



Ministry  
of Justice

# **Reform of Local Justice Areas**

**Consultation on the future administrative  
structures of the magistracy**

## **Equalities Statement**

## Reform of Local Justice Areas

### Consultation on the future administrative structures of the magistracy

This document records the assessment undertaken by Ministry of Justice, His Majesty's Courts and Tribunals Service and Judicial Office (including Judicial College) to fulfil the requirements of the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. This requires the departments to pay due regard to the need to:

1. **Eliminate unlawful discrimination** - direct discrimination, indirect discrimination, discrimination arising from disability, and harassment, victimisation and any other conduct prohibited by the Act.
2. **Advance equality of opportunity** between people who share a protected characteristic and people who do not share it.
3. **Foster good relations** between people who share a protected characteristic and those who do not share it.

The protected characteristics which have been considered are:

- age
- disability
- sex
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- marriage and civil partnership (but only in respect of the first aim of the Equality Duty).

In relation to the first limb of the PSED, the conduct prohibited by the Act includes the following.

- **Direct discrimination** – this means less favourable treatment “because of” a protected characteristic. This includes discrimination by association (being treated less favourably because of a protected characteristic e.g. of a friend, spouse, partner, parent, or another person with whom they are associated) and discrimination by perception (because of a perceived protected characteristic which an individual may not, in fact, possess).
- **Indirect discrimination** – this is concerned with acts, decisions or policies which are not intended to treat anyone less favourably, but which in practice have the effect of disadvantaging a group of people with a particular protected characteristic. Where such a policy disadvantages an individual with that characteristic, it will amount to indirect discrimination unless it can be objectively justified.

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- **Harassment** – this is unwanted conduct related to a relevant protected characteristic which has the purpose or effect of either violating a person’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment.
- **Victimisation** - this occurs where a person subjects another person to a detriment because either they have done a protected act or it is believed they may do, a protected act.

## 1. Introduction

1. This equality impact statement documents the assessment undertaken by the Ministry of Justice (MoJ), His Majesty’s Courts and Tribunals Service (HMCTS) and the Judicial Office (JO) (including Judicial College, JC) of the possible equality impacts arising from the proposals of the consultation entitled ‘Reform of Local Justice Areas: Consultation on the future administrative structures of the magistracy’. This assessment has been undertaken to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED), in accordance with section 149 of the Equality Act 2010. The public consultation is accessible at <https://www.gov.uk/government/consultations/reform-of-local-justice-areas>. This assessment is based on our assumptions about how magistrates with certain protected characteristics are likely to be affected.
2. Though it has not been possible to conduct any new research for the purposes of this statement, we have used the available judicial diversity data (see annex), some anecdotal evidence and self-reporting to consider the potential equalities impacts of the proposals set out in the consultation. We will seek views on our assumptions in the consultation, which asks respondents to consider the likely equalities impacts of our proposals on all protected characteristics. In tandem with the consultation’s formal publication and the analysis of responses, this statement will be reviewed and updated where necessary.

## 2. Background

3. On their appointment, magistrates are currently assigned to local justice areas (LJAs), of which there are 75 across England and Wales.
4. Section 45 of the Judicial Review and Courts Act 2022 makes provision to abolish LJAs, although this section has yet to be commenced. The Equalities Statement accompanying the Judicial Review and Courts Bill can be found at the following link:

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[\[Annex E: Equalities Statement Further Consultation \(publishing.service.gov.uk\)\]](#)

Upon further development of the policy, we have updated the assessment of the impact on protected characteristics. The policy rationale for abolishing LJAs has been further refined since the passage of the Act and its accompanying Equalities Statement and Impact Assessment. That rationale is summarised in the consultation document at chapter 1, paragraphs 23-35.

5. MoJ, JO (including Judicial College) and HMCTS are undertaking a 12-week consultation on proposals for a replacement administrative structure for grouping magistrates' courts, which will affect magistrates' recruitment and deployment. As part of the process of amending the legislation relating to LJAs, leadership and training committees, which are linked to LJAs, will also be impacted; we are consulting on how these components could be improved more broadly in the longer term.

