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STATUTORY INSTRUMENTS

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**2016 No. 709**

**The Justices of the Peace Rules 2016**

**PART 4**

**Approvals, Authorisations, Training and Appraisals**

**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(1), 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;
- (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(2), 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;
- (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.

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(2) The Judicial Conduct (Magistrates) Rules 2014 were made under [S.I. 2014/1919](#), regulation 7.

### **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(3) 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”.