



In respect of type of cases, respondents said they spend most of their time dealing with criminal law court cases, with the remainder of their time split between civil law (including. property, credit & delict) and family law (including maintenance, domestic violence, children's court) cases, and other cases (including traffic court). Despite the extension to all regional courts of jurisdiction to hear divorce matters in 2020, family law continues to

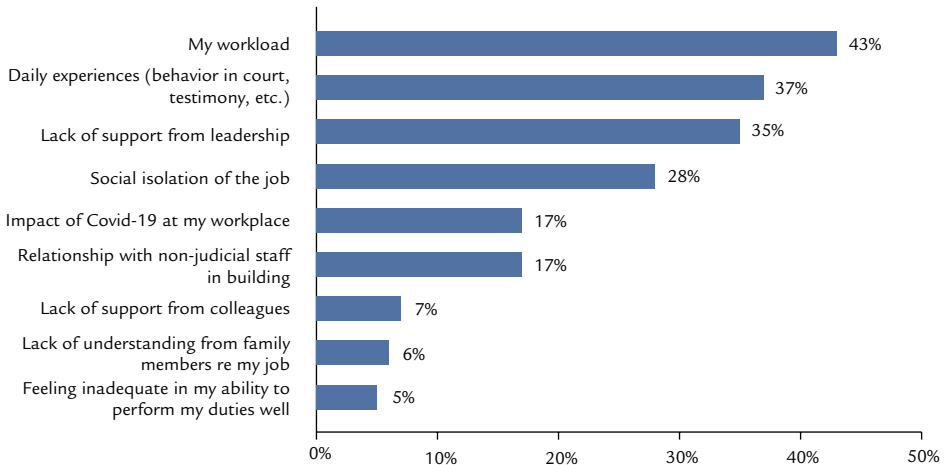
comprise a small fraction of regional court work, with more than two thirds of their work comprising criminal cases. The sentencing jurisdiction of regional courts is such that they tend to hear the most serious criminal cases, unless these are set down in the High Court.

### 3.5 Sources of stress

In the 2019 survey, respondents were likely to say they experienced a great deal (45 percent), or a lot (26 percent) of stress. These levels have remained virtually unchanged (43, and 21 percent respectively), despite other factors likely to increase their stress having changed, such as lockdown effects, deteriorating resources, greater awareness of corruption, and threats. Unsurprisingly, given the findings in relation to workload, magistrates were most likely to identify their workload as one of their two main sources of stress. However this was closely followed by their daily experiences as a magistrate, which may include the threats or harm alluded to in the first section above.

‘Unsurprisingly, given the findings in relation to workload, magistrates were most likely to identify their workload as one of their two main sources of stress.’

**Figure 8; Magistrates main sources of stress**



When asked about symptoms arising from such stress, about half of all respondents reported that they are irritable

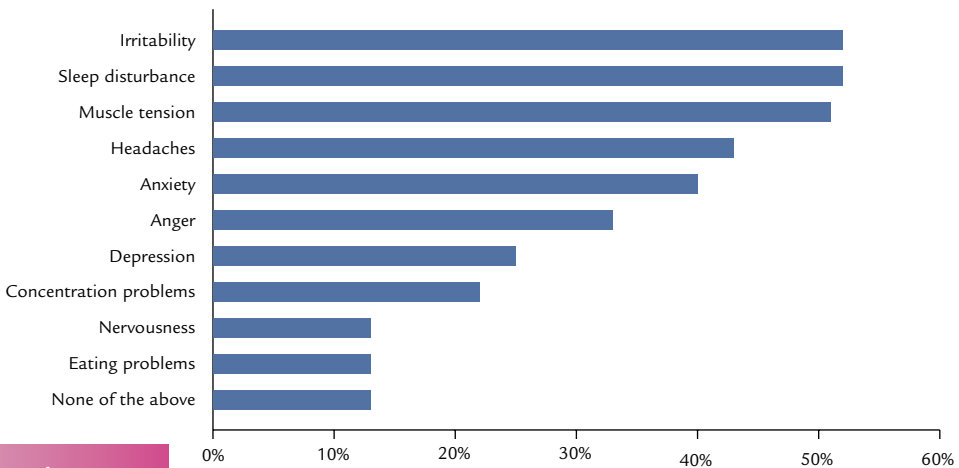
‘Possibly the most disconcerting finding is that among all magistrates, only 13 percent of respondents did not report any symptoms.’

