



Ministry
of Justice

Lord Chancellor and Secretary of State's Directions for Advisory Committees on Justices of the Peace

For regions undertaking the Uplift
Pathway Programme (UPP) – North West,
South East and South West

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Introduction

These directions are for the use of regions undertaking the Uplift Pathway Programme (UPP) – North West, South East and South West. All other regions should use the original Lord Chancellor Directions.

The Lord Chancellor and Secretary of State's Directions for Advisory Committees on Justices of the Peace outlines the role and function of Advisory Committees alongside the recruitment and onboarding processes for magistrates.

These Directions are updated periodically to ensure continued effective and efficient operational practices.

The document is laid out in six parts:

- Part 1 – Advisory Committees
- Part 2 – Eligibility for the magistracy
- Part 3 – The selection process for magistrates
- Part 4 – Submitting recommendations for appointment
- Part 5 – Matters arising after appointment
- Part 6 – Reinstatement to the magistracy

Advisory Committees must adhere to these Directions and use the materials available in the Advisory Committee toolkit. It is recognised that the Directions cannot cater for every circumstance that will arise during a Committee's work. Committees should use sensible discretion in dealing with such issues, ensuring that they do not deviate from the spirit of the Directions. Where necessary, they should seek guidance from Judicial Office HR about any queries regarding the application of these Directions to specific issues.

The Lord Chief Justice is responsible for the appointment of magistrates¹, and has delegated² the power to appoint magistrates to the Senior Presiding Judge. The Lord Chancellor holds joint responsibility with the Lord Chief Justice for other matters pertaining to magistrates, including disciplinary responsibility. The Lord Chancellor, the Lord Chief Justice and the Senior Presiding Judge place considerable confidence in Advisory Committees and will generally act on their recommendations and support their decisions. However, there may be occasions when they disagree with a Committee's decision and overrule it. In doing so, they will provide the Committee with their reasons.

¹ Crime and Courts Act 2013

² Schedule 13 Crime and Courts Act 2013

Advisory Committees have a role in disciplinary proceedings and are part of a system in which statutory responsibility for judicial disciplinary issues is ultimately shared by the Lord Chancellor and the Lord Chief Justice³.

Hard copies of these Directions will only be made available in exceptional circumstances. Any requests for hard-copies, or for copies in alternative formats such as Braille, should be made to Judicial Office HR.

³ Judicial Conduct (Magistrates') Rules 2014:

https://jcio.sharepoint.com/Rules%20and%20Regulations/Judicial_Conduct_Magistrates_Rules_2014.pdf?originalPath=aHR0cHM6Ly9qY2lvLnNoYXJlcG9pbmQuY29tLzpiOi9nL0VXdTZ3RDIQQUdaRnRfQ1dENDdac0ZNQjhXbGVTLUZiczVuOWhCSXI0TmJCTFE_cnRpbWU9NWthZ3NoVWcyVWc

Part 1 – Advisory Committees

Status

- 1.1 The Lord Chancellor's Advisory Committees on Justices of the Peace are advisory non-departmental public bodies which carry out functions on behalf of the Lord Chancellor.
- 1.2 The Lord Chancellor determines the number of Advisory Committees, their organisation, structure, membership and operating practices.
- 1.3 Unless otherwise stated, the term 'Advisory Committee' refers to both Recruitment and Conduct Advisory Committees.

Functions

- 1.4 The functions of Recruitment Advisory Committees are to:
 - recruit and recommend to the Senior Presiding Judge (exercising functions on behalf of the Lord Chief Justice) candidates for appointment to the magistracy (in accordance with **Appendix 1A**);
 - recruit and recommend to the Lord Chancellor, candidates for membership of the Advisory Committee;
 - consider requests for review of decisions relating to recommendations for appointment;
 - encourage applications to the magistracy and Advisory Committee membership from underrepresented groups; and
 - consider and provide observations on the data gathered by the Committee Secretary as part of judicial resource exercises.
- 1.5 The functions of Conduct Advisory Committees are to:
 - ensure that magistrates fulfil their obligations to sit and complete required training, and maintain the commitments given by signing the Declaration and Undertaking form (**Appendix 4C**);
 - investigate allegations of misconduct by magistrates and make recommendations to the Lord Chief Justice and the Lord Chancellor in accordance with the Judicial Conduct (Magistrates) Rules 2014 and Justice of the Peace Rules 2016;
 - consider decisions by the Family Training, Approvals, Authorisations and Appraisals Committee (FTAAAC) and Justices' Training Approvals, Authorisations and Appraisals Committee (JTAAAC) where a magistrate has failed to reach the required standard;

- make any formal recommendation for removal to the Lord Chief Justice and the Lord Chancellor in accordance with the Judicial Conduct (Magistrates) Rules 2014 and the Justice of the Peace Rules 2016;
- manage post-appointment matters such as transfers across Local Justice Areas, re-appointments and re-activations and consideration of matters relating to sittings and leave of absence requests referred to the Advisory Committee by Bench Chairs (in accordance with Part 5); and
- maintain strategic oversight of sitting levels and leave of absences to ensure they are aware of issues that may impact upon future recruitment numbers.