### 3. Policy and Rationale

#### *Benches*

6. Abolishing LJAs will mean that we need a new structure for grouping magistrates' courts. We are seeking views on proposals to create 'benches' to group courts, which would be defined administratively rather than legally. Benches will either comprise the same groups of courts as those used in current LJAs, or consist of merged groups of courts across different LJAs which would match a Criminal Justice Area (CJA) to align with police force area boundaries. There will not be any significant changes to case listings in the new system. A more detailed overview of the new structure may be found in the consultation document (Chapter 2, paragraphs 42-50).

#### *Recruitment*

7. The consultation is not proposing significant changes to magistrates' recruitment under the new system. Magistrates will apply to, and be appointed to, a bench rather than an LJA, which will only represent a minor technical change. The geographical area that each recruitment Advisory Committee (AC) oversees should remain the same, but it will be made up of benches rather than LJAs. For more information, see Chapter 3, paragraphs 53-58 of the consultation.

#### *Deployment*

8. The consultation proposes allocating magistrates to a 'home court' for 60% to 80% of their sittings (for existing magistrates, usually the court they have sat in most often over the last 12 months) and ensuring that all journeys to court are no longer than 90 minutes. This should preserve continuity in sitting arrangements and ensure that

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magistrates do not have to travel significantly further than they do now to sit in court. Limiting journey times should help preserve magistrates' wellbeing, and further the principle of local justice. However, there would likely be a small minority of instances where the average journey times of individual magistrates could increase because of this proposal.

9. Case allocation would be organised by bench for criminal cases and youth court cases, though it would be possible to allocate magistrates to cases outside their bench and/or circuit for 20-40% of their sittings, when there was a need and where the magistrate wished to sit outside their bench. Magistrates can already be allocated to courts outside their LJA, but rarely are they allocated to courts outside their circuit. An increase in flexibility to sit beyond circuit boundaries should advantage those magistrates who live or work near a boundary, as this proposal could reduce their average journey time and/or enable access courts with a certain case type they are interested in gaining experience of.
10. Family magistrates will be assigned to a bench and would continue to fall within the bench leadership system. However, family magistrate case allocation would continue to be organised by Family Panel Area (FPA).
11. For further detail on deployment, please see Chapter 4, paragraphs 63-84 of the consultation.

### *Leadership*

12. Our leadership proposals consider strengthening and reducing the workload of the bench chair role. This could involve splitting the chair remit into two roles, with one leader overseeing court business and the other overseeing pastoral matters, and/or making better use of deputies to share out the workload of the chair role. We also consider whether all leadership roles (bench chair, deputy bench chair, family panel chair, youth panel chair and deputy panel chairs) should be elected or selected. The full leadership proposals may be found in Chapter 5, paragraphs 96-111 of the consultation.

### *Training, Approvals, Authorisations and Appraisals Committees (TAAACs)*

13. The proposals for reforming TAAACs consider a range of options for how the governance of these committees could be improved. The central proposals focus on the functions and geographical remit of TAAACs once LJAs are abolished. Consideration is also given to membership and jurisdictional separation of the family and criminal committees. The range of proposed options are detailed in Chapter 6, paragraphs 118-125 of the consultation.

## 4. Assessment Approach

14. As this consultation focuses on the impacts of LJA abolition on the recruitment, deployment, training and leadership of magistrates, the primary focus in our consideration of any equalities impacts is magistrates. The leadership and training proposals, in particular, will affect those magistrates who are in leadership positions, or sit on a training, approvals, authorisations, and appraisals committees (TAAACs) respectively.
15. Abolishing LJAs may affect some court users. For instance, it may mean some court users are able to attend a court that is closer to their address. However, the fundamental principles for how cases are listed and heard will not change, and listing practice will still prioritise distance from the courthouse. Moreover, the proposals in this consultation do not focus on the effects of abolition, as legislation has already been passed to abolish LJAs, and a full impact assessment of the resulting changes was published at that time (<https://bills.parliament.uk/publications/42317/documents/1348>). This consultation instead considers how the arrangements for the magistracy should be reformed following LJA abolition. These proposals should not affect where a case is listed or heard. Therefore, they would not have any effect on court users, and they have not been considered in this equalities impact assessment.
16. We have assessed whether each of our proposals are likely to cause direct or indirect discrimination, including discrimination arising from disability, harassment or victimisation. We have also considered whether they could advance equality of opportunity for people who share a protected characteristic, or whether they could foster good relations between people who share a protected characteristic and those who do not share it. This assessment is based on our assumptions about how magistrates with certain protected characteristics are likely to be affected by our proposals. There is a lack of available data to support our assessment, and we have not been able to conduct any new research to support this assessment. However, further evidence has been asked for as part of the consultation.
17. This consultation also considers LJA abolition in light of the Lord Chancellor's and Lady Chief Justice's statutory responsibility to encourage judicial diversity. Attention is therefore paid to how the changes could impact the diversity of the magistracy, in comparison with current arrangements. This is considered under the 'Opportunities to promote magistrate diversity' sub-heading below.
18. We have used the limited data we have on the protected characteristics of the magistracy (see annex). We have used this data to assess how many may be

