



**dca**

**Department for  
Constitutional Affairs**  
Justice, rights and democracy

## **Supporting Magistrates to Provide Justice**

A programme of work being led by the Department for Constitutional Affairs in partnership with Magistrates, the Judiciary, other Government Departments, and those working in and with the magistrates' courts.

October 2004

*"We're going to make sure that those dealing with the frontline of crime, the magistrates whose job it is to provide the justice which communities all over the country want to see, get the support they need and deserve."*

Lord Falconer of Thoroton

Secretary of State for Constitutional Affairs  
and Lord Chancellor

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# 1. Introduction

- 1.1 The purpose of this document is to:
- (a) outline the Government's commitment to the lay magistracy and its support for them during a time of significant change;
  - (b) put forward a vision for magistrates' courts;
  - (c) outline the key ways in which the current and forthcoming activities of the magistracy and the courts already contribute to that vision;
  - (d) seek suggestions from Magistrates, District Judges and those who work in or with magistrates' courts for ways to support Magistrates in providing local justice.
- 1.2 Magistrates' courts deal with 95% of all criminal business and make a significant contribution to family justice. They are the purveyors of local justice and the importance of this cannot be over-stated.
- 1.3 The 28,500 Magistrates represent one of the most significant commitments to volunteering in this country and they have this Government's every confidence.
- 1.4 The Government highly values the role of the magistracy and seeks to reinforce that position. We want to see the role of Magistrates better valued by their local communities.
- 1.5 The establishing of Her Majesty's Courts Service will provide new opportunities to support the judiciary in the administration of justice.
- 1.6 Reinforcing local justice as delivered by Magistrates is at the heart of the Government's agenda to create safer communities by cutting crime and anti-social behaviour.
- 1.7 There are four key areas of concern which have been expressed to the Secretary of State for Constitutional Affairs by those working with and within the magistrates' court system:
- there is a need to raise public confidence in local justice and respect for the magistracy and the magistrates' courts;
  - that the orders of the court are not being consistently carried out;
  - there is a need to recruit and retain more Magistrates and to ensure that the magistracy is representative of the community it serves; and
  - that cases brought before District Judges and magistrates are too often unready to proceed for many and varied reasons which are avoidable. As a result the timely disposal of justice is unnecessarily delayed for reasons beyond the control of the Judiciary.

## 2. A vision for magistrates' courts

- 2.1 To address these concerns we have outlined a vision for magistrates' courts that will see them:
- (a) respected, and their orders obeyed;
  - (b) perceived to be good at what they do - dispensing justice; and
  - (c) centred on their community - expanding the magistracy's links and increasing the numbers of new Magistrates.
- 2.2 To realise this vision the Government is working in partnership with the magistracy, the District Judges and those working in magistrates' courts to identify what can be done to achieve this vision and that will supplement the substantial changes already taking place in the magistrates' courts. This work will have four focal points:
- (a) improving confidence in, and respect for **local justice**;
  - (b) ensuring **court orders are obeyed**;
  - (c) improving **recruitment and retention** of Magistrates; and
  - (d) improving **court processes and infrastructure**.
- 2.3 This work will assist the Secretary of State to develop early thinking on innovations that can be taken forward after the establishment of HMCS.
- 2.4 The rest of this paper outlines the main issues that we are aware of and that if addressed will help deliver the Government's vision. We ask for specific suggestions from District Judges, Magistrates and those working in magistrates' courts for how these issues can be addressed.
- 2.5 Each issue is prefaced with background information highlighting the key current activities and programmes which are contributing to the vision for the magistrates' courts. This document does not detail an exhaustive list of all those activities that are undertaken by magistrates, or currently take place in or are being developed for the magistrates courts.
- 2.6 This programme will consider all suggestions against the current range of change programmes and liaise closely with the relevant programme teams to ensure that good ideas relevant to their area of work are taken forward.
- 2.7 The following list of issues and questions provides a clear focus for this work however we welcome suggestions on any other matters that might support Magistrates to provide the justice which communities deserve.
- 2.8 A team based in the Department for Constitutional Affairs will be collecting these suggestions through a range of meetings, informal consultations and questionnaires during November 2004. Contributions will be considered by the Secretary of State in the New Year following which Ministers will determine the most effective way to take this work forward.

