

**2016 No. 709**

**JUSTICES OF THE PEACE, ENGLAND AND WALES**

**The Justices of the Peace Rules 2016**

*Made* - - - - - *30th June 2016*

*Laid before Parliament* *7th July 2016*

*Coming into force in accordance with rule 1*

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The Senior Presiding Judge, as a nominee of the Lord Chief Justice under section 20(3) of the Courts Act 2003(a) makes the following Rules, in exercise of the powers conferred on him by:

sections 10(4), 17(2) and (5), 18(6) and (7), 19(1) and (2), and 108(6) of the Courts Act 2003(b), and after consultation with the Lord Chancellor, the Criminal Procedure Rule Committee and the Family Procedure Rule Committee, in accordance with section 20(2) of that Act; and

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(a) 2003 c. 39. Section 20(2) was amended by paragraph 321 of Schedule 4 to the Constitutional Reform Act 2005 c. 4 and by S.I. 2012/2398. Section 20(3) was inserted by paragraph 321 of Schedule 4 to the Constitutional Reform Act 2005 c. 4.

(b) 2003 c. 39. Section 17 has been amended by paragraph 319(2) of Schedule 4(1) to the Constitutional Reform Act 2005 c. 4. Section 19 has been amended by paragraph 320(2) of Schedule 4 to the Constitutional Reform Act 2005 c. 4, and by paragraph 86 of Schedule 10 to the Crime and Courts Act 2013 c. 22. Section 108(6) has been amended by paragraph 348 of Schedule 4 to the Constitutional Reform Act 2005 c. 4.

section 45(4) of the Children and Young Persons Act 1933(a) with the concurrence of the Lord Chancellor and after consultation with the Criminal Procedure Rule Committee in accordance with section 45(6) of that Act:

## PART 1

### Introductory provisions

#### Citation and commencement

- 1.—(1) These Rules may be cited as the Justices of the Peace Rules 2016.
- (2) These Rules come into force on 31st July 2016 for the purposes of—
- (a) Part 1 (introductory provisions);
  - (b) Part 2 (composition of magistrates' courts);
  - (c) Part 3 (elections);
  - (d) Part 4, Chapter 1 (compulsory training);
  - (e) Rule 23 (JTAAAC selection panel), and
  - (f) Rule 27 (FTAAAC selection panel).
- (3) These Rules come into force on 1st April 2017 for the purposes of—
- (a) Part 4, Chapter 2 (JTAAAC), other than Rule 23;
  - (b) Part 4, Chapter 3 (FTAAAC), other than Rule 27, and
  - (c) Part 4, Chapter 4 (provisions relating to both JTAAACs and FTAAACs).

#### Revocations and transitional provisions

- 2.—(1) Subject to paragraph (2)—
- (a) the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005 (“the 2005 Rules”)(b);
  - (b) the Family Court (Constitution of Committees: Family Panels) Rules 2014 (“the 2014 Rules”)(c), and
  - (c) the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 (“the Youth Courts Rules 2007”)(d)
- are revoked.
- (2) Appointments made under the 2005 Rules continue until 31st March 2017 as if those Rules were still in force.
- (3) The Justices of the Peace (Training and Development Committee) Rules 2007 (“the TDC Rules 2007”)(e) remain in force until 31st March 2017, after which date they are revoked.
- (4) Appointments made under the TDC Rules 2007 continue until 31st March 2017 (but do not continue after that date), even if, by virtue of those Rules, they would otherwise end before that date.
- (5) Any period of office under Rule 13 of the 2005 Rules is counted as a term when determining whether a justice is eligible for re-election under Rule 18, except where any such period of office is three months or less.

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(a) 1933 c. 12. Section 45 was substituted by the Courts Act 2003, section 50(1) and amended by the Constitutional Reform Act 2005, Schedule 4, paragraph 20.

(b) S.I. 2005/553, as amended by S.I. 2014/879.

(c) S.I. 2014/842.

(d) S.I. 2007/1611, as amended by S.I. 2007/2622 and 2011/1494.

(e) S.I. 2007/1609, as amended by S.I. 2011/1493 and 2014/879.

(6) The term of any appointment under the TDC Rules 2007 is counted when determining whether a justice is eligible for re-election under Rule 28.

### **Interpretation**

#### **3. In these Rules—**

“adult court” means a magistrates’ court other than a youth court;

“advisory committee” means one of the Lord Chancellor’s advisory committees on justices of the peace;

“eligible justice” means a justice or a family justice who is eligible to stand for election and to vote in an election pursuant to Rule 7;

“family justice” means a justice who is authorised by or on behalf of the Lord Chief Justice to conduct business in the family court;

“family justice member” has the meaning given in Rule 26(1)(a);

“FTAAAC” means a Family Training, Approvals, Authorisations and Appraisals Committee, and references to justices in relation to an FTAAAC mean family justices assigned to the local justice area or areas in the FTAAAC area;

“FTAAAC area” means the area specified by or on behalf of the Lord Chief Justice as the area for which an FTAAAC operates;

