

# Part 4 – Submitting recommendations for appointment

Part 4 of the Directions is relevant to Recruitment Advisory Committees only.

## Timing

- 4.1. Advisory Committees may submit recommendations for appointment at any time during the year. To assist with the planning of resources, Advisory Committees should agree a recruitment plan and share it with Judicial Office HR, as set out in Part 3 of these Directions. This should include a twelve-month forecast of when they expect to send recommendations for appointment to the Senior Presiding Judge. Advisory Committees should provide updates to Judicial Office HR, if and when these forecasts change.
- 4.2. Advisory Committees must submit recommendations for appointment within **10 working days** of the decision being made or, if not available at the time of the decision, receipt of the candidate's Disclosure and Barring Service (DBS) clearance.
- 4.3. If there are some candidates where additional information is required prior to submitting the recommendation for appointment to Judicial Office HR, this should not delay the submission of those candidates for whom all the information has been made. In this instance, outstanding applications should be sent as soon as all the outstanding information has been collated.

## Format

- 4.4. Submissions should be sent to Judicial Office HR. Advisory Committees must submit papers electronically to: [magistrateshrteam@judiciary.uk](mailto:magistrateshrteam@judiciary.uk) with a maximum of c.25 names per submission.

## Composition of the submission

- 4.5. The submission must include all of the following:
  - covering email from the Secretary or the Secretary's delegate;
  - scanned copy of the application form for each recommended candidate;
  - completed candidates' submission details summary form, including detailed information on concerns and/or conflicts (**Appendix 4A**);
  - scanned copy of each candidate's declaration and undertaking form (**Appendix 4C**); and
  - confirmation of DBS clearance for all candidates.

## The declaration and undertaking form

- 4.6. Where additional convictions/cautions/other matters of interest have been disclosed, this information needs to be reflected in the declaration and undertaking form (**Appendix 4C**).

4.7. Advisory Committees must keep the original forms (securely either digitally or physically) for active magistrates, and securely destroy all retained forms six years after they leave the bench.

### **Notable information about candidates**

- 4.8. The submission must include any information that needs to be highlighted about the candidates in the covering email. 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 less than five years from the statutory retirement age, or whose employment (or that of a close relative) would normally disqualify them from appointment; and
  - any candidates for whom there are possible safeguards to effectively manage the risk of any potential conflict of interest; and
  - any other information the Secretary considers relevant to any candidate.
- 4.9. The Senior Presiding Judge is prepared to consider recommendations for appointment in these instances but in order to do so, will expect Judicial Office HR to be able to advise about the Advisory Committee’s rationale for recommending the candidate.
- 4.10. Advisory 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**

- 4.11. The Senior Presiding Judge will not appoint anyone in whom the public would be unlikely to have confidence. More detail on this is available in Part 2 of these Directions. Full information about any convictions, cautions or civil orders incurred by candidates recommended for appointment is therefore required.
- 4.12. 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.

<b>Matter</b>	<b>Information Required</b>
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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>• 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>• 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> <li>• Has a debt relief order or interim debt relief order been made against them or entered into an arrangement with their creditors?</li> </ul>

### Civil proceedings

4.13. Where a candidate has been divorced and has children under the age of 18, Advisory 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

- 4.14. Applicants to the 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; and
  - Confirmation that the matter was explored at interview and rationale for decision to recommend for appointment.

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

- 4.15. Advisory Committees should only send submissions to Judicial HR when they have received DBS clearances for all candidates.
- 4.16. Recommendations for appointment cannot be considered by the Senior Presiding Judge until DBS clearance has been received.
- 4.17. Counter-signatories 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)
- 4.18. In cases of substantial delay with DBS checks, Advisory Committee Secretaries should submit those candidates for whom the DBS clearance has been received, and submit at a later date, the outstanding candidates.
- 4.19. Advisory Committees must advise Judicial Office HR on when they intend to submit the remaining recommendations for appointment to enable effective resource management within Judicial Office HR.

### **Judicial Office HR procedures**

- 4.20. Once submissions are received by Judicial Office HR, a member of the team will acknowledge receipt.
- 4.21. Judicial Office HR aims to process the submission, gain the approval of the Senior Presiding Judge, and inform the Advisory Committee of approved 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 the Senior Presiding Judge's availability.
- 4.22. Judicial Office HR will keep Advisory Committees informed about progress on submissions and Committees are welcome to contact the team for an update.

### **Consideration of recommendations**

- 4.23. The final decision on whether to appoint a candidate rests solely with the Senior Presiding Judge.
- 4.24. If the Senior Presiding Judge does not accept a recommended candidate, Judicial Office HR will provide the Advisory 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**

- 4.25. 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.
- 4.26. Judicial Office HR will send candidates a letter (copied to the Advisory Committee Secretary) and certificate of appointment.
- 4.27. Judicial Office HR will advise Advisory Committee Secretaries 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**

- 4.28. Advisory Committee Secretariats must arrange for newly appointed magistrates to be sworn in.
- 4.29. Advisory Committees are strongly advised to wait until they have received notification from Judicial HR that the recommendations have been approved by the Senior Presiding Judge before setting the swearing-in date.