

2005 No. 564

JUSTICES OF THE PEACE, ENGLAND AND WALES

The Justices of the Peace (Training and Appraisal) Rules 2005

<i>Made</i> - - - -	<i>8th March 2005</i>
<i>Laid before Parliament</i>	<i>9th March 2005</i>
<i>Coming into force</i> - -	<i>1st April 2005</i>

The Lord Chancellor, in exercise of the powers conferred upon him by sections 10,18 and 19 of the Courts Act 2003(a), and after consultation with the Criminal Procedure Rule Committee, the Family Procedure Rule Committee and the Magistrates' Courts Rule Committee in accordance with section 20(2) of the Courts Act 2003, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Justices of the Peace (Training and Appraisal) Rules 2005 and shall come into force on 1 April 2005.

Interpretation

2. In these Rules –

“a BTDC” means a Bench Training and Development Committee established in accordance with these Rules; and references to justices, in relation to a BTDC, mean justices assigned to the local justice area or areas for which the BTDC is established;

“approved court chairman” means a justice approved by the BTDC to preside in magistrates' courts other than family proceedings courts, youth courts, or licensing or betting licensing committees in accordance with rule 13;

“courts board area” means an area of England and Wales for which there is a courts board under section 4 of the Courts Act 2003;

“election meeting” means a meeting held in accordance with rule 11 of the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005(b);

“justice” means a lay justice and, in relation to a local justice area, means a justice who is assigned to that area;

“justices' clerk”, in relation to a local justice area, means a justices' clerk assigned to that area and includes any person acting as such;

“an MATC” means a Magistrates' Area Training Committee, established in accordance with these Rules.

Formation of a BTDC

3. There shall be a BTDC for each local justice area.

Membership of a BTDC

4.—(1) The membership of the BTDC shall consist of three, six or nine justices for the local justice area, appointed in accordance with this rule.

(2) The membership of the BTDC shall rotate by one third in each calendar year.

(3) Except as mentioned in rules 5(2), 9(3) and 9(4), a member of the BTDC shall be appointed to hold office for a term of three years beginning on 1st January following his appointment.

(4) At each election meeting the justices shall –

(a) elect the members of the BTDC or choose a panel of justices who shall select the members of the BTDC; and

(b) decide the method of filling casual vacancies.

(5) The BTDC shall hold a meeting as soon as practicable after 1st January of each year.

(6) At that meeting the members shall, where rule 5 or rule 8(2) applies, decide the length of their terms of office and if they are unable to agree, the length of their terms shall be determined by lot conducted by the justices' clerk.

(7) At that meeting, the members of the BTDC shall appoint a chairman, whose term of office shall expire on 31 December of each year.

(8) Subject to rule 6, the BTDC may re-appoint a chairman.

(9) The justices' clerk may attend the meetings of the BTDC but, except where he is required to act under paragraph (6), may act in an advisory capacity only.

(10) A chairman of the justices elected under the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005(a) shall not be a member of the BTDC for the local justice area for which he was appointed.

(11) Appointments to BTDCs made under the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002(b) shall continue for the term specified in those Rules, as if they were still in force.

Change of number of members of BTDC

5.—(1) At an election meeting the justices may decide, subject to rule 4(1), to increase or reduce the number of members of the BTDC.

(2) If the justices decide to increase or reduce the number of members of the BTDC in accordance with paragraph (1)—

(a) all the existing members of the BTDC shall retire at the end of the calendar year in which the decision is made;

(b) members of the BTDC appointed in that year shall hold office from 1st January in the following year for the following periods—

(i) one year, in the case of one third of the members;

(ii) two years, in the case of one third of the members; and

(iii) three years, in the case of the remaining one third of the members.

Limit on length of service as member of BTDC

6.—(1) A justice may not serve as a member of a BTDC for more than a total of nine years.

(2) A member of the BTDC shall be eligible for reappointment if, at the end of his most recent term of office, he will have served as a member of the BTDC for a period or periods totalling less than nine years.

(3) If, on a date before the end of the period specified in rule 4(3) or (as the case may be) rules 5(2)(b) or 8(2)(b), a member will have served as a member of the BTDC for nine years, that member's term of office shall end on that date.