(52 percent), experience sleep disturbance (52 percent), or experience muscle tension (51 percent) because of their job. At least one in four magistrates experienced depression (25 percent), anger (33 percent), anxiety (40 percent), or headaches (43 percent).

These figures closely resemble our findings from the 2019 survey, suggesting there has been no change in the stress symptoms experienced by magistrates. Possibly the most disconcerting finding is that among all magistrates, only 13 percent of respondents did not report any symptoms. Everyone else (87 percent) mentioned at least one symptom, and 30 percent mentioned five or more symptoms.

Higher workload and higher levels of stress were found to be correlated. In addition, magistrates who report lower levels of security in the court room or building are more likely to exhibit additional symptoms of stress.

**Figure 9:** *Stress symptoms experienced by magistrates*



‘Among those who had reported at least four symptoms, 85 percent said that the mental health support was inadequate.’

These findings raise the importance of mental health support to magistrates. Unfortunately, the vast majority of respondents (78 percent) reported that the kind of mental health support that is available to them is inadequate. Among those who had reported at least four symptoms,

85 percent said that the mental health support was inadequate.

To foster constructive engagement between magistrates and broader justice structures, respondents were asked what they would like to see in terms of support. This open-ended question generated a diverse range of responses. Some proposed the provision of additional resources (e.g., research assistance) to make the workload more manageable. Several magistrates wished to improve the complaint mechanisms, to improve the connection between magistrates and judicial leadership.

By far the most common response, however, was the demand for regular and professional debriefings and counselling opportunities, with 44 percent of all responses to this open-ended question specifically mentioned this as a top priority.

### 3.6 Court infrastructure and court staff

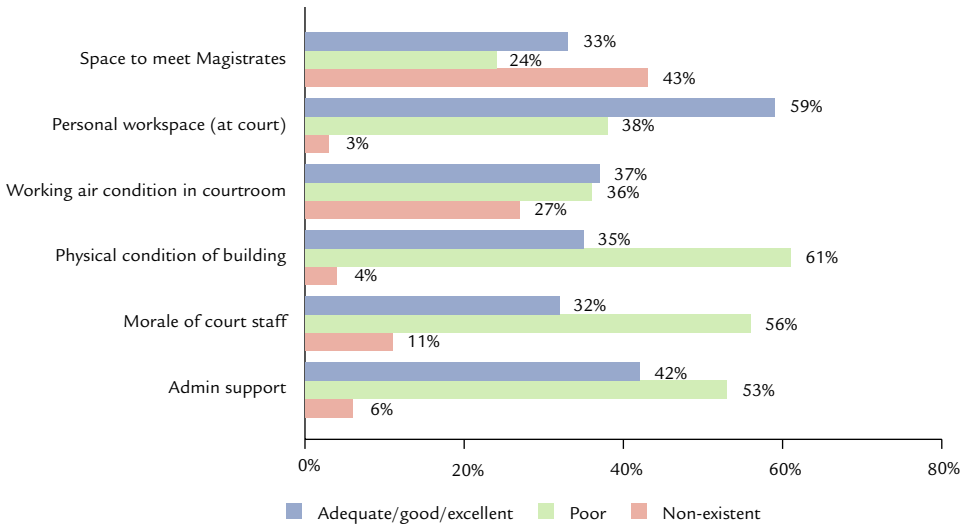
Only one-third of magistrates said that the physical condition of their court building is adequate, good or excellent, while all other respondents described it as “poor”. While respondents were most likely to rate their personal space well (59 percent), space to meet magistrates tends to be non-existent (43 percent). Staff morale, administrative support and the physical condition of the court building were all most likely to be rated as “poor” (more than 50 percent rating them poor). Ratings of administrative support were correlated with perceptions of morale, with poor ratings going together. This suggests magistrates’ morale is affected by the quality of administrative support.

