

**EXPLANATORY MEMORANDUM TO
THE JUSTICES OF THE PEACE (TRAINING AND DEVELOPMENT
COMMITTEE) RULES 2007**

2007 No. 1609

**THE FAMILY PROCEEDINGS COURTS (CONSTITUTION OF COMMITTEES
AND RIGHT TO PRESIDE) RULES 2007**

2007 No. 1610 (L.8)

**THE YOUTH COURTS (CONSTITUTION OF COMMITTEES AND RIGHT TO
PRESIDE) RULES 2007**

2007 No. 1611 (L.9)

1. This explanatory memorandum has been prepared by the Directorate of Judicial Offices for England and Wales and is laid before Parliament by Command of Her Majesty

2. Description

2.1 The new rules will enable magistrates to be authorised to sit in the family proceedings courts or youth courts. They will deal with:

- committees of magistrates (panels) to oversee the development and pastoral care of family and youth magistrates;
- the process by which magistrates are authorised to sit and preside in family proceedings courts and youth courts;
- the circumstances in which authorisation to sit and preside in these courts might be revoked and the process for doing so; and
- the process by which authorisations to sit and preside in family proceedings courts and youth courts should be administered;

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

2.1 The Courts Act 2003 substitutes a new section 67 of the Magistrates' Courts Act 1980 (section 49 Courts Act) and a new section 45 of the Children and Young Persons' Act 1933 (section 50 Courts Act). These provisions require magistrates who sit in family proceedings courts, and youth courts, to be authorised. The main purpose of these Rules is to establish a system for authorisation.

5. Extent

2.1 The Regulations apply to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 Sections 49 and 50 of the Courts Act 2003 require magistrates who sit on family proceedings courts, and youth courts, to be authorised. . The Act (as amended) gives the Lord Chief Justice the power by rules to make provision about the grant and revocation of authorisations, and the appointment of chairmen in the youth and family courts and the composition of those courts. Section 19 of the Act gives the Lord Chief Justice the power to delegate to committees the power to make and revoke authorisations.

7.2 The attached Rules were drawn up in response to the consultation paper CP 27/05 (Authorisation to sit in Family Proceedings Courts and Youth Courts) published on 21 November 2005 and developed in conjunction with a working group, comprised of representatives of the Judicial Office, the Ministry of Justice the Judicial Studies Board, the Magistrates' Association, the Justices' Clerks Society and the wider magisterial community. These Rules provide for committees to grant and revoke authorisations to sit on family proceedings courts and youth courts. The Rules also provide for training and development matters generally in relation to magistrates. They reflect the overwhelmingly support for the proposed new arrangements expressed by those who responded to the consultation paper (detailed analysis of which is available on the Departmental website at http://www.dca.gov.uk/consult/family_proceedings_courts/cp2705.htm and the detail processes developed in conjunction with the working group.

7.3 The new Rules will enable committees to authorise magistrates to sit in the family proceedings courts or youth courts through a system which:

- creates the minimal administrative burden on magistrates and the selection committee;
- is transparent and accountable; and
- is consistent throughout England and Wales.

7.4 The Rules replace the previous arrangements, whereby magistrates outside London (where different arrangements applied) were elected to sit on family proceedings courts and youth courts by members of their bench. They will provide an appropriate authorisation which will ultimately promote excellence in family and youth work, and ensure that meritorious candidates are authorised.

- 7.5 A total of 299 responses were received to the consultation exercise, although some respondents were unable to answer all of the questions. Over 80% of respondents supported the creation of committees of magistrates (panels) to oversee the development and pastoral care of family and youth magistrates; and agreed that these committees should be responsible for assessing the number of new magistrates required to sit or preside. Similar percentages supported proposals that, in order to be considered for family or youth work, magistrates should be required to have sat for two years in the adult court and to have one successful appraisal; and there was parallel support for similar proposals on the criteria for being considered to preside. However, following discussion at the working group meetings, it was agreed that, given the unique nature of chairing in a Family Proceedings Court it would be an unnecessary barrier in the way of able candidates to require them to have chaired in the adult court before being allowed to chair in the family court. Whereas 79% of respondents supported the proposal that the local Bench Training and Development Committee (BTDC) should be responsible for authorising magistrates to sit in youth courts, opinion was divided as to whether BTDCs should be responsible for authorising magistrates to sit in family proceedings courts or whether this responsibility should be held by separate Family Training and Development Committees (FTDCs). However, consensus was reached through the workshops that it should be left to local panels and BTDCs to decide whether to set up a FTDC to be responsible for the authorisations in their local justice areas.

8. Impact

- 8.1 No Regulatory Impact Assessment has been prepared because there is no regulatory impact on any part of the private or voluntary sector.

9. Contact

- 9.1 Any enquiries about the contents of this memorandum should be addressed to: Malcolm Watts, Magistrates' Branch, Judicial Office
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