

# Useful Information for Magistrates: January 2006

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## Introduction

### Useful Information for Magistrates

This booklet contains some background information for magistrates, together with guidance on issues such as security and dealing with the media. It also addresses many of the questions asked by magistrates as part of the 'Supporting Magistrates to Provide Justice' programme.

For further details about the programme and the Lord Chancellor's White Paper, November 2005, visit [www.dca.gov.uk/pubs/white.htm](http://www.dca.gov.uk/pubs/white.htm)

## Who's who?

### **Lord Chancellor:**

Magistrates for England and Wales are appointed by the Lord Chancellor on behalf of HM The Queen. The Lord Chancellor is also responsible for taking any disciplinary action against magistrates who have been found to have acted improperly. In considering appointment and disciplinary matters, he relies on the advice of his advisory committees.

### **Advisory Committee:**

The Lord Chancellor's Advisory Committees form a network of committees covering the whole of England and Wales. Your local committee (or one of its sub-committees) will have interviewed and recommended you for appointment. The committee will deal with requests for transfers or leave of absence and will investigate any disciplinary matters. The work of advisory committees and sub-committees is governed by a set of Directions issued by the Lord Chancellor, and a copy should be available at your court.

### **Bench:**

When you were appointed you will have been assigned by the Lord Chancellor to sit in a particular Local Justice Area - more usually known as a 'bench'.

### **Bench Chair:**

Each bench has a 'chair', elected annually by the members of the bench to act as their leader, representative and spokesperson. The chair also has a pastoral responsibility towards members of their bench. Don't hesitate to approach your bench chair on any issues that concern you.

### **Justices' Clerk:**

Each bench also has a justices' clerk who is a barrister or solicitor of five years' standing. They are responsible for all the legal advice magistrates are given, and their independence in this role is laid down in statute. Always consult your clerk on matters affecting your duties as a magistrate.

### **Department for Constitutional Affairs:**

DCA supports the Lord Chancellor in the appointment of magistrates and in dealing with any disciplinary matters. It is responsible for keeping the Lord Chancellor's Directions to Advisory Committees up-to-date and for providing committees with advice and training.

### **Her Majesty's Courts Service:**

Since April 2005 all 650 Crown, county and magistrates' courts in England and Wales have been administered by Her Majesty's Courts Service (HMCS), an executive agency of the Department for Constitutional Affairs (DCA). HMCS has its headquarters in London, and the courts administered by the agency are located in 42 areas, each of which is headed by an Area Director working to one of seven Regional Directors.

**The Magistrates' Association:**

The Association has over 28,000 members and represents over 80% of serving magistrates. Further information is available on the Magistrates' Association website at [www.magistrates-association.org.uk](http://www.magistrates-association.org.uk).

Some of the responsibilities of the Lord Chancellor and the DCA in relation to magistrates will change after 3 April 2006, when the Constitutional Reform Act 2005 comes into effect. More information about these changes will be issued nearer the time.

## Frequently asked questions

### **'Justice of the Peace' or 'magistrate'?**

The term 'Justice of the Peace' covers both magistrates like you and district judges who sit in a magistrates' court. Magistrates are appointed by the Lord Chancellor under Section 10 of the Courts Act 2003; and the Act refers to them by the term 'lay justices'. However, this is really only a way of distinguishing them from district judges (magistrates' courts). Nowadays, we avoid using the term 'lay' as it fails to convey the conscientious and professional attitude of the magistracy.

### **When may I use the initials 'JP'?**

The initials may be used on private and business letterheads etc in the same way as academic or professional qualifications. But you should always be alert to how references to your status might reasonably be perceived by other people. Any attempt to misuse the status to gain personal benefit could be regarded as misconduct. If in doubt, consult your justices' clerk.

### **Are there some cases I shouldn't sit on?**

Members of the public must be confident that magistrates are impartial and independent. If you know that your impartiality or independence is compromised in a particular case you must withdraw at once. You should also withdraw if there is a real risk that an objective person might consider your impartiality or independence compromised.

You should not sit on any case involving a friend or relative, your employer or someone else with whom you or a family member has dealings. Nor should you hear any case which you already know something about or which touches upon an activity in which you are involved. This includes cases which affect your financial interests or those of a friend or relative.

You may already be aware of some factors which might limit the cases you can hear, e.g. if you work for a local authority or government department you must not sit on any cases to which they are a party, and your justices' clerk should have discussed these with you when you were appointed. Others may arise in court on the day. If you are in any doubt, be cautious and ask your justices' clerk for advice.