Advisory Committee quorum

- 1.6 Where the full Advisory Committee is unable to meet, any review of a candidate's application not appointed to the magistracy will require a quorum of the full Advisory Committee comprising the Chair and no less than six members, a third of which should be non-magistrate members.

Advisory sub-committees

- 1.7 Sub-committees shall be comprised of a panel of at least a panel of two (in accordance with Part 3 sections on interview panels where recruitment sub-committees are concerned) and will exercise their functions on behalf of the Advisory Committee.
- 1.8 Sub-committees must not deviate from any guidance or instruction given to them by the Advisory Committee.
- 1.9 The authority of any sub-committee shall cease upon the final recommendation being made.

Advisory Committee Secretaries

Appointment

- 1.10 Each Advisory Committee will have a Secretary. Secretaries are appointed by the Judicial Office Appointments Team on behalf of the Lord Chancellor, on the recommendation of HMCTS Head of Legal Operations. New appointments will be confirmed in writing.
- 1.11 The Secretary may appoint a Deputy Secretary, with the agreement of the Advisory Committee Chair and HMCTS Head of Legal Operations; and may also delegate duties to other HMCTS staff.
- 1.12 Judicial Office HR should be notified of forthcoming changes in Secretaries and Deputy Secretaries.

Duties

- 1.13 The duties of the Secretary/Deputy Secretary are to:

- ensure that the Advisory Committee is fully conversant with, and adheres to, the policies and processes set out in these Directions, and to fulfil the responsibilities assigned to them by these Directions;
- make decisions about whether candidates are appointable at the pre-screening stage;
- provide advice to Advisory Committees to assist them in carrying out their functions – this might include advice on quality assurance of completed interview assessment forms, or advice on conduct related matters;
- provide the Advisory Committee with details of the number of new magistrates required following the Judicial Forecasting Protocol;
- oversee the recruitment of new magistrates and Advisory Committee members;
- acknowledge and oversee the appropriate scrutiny of applications;
- where necessary, seek references;
- arrange interviews and notify candidates;
- ensure reasonable adjustments are made to enable candidates with a disability to be interviewed;
- keep candidates informed of progress on, and about the outcome of, their application;
- prepare the appointments submission and the annual sittings report for the Advisory Committee; and
- support conduct investigations, as required by the Judicial Conduct (Magistrates) Rules 2014.

Advisory Committee Chairs

Lord-Lieutenants

- 1.14 The Lord Chancellor, with the agreement of the Lord Chief Justice, will usually invite Lord-Lieutenants to chair Advisory Committees.
- 1.15 Where an Advisory Committee area intersects with more than one lieutenancy, the Lord-Lieutenants concerned should agree which of them will chair the Advisory Committee. The role may be shared provided that the Advisory Committee has no objection.
- 1.16 A Lord-Lieutenant may continue to chair an Advisory Committee until they cease to be a Lord-Lieutenant.

Chairs appointed from Advisory Committee members

- 1.17 The Lord Chancellor, with the agreement of the Lord Chief Justice, will appoint Chairs of Advisory Committees who are not Lord-Lieutenants on the recommendation of the members of the Advisory Committee concerned.
- 1.18 It is for each Advisory Committee to decide how to reach their nomination. In the absence of an agreement, the Secretary should conduct a secret ballot. If that is inconclusive, the outgoing Chair will have the deciding vote.
- 1.19 Once appointed, the Chair will remain in the role for the period of their appointment to the Advisory Committee, unless they choose to resign earlier, or the Lord Chancellor terminates their appointment.