(a) S.I. 2005/563.

(b) S.I.2002/193, as amended by S.I. 2004/1514.

Quorum of a BTDC meeting

7. A BTDC meeting shall be quorate if:

- (a) where the BTDC has six or nine members, there are three members at the meeting; or
- (b) where the BTDC has three members, there are two members at the meeting.

Establishment of combined BTDC

8.—(1) The justices for two or more local justice areas may establish a combined BTDC, and—

- (a) the provisions of these Rules shall apply to such a BTDC as they apply to a BTDC for a single local justice area, subject to such modifications to rule 4(4) and rule 9(1) as are agreed by the justices for the local justice areas concerned; and
- (b) the justices for the local justice areas concerned shall, subject to rule 4(1), decide the number of members of such a BTDC.

(2) If the justices for two or more local justice areas establish a combined BTDC in accordance with paragraph (1) –

- (a) all the existing members of the BTDCs which are combined to make the combined BTDC shall retire at the end of the calendar year in which the decision is made;
- (b) members of the combined BTDC appointed in that year shall hold office from 1st January in the following year for the following periods –
 - (i) one year, in the case of one third of the members;
 - (ii) two years, in the case of one third of the members; and
 - (iii) three years, in the case of the remaining one third of the members.

Casual vacancy

9.—(1) If a casual vacancy arises, it shall be filled as soon as practicable in accordance with the method of filling casual vacancies decided in accordance with rule 4(4)(b).

(2) If, but for rule 6(3), a member would have served for a longer term, a casual vacancy arises when that member's term of office ends.

(3) A member appointed to fill a casual vacancy described in paragraph (2) shall serve for the remaining part of the period for which the member he is replacing would, but for rule 6(3), have served.

(4) A member appointed to fill a casual vacancy, other than one described in paragraph (2), shall serve for the remaining part of the period for which the member he is replacing was appointed.

(5) Any period served by virtue of paragraphs (3) and (4) shall not count towards the period of nine years' service referred to in rule 6.

Functions of a BTDC

10.—(1) Each BTDC shall–

- (a) establish a scheme for appraising justices;
- (b) identify the training needs of justices and, no later than 30th of September in each year, give the relevant MATC a report of those training needs; and
- (c) maintain a list of approved court chairmen.

(2) In paragraph (1), the relevant MATC means the MATC for the Courts Board area in which the local justice area covered by the BTDC is located.

Appraisal of justices

11.—(1) Every BTDC shall establish a scheme to appraise the performance on the bench of the justices, such as will enable it to –

- (a) determine their training and development needs;
- (b) report to the MATC on their training needs; and
- (c) maintain a list of approved court chairmen in accordance with rules 13 and 14.

(2) The BTDC shall select justices to conduct appraisals (“the appraising justices”) and it may also arrange for a justice assigned to a different area to conduct appraisals.

(3) The BTDC shall determine the intervals at which justices are to be appraised, having regard to the requirements of rule 14.

(4) The BTDC shall establish a procedure for conducting appraisals, which shall include the following elements—

- (a) the notification that will be given to the justice to be appraised (‘the appraised justice’);
 - (b) a procedure for the appraising justice to record his assessment and for notifying the appraised justice and the BTDC of that assessment;
 - (c) a procedure for enabling the appraised justice to discuss the assessment with the appraising justice and a procedure enabling the appraised justice to challenge the assessment to a person other than the appraising justice;
 - (d) the time limits for these procedures.
- (5) The BTDC shall publish its scheme to the justices.

Required training courses

12. A justice shall not perform any of the following functions unless he has completed a training course approved by the Lord Chancellor in respect of that function –

- (a) sitting as a justice in the adult court;
- (b) sitting as a chairman in the adult court;
- (c) sitting as a justice in the family proceedings court;
- (d) sitting as a chairman in the family proceedings court;
- (e) sitting as a justice in the youth court; and
- (f) sitting as a chairman in the youth court.

List of approved court chairmen

13.—(1) A BTDC shall maintain a list of approved court chairmen.

