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**Department for
Constitutional Affairs**
Justice, rights and democracy

Courts Boards Guidance



Department for Constitutional Affairs

Courts Boards Guidance

Presented to Parliament by the
Secretary of State for Constitutional Affairs and Lord Chancellor
by Command of Her Majesty
February 2005

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Introduction

1. The Department for Constitutional Affairs has prepared this guidance for members of Courts Boards and it is issued under s.5(5) of the Courts Act 2003. It explains their role, sets it in context and offers guidance on how the Boards and the managers of Her Majesty's Courts Service can work together to ensure that the courts administration is run effectively and efficiently.

The Role Of Courts Boards

2. Courts Boards are established as part of a major change in the way the courts administration is managed. The Government decided to establish a unified administration for the courts, replacing the 42 independent Magistrates' Courts' Committees administering the magistrates' courts and the Court Service, an executive agency of the Department for Constitutional Affairs, administering the county courts, Crown Court and the High Court and the Court of Appeal. The Government legislated for this in the Courts Act 2003. From April 2005, the new agency, Her Majesty's Courts Service (HMCS), is responsible for the administration of all the courts mentioned above, across England and Wales.
3. The Courts Act made provision for the establishment of area Courts Boards. Their role is to work in partnership with HMCS to achieve effective and efficient administration of the courts. The Courts Boards' role is not to manage or administer the courts themselves, but to give advice and make constructive recommendations to foster improvement in the administrative services provided.
4. The Courts Boards have no remit to question judicial decisions or the work of the judiciary. They are not a forum for challenging or discussing judicial decisions, or individual cases and all members of Courts Boards must respect and support judicial independence.
5. Each Courts Board will work with the HMCS Area Director¹. The focus for their discussions will be the area's business plan. The plan for each area will be formulated by the Area Director, and will set out how it is intended to use the

¹ London is uniquely both an Area and a Region. In London the Courts Board will work with the Regional Director. For London, please read Regional Director for Area Director throughout.

resources available to deliver HMCS's objectives for criminal, civil and family business.

6. The Secretary of State expects Courts Boards and HMCS to work together to see that high standards of administration are delivered across the country, as well as meeting local needs. In order to achieve this, Courts Boards need to perform their role in a way that is constructive but challenging. They need to use their independent judgement to ensure that the perspective of the local community and – those who use the courts is taken into account. While the primary role of each Courts Board is to consider issues that have an impact on their local area, they will not work in isolation from other areas. Area Directors will take a corporate approach, considering the wider impact of local issues and working with other Area Directors and their Regional Director, who will have the overview, to ensure that the administration of the work of the courts is managed effectively across the administrative boundaries of the agency. Courts Board chairs may occasionally also wish to discuss with neighbouring Boards' chairs, any recommendations they make which have an impact on those areas. It is for the Area Directors and the Regional Director to identify and manage how any Courts Board recommendations impact across areas or on regions as a whole.

The area business plan

7. The Courts Board should meet with the Area Director to consider the draft business plan for their area, how the business plan has been developed (for example, who they have consulted) and why particular choices have been made (for example, in allocating resources between the different parts of the area's administration). It will be a particular responsibility of the Area Director to ensure that the Courts Board understands the wider regional strategy and national policy underpinning the Area Director's plans for the administration of civil, family and criminal business so that the Board may consider the matter fully.
8. The Courts Board's role is to explore with the Area Director, the reasoning underpinning the plan and, where appropriate, to recommend changes. It is the Area Director's responsibility to devise a plan that has the support of the Board, and to deliver it. The Area Director will consider the Board's recommendations and, where possible, agree to any changes recommended. When agreement is reached, the plan will be adopted.

The court estate

9. Decisions about the court estate are of particular importance to local communities, and therefore merit particular scrutiny. Any proposals to open, close or relocate courthouses should be brought forward jointly by Courts Boards and Area Directors, in the context of the area's overall estate strategy. It will be a particular responsibility of the Area Director to ensure that the Courts Board understands the wider regional strategy and national policy underpinning any relocation or closure proposals so that the Board may consider the matter fully in knowledge of the overall strategy.

Scrutinising performance of the administration

10. Courts Boards should meet regularly, at around quarterly intervals, to review the performance of the courts administration in their area. The Area Director, and where appropriate other members of HMCS staff, will attend the meetings to report to the members, presenting and explaining performance information; and will seek the Board's recommendations about any action that the Board considers should be taken. The Courts Boards have no remit to question judicial decisions or the work of the judiciary. They are not a forum for challenging or discussing judicial decisions, or individual cases and all members of Courts Boards must respect and support judicial independence.

11. The Boards' role is to probe and question, to understand the reasons for the performance levels of the courts administration, including the impact of any Local Criminal Justice Board (LCJB) targets and priorities which they are informed of by the Area Director (as a member of the LCJB) and to make proposals and recommendations accordingly. Where performance is good, they should give their support to the spread of good practice across the local area. If they identify areas of poor performance, they should make recommendations for improvement and discuss how the Area Director proposes to bring about improvements. It is important that Courts Boards should fulfil a challenging role, but they should also be supportive of management where difficult decisions need to be taken.