### **What should I do if I don't agree with a law that has been passed?**

All magistrates are required to obey the law and to enforce any law that is enacted. If you were to break any relevant law enacted by Parliament, or to refuse to enforce it, this would be likely to constitute conduct incompatible with the requirements of your office. It is also important that magistrates maintain the dignity, standing and good reputation of the magistracy at all times. Those found to have brought the magistracy into disrepute are liable to disciplinary action. Before deciding to express in public your personal views on any sensitive or controversial issue, you must consider carefully how your position might be perceived by those who come before you in court, and the implications it might have for wider public confidence in the administration of justice.

### **Who is responsible for my training?**

The Magistrates' Area Training Committee (MATC) is responsible for planning and overseeing the delivery of training in your area. The MATC co-ordinates the activities of the Bench Training and Development Committee (BTDC) which is responsible for identifying training needs and overseeing the mentor and appraisal schemes for your bench.

The Judicial Studies Board (JSB) manages and organises magistrate training on behalf of the Lord Chancellor. The JSB develops training materials to support the syllabus outlined in the Magistrates'

National Training Initiative (MNTI 2) and to address major legislative change. Training is usually delivered locally by a justices' clerk or a legal adviser from their team.

Full details of the training you will receive are contained in the MNTI 2 Induction Pack which you will receive at the start of your training.

### **What can I tell others about my work as a magistrate?**

There is no reason why you shouldn't discuss the work of the court in general terms, especially as this helps promote a greater understanding of the magistracy and might encourage other people to apply. However, a great deal of the work you will be involved in will be of a confidential nature.

You should never discuss individual cases, past or present, or reveal information to which you had privileged access (such as the views expressed in retiring room discussions). You should also be alert to the danger of doing anything which might bring the magistracy into disrepute or seriously compromise your impartiality.

### **How should I dress for court?**

You should dress in a way that reflects the dignity of the court and does not draw attention to you as an individual (subject to any style of dress dictated by your ethnic or religious background). Avoid wearing anything in court that bears the insignia of a particular organisation or club, as this will avoid any perception that you might be biased in favour of other members or to the detriment of the individual being dealt with.

### **What should I do if I am having difficulty finding the time to sit?**

Magistrates are required to sit a minimum of 26 half days a year. If you are having difficulty achieving this, speak to your bench chair and justices' clerk. The bench chair may be able to offer you leave of absence to deal with a short-term difficulty, or the justices' clerk may be able to re-arrange your sittings to times which are more convenient. If necessary, they can ask the advisory committee for help, e.g. by contacting your employer on your behalf.

## **Conduct and complaints issues**

### **Do I need to tell my justices' clerk that I have received a speeding ticket?**

Yes. You must tell your justices' clerk of all convictions or formal cautions, including those for motoring offences. This includes those carrying endorsements, such as: careless driving and exceeding the speed limit; endorsable offences dealt with by fixed penalty; and offences dealt with by the imposition of a re-training course. It does not include non-endorsable offences such as parking fines. Failure to report endorsable offences could result in disciplinary action.

### **What else do I need to tell the clerk?**

A full list of matters which you must report to your bench chair and justices' clerk is set out in the Declaration and Undertaking you signed on appointment. This includes any impending criminal or civil proceedings in which you or a close relative become involved (including as a victim or a witness). You should also report the progress and outcome of those proceedings. Your justices' clerk will also need to be informed of any changes to your personal circumstances, such as a change of address or employer. This is relevant not only for administrative reasons but also because such changes might affect your ability to sit as a magistrate, or your ability to sit in certain cases or areas. Failure to abide by the Declaration and Undertaking or to notify your justices' clerk of changes to your personal circumstances could result in disciplinary action.

### **What should I do if a complaint is made against me?**

The procedures for handling complaints are set out in Section 18 of the Lord Chancellor's Directions to Advisory Committees. This explains that the Lord Chancellor cannot investigate complaints about your judicial decisions but that he can look into complaints about your personal conduct. (You will be given a copy of Section 8 if you are the subject of a complaint.) Only the Lord Chancellor has power to take disciplinary action against a magistrate, and complaints are investigated on his behalf by the local advisory committee. He expects that they will be handled expeditiously, sensitively, impartially and with full regard to magistrates' judicial independence.

From 3 April 2006 the Lord Chancellor and the Lord Chief Justice will be jointly responsible for issues concerning magistrates' conduct.

### **What should I do if I think I am being treated unfairly?**

You should first speak to your bench chair or one of their deputies. If they are not able to resolve the problem locally they should contact DCA for advice about handling grievances.

## **Media and security issues**

### **What should I do if the media wants to speak to me?**

Reporters have a legitimate interest in the workings of the court and can play an important role in opening up the criminal justice system to the general public. Typically, this might involve the local newspaper publishing an account of the court's proceedings, possibly including your name in the article.

