

December 2006



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

### **The background**

This paper replaces the document issued in 2004 for liaison between HMCS and the Magistrates Courts. It describes the responsibilities at 42 Area level and at local level for the leadership and management of the judicial business of the Magistrates Courts.

### **1. THE OVERALL CONSTITUTIONAL RESPONSIBILITIES**

HMCS was created in April 2005 by amalgamating 43 organisations into one; prior to that time the organisation and management in the Magistrates' Courts varied from area to area and had not been changed to meet current conditions. In April 2006, the Lord Chief Justice became Head of the Judiciary and President of the Magistrates Courts and assumed far reaching responsibilities in respect of all courts.

The need for the development of arrangements built on best practice and greater clarity flows, in part, from these changes and in part from the responsibilities which now clearly fall on the judiciary.

- It is the responsibility of the judiciary to ensure, in so far as resources are provided and used to maximum efficiency, that the judicial business of the courts is conducted in a speedy and efficient manner in the interests of justice. The assumption of this responsibility is a necessary consequence of, and a safeguard to, judicial independence and carries with it accountability to the Lord Chief Justice, as Head of the Judiciary and President of the Magistrates Courts, for the discharge of these responsibilities.
- It is also necessary that these responsibilities are exercised on the basis of a real and effective partnership with HMCS; HMCS is responsible for the discharge of the Lord Chancellor's duty under the Courts Act 2003 to ensure that there is an efficient and effective system to support the carrying on of the business of the Courts of England and Wales and that appropriate services are provided for those courts.

## **2. THE BENEFITS**

Clear arrangements for the management of the judicial business of the courts will increase the effectiveness of the courts, and ensure responsiveness to the needs of the communities in which they are located through better links to agencies and other organisations.

A cohesive structure for the management of the judicial business is critical to the proper handling of these and other issues and to the provision by the court of strong judicial leadership to ensure that cases are dealt with as quickly as possible, consistent with the interests of justice. Some issues need to be dealt with at 42 area level, but the court is the forum where all the parties come together and the successes and failures of the CJS are open to public view. It is only by the courts discussing the issues constructively with those involved in the criminal justice system, by managing the caseload and by holding parties to account in an effective manner for the progress of cases before the courts that the system will improve.

It is against that background that the following proposals are put forward to strengthen the role of the court in the delivery of local justice and to ensure that responsibilities are clearly defined:

## **3. 42 AREA LEVEL**

Justices Issues Groups (JIGs) and Area Judicial Fora (AJF) are fully established in each of the 42 areas. JIGs play a vital role in setting listing policy and monitoring compliance over a number of magistrates' courts. These will continue to operate at the 42 area level unless changes are agreed locally and approved by the Senior Presiding Judge.

### **(a) JIGs**

#### *(i) Functions*

JIGs were established in 2004 to deal with all matters that cross between administrative and judicial responsibilities and which might affect judicial independence, powers and responsibilities. Thus their primary function is to ensure that at 42 Area 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 Area Director in relation to the operation of the courts. The functions include:

- Setting the listing policy for the Area in accordance with the directions given by the Lord Chief Justice and monitoring compliance with it;
- Reviewing the overall performance of the judicial business in the area and the need for any adjustments to listing policy in the light of such performance;
- Considering Area wide issues relating to the conduct of the judicial business, including the distribution of work between courts, any delays or backlogs at courts within the area and the available resources;
- Ensuring that that there are proper local arrangements for the dissemination of

important matters of law and practice (of which the bench, District Judges (Magistrates Courts) and legal advisors might otherwise be unaware) and monitoring the effectiveness of the operation of the arrangements;

- Ensuring that there is a proper system for the transfer of cases to or from other courts within the area taking account of the views of other Criminal Justice organizations;
- Ensuring that each CDRP within the area has a magistrate representative of the Magistrates Courts who attends meetings in accordance with the guidance issued by the Lord Chief Justice and Lord Chancellor in March 2005;
- Ensuring that the Circuit Judicial Secretariat, Magistrates Liaison Judge(s) and, if appropriate, the Presiding Judge are immediately informed about any excessive delay;
- Consulting the Courts Board which covers the Area;
- For the future JIGs will be asked to provide an annual report covering each of the courts in its area in accordance with guidance given by the SPJ. It is hoped that the first report will cover the period April 2006 to March 2007. A template will be provided as it is for the Crown and County Courts. The report will cover both adult and youth court work.