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affected if certain proposals appear more likely to disadvantage those with protected characteristics.

19. The below sections outline the evidence and assumptions we have used for each aspect of the consultation proposals. Unless otherwise stated, the assumptions below were based on anecdotal evidence, as there is a lack of concrete evidence available.

#### *Deployment*

20. In forming these proposals, we have assumed that magistrates will generally be disadvantaged if they are asked to make a longer average journey to sit in court, so we have tried to minimise an increase to journey times. Internal HMCTS data shows that many (32.54%) magistrates only sit at one court, and most (67.68%) sit at one court at least 80% of the time. Anecdotal evidence also suggests that certain protected characteristics such as disability or pregnancy may make it more difficult to travel longer distances, as could balancing a voluntary role with working commitments, which is especially likely for younger magistrates who are more likely to be in employment.
21. We could not gather data on the protected characteristics of the small sub-section of magistrates that are likely to have an increase in journey times as a result of the deployment proposals, as it is difficult to predict exactly who this group may be. Therefore, we were not able to compare the diversity data of this group with the wider magistracy to assess whether any proposals that could disadvantage anyone could therefore indirectly discriminate because there was a higher proportion of a certain protected characteristic in the group affected by the policy than in the wider magistracy.
22. We have considered the workplace adjustments and reasonable adjustments to sitting expectations that could be made to prevent indirect discrimination as a result of deployment proposals. We have considered anecdotal evidence from HMCTS staff of the sorts of adjustments in place currently in the magistracy, and considered what sort of adjustments we felt were likely to mitigate the risks of disadvantaging those with protected characteristics. We do not hold centralised data on the range and volume of adjustments that are in place.
23. One of our proposals is that magistrates should not be asked to undertake journeys of more than 90 minutes to attend their magistrates' duties. We have included this cap on journey times to ensure that our proposals would not result in magistrates having to make unreasonable journeys to attend court. We have assessed that 90 minutes would be a reasonable upper limit based on anecdotal evidence from operational staff about how long magistrates are generally comfortable travelling

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now, and internal HMCTS data showing that currently, magistrates rarely travel for longer than this. 2.2% of magistrates currently make a maximum journey of above 90 minutes by car; 0.8% of magistrates currently make an average journey by car of above 90 minutes; and 0.8% of magistrates currently make a journey of above 90 minutes by car to their base location. These percentages are significantly higher for public transport; however, as the vast majority of journeys over 5 miles are taken by car nationally, we have primarily considered car journeys. For those only able to travel by public transport, we have considered how adjustments could be made to ensure these individuals were not forced to make unreasonably long journeys (please see section 6.2. c, 'Mitigation'). We have assumed, based on anecdotal operational feedback, that 90 minutes will feel reasonable in some journey types and not others. For instance, where there is frequently heavy traffic, 90 minutes may be considered too long. Therefore, we have specified in our proposals that it will be possible to reduce this upper limit locally as needed. We do not know that magistrates would agree 90 minutes is a reasonable upper limit and therefore we have asked this question in the consultation.