“FTAAAC selection panel” means the selection panel for each FTAAAC area, elected to appoint members of the relevant FTAAAC;

“JTAAAC” means a Justices’ Training, Approvals, Authorisations and Appraisals Committee, and references to justices in relation to a JTAAAC mean justices assigned to the local justice area or areas in the JTAAAC area;

“JTAAAC area” means the area specified by or on behalf of the Lord Chief Justice as the area for which a JTAAAC operates;

“JTAAAC selection panel” means the selection panel for each JTAAAC area, elected to appoint the members of the relevant JTAAAC;

“justice” means a justice of the peace who is not a District Judge (Magistrates’ Court) 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;

“justice member” has the meaning given in Rule 22(1)(a);

“magistrates’ court” means any court in which a justice is authorised to sit, other than a family court or a Crown Court, and

“youth justice” means a justice who is authorised by or on behalf of the Lord Chief Justice to sit as a member of a youth court.

## **PART 2**

### **Composition of magistrates’ courts**

#### **Size of bench**

**4.** The number of justices sitting to deal with a case as a magistrates’ court must not be greater than three.

## **Presiding justices**

**5.**—(1) This Rule does not apply to any justice sitting in a magistrates' court in accordance with section 16A of the Magistrates' Courts Act 1980(a).

(2) Subject to paragraph (3), a magistrates' court must be presided over by—

- (a) a District Judge (Magistrates' Courts);
- (b) a justice who has been approved in accordance with these Rules, or
- (c) a justice who has completed or is undertaking approved training courses in accordance with Rule 19(b) or (d) (as applicable), and is under the supervision of a justice who has been approved to preside in that court.

(3) The justices present may, in the absence of a justice entitled to preside under paragraph (2), appoint one of their number to preside in a magistrates' court to deal with any case if—

- (a) before making such an appointment, the justices present are satisfied as to the suitability for this purpose of the justice proposed, and
- (b) except as mentioned in paragraph (4), the justice proposed has completed or is undertaking training courses in accordance with Rule 19(b) or (d) (as applicable) to enable that justice, if approved, to preside in that court.

(4) The condition in paragraph (3)(b) does not apply if by reason of illness, circumstances unforeseen when the justices to sit were chosen, or other emergency, no justice who complies with that condition is present.

## **PART 3**

### **Elections**

#### **CHAPTER 1**

##### **Procedure**

## **General provision**

**6.** This Part sets out the election procedure for —

- (a) the offices of chairman and deputy chairman for each local justice area, and
- (b) membership of the FTAAAC and JTAAAC selection panels for each FTAAAC and JTAAAC area.

## **Eligibility of justices and family justices**

**7.**—(1) A justice is eligible to stand for election and to vote in an election for the offices of chairman and deputy chairman, and membership of a JTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(2) A family justice is eligible to stand for election and to vote in an election for membership of an FTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(3) The relevant date in paragraphs (1) and (2) is the day on which the justices' clerk informs the eligible justices under Rule 10(2).

## **Procedure for elections**

**8.**—(1) The election procedure consists of a notice of candidacy procedure, and, except as provided in paragraph (2), a secret ballot.

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(a) 1980 c. 43. Section 16A was inserted by section 48 Criminal Justice and Courts Act 2015 c. 2.

(2) A secret ballot is not required where the justices required to fill the available vacancies are elected under Rule 10(6)(a) or (b).

(3) The timetable for the election procedure must be determined by the justices' clerk and published before or at the start of the procedure.

(4) Any timetable must allow sufficient time for receipt of notices of candidacy and a secret ballot where required.

### **Deputy chairmen**

**9.**—(1) The election procedure in respect of a deputy chairman must commence after the election of the chairman has been completed and the result declared.

(2) The number of deputy chairmen is determined by the justice elected as chairman for the duration of the term in which the deputy chairman or chairmen will serve.

### **Notice of candidacy procedure**

**10.**—(1) Eligible justices who want to be elected in respect of a vacancy must complete a notice of candidacy.

(2) The justices' clerk must inform eligible justices that they may submit a notice of candidacy, in accordance with paragraph (3).

(3) The justices' clerk must determine and specify:

- (a) the manner in which notices are to be submitted;
- (b) the means by which notices can be submitted, and
- (c) a closing date for receipt of notices.

(4) The justices' clerk, or anyone nominated to act on their behalf, must be satisfied that each notice has been submitted in accordance with the specifications made under paragraph (3).

(5) A notice that has not been submitted in accordance with the specifications in paragraph (3) must not be treated as a valid notice.

(6) Where—

- (a) a single valid notice of candidacy is received for a vacancy, the candidate who submitted that notice is elected;
- (b) the number of valid notices of candidacy received is less than or equal to the number of vacancies, those candidates are elected.

(7) As soon as practicable after an election under paragraph (6), the justices' clerk must notify the candidates as to the result.

(8) As soon as practicable after notifying the candidates under paragraph (7), the justices' clerk must notify the eligible justices as to the result.