‘Only one-third of magistrates said that the physical condition of their court building is adequate, good or excellent, while all other respondents described it as “poor”.’

### 3.7 Lockdown effects

Between March 2020 and the beginning of the administration of this survey in February 2022, South Africa experienced four Covid-19 infection waves, government restrictions, and associated economic impact. Although the courts are an essential service, Magistrates

**Figure 10: Ratings of court infrastructure and staff**



Courts did not continue as usual. Hearings for certain types of cases were temporarily postponed, while some matters were dealt with online; rules on this varied from court to court and time to time. It was postulated that this period of just over two years may have 1) led to increased pressure via backlogs created 2) improved IT-related services to meet the need for remote services. The survey sought to interrogate the impact on both aspects.

Respondents were asked to compare their current situation with their working conditions prior to March 2020. Six out of ten respondents said that their overall working conditions got worse, or much worse. Respondents were asked about their caseload now compared to before March 2020. The most likely response was that the caseload is higher or much higher (44 percent), while 42 percent said it was about the same, and a small fraction said it was lower (14 percent).

Recall that 52 percent said their caseload over the last 12 months was too high. Accordingly, it appears that the lockdown period has maintained or raised the caseload pressure on magistrates, particularly those who were already under stress. Unless specific interventions

‘Six out of ten respondents said that their overall working conditions got worse, or much worse.’

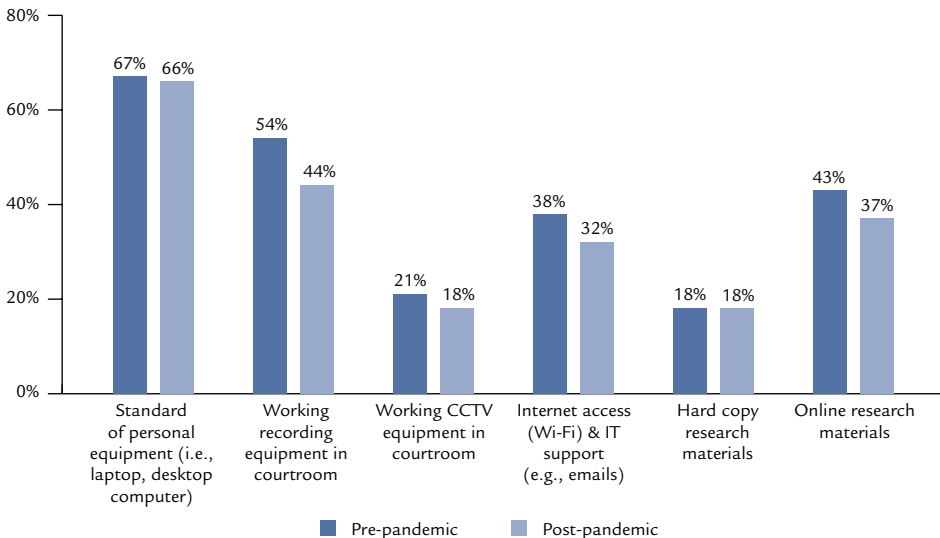
are introduced to address the backlogs created during lockdown, they are likely to persist in the system for some time, leading to a slowing of the system and reduced finalisations, and ongoing pressure on magistrates.

Unfortunately, access to online resources did not improve as a result of the pandemic, with more than half of respondents saying they still lack adequate access to internet and online materials. Although the standard of their personal equipment was described as “adequate/good/excellent” by two-thirds of magistrates, 27 percent said that their access to laptops and desk computers was poor. Only 18 percent said they had adequate or good access to hard-copy material.

Indeed, on most measures, access to IT related resources worsened rather than improved (see figure below), although some of the smaller differences may be due to sample error. What is clear, is that access to these crucial resources has not improved.

‘Unfortunately, access to online resources did not improve as a result of the pandemic, with more than half of respondents saying they still lack adequate access to internet and online materials.’