#### *Leadership*

24. We do not hold centralised diversity data for the Bench Chairs and other leadership positions (Youth Panel Chairs, Family Panel Chairs and Deputy Bench and Panel Chairs).
25. We do not hold centralised data on the number of applicants and appointments to the bench chair role, or the diversity of applicants. However, we have anecdotal evidence to suggest that often applicant numbers to these roles are low, and sometimes the positions run uncontested. We also have anecdotal evidence to suggest that the remit of the Bench Chair role is too wide, which prevents many magistrates from applying. We have asked in the consultation whether this assumption is accurate, and whether any other changes to the role could encourage more applicants. We have assumed that reducing the remit of the role will strengthen competition for the role, and also benefit magistrates more widely, as the Chairs would have more time available to support them.
26. We have assumed that those with protected characteristics, such as certain age groups (including those who are younger and not yet retired, and therefore more likely to be in work), disability, pregnancy or maternity, and being female or older (which makes it more likely they would have caring responsibilities) may be less likely to apply for leadership positions as they may face difficulties taking on additional voluntary commitments to their existing magistrates' commitments. Therefore, we have assumed that making this role less time-intensive could widen the diversity of applicants.



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#### *Training*

27. As most of the proposals relate to the governance of training committees, we have assumed that they will not have a notable effect on magistrates. The only disadvantage could be if several committees are combined, and some TAAAC members would have to travel further to attend meetings, where these cannot be held online. We have used the same assumptions outlined above under 'Deployment' regarding magistrates being potentially disadvantaged by making longer journeys.
28. We do not hold centralised data on the protected characteristics of those who sit on the TAAACs. Therefore, we were not able to compare the diversity data of this group with the wider magistracy to assess whether any proposals that could disadvantage anyone could therefore indirectly discriminate because there was a higher proportion of a certain protected characteristic of those sitting on a TAAAC than in the wider magistracy.

## **5. Direct discrimination**

29. Our initial assessment is that the proposed arrangements to replace LJAs will not be directly discriminatory as they do not treat individuals less favourably because of any protected characteristics, since all proposals will apply equally to those with and without protected characteristics. There is therefore no direct discrimination within the meaning of the Equality Act.

## **6. Indirect discrimination**

30. Our initial assessment is that the proposed arrangements to replace LJAs are not likely to be indirectly discriminatory within the meaning of the Equality Act 2010 as explained below.
31. However, if the proposals could be seen to particularly disadvantage people with specific protected characteristics, it is our view that the proposals are justified as a proportionate means of achieving the legitimate aim of improving the efficiency of the administration of the magistracy to reduce delays and benefit court staff and court users.
32. We have considered whether our proposals are likely to disadvantage magistrates with any particular protected characteristics in any way. This includes considering whether proposals could cause indirect discrimination because:

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- a. A policy could disadvantage anyone affected by it, and there is a higher proportion of people with a protected characteristic in the population affected by the policy than the wider population; or
- b. A policy could unintentionally disadvantage someone with a protected characteristic because of that characteristic.

#### ***6.1 Indirect discrimination where a policy could disadvantage anyone affected by it, and there is a higher proportion of people with a specified protected characteristic in the population affected by the policy than within the wider population***

33. As detailed above, proposals have been designed to minimise changes to magistrates' roles and sitting expectations. The only area where we have identified a risk of proposals disadvantaging magistrates is for the small subset of magistrates who may be asked to complete slightly longer average journeys as a result of these proposals, either to fulfil their magistrates' duties, or as bench chairs or for those who sit on Training, Approvals, Authorisations and Appraisals Committees (TAAACs) to attend committee meetings.
34. As detailed above, we do not know who is likely to be asked to make a longer average journey as a result of our proposals, nor their diversity information. Therefore, we cannot currently assess whether indirect discrimination is likely because certain protected characteristics were more prevalent in these subsets than the wider magistracy.

#### ***6.2 Indirect discrimination where a policy could unintentionally disadvantage someone with a protected characteristic because of that characteristic***

35. We have assessed that magistrates are more likely to have caring responsibilities because the magistracy includes higher proportions of women and older women than the general population (see annex). We have analysed how our policy proposals could disadvantage those with caring responsibilities and could therefore indirectly discriminate against those who are female and those who are female and older. We have also considered whether they could disadvantage anyone because of any other protected characteristics.
36. Although we understand that some magistrates may hold more than one protected characteristic, which could mean that our policies put these individuals at a particular disadvantage, we do not currently have any data to understand the intersectionality of protected characteristics across magistrates. Therefore, beyond considering the likely impacts on the combined characteristics of sex and age of our proposals, we have considered possible impacts of the intersection of different characteristics in a broad way.

