



Liaison structures with Her Majesty's Courts Service

Introduction

1. Under Her Majesty's Courts Service, there will be an Area Director heading Her Majesty's Courts Service in each of the 42 areas, responsible for the area business plan and the administration for all Crown, County and Magistrates' courts in his/her area.

2. The full-time Judiciary look forward to the same relationship with Her Majesty's Courts Service as exists at present with the Court Service, and it is essential that the magistrates' relationship with Area Directors and other agency officers is, in essence, on exactly the same footing.

3. The Lord Chancellor and the Lord Chief Justice made statements in January 2004 in the House of Lords on the future relationship between the Executive and the Judiciary in the light of Government proposals for constitutional reform embodied in an agreement which has become known as the Concordat. They are in complete agreement that what must be secured is "embedded, enduring judicial independence; good working relationships between the Judiciary and the Executive", and that the existing successful partnership between the DCA and the Judiciary "must be sustained and entrenched for future generations". Clearly defined responsibilities for each party are essential.

4. The success of the relationship depends on recognition that:

- Judicial matters such as case management, sentencing and listing are the responsibility of the Judiciary.
- Administrative matters are the responsibility of the Executive, i.e. Her Majesty's Courts Service.
- Where there is a crossover between the two, agreement must be reached between the Judiciary and Her Majesty's Courts Service.

5. In practical terms, this means that there must be clear structures in place from the start of the shadow period of Her Majesty's Courts Service to ensure good working relationships that reflect the split of responsibilities between the Executive and the Judiciary. These structures must be effective at local level, and also allow for a route through to the national bodies where matters of general application may need to be discussed and ultimately resolved. It is important that within each of the 42 areas different issues are dealt with in the appropriate forum, and that existing external arrangements such as court user groups, general liaison at bench level etc. are not disturbed.

6. Bench management issues are the responsibility of Bench Chairmen, together with the Justices' Clerk. They will deal with them for their own bench and discuss them within Bench Chairmen's forums. Judicial/administrative issues which could affect magistrates' judicial powers or independence must be discussed at an area body with wider representation. There will also be a forum for the Judiciary alone, covering all levels of court within the area, to discuss any unresolved problems and deal with judicial policy and sentencing matters.

The recommended structures

1. Bench management issues

Bench Chairmen, together with their Justices' Clerks, are responsible for all bench management issues, which are entirely their responsibility. The Chairman's role covers the internal affairs of the bench, and external relationships with administrative bodies, other benches etc. The role encompasses pastoral issues concerning members of the bench, domestic issues where the facilities of the court directly affect magistrates in their work and ongoing administrative and legal matters. Such matters will be discussed with their colleagues on other benches through Bench Chairmen's Forums. There will be lines of communication between the Area Director and Bench Chairmen, but day to day matters will be dealt with at individual bench level wherever possible. The Bench Chairman (and deputies) will work with the Justices' Clerk (or his/her nominee) and the bench business and legal managers at courthouses. Information on the national picture will be available at bench level through close links with the Magistrates' Association bench lead representative and the national office. In addition, the Magistrates' Association will facilitate a Bench Chairmen's Committee at national level.

2. Justices' Issues Group: administrative/judicial matters for the magistrates' courts

Justices' Issues Groups (JIG) will operate at area level. Their focus will be matters which might affect judicial independence and powers. One example is a policy on listing which would restrict magistrates' experience in certain courts and therefore affect their competence. Another would be administrative arrangements which would be inconsistent with the interests of justice and the proper exercise of judicial discretion. Such matters therefore cross over from administrative to judicial and the group must take a wider view with links to the national situation as well as to all magistrates and their legal advisers. They will meet several times a year on a regular basis and — where such matters are concerned — be a prime reference point for the Area Director and the Courts Board. Membership will comprise the Bench Chairmen to speak for their respective benches; Magistrates' Association representatives to provide the essential links to the national picture as well as back to members; one representative from Bench Training and Development Committees (BTDC) to cover training issues relating to resources and/or independent provision; Justices' Clerk(s); District Judge (MC) or where there is more than one, a District Judge (MC) nominated by the Senior District Judge where there are

such posts in the area. This core membership is essential, although precise numbers may vary according to the area. It is important that the Area Director should also attend meetings of the JIG.

Judicial matters such as listing, rota arrangements and case management will be a major responsibility of the JIG. If judicial or quasi-judicial matters cannot be resolved at the JIG, they will be referred on to the Liaison Judge or, in the case of family matters, to the Designated Family Judge through the Area Judicial Forum (see below) and ultimately, if necessary, to the Lord Chief Justice or the President of the Family Division. Any specific training issues which are identified should be referred on to the Area Training Committee and the Judicial Studies Board.

The first meeting of the JIG must be held as early as is practicable during the shadow running period and, if at all possible, no later than July 2004. In the first instance the meetings will be convened by the Area Director so, clearly, one of the considerations for the date of the first meeting will be whether or not the Area Director has been appointed. Thereafter, the meetings will be convened by the Chairman, who will be elected at the first meeting.