Role of the Chair

- 1.20 The Chair's role is to:
- represent the role of the Advisory Committee to the public as necessary;
 - ensure that the Advisory Committee meets at appropriate intervals and to chair the meetings;
 - hold discussions with Advisory Committee members who do not attend two consecutive meetings, or who do not contribute effectively to the Committee's work;
 - chair interviews for new Advisory Committee members;
 - ensure that new Advisory Committee members are inducted on appointment;
 - provide an assessment on request of an Advisory Committee member's performance if they are being considered for appointment to another public body; and
 - for Conduct Committees, chair meetings of Nominated Committee Members (NCM) and provide first point of contact with the Secretary on matters arising under Part 5 of these Directions and the general management of business of the committee under Judicial Conduct (Magistrates) Rules 2023.
- 1.21 It is recommended that the Chair nominate a Deputy Chair to carry out duties on their behalf. If the Chair is not a magistrate, it is recommended that a magistrate is chosen for the role of Deputy Chair.
- 1.22 The Chair, or nominated Deputy Chair may, with the Advisory Committee's agreement, act on behalf of the Committee.
- 1.23 The Chair, or nominated Deputy Chair, may act on the Committee's behalf without seeking its agreement in the following exceptional circumstances:
- an urgent matter must be resolved before a meeting of the full Committee or quorum can be convened; or

- a confidential matter arises which cannot be dealt with by the full Committee or quorum.

Advisory Committee membership

- 1.24 The Lord Chancellor appoints members of Advisory Committees with the concurrence of the Lord Chief Justice. The Lord Chancellor has delegated this function to officials in Judicial Office HR.

Size and composition

- 1.25 Decisions to vary the size of an Advisory Committee should be agreed by the Secretary and the Chair, who should also seek views of the Committee members as appropriate.

Recruitment Advisory Committees

- 1.26 To support effective panel composition, it is recommended that at least one third of members are non-magistrate members. This is to enable, as far as practicable, for one member of every interview panel to include a non-magistrate member.
- 1.27 At least one third of the magistrate members must be family magistrates. This is to enable, as far as practicable, one member of every family interview panel to be a family magistrate.

Conduct Advisory Committees

- 1.28 Conduct Advisory committees will be constituted entirely from Nominated Committee Members, each appointed on merit following the processes described below and in accompanying policy.
- 1.29 Committees should aim for one-third of its members to be non-magistrates and maintain a representation of family magistrate members.
- 1.30 Each Conduct Advisory Committee shall be made up of members with relevant skills and experience as demonstrated through the recruitment process as defined in the Appendices to this Part 1 of these Directions.⁴

Role of members

- 1.31 The role of Advisory Committee members is to carry out the functions specified by, and in accordance with these Directions.
- 1.32 Members are expected to:
- attend meetings, unless they have a valid reason for non-attendance – if a member fails to attend two consecutive meetings without good

⁴ Transitional provisions for re-constitution of Conduct Advisory Committees may be agreed by the Lord Chancellor and Lord Chief Justice in which case the details of the application and recruitment process will be contained in an accompanying policy document per 1.40 below

reason (to the satisfaction of the Advisory Committee Chair), that member is expected to resign from the Advisory Committee;

- Attend any training as required;
- contribute effectively to the Advisory Committee's work;
- sit a minimum of 7 interviews per year (members may be asked to do more, subject to local need). Members are expected to prioritise interviews in their local AC. Where local opportunities are limited members will be expected to conduct interviews through the national pool;
- adhere to the policies and processes set out in these Directions;
- follow any additional guidance issued by the Lord Chancellor and Lord Chief Justice or their delegates; and
- be familiar with rules/guidance relating to their area of work.

Terms of office

- 1.33 Advisory Committee members will be appointed for a nine-year term of office or, if earlier, until they reach the statutory retirement age.
- 1.34 Applicants are not required to guarantee that they will serve a full nine-year term.
- 1.35 Appointments may be extended for a maximum of one year, but only for exceptional business reasons. Committees should contact Judicial Office HR to discuss applying to extend an appointment. Any extension that extends the total term of appointment beyond ten years must be notified to the Commissioner for Public Appointments.
- 1.36 Former members who have completed a nine-year term will not be reappointed.
- 1.37 Former members who previously served less than a nine-year term, are not precluded from serving a further term. The cumulative total of both terms must not exceed nine years, excluding extensions.
- 1.38 The cumulative total of terms for any members moving between Recruitment and Conduct Advisory Committees must not exceed nine years, excluding extensions.
- 1.39 The Lord Chancellor may terminate a member's appointment with the concurrence of the Lord Chief Justice, or the member concerned.

Transitional Provisions on reconstitution of Conduct Advisory Committees

- 1.40 The Lord Chancellor and Lord Chief Justice may agree transitional provisions for the reconstitution of Conduct Advisory Committees in order to support the implementation of the NCM roles.