**Figure 11:** Access to resources described as adequate / good / excellent





### 3.9 Job satisfaction

In this survey magistrates' satisfaction with their work was explored in relation to:

- variety of work
- sense of achievement in the job
- opportunities for personal development; and
- pay and benefits.

Seven out of ten magistrates are satisfied with the variety of work, but only 1 in 8 is satisfied with their pay and benefits. The lack of adequate benefits (e.g., housing allowances, medical aid, parental leave) was identified as the single biggest issue in the magistracy. Salaries for magistrates are determined by the President on the advice of the Independent Commission for the Remuneration of Public Office Bearers. For some years, the salaries of more junior magistrates have increased by more than those of senior level magistrates. Despite this, even the largest increases for the most junior magistrates have been below inflation since 2019 (see table 4), as total inflation from 2019 to 2022 was 14 percent. The result is that real salaries of magistrates have worsened since 2019. Furthermore, it has become the practice that salaries are determined some months after their effective date; in September 2023, the increase for April 2022 was determined. Accordingly, although adjustments are backdated, the increases are not received at implementation date, and for some months inflation effects will be felt by magistrates until a new determination comes into effect. This is likely to place magistrates under financial pressure.

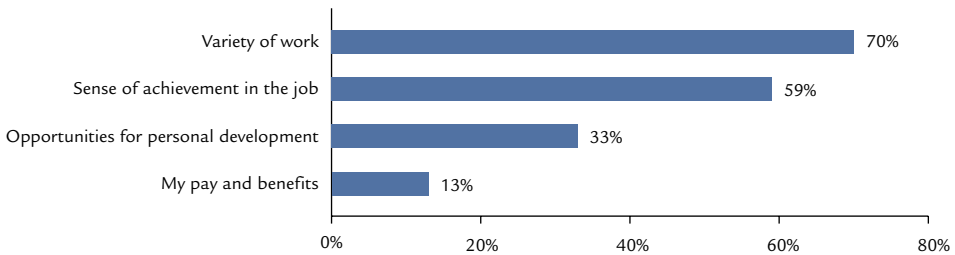
Six out of ten magistrates (59 percent) said they are satisfied with their sense of achievement in the job. However, only a third (33 percent) said they are satisfied with the opportunities for personal development (figure 12). Unsurprisingly, a strong correlation was found between satisfaction with opportunities for personal development, and ratings of the range and quality of judicial training.

'Six out of ten magistrates (59 percent) said they are satisfied with their sense of achievement in the job.'

**Table 4: Salary determination of Magistrates, as per Government Gazettes**

	January 2019 (1 April 2018)	June 2022 (1 April 2021)	Nominal increase since 2019	September 2023 (1 April 2022)	Nominal total increase since 2019
Special Grade Chief Magistrate	1436913	1521461	6%	1567105	9%
Regional Court President	1436913	1521461	6%	1567105	9%
Regional Magistrate	1289294	1365156	6%	1406110	9%
Chief Magistrate	1289294	1365156	6%	1406110	9%
Senior Magistrate	1068699	1131583	6%	1165530	9%
Magistrate	971649	1045835	8%	1077201	11%

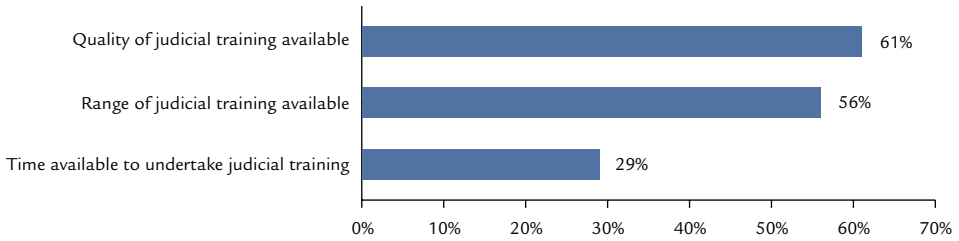
**Figure 12: Satisfaction with aspects of work**



Some 61 percent of respondents are satisfied with the quality of the training they receive, but only half are satisfied with the range of the training, while less than a third said they are satisfied with how much time they have available to undertake judiciary training. Training is only provided to magistrates subsequent to their permanent appointment; magistrates appointed in acting positions in all ranks, are not provided with any form of training.