### **Secret ballot**

**11.**—(1) Where the valid notices of candidacy exceed the number of vacancies, the justices' clerk must arrange a secret ballot.

(2) The justices' clerk must inform the eligible justices that they may vote in the secret ballot in accordance with paragraph (3).

(3) The justices' clerk must —

- (a) determine and specify the procedure to be followed for the ballot;
- (b) inform eligible justices of the names of the candidates and the means by which votes may be cast, and
- (c) specify a closing date by which votes must be cast if they are to be counted in the ballot.

(4) Where the election is for a single vacancy, each eligible justice may cast one vote in accordance with the specified procedure.

(5) Where the election is for more than one vacancy, each eligible justice may cast one vote per vacancy (up to but not exceeding the number of vacancies) in accordance with the specified procedure.

### **Determining result of secret ballot**

**12.—**(1) Where there is a single vacancy, the candidate who receives the highest number of votes cast is elected.

(2) Where there is more than one vacancy, the requisite number of candidates (being the number equal to the number of vacancies) who have received the highest number of votes are elected.

(3) If—

(a) two or more candidates have received an equal number of votes for a vacancy (the “tied candidates”), and

(b) taking into account the election of any candidate who has received a higher number of votes than the tied candidates—

(i) the election of one or more of the tied candidates is necessary to make up the requisite number, but

(ii) the election of all of the tied candidates would exceed the requisite number,

the justices’ clerk must decide between them by lot, and paragraph (4) applies.

(4) Where this paragraph applies, the candidate or candidates (as applicable) on whom the lot falls is elected.

(5) As soon as practicable after an election under this Rule, the justices’ clerk must notify the candidates, as to—

(a) the result;

(b) the number of votes cast for each candidate, and

(c) where relevant, if a lot was required.

(6) As soon as practicable after notifying the candidates under paragraph (5), the justices’ clerk must notify the eligible justices as to—

(a) the result;

(b) the number of votes cast for each candidate, and

(c) where relevant, if a lot was required.

### **Miscellaneous provisions about secret ballots**

**13.—**(1) Unless otherwise determined in accordance with Rule 16, the justices’ clerk must not treat a ballot as invalidated by reason of—

(a) information sent by the justices’ clerk in accordance with the election procedure not being received by a justice,

(b) a vote not being received by the justices’ clerk.

(2) Where an eligible justice does not follow the specified procedure, any vote by that eligible justice must not be taken into account when the votes are counted.

(3) The justices’ clerk and any other person carrying out the ballot procedure must not disclose how any justice voted in any ballot.

### **Withdrawal of notices of candidacy**

**14.—**(1) A candidate may withdraw their notice of candidacy—

(a) before the closing date for receipt of notices;

- (b) where, after the closing date, there is (or otherwise would be) a need for a ballot, before the justices' clerk has provided to the eligible justices the information under Rule 11(3)(b), or
- (c) where there has been a ballot and an equality of votes requires the drawing of lots, before the lots are drawn.

(2) Where a candidate has withdrawn their notice of candidacy after the closing date for receipt of notices but before the justices clerk has provided to the eligible justices the information under Rule 11(3)(b), the name of that candidate must be omitted from the ballot, save that—

- (a) where (after the withdrawal of the notice) there is only one candidate for a single vacancy, that candidate is elected, and
- (b) where (after the withdrawal of the notice) the number of candidates equals or is less than the number of vacancies, those candidates are elected.

(3) Where a candidate has withdrawn their notice after there has been a ballot and an equality of votes requires the drawing of lots, that candidate's name must not be included in the drawing of lots, save that—

- (a) where (after the withdrawal of the notice) there remains only one candidate for a single vacancy, that candidate is elected;
- (b) where (after the withdrawal of the notice) the number of candidates for the relevant vacancy equals or is less than the number of vacancies, those candidates are elected.

#### **Absence or insufficiency of notices of candidacy**

**15.—**(1) Where no notices of candidacy have been received within the relevant timetable, or all notices submitted are withdrawn, the justices' clerk must inform the eligible justices of that fact and inform them that they may further submit notices by a date specified by the justices' clerk.

(2) Where notices are received in accordance with paragraph (1), the procedure set out at Rule 8 must be followed.

(3) If no notices are received in accordance with paragraph (1) for the office of chairman, the justices' clerk must arrange a secret ballot, following the procedure in Rules 11, 12 and 13.

(4) For the purposes of the secret ballot under paragraph (3), all eligible justices must be treated as candidates and their names presented in alphabetical order for the vote.

(5) If no or insufficient notices are received in accordance with paragraph (1) for the office of deputy chairman, any vacancy may remain for the duration of the term.

(6) In respect of a local justice area, if either—

- (a) no notices are received in accordance with paragraph (1) for election to a JTAAAC selection panel; or
- (b) insufficient notices are received for members of a JTAAAC selection panel, the chairman of that local justice area must select the requisite number of justices to act in that regard.