Reassignments (transfers) to other Local Justice Areas

- 1.41 If an Advisory Committee member wishes to transfer from their current Advisory Committee to a different one, the member should approach their Advisory Committee Chair to discuss their reasons for wanting to transfer. Generally, this will be because they have either changed home address or the location of where they work.
- 1.42 The Secretary of the Advisory Committee to which the member is currently appointed should contact the Secretary of the Advisory Committee to which the member wishes to transfer to inform them of a transfer request.
- 1.43 When making the decision for the transfer the Advisory Committee will need to consider whether they have any vacancies and the balance of magistrates/non-magistrates on their committee. The timings of any move should be discussed and agreed with the current Advisory Committee Chair to ensure that ongoing Committee commitments are not affected.
- 1.44 Once arrangements are in place, Judicial Office HR should be informed of the effective date of the transfer so that the Judicial Office HR database can be amended. Advisory Committee members can only serve for nine years in total, regardless of how many Advisory Committees they may have served in (unless the exceptions in 1.40 and 1.45 apply).

Exclusions from membership

Magistrates

- 1.45 There are few factors which would disqualify a serving magistrate from membership of an Advisory Committee or sub-committee.
- 1.46 Bench Chairs and Deputy Bench Chairs are excluded from membership of Advisory Committees.
- 1.47 Conduct Advisory Committee members (NCMs) must not be members of the Judicial Training Approvals, Appraisals and Authorisation Committees (JTAAAC) or Family Training Approvals, Appraisals and Authorisation Committees (FTAAAC) as there is a potential conflict of interest should these Committees decide to report a magistrate to the Conduct Advisory Committee on the grounds of lack of competence. Where there is an essential business need, recruitment Advisory Committee members may be members of JTAAACs or FTAAACs.
- 1.48 For non-magistrate panel members, Advisory Committees should use the factors affecting eligibility (set out in Part 2 of these Directions) as a broad guideline on eligibility.
- 1.49 Advisory Committee members who are adopted as a parliamentary candidate, or appointed as a full-time political agent, for a constituency which intersects with, or is adjacent to, the Advisory Committee area must resign from the Committee.

Non-magistrate roles

- 1.50 Former magistrates should not be recruited as non-magistrate members of Advisory Committees or sub-committees, otherwise the Committees will lose the fresh perspective that people who have no background in the magistracy bring to the role.

Bench chairs

- 1.51 While it is not expected that Bench Chairs/Deputy Bench Chairs should be routinely invited to every Advisory Committee meeting, Committees should invite them to at least one general meeting per year.
- 1.52 If necessary, meeting agendas should be constructed to allow Bench Chairs/Deputy Bench Chairs to withdraw at such time as the Committee comes to matters such as candidates for appointment and conduct cases.
- 1.53 Bench Chairs must not sit in on interviews for new magistrates or be present during discussions about candidates or conduct matters.
- 1.54 Outside these constraints it is permissible for Bench Chairs/Deputy Bench Chairs to be invited to attend Advisory Committee meetings in a non-voting “consultant” capacity if they can provide relevant and first-hand information that would help the Committee to have the most informed debate about certain issues.

Recruiting members to Advisory Committees

- 1.55 The recruitment and selection process for Advisory Committee members falls within the remit of the Office for the Commissioner for Public Appointments (OCPA) and must accord with the principles underpinning the Cabinet Office Governance Code on Public Appointments⁵.
- 1.56 Any recruitment activity which entails a cost must be given prior approval by the relevant HMCTS or Judicial Office official with budget responsibilities.
- 1.57 It is recommended that advertisements emphasise that the Committee would particularly welcome applications from groups under-represented amongst its membership and specify those groups when advertising.
- 1.58 Advisory Committees recruiting in Wales are required to give particular attention to the requirements of their respective Welsh language schemes.
- 1.59 Applicants to Advisory Committees should complete the application form to Advisory Committees on Justices of the Peace (**Appendix 1B (Part 2)**). Candidates should also be made aware of the guidance for applicants to Advisory Committee membership (**Appendix 1B (Part 1)**).

Magistrate members

⁵ <https://www.gov.uk/government/publications/governance-code-for-public-appointments>

- 1.60 Vacancies for magistrate members must be advertised to all magistrates within the area.