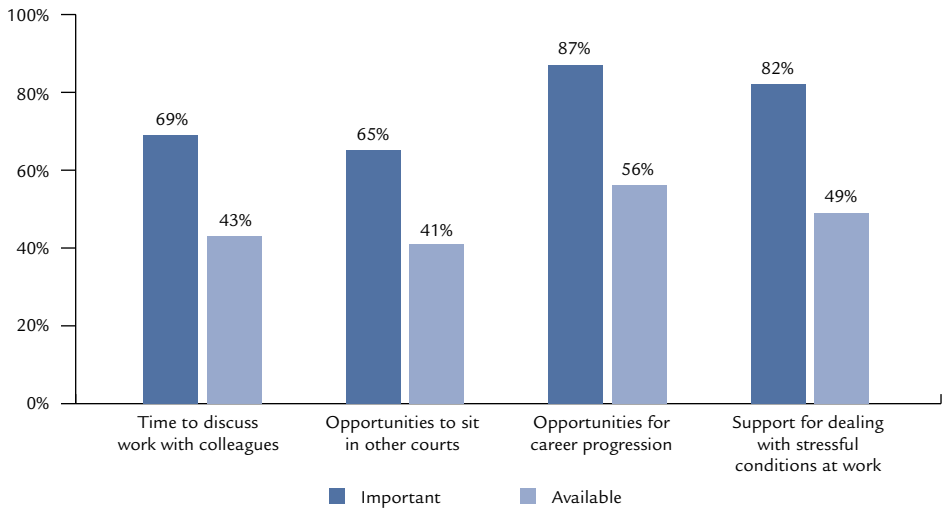
‘Training is only provided to magistrates subsequent to their permanent appointment; magistrates appointed in acting positions in all ranks, are not provided with any form of training.’

**Figure 13: Opinions on judicial training**



Opportunities for career progression and support for dealing with stressful working conditions were ranked most highly in importance, but only around half felt that they were available (figure 15).

**Figure 14: Importance and availability of opportunities**



### 3.9 Profession entry and professional development

It is common for many professions to have minimum entrance requirements. These are not well defined for magistrates in South Africa. Magistrates were asked about

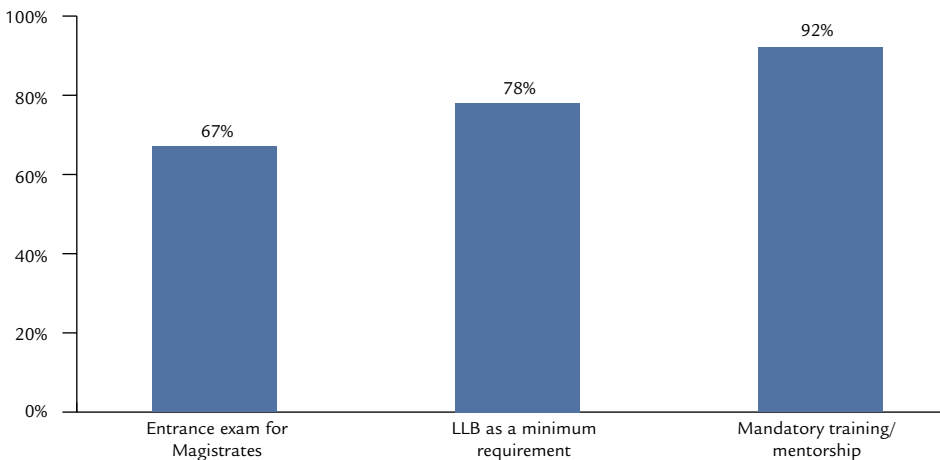
proposed entrance requirements for potential new entrants to the magistracy. Questions asked included:

- Which degree should a magistrate have completed at the time of their initial appointment?
- Should magistrates complete an entrance exam?
- Should magistrates complete mandatory training before entering the profession?