2.9 The programme manager is Joanne Peel and the programme can be contacted through:

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### 3. Improving confidence in, and respect for local justice

- 3.1 Magistrates contribute to and engage with their communities in many ways over and above that of dispensing local justice. There are regular open days in magistrates' courts and Court User Groups. The Schools Mock Trial competition, held annually, relies very heavily on the work and assistance of local magistrates as well as court clerks, other legal professionals and court staff.
- 3.2 The Magistrates' Association (MA), with support from the DCA, sponsors wide-ranging locally based programmes through their Magistrates in the Community initiative. The Local Crime: Community Sentence project sponsored by the MA and the Probation Boards' Association sees Magistrates and probation officers working together in an increasing number of areas to raise public awareness about the effectiveness of community penalties.
- 3.3 The Operation Black Vote mentoring scheme aims to give members of black and ethnic minority communities invaluable experience of life as a Magistrate by shadowing a serving Magistrate. It aims to equip participants with both the knowledge and the confidence to speak to others about the magistracy and how they may get involved.
- 3.4 It is important that the community understand how Magistrates come to their decisions and pass sentences. In some instances their decisions will have a deterrent effect that will impact on the behaviour of the wider community and communities have a right to feel confident in the way crime and anti-social behaviour are dealt with in their local area, including the administration of criminal justice.
- 3.5 Magistrates have a valuable role to play in educating the wider community in the function of the magistracy and the importance of the rule of law.

**Q How can we help to build on the work of the 'Magistrates in the Community' and other Programmes so that we maximise the knowledge and experience of magistrates in improving the citizenship of our communities?**

**Q How can we demonstrate to the magistracy and the community the positive impact of the magistrates' courts?**

**Q Where this confidence is lacking how can we help Magistrates demonstrate the part they play in delivering justice and thereby making their communities safer?**

- 3.6 Magistrates have an understanding of their local community but there is also a wealth of research and monitoring which is undertaken by a variety of CJS agencies, not least of which is the work of the Crime and Disorder Reduction Partnerships in each local community (In Wales called Community Safety Partnerships).

**Q How can we ensure that relevant research and monitoring is available to magistrates in a way that does not compromise judicial independence and impartiality?**

**Q How can we help Magistrates keep abreast of the ever-changing composition and concerns of their community?**

- 3.7 The recently established Justices' Issues Groups and Area Judicial Fora build on the relations the magistracy has with the wider judicial family. The AJF is a wholly judicial group; the JIG will provide the link at area level between the judiciary and the executive. The Courts Act (2003) ensures that Magistrates are kept informed and their views ascertained by the Lord Chancellor.
- 3.8 The magistracy has a valuable contribution to make in ensuring that their local criminal justice system works effectively and co-operatively.

**Q Is there anything else we can do that will help to improve the communication between the magistracy and the CJS agencies without compromising judicial independence?**

## **4. Improving court processes and infrastructure**

- 4.1 The work of the Effective Trial Management Programme has had a demonstrable impact on reducing ineffective trials and has led to the recently published Criminal Case Management Framework. The Criminal Procedure Rules will be published in 2005 and will consolidate criminal practice directions.

**Q What else can we do that will ensure cases are ready to be heard when they are listed and are listed as early as possible and what else can be done to help Magistrates improve the way cases are managed?**

**Q What support and measures can we provide which will assist magistrates in imposing discipline in the trial process?**

**Q What additional measures would improve the court experience of victims and witnesses?**

**Q Are there areas of work that could be dealt with outside the magistrates' courts freeing up Magistrates' and courts' valuable time?**

- 4.2 Victim Support provides witness services to all magistrates' courts and the DCA Victims and Witnesses Branch is working with magistrates' courts to improve dedicated facilities.
- 4.3 Much has already been done to improve the way people are treated and kept informed when required to attend magistrates' courts. HM Magistrates' Courts Service Inspectorate's recent inspections have highlighted clear and comprehensive written information, which has satisfied most court users, and whilst external signage was assessed as poor there were good examples of signage inside courthouses.
- 4.4 More can still be done to ensure timely and targeted information and assistance that will allow them to undertake their particular role with confidence and give them an understanding of how the system does its best to meet their needs.