Non-magistrate members

- 1.61 Vacancies for non-magistrate members must be advertised on the Cabinet Office's Public Appointments website:
<https://publicappointments.cabinetoffice.gov.uk/>.
- 1.62 Completed application forms should be emailed with any attachments to:
publicappointmentsteam@justice.gsi.gov.uk.
- 1.63 For enquiries relating to the placement of vacancies contact the same email address.
- 1.64 All publicity material should display the Commissioner for Public Appointments' regulatory kite mark (available from Judicial Office HR).
- 1.65 Spent convictions should not be disclosed by non-magistrate member applicants during the application process. Where a spent conviction has been disclosed erroneously, it should not be considered by the Advisory Committee or Judicial Office and cannot be grounds for excluding a person from any office or for prejudicing them in any way.

Application and selection

Application procedure for Advisory Committee members

- 1.66 These principles apply to the handling of all applications:
- applications must be handled fairly, consistently and expeditiously;
 - candidates must be assessed on merit – no other factors must be considered;
 - candidates must be treated with courtesy and respect;
 - it is unlawful for candidates to be excluded or disadvantaged based on any protected characteristics as set out in the Equality Act 2010⁶; and
 - information about an individual gained through the selection process is confidential.
- 1.67 The application and information pack for candidates should contain the following:
- Appendix 1A – Magistrate Recruitment Activity Parameters;
 - Appendix 1B (Part 1) – Applying to become a member of an advisory committee: notes for guidance;

⁶ <https://www.legislation.gov.uk/ukpga/2010/15/contents>

- Appendix 1B (Part 2) – Application for appointment as a member of the Lord Chancellor’s Advisory Committee on Justices of the Peace;
- Appendix 1C (Part 1) – Reference for an applicant for appointment as a non-magistrate member of a Lord Chancellor’s advisory committee on justices of the peace;
- Appendix 1C (Part 2) – Reference for an applicant for appointment as a non-magistrate member of a Lord Chancellor’s advisory committee on justices of the peace – guidance for referees;
- Appendix 1D – Diversity and data monitoring questionnaire; and
- Appendix 1G – Declaration for register of Advisory Committee members’ interests.

1.68 Applicants must complete the standard application form at **Appendix 1B**.

1.69 A reference must be sought for non-magistrate applicants using the form at **Appendix 1C**.

1.70 Applicants must complete the diversity and data monitoring questionnaire at **Appendix 1D**.

1.71 All candidates for committee membership must be assessed solely on merit against the criteria set out at **Appendix 1C**. No other factors may be considered.

Panels

1.72 The Advisory Committee should establish an appointments panel composed as follows:

1.72.1 For the Recruitment Advisory Committees:

- the Advisory Committee Chair (or nominated Deputy Chair) to chair the panel;
- one Advisory Committee member; and
- an independent panel member, who should be a member from a different Advisory Committee.

1.72.2 For Conduct Advisory Committees:

- One Advisory Committee member;
- An independent panel member, who should be a member from a different Advisory Committee; and
- The Secretary to the Advisory Committee.

1.73 At least one person on each panel must be a non-magistrate member.

- 1.74 Candidates will not generally be reimbursed for the cost of travelling to and from interviews, or for any other expenses incurred in the process of pursuing their application. Any decision made locally to reimburse costs to individual candidates would need to be given prior approval by the appropriate HMCTS senior official.

Independent Panel Member

- 1.75 According to the Cabinet Office Governance Code on Public Appointments states there is no requirement to differentiate between magistrate and non-magistrate Advisory Committee members. Both are recognised within the definition of an 'independent member'.
- 1.76 The selection panel must be able to assess candidates impartially against the selection criteria in line with the principles of fairness, openness and appointment on merit. In accordance with the Cabinet Office Governance Code on Public Appointments, this assessment should aim to include an external perspective, which will normally be ensured by having one member of the panel who is independent of the appointing Advisory Committee area to which the appointment is being made.
- 1.77 The role of the independent panel member is to provide external challenge and perform as an effective panel member and to participate fully in the selection process including participation on the interview panel and taking part in the decision making on the final determination of candidates suitable for appointment.
- 1.78 The Commissioner for Public Appointments has agreed that, for reasons of proportionality, a magistrate member from a neighbouring Advisory Committee is capable of offering external challenge, therefore should there be a requirement to do so the independent panel member for Advisory Committee appointments can be met by sourcing a magistrate member from a different Advisory Committee area to sit in on all interviews for appointments to Advisory Committees and does not need to be a non-magistrate member.
- 1.79 The independent panel member can either be a magistrate or non-magistrate member from a different Advisory Committee for conduct committees, noting 1.77 above.
- 1.80 HMCTS will meet reasonably incurred travel and subsistence costs of the independent panel member. These should be approved in advance by the appropriate HMCTS senior official.

