



JUDICIARY OF  
ENGLAND AND WALES



HM Courts &  
Tribunals Service

**Responsibilities for the leadership and management  
of the judicial business of the Magistrates' Courts**  
*December 2013*

**Introduction**

1. This paper supersedes a document with the same title that was issued in December 2006. It describes the responsibilities at a clerkship level, and at a bench level, for the leadership and management of the judicial business of the Magistrates' Courts.
2. Her Majesty's Courts and Tribunals Service has a joint responsibility to the Lord Chancellor and the Lord Chief Justice to ensure that there is an efficient and effective system to support the judicial business of the courts and tribunals. The Judiciary have a responsibility to the Lord Chief Justice to work with HMCTS to achieve this objective.
3. Successful delivery will depend on a recognition that:
  - Matters such as case management, sentencing and listing are the responsibility of the Judiciary.
  - Administrative matters are the responsibility of HMCTS.
  - Where there is a crossover between the two, agreement must be reached between the Judiciary and HMCTS.

A cohesive structure for the management of the judicial business in the Magistrates' Courts is critical to the proper handling of these and other issues and to the provision by the court of strong judicial leadership.

4. Decisions relating to judicial business must be made at the appropriate level, and by an effective decision making group. Bench management issues are most appropriately dealt with locally within the Local Justice Area. Judicial/administrative issues which could affect Magistrates' judicial powers or

independence must be discussed at an area body with wider representation. Given that HMCTS manages resources at clerkship/cluster level, the appropriate wider forum for judicial input and decision making should be at that level.

### **Clerkship/Cluster level**

5. Each clerkship shall have a Judicial Business Group (“JBG”). The membership of the JBG will comprise:

- a Magistrates’ Liaison Judge, nominated by the Resident Judges in each clerkship;
- up to two District Judges (MC), appointed by the Senior District Judge (Chief Magistrate) (“Nominated District Judge/s”);
- up to three Bench Chairmen from the benches in the clerkship, selected with reference to the guidance set out in the annex to this document;
- One representative of the MA drawn from one of the Branches in the clerkship, as determined by the Magistrates’ Association;
- the Justices’ Clerk; and
- the Cluster Manager (or one Cluster Manager where there is more than one)

6. To assist in the development of the Single Family Court the following will also be members:

- the relevant Designated Family Judge for the area, or one of the Designated Family Judges for the area where there is more than one DFJ covering the clerkship (or their nominee);
- a Family Panel Chairman (or, in London, a family panel Magistrate nominated by the Chairman of the Greater London Family Panel).

An assessment will be made of the continuing need for judges and Magistrates from the Family Court to serve on the JBG after April 2014, and once the new single Family Court has become established.

7. Each JBG should elect a chairman from amongst its members who are judicial office holders. This election should take place annually. An individual shall continue to be a member of the group whilst they hold any office that entitles

them to membership, or for such period as the person or persons nominating them for membership of the group shall determine.

8. The JBG is a decision making body and not a representative group. The judicial members of the JBG, whilst being able to contribute from the perspective of the judicial office or organisation from which they are drawn, shall not be regarded as representing holders of that office. Their function is to serve on this decision making group, applying good judgment and their independent mind.

### **Key Responsibilities of the JBG**

9. The JBG is responsible for ensuring that, at clerkship level, there are appropriate arrangements in place for the conduct of the judicial business of the area and that there is consultation on a regular basis with the Cluster Manager in relation to the operation of the courts. The key responsibilities of the JBG are:

- a) Ensuring that the judicial business of the courts is conducted in a speedy and efficient manner in the interests of justice.
- b) Setting strategic listing policies for the Magistrates' Courts. The Justices' Clerk will draft such listing policies for agreement by the JBG, taking into account the key principles as set out in the *Consolidated Criminal Practice Direction on Listing and Allocation* and any relevant guidance issued by the President of the Family Division.
- c) Reviewing overall performance of the judicial business in the clerkship and reviewing listing policies in light of such performance.
- d) Considering clerkship wide issues relating to the conduct of judicial business, including distribution of work between courts, any delays or backlogs at courts within the clerkship.
- e) Ensuring there are local arrangements in place for dissemination of important matters of law or practice as advised by the Justices' Clerk.
- f) Ensuring that there is a proper system in place for transfer of cases to and from other courts, in the interests of justice.
- g) Oversight of any Bench or Panel Mergers in the clerkship.
- h) Oversight of Magistrates' Court sitting programmes across the clerkship.