The media can also help to raise the profile of the magistracy and encourage others to apply. This will usually be arranged through your bench chair or advisory committee.

As a general rule:

- Always take advice from your justices' clerk.
- If you are speaking to the press, avoid making public statements in any capacity which might cast any doubt on your impartiality. Above all, avoid any involvement, either direct or indirect, in politically controversial issues.
- Never comment in public about the decision in a particular case.
- Think very carefully about how your position as a magistrate fits into any interview you give - even when you're giving it in another capacity.
- If you are giving an interview in a private capacity to an interviewer who knows that you are a magistrate, always insist they don't refer to you as a magistrate and make sure they are 100% aware that you don't represent the views of the magistracy.

### **Before giving an interview:**

- Find out the line of questioning - always obtain interview subject areas in advance. If this is not forthcoming then you can always decline.
- For print media - ask how the interview will be used, e.g. in a particular feature or stand-alone, and how long it will last.
- For television and radio - ask about the type of programme and its approach, e.g. is it a news item or a documentary; who else will be appearing; who will be interviewing you; how long the interview will last; and the type of interview and how it will be conducted.

Very occasionally, magistrates involved in a high-profile case are approached direct, sometimes at their home or workplace. This is extremely rare, so don't worry unduly. But again, if it does happen always speak to your justices' clerk, who will contact the DCA press office on your behalf. Or you can contact the press office yourself (contact details are at the end of this booklet).

### **Always remember:**

- Anything you say to a journalist is on the record and likely to be reported.
- You don't have to agree to an interview straightaway (or at all). You should speak to your justices' clerk and bench chair first.
- Although unpleasant, adverse media interest is usually short-lived. It is sometimes better to let the story blow over than intervene in a way likely to keep it going.
- If you are unhappy with media coverage (where it is misleading, untruthful or if the coverage criticises you personally) you may want to let the interest die down, but you may also want to refute

any allegations made. The DCA press office and your justices' clerk and bench chair are there to advise you and offer support.

The press office are used to dealing with the media. Although their advice will vary depending upon the circumstances, in general they can advise you on what to say, and can offer to act as a spokesperson. They can also make representations on your behalf; particularly where there have been significant reporting inaccuracies.

On very rare occasions the media have tried to gain access to a magistrate at their home (usually after an unsuccessful attempt to interview them at the court). This can be very unsettling. However, you can do the following:

- Avoid answering the door, even to say "no comment" as you might still be photographed.
- Avoid making a scene as this will add to the journalist's story.
- Get a friend or relative to run errands.
- Use an answerphone to screen incoming calls.
- If you need to go outside, adopt a calm, polite attitude and don't get tempted to make a rash comment.

If a reporter or photographer is on the pavement, they are not breaking the law. However, if you have concerns about your personal security you should follow the advice below.

### **What should I do if I am worried about my personal security?**

Any magistrate who feels they are in immediate danger should always call the police using the 999 system. If you have any other concerns alert your justices' clerk. You can also contact the DCA Security Branch.

## Further information

### Where do I go for further advice?

Always consult your justices' clerk and bench chair.

In addition, you may find it helpful to:

- look at a copy of the Lord Chancellor's Directions to Advisory Committees. This contains detailed information about eligibility, transfers, leave of absence and attendance, as well as information on conduct issues and matters of independence and impartiality. Copies will be available at your court and from the Secretary to the Advisory Committee. You are advised to familiarise yourself with its contents.
- contact the HMCS Area or Regional Director's office
- get in touch with the local representative of the Magistrates' Association.

You may find it helpful to obtain their contact details from your justices' clerk and write them in the spaces provided opposite.

Useful websites

[www.dca.gov.uk](http://www.dca.gov.uk)

[www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk)

[www.magistrates-association.org.uk](http://www.magistrates-association.org.uk)

[www.jc-society.co.uk](http://www.jc-society.co.uk)

### Useful contact numbers

Justices' Clerk:.....

Bench Chair:.....

Advisory Committee:.....

Area / Regional Director's office:.....

DCA Press Office: 020 7210 8913 / 8722 / 1397 (out of hours 07659 73270)

Lucian Hudson, DCA Director of Communications: 020 7210 8673 (out of hours 07659 73270)

Judicial Communications Office (from April 2006): 020 7947 6490 (out of hours: 07659 550652)

Mike Wicksteed, Head of Judicial Communications: 020 7947 6377 (pager: 07659 58733)

DCA Security Branch: 020 7210 8262(Monday to Friday, 9am to 5pm)

Magistrates' Association:

General enquiries: 020 7387 2353

Local representative:.....

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