

## APPOINTMENT AS A MAGISTRATE



### DECLARATION AND UNDERTAKING

My full name

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My full address

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If I am appointed a Magistrate for the local justice area of:

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### SECTION 1

I acknowledge and undertake:

**that it will be my duty to administer justice according to the law;**

- that I will be circumspect in my conduct and maintain the dignity, standing and good reputation of the Magistracy at all times in my private, working and public life;
- that I will respect confidences;
- that I will complete all training which may, from time to time, be prescribed by the Lord Chancellor. I will offer to resign from the Commission Area if I fail to complete this training in the time specified without a reason acceptable to the Lord Chancellor;
- That I will complete within one year of an appointment to the Panel of a Youth or Family Court, the basic instruction in the special work of the Panel; to resign from the Panel if I fail to complete this training within the time specified unless the Lord Chancellor has consented to an extension of that period;
- that I will sit for at least 26 half days each year; to resign from the Commission if, without a reason acceptable to the Lord Chancellor, I fail to complete the minimum number of sittings;
- that I will resign from the Commission if I become disqualified to sit as, or am unable to perform the duties of a Magistrate;
- that I will answer questions asked in surveys in relation to establishing the balance of the Bench, as required by the Lord Chancellor or the Advisory Committee.

**that my actions as a magistrate will be free from any political, racial, sexual or other bias.**

## **SECTION 2**

I undertake to inform the Chairman and the Clerk to the Justices of my local justice area:

- of any impending criminal (including fixed penalties) or civil proceedings (including divorce) against me, or in which I become involved in any capacity, and of the outcome;
  - if disciplinary proceedings are taken against me by my employer or by a professional body or association;
  - if I become bankrupt or involved in any other financial difficulties or if a Company, of which I am a Director, goes into liquidation;
  - if a close relative (as defined in the Notes for Guidance) is involved in any criminal or civil proceedings and of the outcome;
  - if I or a close relative (as defined in the Notes for Guidance) join the Police Force as a police officer or civilian or become a special constable, traffic warden, an employee of the Crown Prosecution Service, Probation Service or Prison Service;
  - if I become or cease to be a Freemason;
  - if I accept any position or Office which would have disqualified me from appointment.
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## **SECTION 3**

I undertake to comply with:

- any directions in relation to my sitting as a Magistrate, including suspension of refraining from sitting as a Magistrate made by the Lord Chancellor or on his behalf.
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## **SECTION 4 (you MUST complete this section fully)**

I declare that:

*Please initial, on the dotted line after either A or B, the statement which applies to you.*

- A ..... I have not been convicted of any offence, including motoring offences nor formally cautioned. No order of a court, either criminal or civil, has been made against me. I am not involved in any matter pending before a court.
- B ..... The details below provide particulars of every conviction or formal caution and order (whether civil or criminal), and any details of matters pending before a court (including divorce proceedings):

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I have carefully read this form. I understand its contents and signify my assent.

Signed: ..... Date: .....

## Annex B: Timetable for conduct and disciplinary matters

### **How complaints should be made**

Complaints must be made in reasonable time – regulation 4 requires a complaint to be made within **12 months** of the event (or the end of a state of affairs) complained of.

### **Stage 1: Deciding where the complaint should be dealt with**

A decision should be made *and* the complaint passed to the relevant person within **3 working days** of receipt. (See 2.3.1-3)

### **Stage 2: Initial consideration of a case**

A decision should be made on whether the complaint can be investigated *and* the magistrate should be provided with a copy of the complaint within **5 working days** of receipt. (See 2.4.1-6)

If the complaint is to be dealt with by the Advisory Committee, the magistrate should be asked for comments or an explanation in writing within **10 working days** of their receiving the complaint. (See 2.4.8)

### **Stage 3: Starting an investigation**

A conduct investigation hearing should take place within **20 working days** of receipt of the magistrate's written comments of explanation. (See 2.5.1-8)

### **Stage 4: Conduct investigation hearings**

When setting a date for the hearing, the Secretary should be sure to allow **sufficient time** for any witnesses to be heard. (See 2.7.1-18)

Any written evidence that has become available since the magistrate was asked for their comments or explanation should be copied to them **immediately** it is received, and no later than **1 working day** before the hearing. (See 2.7.1 and 2.7.8)

### **Stage 5: After the conduct investigation hearing**

The panel should meet immediately after the hearing and complete its report within **3 working days**. (See 2.8.1 and 2.8.5)

### **Stage 6: Report to the OJC**

The report should be sent to the OJC, and copied to the magistrate concerned and to the Advisory Committee chair, within **2 working days** of completion. (See 2.9.1-5)

Where the panel recommends that a case should be dismissed, the Chair should reach a decision, inform the magistrate and complainant, and refer any outstanding matters to the Bench or BTDC Chair within **5 working days**. (See 2.9.6-7)

### **Stage 6A: Allegations of lack of competence**

The Committee should reach a decision within **5 working days** of receiving the panel's report. (See 2.10.1-3)

### **Stage 7: Action by DCA on receipt of conduct investigation report**

OJC will write to the magistrate within **3 working days** of receipt of the report.