Candidates with disabilities

- 1.81 Reasonable adjustments should be made to enable candidates to attend interviews.
- 1.82 Candidates with a disability must not be asked any questions about their disability, or how they think it might affect their ability to serve on an Advisory Committee. This includes questions about travelling to meetings/access to

buildings. If a candidate attempts to discuss such topics at their interview, they should be informed that it is not appropriate to do so and reassured that the purpose of the interview is to assess them solely on merit.

Interview

- 1.83 There is no set format for the questions that should be asked at interviews. As a general guideline, interview panels should ask open questions which give candidates the opportunity to provide evidence against the criteria set out at Appendix 1C. This could, for example, be achieved through discussion of candidates' skills and experience gained from employment or in voluntary roles including, where applicable, the magistracy.
- 1.84 Panel members may make their own notes during the interview when they are not talking to the candidate. Each panel member should make a note of their own assessment before anyone expresses their views about the candidate. The panel chair should then ask each member for their views, before giving their own view.
- 1.85 The panel chairs must complete the assessment form (**Appendix 1E**) after each candidate has been interviewed and sign the confirmatory statement (**Appendix 1F**). The signed statements should be attached to the completed assessment forms.
- 1.86 All individual notes must be destroyed at the end of the interview session.
- 1.87 While candidates should leave the interview feeling they have been properly tested, they should feel that this has been done with courtesy and professionalism.
- 1.88 Where a spent conviction has been disclosed erroneously, it should not be considered by the Advisory Committee or Judicial Office as a spent conviction, and cannot be grounds for excluding a person from any office or for prejudicing them in any way in any occupation or employment.

Appointments

- 1.89 Recommendations for appointment should be submitted to Judicial Office HR (acting on behalf of the Lord Chancellor). ACs must make all non-magistrate member recommendations via the Avature ATS process.
- 1.90 All recommendations should be accompanied by the following documents:
 - list of the candidate(s) recommended for appointment;
 - copies of completed **Appendices 1B – 1G** for each candidate;
 - confirmation of a basic Disclosure and Barring Service clearances for non-magistrate members;
 - copy of any recruitment materials, and details of how and where vacancies were publicised; and

- list of any candidates not recommended for appointment.
- 1.91 Judicial Office HR will process the appointments and then inform the new appointees and the Advisory Committee.
 - 1.92 A list of the new appointments will also be announced on gov.uk. Details of any declared significant political activity of a successful candidate will be published when the appointment is announced.
 - 1.93 If Judicial Office HR has concerns about a candidate recommended for appointment, the Head of Judicial Office HR will contact the Secretary to discuss the matter.

Disclosure and Barring Service (DBS) clearance

- 1.94 Each committee will have a designated DBS counter signatory for new non-magistrate Advisory Committee members.
- 1.95 If further guidance is required, the DBS publishes useful guidance online, including for applicants. This information can be accessed via the following website: www.gov.uk/disclosure-barring-service-check.
- 1.96 Advisory Committees should allow a minimum of **ten working days** for DBS checks to be completed.
- 1.97 Advisory Committee counter-signatories do not receive copies of disclosure record certificates from the DBS. Once candidates have received a DBS certificate, they must provide the original or a scanned copy to the Secretary to confirm.

Review of decision not to recommend for appointment

- 1.98 Candidates not recommended for appointment following an interview where they did not meet the required standard are entitled to seek a review of the decision if:
 - the selection process has been misapplied; or
 - a member of the interview panel behaved inappropriately.
- 1.99 The candidate must set out how they were prejudiced on either of the above grounds for their appeal to be considered. The candidate must have requested and considered feedback before requesting a review of their application outcome.
- 1.100 Candidates should be made aware of this review process and given a deadline of **fifteen working days** from the date of receipt of feedback to submit their request for a review which must include details of their grounds for requesting a review. Requests for review received after the deadline should not be taken forward unless there are exceptional circumstances.
- 1.101 There is no entitlement to seek a review of the results of the application sift, where they have been rejected on eligibility grounds, or for candidates who

reached the required standard at interview but were not recommended for appointment due to vacancies being filled by other candidates scoring more highly. Communication to such candidates should make it clear that the Advisory Committee's decision on non-recommendation is final.