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#### ***6.2. a. Indirect discrimination in the bench system (replacement structure for grouping magistrates' courts)***

37. The proposals to form benches as a replacement for LJAs will affect magistrates in terms of their recruitment, deployment, leadership and training, which are all considered below. We have not identified any other impacts on magistrates of forming benches, though we have included a question in the consultation asking whether we have missed any other impacts. If further evidence arises suggesting that our bench proposals will affect magistrates or other parts of the population in any other way, then we will update our equalities assessment accordingly.

#### ***6.2. b. Indirect discrimination in magistrates' recruitment and advisory committees***

38. Our initial assessment is that the proposed changes relating to recruitment would not be likely to be indirectly discriminatory within the meaning of the Equality Act 2010, as our proposals present no practical change for those applying to join the magistracy, or those volunteering for recruitment ACs to review magistrates' applications.

#### ***6.2. c. Indirect discrimination in magistrates' deployment***

39. For a small minority of magistrates, their deployment (either to their home court or to the other courts in their bench) could result in longer average journey times. This has the potential to disadvantage those who may face challenges with longer journeys due to their protected characteristics. This would likely include age (due to factors such as age-related illnesses or the likelihood of having working commitments), pregnancy, maternity, disability and sex (in the latter, where women and particularly older women would be more likely to have caring responsibilities). These characteristics, particularly when intersecting, may make it more challenging for these groups to spend longer travelling.

40. Although most magistrates will be deployed to the same group of courts as they are currently, for the small minority who would be assigned to some different courts, the nature of the court building also has the potential to impact those with a disability, or for those who are experiencing pregnancy and maternity.

41. We have considered below how our deployment proposals could disadvantage those with particular protected characteristics.

##### *Age*

42. Older magistrates may be more likely to have age-related illnesses or disabilities (see annex) that might reduce their ability to travel to a specific court.

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43. Magistrates within the 25-54 age range may also find it harder to travel further to attend their magistrates' duties, as this age group is more likely to be in employment and therefore have less time to dedicate to the role, which a longer journey could encroach on.<sup>1</sup> Or travelling longer could encroach further on their free time, which is already more compressed due to their other work commitments.

#### *Sex*

44. Female, and in particular older female magistrates, may be more likely to have caring responsibilities (see annex) that might mean it is more challenging to make longer journeys to attend court, as this could mean their magistrates duties took up more time away from their caring responsibilities, or that they were deployed too far from their address to be able to travel back swiftly to those in their care in an emergency.

#### *Pregnancy and maternity*

45. Pregnancy and maternity may make it more challenging for a magistrate to travel to a specific court, again as it may be more challenging to make longer journeys and to spend longer periods of time away from home.
46. For the small subset of magistrates who would be allocated to a different set of courts from those they are currently allocated to, there is a small chance that those experiencing pregnancy could be allocated to courts which did not have appropriate facilities, where the original courts did, for example for resting and breastfeeding. We do not have data to understand which courts in the estate currently have appropriate facilities, and therefore whether our deployment proposals are likely to represent a change to whether those experiencing pregnancy and maternity could access them.

#### *Disability*

47. For the small subset of magistrates who may be allocated to a different set of courts from those they are currently, and for the small subset who may be asked to make longer average journeys, there is a potential for this to indirectly discriminate against those with a disability.
48. Disabilities may make it more difficult for magistrates to travel to a particular court, either because of the nature or length of the journey there. Disability may also limit

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<sup>1</sup> According to the 2021 Census, the younger (16-24 years) and older (55-64) age bands had lower employment rates than age bands in the middle. 71.9% of people aged 55 to 59, and 55.6% of people aged 60 to 64 were in employment, rates of employment for age bands covering 25-54 year olds ranged from 79.0% employment for those aged 50 to 54, to 81.1% employment for those aged 40 to 44. [Comparing Census 2021 and Labour Force Survey estimates of the labour market, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/employmentandlabourmarket/bulletins/comparingcensus2021andlabourforcesurveyestimatesofthelabourmarketenglandandwales)

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the ability of a magistrate to sit in a particular court building, for instance if it is not accessible for wheelchair users.