- i) Upholding and maintaining judicial independence in the Magistrates' Courts within the clerkship.

10. If necessary, the JBG may raise issues requiring Circuit or Regional consideration with the Presiding Judge and the Delivery Director.

### **Arrangements for JBG meetings**

11. The JBG should (ordinarily) meet three times a year. Meetings will be convened and supported by the Justices' Clerk. Each member may nominate an alternative representative if they are unable to attend a meeting.
12. The agenda and papers for the JBG meeting shall be distributed to all members of the JBG at least one week prior to any meeting, and shall at the same time be additionally distributed to all Bench Chairmen in the clerkship. Where the chairman of the JBG determines in advance of a meeting that a particular paper, or agenda item shall be treated as confidential, all those receiving the papers shall observe that confidentiality, but all Bench Chairmen shall be entitled to receive an unredacted copy of all JBG papers.
13. The JBG may invite additional Bench Chairmen to attend particular meetings of the JBG if there are specific agenda items for which their attendance would be beneficial. In the event that it is necessary for there to be a formal vote on any matter, any additional Bench Chairmen shall not be entitled to vote.
14. The minutes of the JBG, and any supporting papers, should normally be available to the Judiciary in the clerkship. For the avoidance of doubt, this requirement is not intended to place any undue burden on the staff of HMCTS, and any process for the circulation of minutes and papers must be agreed with HMCTS. Occasionally the JBG will discuss confidential and sensitive matters and the JBG shall have discretion to redact minutes and papers in such circumstances.

### **Escalation**

15. The expectation is that the JBG will make a collegiate decision and that the decision will be final. In exceptional circumstances only, a) if the JBG is unable to make a decision, or b) if a member of the JBG is aggrieved by the decision, then a matter may be escalated to the Presiding Judge who shall consult the

Delivery Director before making a decision. The decision of the Presiding Judge is final.

### **Bench / Local Justice Area level**

16. Each Local Justice Area shall have a Judicial Leadership Group (“JLG”). The membership of the JLG will comprise:
- a) The Bench Chairman;
  - b) A District Judge (Magistrates’ Courts) where District Judges sit at courts within that Local Justice Area, appointed by the Senior District Judge (Chief Magistrate);
  - c) A Magistrate from the Family Panel in the area nominated by the Family Panel Chairman (subject to the assessment referred to in paragraph 6);
  - d) The Justices’ Clerk or a delegate of the Justices’ Clerk;
  - e) An Operations or Delivery Manager.

The JLG may invite others to attend where required.

### **Key responsibilities of the JLG**

17. The key responsibilities of the JLG include:
- a) Leadership at Bench level.
  - b) Ensuring listing policies agreed by the clerkship level JBG are operated properly.
  - c) All cases are brought to hearing or trial with the minimum of delay, with any delays or backlogs reported to the JBG.
  - d) Reviewing overall performance of the judicial business at Bench level.
  - e) To review court sitting programmes at Bench level as drawn up by the Justices’ Clerk and escalate any concerns to the JBG.
  - f) At Bench level, reviewing operation of the administration of Magistrates’ rotas.
  - g) Discussing with Operations / Delivery Managers and Deputy Justices’ Clerks / Legal Team Managers, any concerns in respect of the systems at the courts for that Bench which may affect the efficient dispatch of business of the courts.

## **Arrangements for JLG meetings**

18. Where practicable, issues should be resolved outside of formal meetings. However, where there is a business need, the JLG should meet formally, and it is the responsibility of the Justices' Clerk, or the delegate of the Justices' Clerk, to convene and support such meetings.

## **Listing**

19. Listing is a judicial function and it is the responsibility of the JBG to set the listing policy, and to determine the listing practice in the clerkship, under the supervision of the Presiding Judges. The JBG and the JLG must ensure that listing practice is consistent with the principles set out in the *Consolidated Criminal Practice Direction on Listing and Allocation* and any relevant guidance from the President of the Family Division.
20. The JBG shall have responsibility for making strategic decisions relating to listing across the clerkship. Such strategic decisions may include centralising business where there is a need to do so, moving work across the clerkship to ensure effective distribution of workload, and ensuring that Magistrates across the clerkship maintain competences, and that fairness in sitting levels is achieved at a time of reduced workload. The day to day application of the JBG's listing policy is the responsibility of the Justices' Clerk.
21. In the event that it is necessary for there to be a formal vote on any matter of listing practice, only the judicial office holders on the JBG or JLG shall be entitled to vote.