- 1.102 The Advisory Committee is responsible for reviewing decisions in the first instance and should do so within **twenty working days** of receiving a request for a review.
- 1.103 Where it is not practicable for the full Advisory Committee to review the decision, a separate review quorum of three Advisory Committee members should be convened to do so. These three members should include both magistrate and non-magistrate Committee members.
- 1.104 Where applicable, it is important for the recollections of the panel members who took part in the interview to be sought and considered as part of the review process. This information may also be required if the matter is subsequently referred to the Senior Presiding Judge for consideration.
- 1.105 The Advisory Committee or review quorum may decide to uphold the decision. Alternatively, they may decide that the candidate should be re-interviewed by a different panel.
- 1.106 Candidates should be notified within **five working days** of the outcome of the review and be given reasons for the decision made. They must also be advised that, if they do not accept the decision, they may request a further review by the Senior Presiding Judge.

Request for review by the Senior Presiding Judge / Deputy Senior Presiding Judge

- 1.107 A review of a decision made by an Advisory Committee can be requested by a candidate and will be considered by either the Senior Presiding Judge or Deputy Senior Presiding Judge. The Senior Presiding Judge or Deputy Senior Presiding Judge will only consider upholding a request for a review if there is clear evidence that the selection process has been misapplied or that a member of the interview panel behaved inappropriately.
- 1.108 If the Advisory Committee receives a request for a review of their decision, this should be forwarded, with all relevant papers, to Judicial Office HR within **five working days**.
- 1.109 The target for completion of a review by the Senior Presiding Judge or the Deputy Senior Presiding Judge for candidates is **thirty-five working days** from receipt of all relevant papers. However, occasional delays may occur because of demands on the Senior Presiding Judge's time.
- 1.110 The decision by the Senior Presiding Judge or the Deputy Senior Presiding Judge is final.
- 1.111 The Senior Presiding Judge or the Deputy Senior Presiding Judge may decide to uphold the Advisory Committee / review quorum's decision, or may

decide that the candidate must be re-interviewed. Candidates should be notified in writing of the outcome of their review by Judicial Office HR within **10 working days** of a decision by the Senior Presiding Judge or the Deputy Senior Presiding Judge. The letter will be copied to the Secretary of the Advisory Committee.

- 1.112 If the Senior Presiding Judge or the Deputy Senior Presiding Judge does not uphold the Advisory Committee's decision, Judicial Office HR will provide the Secretary with a summary of any reasons given.

The role of the Secretary in relation to interviews

- 1.113 The Secretary should not sit in on interviews for recruitment committees, although they may observe interviews by prior arrangement. However, there should always be a Secretary or nominated Deputy available to advise interview panels on any administrative or policy issues in connection with the selection process. The Secretary will form part of the interview panel for conduct committees.

- 1.114 Secretaries should also quality-check a sample of completed assessment forms and raise any issues or concerns with the panel chair.

Reasonable adjustments for non-magistrate panel members

- 1.115 Judicial Office HR will write to the candidates recommended for appointment as non-magistrate members. To ensure compliance with the Equality Act 2010, the appointment letter will ask whether the candidate requires reasonable adjustments to assist them in carrying out the duties of a committee member, for example specialist equipment or adaptations to buildings.
- 1.116 If the candidate requests reasonable adjustments, Judicial Office HR will contact the Advisory Committee Secretary to discuss how arrangements will be put in place locally to assess the practicability of providing those adjustments.
- 1.117 The presumption must always be in favour of finding ways in which a suitable candidate with a disability can be appointed. Advisory Committees should be as flexible as possible in considering how that could be achieved.

Appointment without recommendation from an Advisory Committee

- 1.118 The Lord Chancellor, with the agreement of the Lord Chief Justice, may in exceptional circumstances make an appointment without seeking a recommendation from a panel.

Public Appointment Assessors

- 1.119 The Commissioner for Public Appointments may from time-to-time audit Advisory Committee member appointments or to perform 'spot checks' on recruitment and selection processes to ensure that they adhere to the Governance Code on Public Appointments.

1.120 Judicial Office HR will help to facilitate this process and advise Committees accordingly.

Retention of Records

1.121 Advisory Committees must retain all documentation relating to the recruitment and selection of unsuccessful candidates.

1.122 Documentation for unsuccessful candidates must be securely destroyed after two years of date of receipt of application.

1.123 Personal information of successful candidates must be retained whilst they are members and must be securely destroyed after six years after they leave the role.

Training

1.124 Newly appointed Recruitment Advisory Committee members, including the Lord-Lieutenant or other appointed Chair of the Advisory Committee, must complete the required⁷ training before taking part in selecting candidates for the magistracy. Newly appointed Conduct Advisory Committee members must complete any required training before participating in conduct matters.