#### *Gender reassignment*

49. For the small subset of magistrates who would be allocated to a different set of courts from those they are currently allocated to, there is a small chance that magistrates who have undergone gender reassignment could be allocated to courts which did not have appropriate facilities where the original courts did, such as gender-neutral toilets. As above, we do not currently hold data to understand which courts in the estate currently have these facilities.

#### *Religion or belief*

50. For the small subset of magistrates who may be allocated to a different set of courts from those they are currently, there is a small chance that magistrates follow a particular religion or belief and require a space for prayer may be allocated to courts which do not have these facilities. We do not currently hold data to understand which courts in the estate currently have these facilities.

#### *Race and sexual orientation*

51. There is presently no reason to believe that the deployment proposals will disadvantage magistrates on the basis of their race or sexual orientation. For the small proportion of magistrates who will be asked to sit at different courts and/or make longer journeys to attend court, we do not anticipate these characteristics would make these journeys particularly challenging, or that these characteristics would mean certain court buildings were less accessible. However, there could be magistrates who have these characteristics, whose other characteristics listed in the above sub-headings (age, sex, disability and pregnancy or maternity) may put them at risk of indirect discrimination, which we have considered under the other subheadings. We will continue to review this assessment and update it if any more evidence comes to light.

#### *Magistrates with more than one protected characteristic*

52. It is important to acknowledge that a magistrate may be at risk of being disadvantaged by a proposal because of more than one protected characteristic. Their combination may mean that it is even harder for a magistrate to attend a particular court building. For instance, if a magistrate is pregnant and disabled, both factors could make it challenging for them to make certain types or lengths of journey. Therefore, they would be more likely to be disadvantaged by the proposals than magistrates with one protected characteristic, in the cases where they were in

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the small number of magistrates who were expected to travel further as a result of the deployment proposals.

#### *Mitigation*

53. Proposals have been designed to ensure that most magistrates do not have to travel significantly further than they do now. They should also ensure that magistrates are mostly sitting at the same courts from those they do now. Supporting magistrates to sit in another circuit could also advantage those magistrates who live near a circuit boundary, as it could reduce their average journey times to sit in court.
54. Therefore, the risk of indirect discrimination is low. However, for the small subsection of magistrates who are likely to make longer journeys or to be asked to sit at different courts, there is a risk that those with protected characteristics might be indirectly discriminated against because the journey is difficult, or the building is inaccessible. To further ensure that magistrates with a range protected characteristics are not disproportionately impacted by the deployment proposals, HMCTS court staff will ensure that adjustments to working patterns are in place. This could include any specific reasonable adjustments for disabled magistrates, or changes to working patterns required for a magistrate with other protected characteristic to sit in their home court and their secondary courts.
55. For instance, the courts where magistrates are expected to sit could be adjusted. This could be where their protected characteristics mean that it may be difficult for them to travel beyond this, or it is their only local court with accessible facilities or with appropriate facilities for pregnant and/or breastfeeding magistrates. This could also apply in cases where magistrates require appropriate facilities to practice their religion or belief, or where a magistrate's gender reassignment necessitates certain facilities such as gender-neutral toilets.
56. This could include arrangements where a magistrate is expected to sit at only their home court, near to their address.
57. It could also include allocating magistrates to a set of courts that are a manageable journey for them from their address.
58. Arrangements would consider the journey duration, or journey type. For instance, if magistrates were only able to travel by public transport, they could only be allocated to courts where they could make a journey on public transport that was accessible, for instance with step-free access or seating availability if needed. Alternatively, they could only be asked to travel to courts that would involve journeys up to a given duration that would be practical for them. In cases where magistrates could be disadvantaged because of multiple protected characteristics, HMCTS would consider how each characteristic, and their combination, may make it challenging for

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them to carry out their duties, and would make any reasonable adjustments or flexible working arrangements required.

59. Recent changes to the magistrates' recruitment process also mean that magistrates will be asked whether they need reasonable adjustments earlier in the application process, which should help ensure that disabled magistrates are aware that they are entitled to ask for these and assist the process of getting adjustments in place earlier. This is intended to support more magistrates to make use of adjustments to support them to carry out their duties in a way that works for them.