The magistrate will be asked to comment within **10 working days** of receipt of the OJC letter.

OJC will aim to submit advice to the Lord Chancellor and Lord Chief Justice within **10 working days** of receipt of the magistrate's comments.

### **Stage 8: The outcome of the investigation**

OJC aims to report the Lord Chancellor's and Lord Chief Justice's decision within **20 working days** of submitting the panel's report.

### **Possible Stage 9: The Review Body**

### **Stage 10: Implementing the Lord Chancellor's decision and the Lord Chief Justice's decision**

Action under this section should start within **3 working days** of receipt of the Lord Chancellor's and the Lord Chief Justice's decision (See 2.14.1-3)

### **Possible Stage 11: The Judicial Appointments and Conduct Ombudsman**

## Annex C: Guide to confidentiality

### **Section 139 of the Constitutional Reform Act 2006**

1. Section 139 of the Constitutional Reform Act prohibits someone who obtains or is given confidential information for the purposes of dealing with judicial complaints and discipline disclosing it except with lawful authority. The information is confidential if it relates to an identified or identifiable individual. It can only be lawfully disclosed if one of the following conditions is met:
  - (i) each person to whom the information relates (this includes the giver of an opinion about another, as well as the person referred to) agrees;
  - (ii) the disclosure is for, and is necessary for the exercise of functions under the discipline provisions of the Act, or of section 11(3A) of the Supreme Court Act; or the regulations and rules made under the Constitutional Reform Act; or
  - (iii) disclosure is required under rules and court order for the purposes of legal proceedings.

Information about disciplinary action can, however, be disclosed if the Lord Chancellor and the Lord Chief Justice so agree. The section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
2. Information provided during the course of a complaint or conduct investigation should be considered to be confidential to the person who disclosed it (whether the complainant, the magistrate who is subject to the complaint or a third party) and should be treated as such. Details of how this applies at each stage of the investigation process are set out below. Any queries in relation to specific cases should be addressed to the OJC.

### **When a complaint is received**

3. The complaint will be treated as confidential. The Bench Chair or Advisory Committee Chair (with administrative support from the Justices' Clerk or the Secretary to the Advisory Committee and their staff) will handle it.

### **Whilst an investigation is under way**

4. The Bench Chair or the Chair of the Advisory Committee will provide full details of the complaint to the magistrate concerned on a confidential basis and to anyone who may be able to assist as a witness or in the investigation process.

5. The magistrate who is subject to the complaint may show the details to their legal adviser (or any other person assisting them in the matter) and to anyone whom they think would be able to provide material evidence in support. The magistrate should remind all such persons to treat the complaint as confidential, especially where it contains information about other people.
6. Magistrates should not circulate details of complaints any wider than is necessary.

#### **Where a complaint has been resolved at Bench level**

7. The Bench Chair will send the magistrate who is subject to the complaint a note of their discussion and a record of the outcome of the complaint. Copies will be retained and secured in the office of the Justices' Clerk.
8. The Bench Chair will send the complainant a record of the outcome of the complaint.
9. Where appropriate, the Bench Chair will send a record of the outcome of the complaint to the Chair of the BTDC and/or the Chair of the Advisory Committee.
10. Unless the Lord Chancellor and the Lord Chief Justice so authorise him or her the Bench Chair will not publish details any more widely without the consent of the magistrate who is subject to the complaint.

#### **After an investigation has been completed at Advisory Committee level**

11. The magistrate who is subject to the complaint will be given a copy of the conduct investigation panel's report and recommendations and of any transcript of proceedings.

#### **After the Lord Chancellor and the Lord Chief Justice have reached a decision**

12. The OJC will notify the magistrate who is subject to the complaint of the Lord Chancellor and the Lord Chief Justice's decision.
13. The OJC will send a copy of the decision to the Advisory Committee who will retain a copy. The Advisory Committee will notify the Bench Chair and, where appropriate, the Chair of BTDC.
14. The OJC will send details of the decision to the complainant. Where the complaint was received locally, this will be undertaken by the Secretary to the Advisory Committee.
15. Where the complaint is in the public domain, or they consider publicity to be in the public interest, the LC and LCJ may also release information to the media. Where practicable, the OJC will alert the Chair of the Advisory Committee and the Bench Chair in advance.