1.125 Non-family magistrate members of recruitment Advisory Committees must:

- undertake family familiarisation training; and
- observe at least one session of the family court.

1.126 Non-magistrate members must have at least two tutored observations in court following their appointment. Non-magistrates will not be able to attend magistrate training as a right, although some elements may be open to them, by invitation of Secretaries if deemed useful to provide a wider context and understanding of the role of the magistrate. It is inappropriate for non-magistrate members to become associate members of the Magistrates' Association.

1.127 HMCTS will provide Advisory Committees with information about the available training.

1.128 Any Advisory Committee member who refuses to attend training is liable to be removed from their role.

1.129 Advisory Committee Chairs, Deputy Chairs, Secretaries and Deputy Secretaries should attend the training required of their Advisory Committee members, if they have not already done so.

⁷ HMCTS delivers training to new AC members under the Memorandum of Understanding agreed with Judicial Office. The Judicial Office are the content owners of the training material.

Conduct and Complaints

- 1.130 To maintain public confidence in the work of Advisory Committees, Chairs, members, and Secretaries must abide by the seven principles set out on the standards in public life: Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership. For further information see: <https://www.gov.uk/government/publications/the-7-principles-of-public-life>.
- 1.131 Complaints made against Advisory Committee Chairs, members or Secretaries should be dealt with according to the guidance at **Appendix 1K**.

Matters to bring to the attention of the secretary

- 1.132 Members must inform the Advisory Committee Secretary:
- of any impending criminal or civil proceedings against them, or in which they become involved in any capacity, and of the outcome;
 - if they become bankrupt or involved in any other financial difficulties, or if a company of which they are a director goes into liquidation;
 - if a spouse, civil partner, partner, family member or close relative is involved in any criminal proceedings, and of the outcome; or
 - if they intend to accept a position or office which would have disqualified them from appointment to the Committee.

Register of interests

- 1.133 New members must complete a declaration on appointment (**Appendix 1G**) to enable the Advisory Committee and any sub-committees to maintain a register of interests (**Appendix 1H**).
- 1.134 Advisory Committee Chairs and Secretaries should remind members at least annually of the need to keep the register up to date. The register must be made available to anyone who wishes to see it.
- 1.135 The Secretary must notify Judicial Office HR if a member takes on work or a personal interest that might cause a potential conflict of interest.

Expenses

- 1.136 Applicants for Advisory Committee membership are not entitled to be reimbursed for expenses incurred in the process of pursuing their application.
- 1.137 Advisory Committee Chairs and members attending meetings (business, interviews or conduct investigation panels) of Advisory Committees, or attending mandatory training, may claim the applicable expenses from HMCTS.
- 1.138 Secretaries should ensure that information about expenses and the claims process is made available to Advisory Committee Chairs and members.

Legal proceedings

- 1.139 Unless they act dishonestly, in bad faith, or recklessly, Advisory Committee Chairs, members, Secretaries, Deputy Secretaries and HMCTS and Judicial Office administrative support staff will not incur personal legal liability or be expected to bear the cost of responding to legal proceedings in or in connection with things done or omitted in the exercise of their duties.
- 1.140 If an Advisory Committee is threatened with, or becomes aware of, legal proceedings brought by a candidate or a serving magistrate, the Secretary must inform Judicial Office HR immediately.

Advisory Committee relationships with HMCTS, Bench Chairs and family panel chairs

- 1.141 HMCTS provide the Secretary and support staff for Advisory Committees. The views of the HMCTS administration and Bench Chairs should be sought by inviting them to the relevant part of the Advisory Committee meeting.
- 1.142 Other than the Secretary in appropriate cases – particularly conduct cases – HMCTS administrative staff must not participate in other deliberations of the Advisory Committee, including discussions on individual applications or investigations carried out by the Advisory Committee.
- 1.143 It is important for there to be productive working relations between Advisory Committees and Bench Chairs/Deputy Bench Chairs who should be involved in discussions about the needs of the bench, facilitated by the Advisory Committee Secretary or Deputy. For example, Bench Chairs have responsibility for managing sittings and granting leave of absence up to 12 months in any 24-month period. They may refer cases to the Advisory Committee where necessary and must provide a retrospective annual or bi-annual report to the Advisory Committee.
- 1.144 Advisory Committees will need to discuss proposed recruitment plans facilitated by Secretaries or Deputies, with chairs of Family Training, Approvals, Authorisations and Appraisals Committees around the needs of the family panel, and whether it is necessary for the Committee to recruit candidates directly to the family panel.