12. As a non-executive body, the Courts Board's role, is to review and make recommendations, not to manage day to day operational issues – this is the responsibility of the Area Director. The table on page 8 is a general guide to the functions which will be undertaken in each area and the role of the Area Director

and the Courts Board in relation to each. The table provides examples – it is not intended to be an exhaustive list.

Meeting local needs

13. Decisions about the courts administration can have an impact on a wide range of people – for example, individuals or organisations involved in civil, family and criminal cases, judges and magistrates, barristers, solicitors and lay advisers. The role of the Courts Board is to ensure that the administration of the courts is managed in a way that recognises their diverse needs (most courts have Court User Committees where the judiciary meet with the users of the courts to discuss matters such as practice and procedures – a different role from the Courts Boards).
14. Courts Boards should recommend that the Area Director takes steps to build relationships with stakeholder groups. The relevant groups in each area will vary – and part of the role of the Courts Board is to advise on who the key people are. Courts Boards will have a role in adding to the Area Director’s understanding of the views of the wider community.
15. Courts Boards should encourage effective communications with court users and the wider community (e.g. posters, open days, reports etc). They should review the Area Director’s plans for obtaining court users’ views on the administration and taking them into account, for example, through surveys of court users’ views.
16. Courts Boards should use their own links with the community to inform their recommendations. They should make the public and members of representative groups feel welcome at open meetings and should consider inviting particular individuals to attend meetings to give their views on particular issues.

Task	Area Director's Role	Courts Board's Role
Performance		
Devise strategy for achieving performance targets and improving services	AD presents strategy in draft business plan	CB consider draft and final business plans
Performance against KPIs	AD has responsibility for delivery	CB to scrutinise, review and make recommendations to encourage performance improvements
Produce statistical reports	AD produces	
Resources		
Formulate the budget plan each financial year	AD, in discussion with the RD, formulates	AD discusses with CB in context of business plan
Monitor monthly expenditure	AD monitors	
Ensure appropriate accounting practices followed	AD ensures, in line with DCA framework	
Staffing		
Decide overall staff resources in the area	AD decides	AD discusses with CB in context of business plan
Strategy for deployment and organisation of staff	AD decides	
Allocate tasks, appraise and develop staff and deal with disciplinary issues	AD and HMCS line managers, within HR framework	
Select new Area Director		Member of CB on selection panel
Select local staff	AD and line managers, within HR framework	
Estates and facilities		
Propose opening, closing or changing use of facilities	AD proposes in discussion with CB, in context of business plan	AD discusses with CB, in context of business plan
Decide how to spend local budget improving facilities	AD decides	AD discusses with CB, in context of business plan
Ensure health and safety requirements are met	AD ensures	

Co-operation

17. Although their role is to give input into HMCS's management of the courts at area level, Courts Boards need to have an understanding of the national framework, and regional priorities. This is so they understand that to provide the best service to court users, work and sometimes resources need to be moved around the regions and the country as a whole. It will be a particular responsibility of the Area Director to ensure that the Courts Board understands the wider regional strategy and national policy underpinning any issue. Courts Boards chairs should have a full understanding of the wider strategy, particularly on issues which cross area boundaries.

Selection of the Area Director

18. Initial appointments to the Area Director posts were made before the appointment of Courts Boards as part of the transition to Her Majesty's Courts Service. However, a member of the local Courts Board will sit on the interview panel for these appointments in the future. Further guidance will be provided to relevant Courts Boards when necessary.

If consensus cannot be reached

19. It is expected that the Courts Board and Area Director will work together on a supportive and consensual basis. On rare occasions, the Area Director and the Courts Board may not be able to agree a final business plan and the Courts Board may then make a formal recommendation. If their recommendation is not accepted, the Area Director will provide written reasons to the Courts Board as to why this is the case.

20. If, however, a Courts Board is dissatisfied with an Area Director's response, or if their recommendation has been rejected by the Area Director on the basis of regional strategy or national policy, it is open to the Courts Board to raise the issue with the Regional Director². Then if the Courts Board remains dissatisfied having sought the views of the Regional Director, it is open to the Board to raise the issue with the HMCS Chief Executive. Ultimately, Courts Boards may put their recommendation to Ministers, under s.5(3) of the Courts Act 2003, but the

² In London, the Courts Board will work directly with the Regional Director and therefore any escalation will be to the Chief Executive of Her Majesty's Courts Service or one of his or her management board.

Secretary of State will expect the Boards and the agency's managers to seek to resolve concerns in the first instance.

Role Of Members

21. Members of the Board are expected to reach agreement on and take joint responsibility for recommendations made by the Board. They are expected to engage together in collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the Department. Each member will bring with them unique and individual experience and expertise that will enable them to provide a different perspective on the issues presented to Boards.

