

## Part 4 – Submitting recommendations for appointment

Part 4 of the Directions is relevant to recruitment advisory committees only.

### Timing

- 4.1. Advisory recruitment committees may submit recommendations for appointment at any time during the year. To assist with the planning of resources, advisory committees are asked to provide Magistrates HR with a twelve-month forecast of when recommendations are expected to be sent. Advisory committees should provide updates to Magistrates HR, should these forecasts change.

### Format

- 4.2. Submissions should be sent to Magistrates HR. Committees are encouraged to submit papers electronically to; [magistrateshrteam@judiciary.uk](mailto:magistrateshrteam@judiciary.uk).
- 4.3. Committees which prefer to send submissions in hard copy must use registered post or DX where available. The submission should be addressed to; Magistrates HR, 10<sup>th</sup> Floor, Thomas More Building, Royal Courts of Justice, Strand, London WC2A 2LL (DX: 44450 Strand).

### Composition of the submission

- 4.4. The submission must comprise the following:
- covering email or letter from the secretary or the secretary's delegate;
  - scan or photocopy of the application form for each recommended candidate;
  - completed candidates' submission details form, including detailed information on concerns and/or conflicts (**Appendix 4A**);
  - completed applicants and recruitment summary form (**Appendix 4B**);
  - scan or photocopy of each candidate's declaration and undertaking form (**Appendix 4C**); and
  - confirmation of DBS clearance for all candidates
- 4.5. All of the above elements must be included in submissions sent to Magistrates HR. Where committees are awaiting information, they must hold off from sending the submission to Magistrates HR.

### **The application form**

- 4.6. Secretaries must ensure that applicants have answered every applicable question on the form. Questions which are not applicable should be marked as such. No questions on the forms submitted with the recommendations should be left blank or crossed-out.
- 4.7. For any forms that have been completed more than **one year** ago, the advisory committee must have verified with the candidate that the details on the form are still correct. If they are not, the secretary should amend the form and make a note of any changes in the covering letter. Where there are several changes, committees may ask the candidate to complete a new form.

### **The declaration and undertaking form**

- 4.8. Where there are additional convictions/cautions have been disclosed, this information needs to be reflected in the declaration and undertaking form.
- 4.9. Advisory committees must keep the original forms for active magistrates, and destroy six years after they leave the bench.

### **Notable information about candidates**

- 4.10. The submission must include any information that needs to be highlighted about the candidates in the covering email/letter. This includes any information about candidates who have convictions, cautions or civil judgements and any candidates who are being recommended for appointment in circumstances where their eligibility may be called into question; for example, candidates over the age of 65 or whose employment (or that of a close relative) would normally disqualify them from appointment.
- 4.11. The Senior Presiding Judge is prepared to consider recommendations for appointment in these instances. However, in order to do so, will expect Magistrates HR to be able to advise about the advisory committee's rationale for recommending the candidate; for example, a committee may have decided that it is possible to put in place safeguards to effectively manage the risk of a potential conflict of interest created by a close relative's employment. This sort of information needs to be included with the submission.
- 4.12. Committees are asked to note that it is their responsibility to ensure that submissions contain the required information and that failure to do so is likely to delay consideration of appointments.

### **Candidates with convictions, cautions or civil orders**

- 4.13. The Senior Presiding Judge will not appoint anyone in whom the public would be unlikely to have confidence. Full information with regard to any

convictions, cautions or civil orders incurred by candidates recommended for appointment is therefore required.

- 4.14. The table below summarises the information that should be provided about candidates in these circumstances, including where they have a spouse/civil partner/partner/close family member or relative who has received convictions, civil court judgments, and penalty notices within the same timescale and framework for disclosure as applies to candidates.

Matter	Information Required
Driving offence dealt with by fixed penalty or attendance of a driving awareness course	<ul style="list-style-type: none"> <li>• Date of offence (at least year)</li> <li>• Nature of offence</li> <li>• Penalty (at least number of points and if possible amount of fine)</li> </ul>
Convictions and Cautions (including driving offences dealt with by a court)	<ul style="list-style-type: none"> <li>• Date of offence (at least year)</li> <li>• Nature of offence</li> <li>• (If applicable) Court at which the case was heard</li> <li>• Penalty imposed</li> <li>• Any explanation of circumstances in which offence occurred including any mitigating factors</li> <li>• Confirmation that the matter was explored at interview and rationale for decision to recommend for appointment.</li> </ul>
Civil judgments	<ul style="list-style-type: none"> <li>• Date of judgment</li> <li>• Details of the judgment</li> <li>• Any explanation of circumstances that led to the civil action including any mitigating factors</li> <li>• Confirmation that the matter was explored at interview and rationale for decision to recommend for appointment.</li> </ul>
Bankruptcy / Insolvency	<ul style="list-style-type: none"> <li>• Date candidate was discharged from bankruptcy (in the last five years)</li> <li>• Is an Individual Voluntary Arrangement in place?</li> <li>• Personal bankruptcy or related to a company directorship?</li> <li>• Has the candidate started a new business enterprise similar to the previous one that went insolvent?</li> <li>• Information on any outstanding creditors.</li> </ul>