Any specific training issues which are identified should be referred on to the Magistrates Area Training Committee and the Judicial Studies Board.

The JIG is a prime reference point for the Area Director and the Courts Board.

Any matters which cannot be resolved at the JIG must be referred on to the Magistrates Liaison Judge or, in the case of family matters, to the Designated Family Judge through the Area Judicial Forum and, if necessary, to Presiding Judges and Family Division Liaison Judge or through them to the Senior Presiding Judge or the President of the Family Division and ultimately to the Lord Chief Justice.

*(ii) Meetings*

JIGs meet on a regular basis, which will normally be quarterly.

Meetings are convened by the Chairman and arranged and facilitated through the Area Director.

*(iii) Membership*

The membership comprises:

- Bench Chairmen from every bench
- A Magistrates' Association Branch Chairman and a Council representative
- A representative BTDC Chairman
- Justices' Clerk(s)
- One of the DJ (MC)
- Area Director

Each member may nominate an alternative representative.

The Bench Chairmen speak for their respective benches; Magistrates' Association representatives provide the essential links to the national picture as well as back to members; the representative from Bench Training and Development Committees (BTDC) covers training issues relating to resources and/or independent provision.

## **(b) Area Judicial Forum**

### *(i) Functions*

The primary function of the AJF is 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<sup>1</sup>. It discusses and resolves legal issues as well as unresolved matters that might be relevant to conduct of the judicial business of the courts. Its functions include:

- Considering and reviewing any issues that cannot be resolved by the JIG in relation to listing policy and case management;
- Considering bail and mode of trial decisions, local and national sentencing issues and other issues relating to the administration of criminal justice, including ASBOs;
- Liaising between the Magistrates Courts and the Crown Court and, where appropriate with other family courts;
- Monitoring proper resourcing for, and independent provision of, training in conjunction with the Magistrates Area Training Committee. Although training itself is the responsibility of the Judicial Studies Board, relevant issues might arise in relation to resources and/or independent provision.
- playing an important role in ensuring that the independence of the Magistracy and the Justices' Clerks is maintained.

The essential difference between the JIG and the AJF is that the AJF is a purely judicial body.

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 Senior Presiding Judge or the President of the Family Division and ultimately to the Lord Chief Justice.

### *(ii) Meetings*

AJFs meet on a regular basis, which will normally be two or three times a year.

Meetings are convened by the Chairman of the AJF and arranged and facilitated through the Circuit Judicial Secretariat or Area Director.

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<sup>1</sup> Some AJFs still deal with family issues; this may change with the development of Family Justice Councils

Minutes must be kept and sent to the office of the Senior Presiding Judge.

*(iii) Membership*

The membership comprises:

- Magistrates Liaison Judge (who may be the Resident Judge), Chairman
- DJ(MC)
- Bench Chairmen
- Magistrates' Association Branch Chairmen and Council representatives
- Justices' Clerk(s)

The Designated Family Judge and District Judge should join the forum if 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 appointed the Chairman by the Presiding Judges.

As with the JIG the core membership is essential although precise numbers may vary according to the area.

#### 4. COURT LEVEL

It is quite clear that apart from the leadership and liaison arrangements at 42 area level, it is essential that the judicial business of the courts is effectively and efficiently managed at each court.