(2) The BTDC shall consider the number of approved court chairmen necessary to—

- (a) enable each court to sit under the chairmanship of an approved court chairman; and
- (b) ensure that each approved court chairman has the opportunity to sit as chairman sufficiently often to maintain an appropriate level of competence.

(3) The BTDC –

- (a) shall regularly review the list of approved court chairmen; and
- (b) may at any time remove a justice’s name from, or add a justice’s name to, the list.

Inclusion in list of approved court chairmen

14. A justice may only be included in the list of approved court chairmen if:

- (a) he has been appraised as competent to sit in the adult court –
 - (i) in two appraisals, and
 - (ii) the most recent of those appraisals took place within the three years preceding the date when the BTDC considers the suitability of the justice for inclusion in the list of approved court chairmen;
- (b) he has completed a chairmanship training course in accordance with rule 12(b);
- (c) he has been appraised on a minimum of three and a maximum of six separate occasions, by a different appraising justice on at least one such occasion, while presiding in court in accordance with rule 4 of the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005; and
- (d) the BTDC has decided to add the justice concerned to the list of approved court chairmen.

Inclusion of justices assigned to other local justice areas on the list of approved court chairmen

15. A BTDC may include a justice in the list of approved court chairmen for its local justice area without complying with rule 14, if—

- (a) the justice is or was assigned to another local justice area and is now assigned to its local justice area, and
- (b) immediately before he was assigned to its local justice area he was included in the list of approved court chairmen for the other area.

Formation of a Magistrates' Area Training Committee

16.—(1) From 1st January 2006, but subject to paragraphs (3) and (4), there shall be a Magistrates' Area Training Committee for each courts board area.

(2) The schedule to these Rules makes transitional provision for the establishment of MATCs.

(3) On or after 1 January 2006 –

- (a) an MATC may apply to the Lord Chancellor to establish more than one MATC in its courts board area; and
- (b) if the Lord Chancellor does so, he shall determine the membership of the MATCs and the terms of office of its members, having regard as far as practicable to the requirements of rules 17 and 19.

(4) The MATCs for two or more courts board areas may establish a combined MATC and the composition of a combined MATC shall be in accordance with rule 18.

Membership of an MATC

17.—(1) The membership of an MATC established under rule 16(1) shall consist of justices assigned within the courts board area (referred to in this rule and rules 18 and 19 as “justice members”) and other members, as follows—

- (a) enough justices for them to be a majority of the membership;
- (b) a justices' clerk assigned to a local justice area within the courts board area;
- (c) a District Judge (Magistrates' Courts) who sits regularly in the courts board area, if such a judge is available;
- (d) a designated family judge, if such a judge is available;
- (e) a Crown Court liaison judge, if such a judge is available.

(2) There shall be no maximum number of justice members.

(3) The MATC may appoint additional justice members and shall do so where it is necessary for the MATC to comply with paragraph (1)(a).

(4) If the number of justice members has fallen so that paragraph 1(a) is not complied with, the MATC may nevertheless act for the purpose of appointing additional justice members.

(5) The justice members shall include –

- (a) every BTDC chairman whose bench is in the courts board area, and
- (b) a justice nominated by the Magistrates' Association.

(6) If there is more than one justices' clerk assigned within the courts board area, the Area Director for the courts board area shall appoint one of them to the MATC.

(7) At its first meeting of the calendar year, the MATC shall appoint a chairman from amongst its justice members.

(8) The Area Director may attend the meetings of the MATC in an advisory capacity only.

Composition of a combined MATC

18.—(1) The membership of a combined MATC shall consist of justices within the courts board areas for which the combined MATC is established (“the MATC area”) and other members, as follows –

- (a) enough justices for them to be a majority of the membership;

- (b) a justices' clerk assigned within each of the courts board areas for which the MATC is established;
 - (c) a District Judge (Magistrates' Courts) who sits regularly in the MATC area, if such a judge is available;
 - (d) a designated family judge, if such a judge is available;
 - (e) a Crown Court liaison judge, if such a judge is available.
- (2) There shall be no maximum number of justice members.
- (3) The MATC may appoint additional justice members and shall do so where it is necessary for the MATC to comply with paragraph 1(a).
- (4) If the number of justice members has fallen so that paragraph 1(a) is not complied with, the MATC may nevertheless act for the purpose of appointing additional justice members.
- (5) The justice members shall include –
- (a) every BTDC chairman whose bench is within the MATC area, and
 - (b) a justice nominated by the Magistrates' Association.
- (6) The Area Directors for the MATC area may attend the meetings of the MATC in an advisory capacity only.