## **Resources**

22. It is the responsibility of HMCTS Delivery Directors to agree the staffing allocation in the Magistrates' Courts with Cluster Managers and Justices' Clerks. Such resources will be influenced by workload and funding. The Justices' Clerk and Cluster Managers (through their management teams) are responsible for drawing up Magistrates' Courts sitting profiles<sup>1</sup> in the clerkship in consultation with Bench level JLGs. The sitting profiles will be based on workload, available judicial and HMCTS resources and will be drawn up to take

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<sup>1</sup> Sitting profiles and matrices reflect the court sessions being run at each court centre, Local Justice Area or clerkship and the allocation of criminal, civil or family business to those sessions.

into account Listing Policies set by the JBG. The Justices' Clerk and Cluster Manager should also take into account resources of other key parties within the criminal, civil and family justice systems, while keeping well in mind that listing decisions are made in the interests of the system as a whole.

23. The Justices' Clerk and Cluster Manager are responsible for administration of the Magistrates' rotas which are based on court sitting profiles, and are drawn up at bench level.

### **Judicial Deployment**

24. The Justices' Clerk is responsible for the overall deployment of business between the Magistracy and the District Bench in order to ensure compliance with the Guiding Principles and Working Presumptions of the *Protocol to Support Judicial Deployment in the Magistrates' Courts*. In particular:

- i) The establishment of arrangements providing for the fair and efficient administration of justice in the public interest is of paramount importance.
- ii) A non-partisan approach is essential. The focus is on service to the public rather than the interests of the providers, whether DJ(MC)s or Magistrates, in having interesting, varied or challenging work, important though that is.
- iii) The Justice System needs both Magistrates and DJ(MC)s; both play an important and much valued role in the administration of summary justice and the family justice system.
- iv) The District Bench and the Magistracy should work together in partnership. When allocated to a Court, DJ(MC)s should be involved in the work of that Court as a whole. Negative comment by one branch of the Judiciary about another is not expected.

25. Members of the JBG / JLG should not act contrary to these principles in undertaking their responsibilities.

### **Communication**

26. It will sometimes be helpful for a JBG or a JLG to invite representatives from another part of the justice system to attend part of a meeting for the purpose of giving information or to answer questions. Nothing in this paper should be read as fettering either group's discretion to operate in this way.

27. This paper sets out the formal governance structure which is to apply in the Magistrates' Courts. Good communication outside this formal structure will continue to be important. For example, as a matter of good practice, Bench Chairmen may wish to meet with their deputies, with other bench office holders, or with senior managers, whether together or separately as part of their role in supporting the management of the Bench. However, such meetings should be proportionate to the size and business of the bench, and may not require a formal business meeting.
28. Regular court user group meetings may not be necessary if issues are dealt with as they arise. The use of email for this purpose is to be encouraged. If issues cannot be resolved without holding a meeting, then such meetings should be outside court hours.

## Annex

### Determining the membership of the JBG by Bench Chairmen

The Bench Chairmen within a clerkship are best placed to determine which of their number shall serve on the JBG, and the period during which they should do so. The Justices' Clerk shall facilitate the process by which this is determined. In making their decision, the Bench Chairmen may take into account the following factors (where relevant):

- Wherever possible, at least one Bench Chairman from each county within a clerkship shall be a member of the JBG.
- Where there are significant differences between the volume and type of criminal caseload dealt with by the various benches within the clerkship, this may be taken into account.<sup>2</sup>
- Where a clerkship includes a mixture of rural and metropolitan areas, every effort should be made to ensure that the JBG includes Bench Chairmen who collectively cover this rural / metropolitan mix.
- Where appropriate, consideration should be given to 'rotating' the Bench Chairmen serving on the JBG after a period of time in order to give others the opportunity to serve as members of the group.<sup>3</sup>
- This list is not exhaustive and the Bench Chairmen within the clerkship may take account of such other factor(s) that they consider relevant to local needs.

If despite their best endeavours the Bench Chairmen cannot reach a consensus on which of their number shall serve on the JBG, the matter will be determined by the Presiding Judge for the circuit, whose decision shall be final. It is to be hoped that the need to resolve the issue in this way will be wholly exceptional.

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<sup>2</sup> This factor needs to be analysed with a degree of care. If a bench has a large caseload only by virtue of the fact that it deals with a large volume of regulatory prosecutions or traffic work, it may not be appropriate to distinguish it from a neighbouring bench with a lower caseload. The word *significant* is not defined.

<sup>3</sup> This may, for example, be appropriate where there is more than one bench within a county, and there is only one place on the JBG for that county.