Establishing the JIGs at this stage is in line with the objectives of the shadow running period, to enable a smooth transition to the new structures. It is fully acknowledged that MCCs retain their responsibilities until April 2005.

3. Area Judicial Forum: judicial matters

An Area Judicial Forum (AJF) will be established in each of the 42 areas, to consider judicial matters in relation to the business of the Magistrates' Courts and co-ordination with the Crown Court and the other family courts. This forum will meet less often than the JIG. It will be convened and chaired by the Liaison Judge who in some areas may, but will not necessarily be the Resident Judge. Membership will comprise Bench Chairmen; representatives of the Magistrates' Association; Justices' Clerk(s) (because of their judicial functions); District Judge (MC) or where there is more than one, a District Judge (MC) nominated by the Senior District Judge. A Designated Family Judge and District Judge should join the forum when family matters are to be discussed. In larger areas where there may be more than one liaison judge, each would be a member, but one would be the Chairman. As with the JIG the core membership is essential although precise numbers may vary according to the area.

The AJF will deal with the resolution of any legal issues as well as unresolved matters that might be relevant to judicial independence. It will consider and review any issues that cannot be resolved by the JIG in relation to listing policy and case management, bail and mode of trial decisions, local and national sentencing issues and resources for training. Training itself is the responsibility of the Judicial Studies Board; but relevant issues might arise in relation to resources and/or independent provision. The AJF will play an important role in ensuring that the independence of the Magistracy and the Justices' Clerks is maintained.

If any issue is so serious that it cannot be resolved within the AJF it should be referred to the Presiding Judges (or Family Division Liaison Judge) or through them to the Lord Chief Justice or the President of the Family Division. The opinion of national bodies such as the Magistrates' Association and the Justices' Clerks' Society and (where appropriate) the Senior District Judge will be sought but the final decision will rest with the Lord Chief Justice/President.

The essential distinction between the JIG and the AJF is that the AJF will be a purely judicial body which will provide a forum which will be, and be seen to be, independent of the Executive.

The first meeting of the AJF will be convened by the Liaison Judge and will be held not later than September 2004.

In summary, the proposed structures are:

1. Bench management issues

The responsibility of Bench Chairmen and Justices' Clerks. Bench Chairman/Deputy Chairman to work with Justices' Clerks and bench business managers. Regular contact between them according to agreed local protocol. Appropriate area wide discussions through Bench Chairmen's Forums to discuss matters of mutual interest, promote a consistent approach and share good practice.

Function

- To arrange and organise all bench management matters.
- Operate as the essential contact point between magistrates and the administration on all domestic matters such as buildings, facilities etc.

2. Justices' Issues Group (JIG)

Membership

Bench Chairmen from every bench
Magistrates' Association Branch Chairman and Council representative
A representative BTDC Chairman
Justices' Clerk(s)
DJ (MC) where there are such posts
Area Director

Chairman to be elected at first meeting

Each member may nominate an alternative representative

Function

- Consultation on a regular basis with the Area Director over judicial/administrative matters affecting magistrates and their duties in court.

- Early discussions with the Area Director over any such matters in the area business plan.
- Ensuring that magistrates have been involved with and have agreed the policy for judicial matters, such as listing and rotas, which require implementation by the Executive.
- Consultation with the Courts Board for the area.

Meetings – timings and arrangements

In the longer term, quarterly. In initial stages, as appropriate.

Meetings convened by the Chairman (initial meeting to be convened by the Area Director).

Meetings to be arranged/facilitated by Her Majesty's Courts Service through the Area Director.

First meeting to take place as early as possible during shadow running period, by July 2004 if possible but clearly dependent on the timing of the Area Director appointments.

Any matters on which it is impossible to reach agreement will be referred to the Area Judicial Forum.

3. Area Judicial Forum

Membership

Liaison Judge (who may be the Resident Judge)

DJ(MC)

Designated Family Judge (for family matters)

District Judge (for family matters)

Bench Chairmen

Magistrates' Association Branch Chairmen and Council representatives

Justices' Clerk(s)

Function

- Sustain and protect judicial independence
- Liaise between the Magistrates Courts and the Crown Court and other family courts
- Resolve judicial/administrative matters unresolved at the JIG
- Sentencing issues, bail, mode of trial
- Listing and case management
- Monitor proper resourcing for, and independent provision of, training

Appeal if required to the Presiding Judges (or Family Division Liaison Judges) or through them to the Lord Chief Justice or the President of the Family Division. The opinion of national bodies such as the Magistrates' Association and the Justices' Clerks' Society and (where appropriate) the Senior District Judge will be sought but the final decision rests with the Lord Chief Justice/President.

Meetings – timings and arrangement

Meetings 2 or 3 times a year.

All meetings to be facilitated by Area Director at request of Liaison Judge.

First meeting to be convened on behalf of the Liaison Judge no later than September 2004.