(7) In respect of a local justice area, if either—

- (a) no notices are received in accordance with paragraph (1) for election to an FTAAAC selection panel, or
- (b) insufficient notices are received for members of an FTAAAC selection panel, the justice with the leadership role in relation to family justices in the area must select the requisite number of justices to act in that regard.

#### **Material irregularity in election procedure**

**16.—**(1) Where the justices' clerk is satisfied (either of their own motion or following representation from an eligible justice) that a material irregularity has occurred in the election



procedure, the justices' clerk may revoke the result of the election and repeat the election procedure, or a part of it, in respect of the relevant vacancy or vacancies.

(2) An eligible justice must make a representation as to any material irregularity to the justices' clerk within 14 days of the notification of the result of the election under Rule 10(8) or 12(6).

(3) The justices' clerk must notify the eligible justice who made the representation of their decision within 14 days.

(4) If the justices' clerk does not repeat the election procedure, an eligible justice may, within 14 days of notice of such decision, request a judicial office holder, nominated for this purpose by the Lord Chief Justice, to revoke the result of the election and repeat the election procedure, or a part of it.

(5) The eligible justice making a request under paragraph (4) must—

- (a) make the request in writing to the justices' clerk; and
- (b) specify the grounds on which the request is made.

(6) The nominated judicial office holder may—

- (a) confirm the result of the election, or
- (b) if satisfied that a material irregularity has occurred in the election procedure, revoke the result of the election and direct the justices' clerk to repeat the election procedure, or a part of it.

(7) The justices' clerk or nominated judicial office holder must give candidates and any eligible justice who has made representations under paragraph (2), the opportunity to make representations before determining whether to repeat the election procedure, or any part of it.

## CHAPTER 2

### Provisions specific to chairman and deputy chairmen

#### **Duration of term in office and vacancies**

**17.—**(1) Subject to paragraphs (2), (5) and (6), a chairman and deputy chairman elected under Rules 8 to 15 inclusive will serve a term of one year commencing on 1st April following their election and ending on 31st March of the following year (the "normal term").

(2) The term may be less than one year if—

- (a) the chairman or deputy chairman ceases to act as such, whether by ceasing to be a justice, resignation or for any other reason, in which case the term finishes on the date the person ceases to act, or
- (b) the relevant local justice area ceases to exist, in which case the term finishes on the date the local justice area ceases to exist.

(3) Where a vacancy arises during the normal term under paragraph (2), the justices' clerk must, as soon as possible, commence the election procedure in respect of the vacancy.

(4) Paragraph (3) does not apply if the vacancy is that of a deputy chairman and the chairman determines that the vacancy should not be filled.

(5) The term may commence on a date other than 1st April if—

- (a) there has been an election under paragraph (3), in which case the term commences on the date of the election or such other date as may have been specified by or on behalf of the justices' clerk, or
- (b) a new local justice area is created, in which case a new term commences on the date that the new local justice area comes into existence.

(6) Subject to paragraph (7), in respect of a justice elected to a vacancy under paragraph (5), the term is until the end date of the normal term.

(7) If a justice is elected under paragraph (5) in respect of a term commencing on a date between 1st January and 31st March in any given year, the term continues until 31st March of the following year.

### **Eligibility for re-election**

**18.**—(1) A justice is not eligible to be elected as chairman for a local justice area for more than three terms in that local justice area, unless at least six years have elapsed since the justice last filled that vacancy.

(2) In any event, a justice is not eligible to be elected as chairman for a local justice area for more than six terms in total in any one local justice area.

(3) A justice is not eligible to be elected as a deputy chairman for a local justice area for more than five terms in any one local justice area.

## **PART 4**

### **Approvals, Authorisations, Training and Appraisals**

#### **CHAPTER 1**

##### **Compulsory Training**

### **Training provision for justices**

**19.** A justice must not perform any of the following functions unless that justice has completed a training course approved by the Lord Chief Justice in respect of that function—

- (a) sitting as a justice in the adult court;
- (b) presiding in the adult court;
- (c) sitting as a youth justice;
- (d) presiding in the youth court;
- (e) sitting as a family justice, or
- (f) presiding in the family court.

#### **CHAPTER 2**

##### **JTAAAC**

### **Formation of JTAAAC**

**20.**—(1) There must be one JTAAAC for each JTAAAC area.

(2) The Lord Chief Justice may amend JTAAAC areas, and in doing so shall—

- (a) specify the area that will form the new JTAAAC area, and
- (b) determine the membership of the JTAAAC for the area and the duration of the term of its members, having regard, as far as practicable, to the requirements of Rules 22 and 28.