Some 78 percent of respondents thought new magistrates should at least have an LLB. Somewhat fewer (two-thirds) were in favour of an entrance exam. This aligns with magistrates' existing qualifications: some 63 percent of respondents have an LLB, and an additional 15 percent had completed an LLM, but suggests 1 in 5 do not have at least an LLB. This may explain the finding that nine out of ten respondents were in favour of mandatory training or mentorship for newcomers (see figure 10 below). This suggests magistrates feel that university qualifications and entrance exams may in practice be necessary but not sufficient preparation for the practical challenges of the magistracy.

'This may explain the finding that nine out of ten respondents were in favour of mandatory training or mentorship for newcomers.'

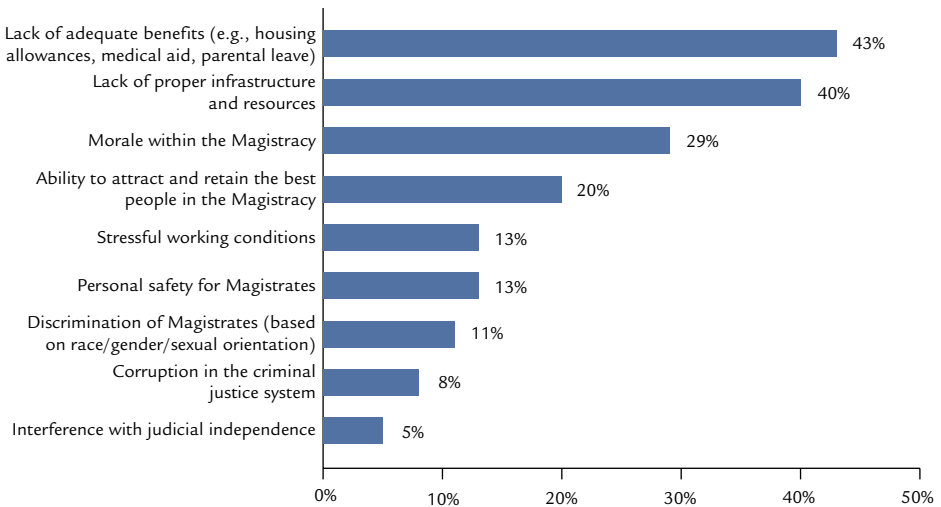
**Figure 15:** *Percent support of proposed requirements to enter magistracy*



### 3.10 Major issues in the magistracy

Given the findings above, it is unsurprising that when asked to identify major issues affecting the magistracy, lack of adequate benefits was most likely to be mentioned (43 percent), followed closely by lack of proper infrastructure and resources (40 percent). Also scoring high was morale within the magistracy (29 percent), and the ability to attract and retain the best people within the magistracy (20 percent).