Term of office of members of MATC

- 19.**—(1) The term of office for a BTDC chairman as a member of an MATC shall be the same as his term of office as BTDC chairman.
- (2) The justice nominated by the Magistrates' Association shall have a renewable term of office of three years, but may not serve for more than a total of six years.
- (3) Any justice member who is not a BTDC chairman shall have a renewable term of office of three years, but may not serve for more than a total of six years.
- (4) The chairman of the MATC shall have a renewable term of office, which shall expire on 31 December of each year.
- (5) This rule –
- (a) applies to members of an MATC which is combined under rule 16(4); and
 - (b) where a member of a combined MATC has previously served in an MATC, the length of that previous service shall count for the purposes of paragraphs (2) and (3).

Quorum of an MATC meeting

- 20.** An MATC meeting shall be quorate if:
- (a) the number of members present at the meeting is a number which, if multiplied by four, exceeds the total number of members of the MATC, and
 - (b) a majority of members present are justices.

Functions of an MATC

- 21.**—(1) An MATC shall –
- (a) consider the training needs identified by BTDCs in accordance with rule 10(b), and
 - (b) produce, no later than the end of February each year, a training plan for the period of the following April to March.
- (2) The content of the training plan shall include –
- (a) the proposed types of training;
 - (b) the number of justices who are to receive training;
 - (c) the place or places where the training is likely to be provided;
 - (d) the proposed dates of the training.
- (3) Each MATC shall also provide, no later than 30 September each year, an annual report to the Lord Chancellor on training which was undertaken in the preceding April to March, which shall include:

- (a) information on the types of training that have taken place in that period;
- (b) an evaluation of the training that has taken place;
- (c) the cost of the training;
- (d) information on the number of magistrates who attended the training; and
- (e) any substantial respects in which the training that has taken place has differed from the training that was proposed in the training plan for that period.

(4) An MATC, when producing a training plan under paragraph (1)(b) or providing an annual report under paragraph (3), shall have regard to any guidance issued by the Lord Chancellor as to the form or content of the training plan or report.

Signed by the authority of the Lord Chancellor

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

8th March 2005

SCHEDULE 1

Rule 16

Transitional Provisions About Magistrates Area Training Committees

1. The following persons may meet, during the period starting on 1st April 2005 and ending on 31st December 2005, for the purposes mentioned in paragraph 2:

- (a) each BTDC chairman whose bench is within the courts board area for which the MATC is established;
- (b) a justice nominated by the Magistrates' Association; and
- (c) a justice's clerk assigned within the courts board area for which the MATC is established.

2. The persons mentioned in paragraph 1 shall:

- (a) appoint one of the justices to act as chairman for the period ending on 31 December 2005;
- (b) appoint as many additional justices to be members as they judge will be needed for the MATC to comply with rule 17(1)(a); and
- (c) prepare a draft training plan in respect of the period from 1 April 2006 to 31 March 2007.

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules are made under the Courts Act 2003. They –

- (a) replace, with some changes, the provisions for Bench Training and Development Committees (BTDCs) contained in the Justices of the Peace (Size and Chairmanship of Bench) Rules 2002 (SI 2002/193), and
- (b) make provision for new committees called Magistrates' Area Training Committees (MATCs).

The previous rules on BTDCs lapse as a result of the repeal of the provisions of the Justices of the Peace Act 1997 under which they were made.

These Rules formally confer new functions on BTDCs of appraising the performance in court of justices, identifying their training needs, and reporting training needs in their area to MATCs.

MATCs, which will exist on a courts board area basis, will be required under these Rules to prepare an annual plan for justices' training needs on the basis of the information which BTDCs provide to them. They must also provide an annual report to the Lord Chancellor on the training activities that have taken place in their courts board areas under their training plan for the previous year.

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