### **Functions of JTAAAC**

**21.**—(1) Each JTAAAC must, as appropriate—

- (a) select justices to undertake training courses in relation to the functions set out at Rule 19(b) and (d);
- (b) grant and revoke approvals for justices to preside in the magistrates' courts;
- (c) grant authorisations on behalf of the Lord Chief Justice, and recommend revocations of authorisations, for justices to sit as youth justices, and

- (d) establish and operate a scheme for appraising the performance of justices within each JTAAAC area so as to satisfy itself that each justice demonstrates or continues to demonstrate the necessary competence in the role in which performance is being appraised.
- (2) Each JTAAAC must, as appropriate—
- (a) identify the training needs of justices sitting in magistrates’ courts in its area;
  - (b) prepare a training plan to meet those needs;
  - (c) specify that certain training is essential for all or certain justices, having regard to guidance issued by the Lord Chief Justice;
  - (d) ensure there are arrangements in place to deliver the required training, and
  - (e) monitor the training of justices in its area in relation to magistrates’ courts.
- (3) In undertaking the responsibilities in these Rules, each JTAAAC must have regard to—
- (a) guidance issued by the Lord Chief Justice;
  - (b) the national training programme for justices;
  - (c) any national minimum training provision;
  - (d) any representations made to the JTAAAC concerning justices’ training by any senior circuit judge in the JTAAAC area;
  - (e) the budget for justices’ training in the area, and
  - (f) any requirements of the Lord Chief Justice to report on justices’ training.

**Membership of JTAAAC**

- 22.**—(1) Each JTAAAC must consist of:
- (a) between 6 and 24 justices from the relevant local justice areas appointed in accordance with Rule 23 (the “justice members”);
  - (b) one justice nominated by the Magistrates’ Association, and
  - (c) the justices’ clerk or clerks or an assistant to a justices’ clerk nominated by them.
- (2) The following justices must not be members of a JTAAAC —
- (a) a member of the JTAAAC selection panel;
  - (b) a chairman of the justices within the JTAAAC area, or
  - (c) a justice who is a member of an advisory committee in the JTAAAC area.
- (3) Subject to paragraph (4), the following may attend meetings of a JTAAAC —
- (a) either—
    - (i) the designated officer (being the person designated under section 37 of the Courts Act 2003) in the JTAAAC area;
    - (ii) where there is more than one designated officer, one of them, or
    - (iii) a person delegated by the designated officer or officers (as the case may be).
  - (b) the chairmen of the justices in the JTAAAC area, and
  - (c) any additional persons invited to attend by the JTAAAC.
- (4) The individuals referred to in paragraph (3) must not attend any part of a meeting at which the JTAAAC considers matters relating to individual justices.

**JTAAAC selection panel**

- 23.**—(1) A JTAAAC selection panel must appoint the justice members.
- (2) A chairman of the justices within the JTAAAC area must not be a member of the JTAAAC selection panel.

(3) The JTAAAC selection panel must be elected in accordance with the election procedure set out in Part 3, Chapter 1 of these Rules.

(4) Members of the JTAAAC selection panel must be elected for a period of three years, and may be re-elected provided that they have not served for more than six years.

(5) Subject to paragraphs (6) and (7), the JTAAAC selection panel must consist of a justice from each local justice area comprising the JTAAAC area.

(6) Where there is only one local justice area in the JTAAAC area, the JTAAAC selection panel must consist of three justices from that area.

(7) Where there are two local justice areas in the JTAAAC area, the JTAAAC selection panel must consist of two justices from each of those areas.

(8) A justice who wants to be appointed as a justice member must submit a written application to the selection panel.

(9) The JTAAAC selection panel must, having regard to guidance from the Lord Chief Justice—

(a) subject to Rule 22(1)(a), determine the number of justice members of the JTAAAC;

(b) consider the written applications and—

(i) appoint the number of justice members required, and

(ii) subject to Rule 28(1), determine the duration of the terms of members so appointed.

(10) The JTAAAC selection panel must ensure that sufficient members of a JTAAAC are youth justices.

(11) If insufficient youth justices have applied for membership of a JTAAAC, the JTAAAC selection panel must appoint sufficient other youth justices with their agreement.

(12) Subject to Rule 22(1)(a), the JTAAAC selection panel may, at any time, change the number of justice members.

(13) If the JTAAAC selection panel changes the number of justice members under paragraph (12), it may amend the terms of existing justice members.

## CHAPTER 3

### FTAAAC

#### **Formation of FTAAAC**

**24.**—(1) There must be one FTAAAC in each FTAAAC area.

(2) The Lord Chief Justice may amend FTAAAC areas, and in doing so shall—

(a) specify the area that will form the new FTAAAC area, and

(b) determine the membership of the FTAAAC for the area and the duration of the term of its members, having regard, as far as practicable, to the requirements of Rules 26 and 28.

#### **Functions of FTAAAC**

**25.**—(1) Each FTAAAC must—

(a) select family justices to undertake training courses in relation to the functions set out at Rule 19(f);

(b) grant and revoke approvals for family justices to preside in the family court;

(c) grant authorisations on behalf of the Lord Chief Justice, and recommend revocations of authorisations, for justices to sit as family justices, and

(d) establish and operate a scheme for appraising the performance of justices sitting in the family court within the FTAAAC area so as to satisfy itself that each justice demonstrates or continues to demonstrate the necessary competence in the role in which performance is being appraised.