**(a) Key parties for the judicial leadership and management of the court**

- 1) The Bench Chairman
- 2) A District Judge (MC) appointed by the Presiding Judges in consultation with the Senior District Judge (MC) (to be known as a Designated District Judge), where there are District Judges (MC) who sit at the court
- 3) The Justices' Clerk/Deputy Clerk/ legal bench manager
- 4) The HMCS manager at the court responsible for the provision of the administration for the court (referred to in this paper as "the Magistrates' Court Manager")

This list is not exhaustive or exclusive. It is always open for one of these to leave the day to day responsibilities to the others provided, of course, that he/she is bound by the decisions made. This management group is free to include such other members as they see fit, whilst ensuring the group maintains its focus. Some courts or groupings of courts may have forums where all the persons set out above meet to discharge the responsibilities for the management and performance of the court. In such cases, such courts or groupings of courts will be at liberty to give to any such forum this new responsibility, provided that it is clear that the forum is responsible and accountable for the discharge of all of the functions set out below. It would be acceptable for a group to keep performance under review via paper or email and meet as and when required to

discharge the other responsibilities.

*The Chairman of the Bench* maintains the existing arrangements (such as Bench committees) in existence at most courts for discussing issues with the magistrates on the Bench and dealing with issues such as the detail of rotas. The management group will not need to disturb these good local arrangements.

*The Designated District Judge (MC)* provides the local leadership for the other District Judges (MC) at the court (in areas where there is more than one in accordance with the responsibilities set out in the job description.

*The Justices' Clerk/Deputy Clerk/legal bench manager* attends regularly since he/she is responsible for the day to day discharge of some of the functions of the group and of the listing policy set by the JIG.

*The Magistrates' Court Manager* is a necessary member of this group. He/she is accountable for all the non-judicial issues of running the court. These responsibilities are best discharged through a close working relationship with the judiciary and the Justices' Clerk and his staff.

Any meetings would be facilitated by the Justices' Clerk/Deputy Clerk/legal bench manager. The detailed way in which the group worked would be for local decision.

In the unlikely event of any disagreement, it is hoped that it can be satisfactorily resolved internally. Where this is not possible, matters should be escalated to the Magistrates' Liaison Judge, JIG or AJF, depending on the nature of the issue, and the Area Director also informed.

#### *Groupings of Courts*

It may be convenient in some areas for small courts to enter into joint arrangements. The structure set out above would be adapted, but it is clear that:

- If there was more than one bench in the grouping, then each Bench Chairman would be a member; these management arrangements do not entail or encourage the amalgamation of benches, but provide, through the development of best practice, a management structure for the judicial business of the court.
- Where each court building had an identifiable group of District Judges (MC) then, if they so wished, similar provision could be made

#### **(b) The responsibilities**

The management group has a joint responsibility for the efficient running of the judicial business of the court. The group do not have any responsibility for the provision of the systems to support the business of the court (such as buildings, IT and staff); these are provided by HMCS on behalf of the Lord Chancellor in fulfilment of the duty under s 1 of the Courts Act 2003. The joint responsibilities of the group include:

- 1) Providing leadership within the court.
- 2) Ensuring that
  - all cases are brought to hearing or trial with the minimum of delay in the interests of justice (proportionate to the weight and complexity);
  - all available judiciary are effectively deployed;
  - the listing practice set by the JIG and case progression is operated properly at the court (taking into account the views of all interested parties);
  - arrangements are in place for bringing to trial all criminal cases with the minimum of delay and that all those not brought to trial within six weeks are closely monitored;
  - arrangements for all cases to be made subject to effective and consistent case management are in place.
- 3) Reviewing on a regular basis management information in relation to the business of the court including waiting times, backlogs, ineffective trials and other indicators and targets and taking any remedial action necessary and appropriate. Performance information will be provided for each court in accordance with a draft template.
- 4) Giving guidance where necessary for the efficient conduct of the business of the court to ensure there is consistency of approach to cases, whether before a District Judge (MC) or bench, on matters such as adjournments and to practices that can cause delay or inefficiency in the despatch of the business of the court.
- 5) Maintaining a proper system for the assignment of cases and applications of particular importance or sensitivity and monitoring its operation.
- 6) Providing information about the need for Justices of the Peace and the needs for District Judges (MC) and any other matter which affects the conduct of the business of the court. Agreeing the rota for justices and reviewing the itineraries for District Judges (MC) so as to ensure that there is adequate judicial provision to dispose of the incoming workload.
- 7) Make best use of information technology, including video conferencing.
- 8) Contributing to the annual report for the court, prepared by the JIG in accordance with guidance given by the Senior Presiding Judge.
- 9) Making appropriate and effective arrangements for bringing to the attention of the bench and District Judges at the court centre or groupings of courts local issues and matters of concern to the local community and putting in place mechanisms to ensure that the court is properly responsive to the community in understanding its needs and in publicising decisions
- 10) Meeting, individually or through Court User Groups, on a regular basis the local Senior Officer of police, the local Crown Prosecutor, the local Senior Probation Officers and representatives of the defence and superintending the effectiveness of

the links with the local community, including CDRPs<sup>2</sup> and the local media.

- 11) Putting in place, if necessary, arrangements for representation to other criminal justice groups.<sup>3</sup>
- 12) Discussing (either locally or through the JIG) with the Area or Regional Director any concerns in respect of the systems at the court provided to support the conduct of the business of the court which might effect the efficient dispatch of business of the court

If there are difficulties that cannot be resolved by the group, then these should initially be taken to the Magistrates' Liaison Judge/JIG/AJF.

**(c) The tasks**

The current issues which such a structure will address include:

- Ensuring a clear understanding of the performance of the courts to enable problems to be identified and tackled;
- Avoiding the build up of backlogs and other problems through efficient planning;
- Highlighting the need for discussions with key agencies(e.g. senior local officers of the police, CPS and probation service and defence solicitors);
- taking into account the resources of others;
- ensuring a consistent approach to the need for, deployment and consistency of District Judge sittings;
- In liaison with the police, CPS and defence representative, maintaining arrangements for appropriate speed and effective case management so that the vast majority of contested cases can be heard by there being only two hearings – the first hearing and a trial.
- Considering mechanisms which can be put into place to engage with the local community and to be responsive to its concerns and needs.

**(d) Arrangements for family and youth business**

Pending further development of plans in relation to the Family Courts the group will have a liaison responsibility for the business of the Family Proceedings Court and must make arrangements for the involvement of the Chair of the Family Panel. A review of the judicial operation of the youth courts is also being considered and similar arrangements should be made for liaison with the Youth Court Panel Chairman.

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<sup>2</sup> The arrangements for attendance at CDRPs are set out in a letter from the Lord Chief Justice and Lord Chancellor to all Bench Chairs on 9 March 2005; a copy can be found on the judicial website. The arrangements include the following:

“(d) It will be important for any Magistrate who attends meetings of the CDRP to keep the Justices Issues Group, and the Bench which covers the district of the CDRP, fully informed. The Justices Issues Groups should be responsible for co-ordinating the representatives across the area”.

<sup>3</sup> There are to be detailed discussions through the HMCS and the Office of Criminal Justice Reform of principles applicable to representation on local criminal justice bodies

## **5, DISTRICT JUDGE (MC) DEPLOYMENT**

The primary function of each District Judge (MC) is to sit at his/her local court or courts of which he/she will form a locally based part. The integration of District Judges into the judicial management of each court and the role of the Designated District Judge has been set out above.

Arrangements for the deployment of DJ(MC)s are set out in a separate paper. The responsibility will be jointly exercised; in essence the Presiding Judges will be responsible for the deployment on the circuits and the Senior District Judge (MC) will be responsible for deployment in respect of Prison adjudication, terrorism, deployment of deputies etc.

**END**

Senior Presiding Judge for England & Wales