**Q How can we improve the way members of the public are informed about their role and responsibilities when coming in to contact with magistrates' courts?**

**Q What actions can we take that will raise the standards of all our buildings and their facilities?**

## **5. Ensuring court orders are obeyed**

5.1 Community Penalties and Bail conditions must be enforced and when offenders fail to comply with their orders effective action must be taken to address the situation. Pilots are currently underway in Cambridgeshire and Staffordshire MCCs to fast track the procedures for breach warrants for high-risk offenders and a Multi-agency breach warrant pilot is being planned.

5.2 The non-payment of fines undermines respect for the courts and reduces public confidence in the delivery of justice. The Criminal Enforcement Programme is taking forward the provisions of the Courts Act (2003) and the Government's unambiguous commitment that all fines will be paid by developing a new enforcement regime.

**Q Are there ways in which we can improve on the recovery of fines and debt, which are not already being addressed through the Criminal Enforcement Programme?**

5.3 Court Compensation Orders requiring an offender to pay compensation helps the victim to move on with their life. Delays in the payment of compensation are a denial of justice and damages public confidence. A compensation fund for victims has been considered in the past.

**Q How can we ensure that victims are paid their compensation awards promptly?**

## **6. Improving recruitment and retention**

6.1 Last year the DCA launched a National Strategy for the Recruitment of Lay Magistrates. The strategy is designed to raise the profile of the magistracy generally (and particularly with employers); improve the recruitment and retention of magistrates, in particular from under-represented groups, while continuing to draw on the support of those who have traditionally provided the backbone of local recruitment; and ensure that Advisory Committees are supported in the recruitment process through having publicity and advertising material tailored to their particular needs.

6.2 The National Strategy has had an impact but so far it has not achieved as much as we wanted. Much of the first year has been spent gathering data, and conducting a programme of research into the experiences of magistrates, and the views of those from outside the magistrates' community. That data will enable us to target support for Advisory Committees in the coming years. Other elements of the strategy have already been put in place. A single, national call-centre for all applicants has been established, and enables the gathering of more comprehensive data about applicants, while also reducing the burden on Advisory Committees. A national advertising campaign has been run, using advertising on buses and we have seen an increase in the number of applications. A mentoring scheme, run in partnership with Operation Black Vote, provides potential future magistrates with a detailed understanding of the work of magistrates and is already encouraging applicants to join the magistracy. Despite these initiatives, we need to achieve much more with the strategy and we need to target our support of Advisory Committees more effectively.

6.3 Provisions in the Courts Act will see the introduction of a set of new national rules on the provision of training for magistrates, their appraisal and development. There will be new rules on the authorisation of magistrates to sit in Family Proceedings Courts and Youth Courts. Rules will also contain procedures for selecting bench chairs in the adult, family and youth jurisdictions. The DCA and the Judicial Studies Board are in the process of taking this work forward.

6.4 Initial research findings have identified that public perception of the make up of the magistracy is often different from the facts. In recent years the magistracy has become increasingly representative of their communities in relation to the proportion of women magistrates and magistrates from ethnic minorities. However there is more work to be done to ensure the magistracy reflects the age and socio-economic make up of their communities.

**Q What more can be done to ensure that we recruit and retain the numbers of magistrates that are needed and that the make up of the local magistracy reflects its community?**

6.5 Some people find it difficult to obtain time off/away from their work commitments to sit as a magistrate. This can damage recruitment and retention.

**Q How can employment issues associated with the time Magistrates take away from their work and other issues that make it difficult to be a Magistrate be addressed?**

**Q How can we encourage employers to see the value of their employees being Magistrates?**