(2) Each FTAAAC must, as appropriate—

- (a) identify the training needs of family justices in its area;
  - (b) prepare a training plan to meet those needs;
  - (c) specify that certain training is essential for all or certain family justices, having regard to guidance issued by the Lord Chief Justice;
  - (d) ensure there are arrangements in place to deliver the required training, and
  - (e) monitor the training of family justices in its area.
- (3) In undertaking the responsibilities in these Rules, each FTAAAC must have regard to—
- (a) guidance issued by the Lord Chief Justice;
  - (b) the national training programme for justices;
  - (c) any national minimum training provision;
  - (d) any representations made to the FTAAAC concerning justices’ training by any senior circuit judge in the FTAAAC area;
  - (e) the budget for justices’ training in the area, and
  - (f) any requirements of the Lord Chief Justice to report on justices’ training.

**Membership of FTAAAC**

- 26.**—(1) Each FTAAAC must consist of—
- (a) between 6 and 24 family justices from the relevant local justice areas appointed in accordance with Rule 27 (the “family justice members”);
  - (b) one justice nominated by the Magistrates’ Association, and
  - (c) the justices’ clerk or clerks or an assistant to the justices’ clerk nominated by them.
- (2) The following justices must not be members of an FTAAAC —
- (a) a member of the FTAAAC selection panel;
  - (b) a chairman of the justices within the FTAAAC area or the justice with the leadership role in relation to family justices in the area, or
  - (c) a justice who is a member of an advisory committee in the FTAAAC area.
- (3) Subject to paragraph (4), the following may attend meetings of an FTAAAC —
- (a) either—
    - (i) the designated officer (being the person designated under section 37 of the Courts Act 2003) in the FTAAAC area, or
    - (ii) where there is more than one designated officer, one of them, or
    - (iii) a person delegated by the designated officer or officers (as the case may be).
  - (b) the justice with the leadership role in relation to family justices in the area, and
  - (c) any additional persons invited to attend by the FTAAAC.
- (4) The individuals referred to in Rule 26(3)(a), (b) and (c) must not attend any part of a meeting at which the committee considers matters relating to individual justices.

**FTAAAC selection panel**

- 27.**—(1) A selection panel must appoint the family justice members of the FTAAAC.
- (2) A chairman of the justices within the FTAAAC area or the justice with the leadership role in relation to family justices in the area must not be a member of the FTAAAC selection panel.
- (3) The selection panel must be elected in accordance with the election procedure set out in Part 3, Chapter 1 of these Rules.
- (4) Members of the selection panel must be elected for a period of three years, and may be re-elected provided that they have not served for more than six years in total.

(5) Subject to paragraphs (6) and (7), the FTAAAC selection panel must consist of a family justice from each local justice area comprising the FTAAAC area.

(6) Where there is only one local justice area in the FTAAAC area, the selection panel must consist of three family justices from that area.

(7) Where there are two local justice areas in the FTAAAC area, the selection panel must consist of two family justices from each of those areas.

(8) A family justice who wants to be appointed as a family justice member must submit a written application to the selection panel.

(9) The selection panel must, having regard to guidance from the Lord Chief Justice—

(a) subject to Rule 26(1)(a), determine the number of family justice members on the FTAAAC;

(b) consider the written applications and—

(i) appoint the number of family justice members required, and

(ii) subject to Rule 28(1), determine the duration of the terms of members so appointed.

(10) The selection panel may, at any time, change the number of family justice members.

(11) If the selection panel changes the number of family justice members under paragraph (10), it may amend the terms of existing family justice members.

## CHAPTER 4

### Provisions relevant to both JTAAACs and FTAAACs

#### Miscellaneous provisions

**28.**—(1) A justice member or family justice member (as the case may be)—

(a) may serve for between one and three years, as determined by the selection panel in accordance with Rule 23(9)(b)(ii) or 27(9)(b)(ii); and

(b) must not serve on a JTAAAC or FTAAAC for more than a total of nine years.

(2) The justice nominated by the Magistrates' Association—

(a) may serve for a three year renewable term, and

(b) must not serve on a JTAAAC or FTAAAC for more than a total of six years.

(3) At the first meeting of a JTAAAC and the first meeting of an FTAAAC following 1st April each year—

(a) a chairman of the JTAAAC must be chosen from among its justice members, and

(b) a chairman of the FTAAAC must be chosen from among its family justice members.

(4) The justice chosen must not serve as chairman of the JTAAAC or FTAAAC for more than three years in total.

#### JTAAAC and FTAAAC decisions

**29.**—(1) A JTAAAC or FTAAAC may make decisions about individual justices with the participation of at least three of its members.

(2) Decisions on other matters must be made by at least one third, or three of its members, whichever is the greater.

(3) If—

(a) A JTAAAC or FTAAAC member leaves a meeting because that member is the subject of discussion at the meeting, and

(b) by reason of that member's absence there are then fewer than three members present,

the meeting is quorate in relation to that discussion and any subsequent decision relating to that discussion.

(4) When a JTAAAC or FTAAAC considers matters relating to approvals, authorisations or competences of individual justices, the justices' clerk (or nominated assistant) may act in an advisory capacity only.