**Figure 16:** Major issues in the magistracy

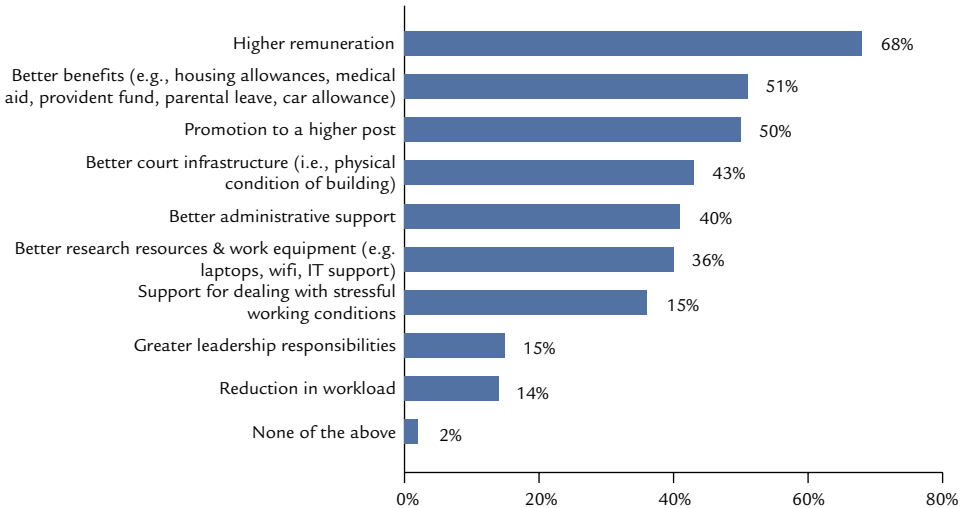


Retention of skills is a key issue, and there are currently a large number of vacancies (in 2023, some 46 vacancies in Gauteng and 37 in Western Cape alone) in the magistracy,<sup>3</sup> which places additional pressure on existing magistrates and increases reliance on acting magistrates. Magistrates were asked about a set of options that, if applied, would make it more likely for them to remain in the magistracy until full retirement age. Respondents were allowed to tick as many of the options as they liked. The question

3 <https://www.lssa.org.za/wp-content/uploads/2023/03/FINAL-ADVERT-Published-19.3.2023.pdf>

is intended to probe what would influence the loss of expertise and experience in the coming years. The results are in the figure below.

**Figure 17: Factors which would improve retention in the magistracy**



The results are remarkably consistent with the 2019 findings. At the top of the list is remuneration and benefits (red bars). Two-thirds (68 percent) of respondents said they were more likely to stay if they were to receive better remuneration, and 51 percent would stay if they were to receive better benefits (e.g., housing allowances, medical aid, provident fund, parental leave, car allowance). When asked what a fair salary for a person in their position would be, magistrates indicated an amount 21 percent and 24 percent higher for regional and district magistrates respectively, than the amounts they currently receive.

Also scoring high was promotion opportunities, and better court infrastructure. Given the workload results, it is perhaps surprising that only 14 percent suggested reduction in workload would convince them to stay in the magistracy. This suggests that magistrates expect a high workload as long as they are properly remunerated for it. Reducing workload alone is unlikely to influence retention.

‘Reducing workload alone is unlikely to influence retention.’



## 4. Discussion

---

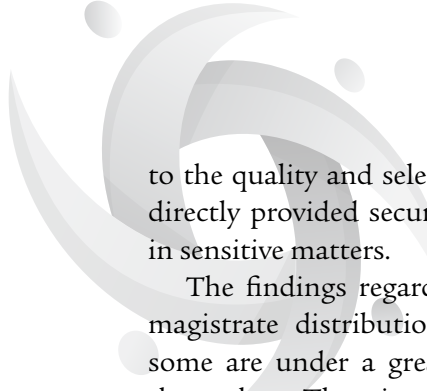
A hallmark of any well-functioning judicial system is that it defends and implements the rule of law without fear, favour or prejudice – in other words, judicial officers make just decisions without being influenced by inducements, whether positive or negative. The courts have remained the most trusted branch of government over the past two decades.

‘Far better attention should be paid to recruitment and vetting processes in the appointment of magistrates.’

However, there is a slow but steady increase in the faction of South Africans who view judges and magistrates as corrupt. It is extremely concerning that there is a perception of corruption amongst magistrates, from magistrates themselves. It is important to note that corruption may go beyond bribes and gifts, and may include threats, sexual harassment and blackmail. The extent is still small enough to take action to halt the deterioration in perceptions, which may well have a basis in reality, given the results of this survey. The results seem to suggest that some who have no place in the magistracy seem to have entered it. Thought must be given to ways of identifying and dealing with such persons, which may include a confidential complaints process. Far better attention should be paid to recruitment and vetting processes in the appointment of magistrates.

‘Coupled with sexual harassment, apparently increasing bribery and negative findings in relation to the security in and around courts, strongly suggests a need for specific security interventions.’

A deeply concerning finding of the 2022 iteration of this survey was the extent to which magistrates in the last year were exposed to physical harm and threats as a result of their work. Coupled with sexual harassment, apparently increasing bribery and negative findings in relation to the security in and around courts, strongly suggests a need for specific security interventions. This may include better security in and around courts, more attention being paid



to the quality and selection of court orderlies, and better directly provided security where magistrates are involved in sensitive matters.

