



## Response of the Family Justice Council to the Consultation regarding Changes to the Rules relating to the Composition of Magistrates Courts, Bench Officers, elections and Justices Training and Authorisations.

1. The Family Justice Council is an advisory Non Departmental Public Body sponsored by the Judicial Office. It is an inter-disciplinary body responsible for providing independent expert advice on the family justice system to Government, principally through the Family Justice Board. The Council is chaired by the President of the Family Division, Sir James Munby. Its membership reflects all the key professional groups working in the family justice system and includes: judges, lawyers, social workers, Cafcass officers, health professionals and academics.

2. The Family Justice Council understands that this consultation arose from an examination by a committee of justices' clerks, magistrates, and others responsible for the administration of the Magistracy, of the current regulations regarding the way in which the Magistracy is constituted.

3. The existing regulations pre-date the use of IT in administration and relate to a time when Local Justice Areas were much smaller than they are now. A justices' clerk would control one or two courthouses- they now control several counties. The present regulations are also obsolete in that appointments to Panels for Youth and Family Magistrates are no longer made by Bench Meetings but by the Bench/Family Training and Development Committees. The proposals have the laudable dual aim of correcting anomalies and of streamlining the administration of the Magistracy. The chief proposal is to repeal the regulation that requires Bench meetings, Panels and *local* committees to oversee training needs - substituting a committee that covers the cluster areas: a Justices Authorisations, Approvals, Training and Appraisals Committee (JAATAC) covering all areas of Magistrates work with *one* representative from the Family Courts on each JAATAC.

4. The Family Justice Council, in responding to the Consultation, confines its observations to the elements of the proposals that affect the Family Court and the administration of family justice; these are reflected in Questions 5-9 and 11 of the response questionnaire.

### *Abolishing the need for Family Panels?*

5. Since the introduction of the single Family Court in April 2014 - and in the year leading up to its formation - magistrates working in this field have become increasingly detached from

the Magistrates' Courts and criminal work. Magistrates are known as, and function as, judges of the Family Court - and not as magistrates in the traditional sense.

6. The work of family magistrates is very different to crime, often takes place away from the Magistrates' Courts and requires different skills to that of criminal work- it is more inquisitorial and the decision process is complex and demanding. There is active involvement by magistrates in the Family Court in all aspects of case management and much interaction with unrepresented litigants. There is an increasingly high workload: judges at this tier of the Family Court account for about 50% of all cases. Family work is undertaken under the judicial control of the President of the Family Division. Each Panel is currently answerable to the Designated Family Judge and the Local Family Justice Board for judicial and performance issues. There is limited crossover into the work of the criminal magistracy.

7. Without a formal structure - a Panel - for family magistrates to work within it would be difficult to disseminate information, arrange training, liaise with the other tiers of the single Family Court and maintain the close working relationships that family magistrates have with other Family Court judges. Currently, Panel chairs spend many hours in meetings with the LFJB, DFJ and legal teams, in preparing briefings and feedback for panel members, monitoring performance and in liaison with HMCTS regarding family court facilities - as well as dealing with everyday problems that arise with the Family Court administrative teams (often geographically and administratively separate from the Magistrates' Courts offices). It is not appropriate for this role to be filled by someone other than a properly elected person from within the cohort of Family Court Magistrates. An election could only take place with a proper structure to support it: a Family Panel.

8. Furthermore, without regular panel meetings family magistrates would not be able to keep up with all the different aspects of family work that do not warrant inclusion in formal training plans. For example, briefings from the local Family judiciary, LFJB, Cafcass, social services and mediation services: all play an important local role in Family Court proceedings. The Council considers that meetings of specialist committees should be retained within the rules- twice a year - to enable such liaison and training to take place and ensure the necessary financial support is available.

9. It is important to consider the needs of those Family Court-only magistrates who have very little contact with their criminal-only colleagues and for whom formal membership of a Family Panel represents their only contact with their parent Bench.

#### *Introducing a JAATAC?*

10. It is probably appropriate that some elements of the magistrates' training programme are planned on a cluster basis. Merging all current functions into one 'super' Committee (JAATAC) would also save resources.

11. However, the areas covered will be very large, there will be very limited representation of individual Benches and their associated specialist groups (Youth/ Family). There is a danger that the JAATAC could not be expected to have sufficient knowledge of how the

constituent benches work. The proposals do not allow for adequate representation of the particular needs of magistrates in the Family Court.

12. The Family Justice Council considers that the current structure (for the Family Court-based on DFJ areas) for assessing training needs and undertaking appraisals remains appropriate but that planning and allocation of major training courses should continue to be undertaken on a cluster basis.

*Question 11: Should there continue to be a requirement that a family court consisting of justices should include, as far as practicable, at least one man and at least one woman?*

13. The Council considers that, whilst it is no longer necessary to make this a *statutory* requirement, it should be considered good practice. The President has confirmed that a family court hearing may be heard by a bench of two magistrates. In view of the recent decline in the numbers of magistrates serving in Family Panels this is becoming a more common practice and likely to remain so for the foreseeable future. Achieving gender balance in a bench of two magistrates can be challenging.

**29 April 2016**