22. All members must abide by the Code of Practice for Courts Boards members. The code is issued separately and sets out the standards of conduct expected of Courts Boards members. It requires members to adhere to the seven principles of public life as drawn up by the Committee on Standards in Public Life, to maintain a register of interests and to abide by the rules on political activity.

23. Members will receive training and induction to ensure that they have an understanding of the courts administration, and will be able to ask questions of the Area Director and others on the Board to ensure that they understand the issues.

Members of the local community

24. These are members who have been appointed because they are representative of people who live or work in the Courts Board area. They will have knowledge which is invaluable in helping the Area Director to understand the needs and views of the communities within the area and in making recommendations to ensure that plans are tailored to meet local needs. They are not appointed as representatives of the other bodies or groups of which they may be members.

Members with knowledge or experience of the work of the courts

25. Members who have been appointed as having knowledge or experience of the work of the courts will be able to offer a perspective on how decisions about the courts administration can impact on people who use the courts. Again, this will be useful in informing decisions about local plans. They are not appointed as representatives of other bodies or groups of which they are members.

Magistrates

26. Magistrates on Courts Boards are appointed for the unique perspective they can bring to the Board's deliberations concerning the administration of the courts. While their experience may be predominately in one jurisdiction, they will look across the jurisdictions when considering issues.

Judges

27. The judges on the Courts Boards will bring to the Courts Board the views of the judiciary in the area. While their experience may be predominately in one jurisdiction, they will look across the jurisdictions when considering issues.

The Courts Board Chair

28. The chairs of Courts Boards have a particular role in ensuring matters are properly considered by the Boards. They will need to ensure all members have the training and support they need to consider the issues put before them. They will set the agenda for Courts Boards meetings in discussion with the Area Director. They have an important role in ensuring all members have had a chance to give their comments while helping the Board to reach a corporate view. Where agreement cannot be reached, as the chair of the meeting they will have an additional casting vote. Board chairs will be given training in their responsibilities, including appraisal for the purposes of re-appointment.

Procedures

29. It is open to Boards, led by the chair, to devise their own ways of working. The following paragraphs are provided by way of guidance as to the issues they need to consider, and detail those requirements which are set out in the Courts Boards (Appointments and Procedure) Regulations 2004.

30. Boards should meet regularly, around four times a year. When setting a programme of meetings, they should aim to meet at sufficient intervals to keep the management of the courts administration under review, without compromising the Area Director's responsibility for operations. It is open to Boards, led by the chair, to decide when their meetings should be held, but they should do so taking into account the needs of all members of the Board: for example, impact on members with caring responsibilities, or work responsibilities and also the needs

of the courts administration and meetings should not, therefore, interfere with the court sitting day.

31. While the chair should set the agenda for meetings in discussion with the Area Director, Boards should also establish a means by which members of the Board can raise agenda items.
32. The Courts Boards (Appointments and Procedure) Regulations 2004 (the Regulations) provide that each Board may set their own quorum, subject to a minimum of four members.
33. Boards should operate on a consensual basis. Boards may, however, decide that they need to vote on certain issues, e.g. a formal recommendation on the final business plan. The Regulations give each member of the Courts Board one vote. In the case of a tied vote, the person presiding at the meeting is given an additional casting vote.
34. It is open to the Board to invite others to attend their meetings on a regular basis. However, this is not a power to co-opt members.
35. If they believe it is necessary for the performance of their duties for additional members to be appointed to the Board, they should contact the Courts Boards Sponsorship Team with their recommendation as to which category of member is needed and how the Courts Board will benefit from an additional member. The Secretary of State will consider appointing additional members to Boards where he believes that this would improve the Board's performance of their statutory duty. It is important to note, however, that the Secretary of State will not appoint members as "representatives" of a particular organisation. If Boards wish to hear from representatives, they should invite them to attend.

Public meetings

36. Boards and Area Directors should hold at least one public meeting per year. They should also hold other meetings in public where it is felt that these would be a useful means of consultation or would help the public to have a greater understanding of the work of the Board and of the courts administration. Open meetings may be of value, for example to explain to the general public the reasons for the recommendations they have made or on publication of particular

plans or reports. Exceptionally, where the nature of the business is sensitive, commercial or political, an open meeting would not be appropriate.

37. Where practicable and appropriate, Courts Boards should release summary reports of meetings. Alternatively, publicly available minutes would serve the same purpose. Confidential information may be exempted from this requirement. The summary reports or minutes should be written in plain English.

38. Courts Boards will be subject to the Freedom of Information Act 2000, which requires relevant public authorities to produce a publication scheme. Courts Boards Chairs will be provided with a model publication scheme and advice on their obligations under the 2000 Act.



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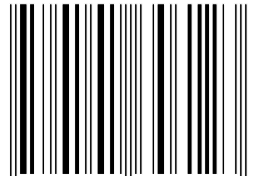
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ISBN 0-10-164612-7



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