### **Grant of approval or authorisation**

**30.**—(1) In order to approve justices to preside in court or to authorise justices to sit as youth or family justices, a JTAAAC or FTAAAC must be satisfied that—

- (a) each justice meets any criteria set out by the Lord Chief Justice for the relevant role;
- (b) in respect of an authorisation to sit as a youth justice or a family justice, the justice is suitable for that role;
- (c) in respect of an approval to preside in court, the justice—
  - (i) has completed training courses approved by the Lord Chief Justice for that function, and
  - (ii) has been appraised as competent in that role in accordance with the appraisal scheme.

(2) Additional justices may not be authorised to sit as youth or family justices or approved to preside in court unless the justices' clerk advises the JTAAAC or FTAAAC (as the case may be) that additional justices for that role are required in the relevant local justice area.

### **Review of competence**

**31.**—(1) This Rule applies to justices in respect of their competence to sit in the adult court (other than their competence to preside in court).

(2) Each JTAAAC must review the competence of a justice—

- (a) if the justice has not completed, within a reasonable time, any training requirement specified in Rule 19(a);
- (b) if the justice has not completed, within a reasonable time, one or more training requirements designated as essential pursuant to Rule 21(2)(c);
- (c) following any appraisal or series of appraisals carried out in accordance with this Rule or with the appraisals scheme;
- (d) where, following a complaint about a justices' performance, the JTAAAC is satisfied that the justice has failed to demonstrate the necessary competence, or
- (e) where, following a referral in relation to a complaint considered under the Judicial Conduct (Magistrates) Rules 2014(a), the JTAAAC is satisfied that the justice has failed to demonstrate the necessary competence.

(3) A JTAAAC may review the competence of any justice returning from absence of six months or more.

(4) Following a review under this Rule, the JTAAAC may take any action it considers appropriate, including one or more of the following—

- (a) confirming that it is satisfied as to the competence of the justice;
- (b) requiring the justice to undertake training or further training;
- (c) requiring the justice to undertake one or more appraisal or further appraisals;

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(a) The Judicial Conduct (Magistrates) Rules 2014 were made under S.I. 2014/1919, regulation 7.

- (d) where satisfied that a justice has failed over a period of time to reach the required standard, instructing the justices' clerk to report the matter to the appropriate advisory committee.

### **Review of approvals and authorisations**

**32.**—(1) This Rule applies to justices in respect of—

- (a) any approval of justices to preside in the magistrates' court or family court; and
- (b) any authorisation of justices to sit as a youth justice or family justice.

(2) A JTAAAC or FTAAAC must review the approval or authorisation of a justice—

- (a) if requested to do so by that justice;
- (b) where a minimum sitting requirement has been laid down in directions made by the Lord Chief Justice, if the justice has not met that requirement;
- (c) where no minimum sitting requirement has been laid down as in paragraph (2)(b), if the justice has not sat in the role for which that justice is approved or authorised for a continuous period of 12 months preceding the date of the review;
- (d) if it appears to the JTAAAC or FTAAAC that a justice may not be suitable for the role for which an authorisation relates;
- (e) if the justice has not completed, within a reasonable time, any training requirements specified in Rule 19;
- (f) if the justice has not completed, within a reasonable time, one or more training requirements designated as essential pursuant to Rule 21(2)(c) or 25(2)(c);
- (g) following an appraisal or series of appraisals carried out in accordance with this Rule or the appraisal scheme;
- (h) where, following a complaint about a justices' performance or suitability to perform a particular function, the JTAAAC or FTAAAC is satisfied that the justice has failed to demonstrate the necessary competence in the role to which the approval or authorisation relates, or
- (i) where, following a referral in relation to a complaint considered under the Judicial Conduct (Magistrates) Rules 2014(a), the JTAAAC or FTAAAC is satisfied that the justice has failed to demonstrate the necessary competence in the role to which the approval or authorisation relates.

(3) A JTAAAC or FTAAAC may review the approval or authorisation of any justice returning from absence of six months or more.

(4) Where a JTAAAC or FTAAAC is investigating a complaint concerning the performance of a justice presiding in a magistrates' court or family court, it may suspend the approval for that justice to preside pending the completion of its review under paragraph (2).

(5) Following a review of an authorisation or an approval, the JTAAAC or FTAAAC may take any action it considers appropriate, including one or more of the following—

- (a) confirming the approval or authorisation;
- (b) requiring the justice to undertake training or further training;
- (c) requiring the justice to undertake one or more appraisal or further appraisals;
- (d) revoking the approval to preside in court (either generally or in a specific role);
- (e) recommending the revocation of an authorisation to sit as a youth justice or family justice;

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(a) The Judicial Conduct (Magistrates) Rules 2014 were made under S.I. 2014/1919, regulation 7.



- (f) where satisfied that a justice has failed over a period of time to reach the required standard, instructing the justices' clerk to report the matter to the appropriate Lord Chancellor's advisory committee on Justices of the Peace.