## **Civil Proceedings**

- 4.15. Where a candidate has been divorced and has children under 18, committees should ascertain whether there are any maintenance orders in force, whether payments are up to date, and at which court they are enforceable. If the order is enforceable in the same local justice area to which the candidates may be appointed, the committee must confirm that it will make arrangements to transfer the order should it need to be enforced.

## **Family proceedings**

- 4.16. Applicants to family court are asked to disclose if they have been party to family proceedings, excluding adoption applications. This is to allow advisory committees to consider potential conflicts of interest. Advisory committees should provide the following information in respect of any such disclosures:
- Date that proceedings took place
  - Detail of proceedings/orders they may be named in
  - Confirmation that the matter was explored at interview and rationale for decision to recommend for appointment
- 4.17. Advisory committees must keep the original application forms for active magistrates, destroy six years after they leave the bench.

## **Disclosure and Barring Service (DBS)**

- 4.18. Advisory committees should only send submissions to Magistrates HR when they have received DBS clearances for all candidates. Recommendations cannot go before the Senior Presiding Judge until DBS clearance has been received.

### **If there is a delay with DBS checks**

- 4.19. Countersignatories can track the progress of a DBS check via the online tracking tool which can be accessed at:

[www.secure.crbonline.gov.uk/enquiry/enquirySearch.do](http://www.secure.crbonline.gov.uk/enquiry/enquirySearch.do)

- 4.20. In cases of substantial delay with DBS checks, committee secretaries should consider asking the Magistrates HR Team to remove the candidate(s) temporarily from the appointments submission to allow the submission with the DBS checked candidates to be sent to Magistrates HR.

- 4.21.

## **Magistrates HR procedures**

- 4.21. Once submissions are received in Magistrates HR, a member of the Team will acknowledge receipt.
- 4.22. Magistrates HR aims to process the submission, gain the approval of the Senior Presiding Judge, and inform the advisory committee of the new appointments within **30 working days** of the date on which a submission is received. This is dependent on all documentation being present and correct, provision of sufficient information on any concerns or potential conflicts, and on the Senior Presiding Judge's availability.
- 4.23. Magistrates HR will keep committees informed about progress on submissions and committees are welcome to contact the team for an update.

### **Consideration of recommendations**

- 4.24. The final decision on whether to appoint a candidate rests solely with the Senior Presiding Judge.
- 4.25. In the event that the Senior Presiding Judge does not accept a recommended candidate, Magistrates HR will provide the committee secretary with a letter explaining the Senior Presiding Judge's reason(s) for not appointing the candidate. The secretary may then share that letter with the candidate who has been rejected.

### **Procedure after candidates have been appointed**

- 4.26. Where the Senior Presiding Judge has approved the appointment of recommended candidates, they will be appointed to the Commission of the Peace for England and Wales and assigned to a local justice area.
- 4.27. Magistrates HR will send candidates a letter (copied to the secretary) and certificate of appointment.
- 4.28. Magistrates HR will advise secretaries of advisory committees of any measures required to be put in place for candidates to protect against perception, or real risk of, conflict of interest or compromised judicial independence.

## **Swearing-in of newly appointed magistrates**

- 4.29. Advisory committee secretariats must arrange for newly appointed magistrates to be sworn-in.
- 4.30. Committees are strongly advised to wait until they have received notification from Magistrates HR that the recommendations have been approved by the Senior Presiding Judge before setting the swearing-in date. Alternatively, committees should fix the date well in advance to allow for the possibility of unforeseen delays.

#### **Annual sittings report and bench list**

- 4.31. Advisory committees should complete the annual sittings report (**Appendix 4D**) and send it to Magistrates HR at the end of the financial year (end March). This information is used to respond to statistical inquiries, for example, about national average sitting levels across all the jurisdictions.
- 4.32. A copy of bench list(s) should also be sent at this time to enable cross-checking against the central database and rectification of any discrepancies.