

# PROTOCOL FOR DEDICATED COURT LISTS IN THE MAGISTRATES COURTS

## Introduction

1. Following agreement in principle by the Lord Chief Justice and the Secretary of State for Constitutional Affairs and Lord Chancellor that it would be desirable to make provision for the hearing in the Magistrates Courts of certain matters in relation to drugs offences by “Drugs Courts”, it is necessary to set out the procedures how this and other dedicated lists or courts will be established and operate in practice.
2. This protocol sets out the procedures to be followed. The amount of input, consultation and control will vary depending on the needs, aims and potential impact of the proposals in individual cases, but the procedures set out in this protocol must be followed. This protocol does not apply to arrangements that may be needed for listing cases on a particular day to meet short term specific problems at a particular court; these will be dealt with by the Justices Clerk under the general guidance of the judicial members of the Justices Issues Group.
3. There are two ways in which courts that deal with certain types of case can be established:
  - **Designated statutory courts:** Statutory provisions have established designated courts to deal with certain types of case; examples are the Youth Court and Family Proceedings Court.
  - **Court lists:** These are the most common form of what is known as a dedicated or specialist court – examples include a traffic court or a domestic violence court; such courts are not separate courts, but court lists within the Magistrates Courts. It is common place however to refer to them as “courts”.

This protocol is concerned with the second of these; they are referred to as “dedicated courts” in this protocol.

4. It may become necessary in the interests of justice for dedicated courts to be established because<sup>1</sup>:
  - the administration of justice is made more efficient or convenient for users of the court by concentrating identified types of case in a particular courtroom or at a particular time in that courtroom;
  - specialist training may be required for certain types of case;
  - the approach of the court, whether on initial appearance or sentence or review of sentence, may be different, such as a focus on restorative justice or “problem solving”, as at the Community Justice Centre at Liverpool.
5. The procedure to be followed will depend on whether the initiative for the establishment of a dedicated court is (1) national or (2) local.

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<sup>1</sup> See Review of the Criminal Courts by Auld LJ (2001) at pages 375-6

**(1) A national initiative for the Magistrates Courts**

6. If HMCS HQ, on behalf of the Secretary of State for Constitutional Affairs and Lord Chancellor or the Lord Chief Justice wishes to establish dedicated courts on a national basis, the proposal will be discussed between them.
7. The proposal will be formulated into a paper which will be circulated to the Magistrates Association, the Justices Clerks Society and the Senior District Judge (Magistrates Courts) and, thereafter, if appropriate and in the light of any observations, to the Crown Prosecution Service, Legal Services Commission, National Offender Management Service, representatives of the profession, witness support and others interested. HMCS HQ will also consult with Regional Directors and Area Directors to seek their views on any proposals.
8. In the light of the observations of those to whom the paper is circulated, the Lord Chief Justice and HMCS HQ will decide whether to proceed. If they do, then the Lord Chief Justice will write to the chairman of the Justices Issues Group (JIG) for each Criminal Justice Area (Area) in which it is proposed such dedicated courts be established, whether on a permanent basis or a pilot basis; HMCS HQ will copy the letter to the Area Director of HMCS.
9. The JIG in each area will consider the proposal:
  - (1) If the JIG decides to proceed, it will work out the detail of its implementation with the assistance of HMCS HQ and in consultation with the criminal justice agencies, the Local Criminal Justice Board, the local office of the Legal Services Commission, representatives of the professions and of witness support and any other relevant user of the court.
  - (2) If the members of the JIG, including the Area Director of HMCS, are agreed that the proposal is inappropriate for the Area (by reason, for example, of the volume of the work or the demography), the chairman of the JIG will inform HMCS HQ and the Lord Chief Justice.
  - (3) If the judicial members of the JIG in any Area are not minded to proceed with the proposal, but the Area Director of HMCS wishes to proceed, then the Chairman of the Area Judicial Forum, the Regional Director and the Presiding Judges must be informed. In the event that any disagreement cannot be resolved by them, then the issue will be referred to the Chief Executive of HMCS and the Lord Chief Justice.
10. HMCS HQ may review the operation of the dedicated courts so established and may report from time to time on their operation to the Lord Chief Justice, the JIGs and the LCJBs for the Areas in which the dedicated court has been established.

**(2) Local initiatives in the Magistrates Courts**

11. There are three ways in which a proposal for a local initiative may arise:
  - (1) If an Area Director or Justices Clerk for an Area proposes establishing a dedicated court in that Area, a proposal must be formulated and submitted to the JIG for that Area.
  - (2) If a Criminal Justice Agency or the Local Criminal Justice Board wishes the Magistrates Court in an Area to consider establishing a dedicated court in that Area, a proposal must be formulated and submitted to the JIG for that Area.

- (3) If the judiciary of the Magistrates Courts in an Area wish to consider establishing a dedicated court the Area, a proposal must be formulated and submitted to the JIG for the Area.
12. If the JIG considers that the proposal should be taken forward, the Area Director of HMCS, on behalf of the JIG, must prepare a paper which sets out in sufficient detail the proposed operation of the dedicated court so that the judiciary of the court and the users of the courts within the Area can understand the scope of the operation of the proposed dedicated court and the resource implications of its establishment; the paper must therefore include:
- The reasons for the proposed establishment of the dedicated Court;
  - The projected benefits resulting from the establishment of the dedicated court;
  - The criteria by which cases are to be allocated to the dedicated court;
  - Details of the projected volume of cases;
  - The proposed location of the dedicated court;
  - The projected timing and frequency of sittings;
  - The proposed listing arrangements and sitting patterns for Magistrates and District Judges (Magistrates Courts).
13. The Area Director of HMCS will then, on behalf of the JIG,:
- (1) invite comments on the paper from the judiciary of the court, the criminal justice agencies, the Local Criminal Justice Board, the local office of the Legal Services Commission, representatives of the professions and of witness support and any other relevant user of the court.
  - (2) submit a copy of the paper to the Lord Chief Justice and HMCS HQ. The Lord Chief Justice will inform the Magistrates Association, the Chief Magistrate and the Justices Clerks Society of the proposal.
14. HMCS HQ may either on its own initiative or at the request of the Lord Chief Justice carry out enquiries into the national implications of the proposal.
15. At the conclusion of the consultation, the JIG should decide, in the light of comments from the consultation or observations by the Lord Chief Justice or HMCS HQ whether to proceed with the establishment or continuation of the dedicated court.
16. In the event of disagreement as to whether or not to establish a dedicated court or dissatisfaction at any time with any decision by the JIG, which cannot be resolved locally through the Area Judicial Forum or the Presiding Judges, then the issue must be referred immediately to HMCS HQ and the Lord Chief Justice.
17. HMCS HQ will keep under review the operation of all dedicated courts established as a result of local initiatives and may submit reports on their operation to the Lord Chief Justice, the JIG for the Area and the Local Criminal Justice Board.

### **Delegation**

18. The functions under this protocol will be carried out as follows:
- (1) The functions of the Lord Chief Justice, other than those under paragraphs 6 and 8, will be carried out by the Senior Presiding Judge

- (2) The functions of HMCS HQ may be carried out by the Criminal Justice Delivery Unit
- (3) The functions of the Area Director may be carried out by the Justices Clerk.