The findings regarding workload and stress suggests magistrate distribution may not be optimal and that some are under a great deal more workload and stress than others. There is an urgent need to improve data from the department relating to court hours and caseload, at disaggregated level, to better determine resource allocation. The additional pressure created by the Covid-19 pandemic was unfortunately not matched by an increase in access to electronic and other resources which may ease magistrates' work. Faced with a range of challenges, such as high workload, stress and perceived lack of support from leadership, it would be beneficial for magistrates to access structured support for their mental and physical wellbeing. When asked about their mental health and physical wellbeing magistrates would like to see, the most common response was demand for regular and professional debriefings and counselling opportunities.

The importance of the magistracy and judiciary in our democracy cannot be overstated. Their quality, safety and retention must be a priority of the justice system. In this regard, attention must be paid not only to better inception training and ongoing quality control, but also ongoing support, and adequate benefits and remuneration taking into account the inflation environment, along with improvements to the general environment of the courts.





# 5. Recommendations

---

The research survey results reveal that there are at least three great challenges faced by magistrates. The first challenge is the perceived corruption of judges and magistrates. The second challenge is that of safety and security. As with the 2019 DGRU Magistrates' Perception Survey, magistrates still fear for their safety and security. The second challenge relates to workload and stress. As with the 2019 DGRU Magistrates Perception Survey, magistrates still perceive their work to be too much, and this negatively contributes to their stress. To resolve these three major issues in the Magistrates Courts, the following recommendations are made.

## 5.1 Recruitment and vetting process

---

The Magistrates Commission's recruitment and interview process is a functional process. However, this process is applicable only to permanent magistrates. Having observed the Magistrates Commission's interview and appointment process of permanent magistrates it appears that the vetting process is conducted properly. Same cannot be said for acting magistrates. Attention must be paid to recruitment and vetting processes in the appointment of magistrates. Even greater attention must be paid to the recruitment and vetting processes of acting magistrates. The first step would be to ensure that the appointment of acting magistrates is made known to everyone, as this is currently not the case. This would include the vetting process of acting magistrates.

‘Attention must be paid to recruitment and vetting processes in the appointment of magistrates.’

## 5.2 Safety and security

In the 2019 DGRU Magistrates Perception Survey, it was revealed that safety and security was a huge concern. In that iteration of the survey report it was noted and recommended that “magistrates cannot be expected to dispense justice while being left in harm’s way themselves. Security within the court buildings should be addressed as a matter of priority. It should be remembered that improved court security will benefit all court users, not magistrates alone.” This recommendation still stands, as this survey report has revealed that there has been no improvements in the safety and security of the magistrates.

While there are certain measures put in place in the Magistrates Courts, such as screening at the entry of the court building, these measures are just not enough. There should be cameras in every corner of a court building, and there should be security presence in each level of the court. Security should not only be provided at the entrance of the court but should be provided everywhere else in the court building.

## 5.3 Workload and stress

In the 2019 DGRU Magistrates Perception Survey it was revealed that magistrates perceive their workload to be too high and that this contributes to their high levels of stress. It was recommended that “[t]he system of monitoring court hours needs further analysis, as does the nature and extent of judicial work that takes place in chambers. Magistrates deal with a wide variety of matters”. It was also recommended that training of magistrates – both acting and permanent magistrates – must be improved. It was noted that “46% of respondents were not satisfied with or thought that the quality of training that they do receive could be better and 64% thought that the range of training available was unsatisfactory or could be better.” In addition to the need for training, it is imperative that regular and professional debriefings and counselling

‘Security within the court buildings should be addressed as a matter of priority.’

‘There should be cameras in every corner of a court building, and there should be security presence in each level of the court.’

‘In addition to the need for training, it is imperative that regular and professional debriefings and counselling opportunities must be provided to magistrates – both acting and permanent magistrates.’

opportunities must be provided to magistrates – both acting and permanent magistrates.