### **Revocation of approvals and authorisations**

**33.** A JTAAAC or FTAAAC (as appropriate) may revoke an approval of a justice to preside in court, or recommend to the Lord Chief Justice to revoke the authorisation to sit as a family justice or youth justice, as follows—

- (a) where requested to do so by the justice who is the subject of the approval or authorisation;
- (b) where the justice has not met the minimum sitting requirement as laid down in directions made by the Lord Chief Justice;
- (c) if the justice has not completed, within a reasonable time, any training requirements specified in Rule 19;
- (d) if the justice has not completed, within a reasonable time, one or more training requirements designated as essential pursuant to Rule 21(2)(c) or 25(2)(c);
- (e) where the justice has failed to undertake training or appraisal required under Rule 32(5);
- (f) where the JTAAAC or FTAAAC is satisfied that the justice is no longer suitable to sit in the role to which the authorisation relates, or
- (g) where the JTAAAC or FTAAAC is satisfied that the justice fails to demonstrate the necessary competence in the role to which the approval or authorisation relates.

### **Reconsideration and review procedure**

**34.—**(1) This Rule applies where a justice is dissatisfied with a decision made by a JTAAAC or FTAAAC—

- (a) not to select the justice for training in relation to the functions set out at Rule 19(b)(d) or (f);
- (b) following a review under Rule 31 or 32, or
- (c) following a revocation or recommendation of revocation under Rule 33.

(2) The justice concerned may—

- (a) request the JTAAAC or FTAAAC to reconsider its decision;
- (b) where permitted by the procedure prescribed by the Lord Chief Justice or the committee, ask the chairman of the justices for the local justice area to which they are assigned, to review the decision.

(3) The chairman considering a review under paragraph (2)(b) may—

- (a) confirm the JTAAAC's or FTAAAC's decision, or
- (b) direct the JTAAAC or FTAAAC to reconsider its decision.

### **Review of excess authorisations**

**35.—**(1) Where a JTAAAC or FTAAAC (as appropriate) is advised by the justices' clerk that the number of justices required to sit as a family or youth justice is excessive, to the extent that justices cannot sit sufficiently often to meet their minimum sitting requirements, it may—

- (a) invite authorised justices to resign their authorisation, or
- (b) recommend that the Lord Chief Justice revokes any authorisation.

(2) Any recommendation to revoke any authorisation under this Rule must be decided by lot in such a way as to retain a sufficient number of justices approved to preside to enable them to carry out their functions.

## Consequential provision

36.—(1) The Family Court (Composition and Distribution of Business) Rules 2014(a) are amended as follows.

(2) For rule 10 (interpretation of this part), substitute—

### “Interpretation of this Part

10. In this Part, “2016 Rules” means the Justices of the Peace Rules 2016.”

(3) In rule 11—

- (a) in paragraph (1), for “is on a list of approved family chairmen”, substitute “has been approved to preside in accordance with the 2016 Rules”;
- (b) in paragraph (2), for “included on a list of approved family court chairmen”, substitute “approved to preside in accordance with the 2016 Rules”;
- (c) in paragraph (2)(a), for “on the list of approved family court chairmen”, substitute “approved to preside in accordance with the 2016 Rules”;
- (d) in paragraph (2)(b), for “rule 31 of the 2007 Rules”, substitute “rule 19 of the 2016 Rules”, and
- (e) omit paragraph (3).

(4) In paragraph (1)(b) of rule 12, for “rule 31(d) of the 2007 Rules”, substitute “rule 19(f) of the 2016 Rules”.

29th June 2016

*Adrian Fulford*  
Senior Presiding Judge

I concur

30th June 2016

*Shailesh Vara*  
Parliamentary Under Secretary of State  
Ministry of Justice

## EXPLANATORY NOTE

*(This note is not part of the Rules)*

These Rules replace the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005 (S.I. 2005/553), the Justices of the Peace (Training and Development Committee) Rules 2007 (S.I. 2007/1609), the Family Court (Constitution of Committees: Family Panels) Rules 2014 (S.I. 2014/842), and the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 (S.I. 2007/1611).

The Rules make provision with regard to the size and chairmanship of benches, presiding justices, and the procedure for elections of chairmen and deputy chairmen for each local justice area. They increase flexibility in relation to the method of voting in elections.

The Rules provide for the establishment of a Justices’ Training, Approvals, Authorisations and Appraisals Committee (JTAAAC) and a Family Training, Approvals, Authorisations and Appraisals Committee (FTAAAC). These committees replace Bench Training and Development Committees, Family Training and Development Committees, Magistrates’ Area Training Committees and the Inner London Youth Training and Development Committee.

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(a) S.I. 2014/840, as amended by S.I. 2014/3297.

The Rules make provision for election to the selection panels for each JTAAAC and FTAAAC, and membership of the JTAAAC and FTAAAC, and set out the role and functions of the JTAAAC and the FTAAAC.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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£6.00

UK2016070628 07/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/709>

ISBN 978-0-11-114810-5



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