#### *Overall assessment*

60. Our assessment is that deployment proposals will not be indirectly discriminatory within the meaning of the Equality Act.
61. Our assessment is that the proposals will not disadvantage the majority of magistrates, because they will not be expected to sit at different courts or make longer journeys than they do now, and their experience of sittings a magistrate will remain mostly the same.
62. For the small subset of magistrates who may see an increase in average travel time resulting from the introduction of benches, this change would be a proportionate means of achieving a more effective administration of justice and efficient operation of magistrates' courts resulting from the abolition of LJAs – whilst still ensuring that magistrates maintain a local connection to the courts they sit in by continuing to be allocated to courts that are near their address.
63. In the few cases where changes would potentially increase journey times to court or result in a magistrate being allocated to a court building that is not accessible for them, HMCTS would provide reasonable adjustments or flexible working arrangements to those with protected characteristics who would find it difficult to attend that court, or for those with protected characteristics who could be disadvantaged by having a longer journey. These adjustments would prevent those with protected characteristics from experiencing indirect discrimination as a result of these proposals.

#### **6.2. d. Indirect discrimination in bench leadership**

64. We do not foresee the proposals outlined in chapter 4, regarding bench leadership, to be likely to be indirectly discriminatory within the meaning of the Equality Act 2010 because of the reasons set out below.
65. We do not expect that the proposed changes to the Bench Chair role will make it harder for a magistrate with protected characteristics, or any magistrate, to carry out the role, as the general assumption is that it will be less demanding in terms of time

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and scope, rather than more demanding. As we have assessed that the changes to the role are unlikely to disadvantage anyone, then changes should not indirectly discriminate against those with protected characteristics.

66. We do not expect that the proposed changes will affect the role in any other ways which could disadvantage applicants, post holders or the magistrates they work with which could therefore result in indirect discrimination.

#### **6.2. e. Indirect discrimination in training and TAAACs**

67. Our assessment is that the proposed changes relating to the governance of training, approvals, authorisations, and appraisals committees (TAAACs) are not likely to be indirectly discriminatory within the meaning of the Equality Act 2010 for the following reasons.
68. As the training proposals are related to TAAAC governance, they are unlikely to affect the day-to-day experience of magistrates, apart from those who are members of the TAAACs. Therefore, they are unlikely to disadvantage general magistrates are therefore unlikely to be indirectly discriminatory to those magistrates with protected characteristics.
69. The proposals are more likely to affect those magistrate and non-magistrates who are members of the TAAACs. The proposals may streamline some work of the TAAACs, which could potentially reduce the workload of some TAAAC members and offer an advantage to these members. Reducing the workload is unlikely to disadvantage any members and therefore is unlikely to be indirectly discriminatory.
70. The proposal for committees to oversee larger geographical areas than they do now has the potential to disadvantage those members who would have to travel further for meetings, which could be inconvenient for them.
71. This therefore has the potential to indirectly discriminate against those who hold protected characteristics which could make it more difficult for them to make longer journeys. As outlined above under section 6.2. c., making longer journeys could be more difficult for older and female members (who are potentially more likely to have caring responsibilities), those experiencing pregnancy or maternity, those with disabilities, those who are younger (and potentially more likely to be working), those who are older (and potentially more likely to have age related illnesses or disabilities), and in particular those with a combination of the above characteristics. There is currently no reason to believe that this proposal would disadvantage TAAAC members because of their race, gender reassignment, religion or belief, or sexual orientation as we do not anticipate that these characteristics would directly affect the difficulty of making a longer journey to committee meetings.



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72. However, the risk of indirect discrimination would be mitigated because wherever possible, TAAAC members would be able to attend meetings virtually, as TAAAC meetings can usually be run virtually or hybrid.

## **6. Harassment and victimisation**

73. Harassment under the Act is defined as engaging in unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating the victim's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.
74. We do not consider there to be a risk of harassment or victimisation as a result of the proposals to reform local justice areas.

## **7. Advancing equality of opportunity**

75. We have considered how these proposals could affect the duty to advance equality of opportunity by meeting the needs of magistrates who share a particular characteristic, where those needs are different from the needs of those who do not share that particular characteristic.
- 76.. The changes we are considering are unlikely to affect the journey types or times of most magistrates, so we do not expect that the abolition of LJAs will significantly negatively affect equality of opportunity. For the small minority who would see a longer or more challenging journey, HMCTS would be able to make adjustments to court allocation to ensure that their needs are met, as set out in more detail above.
77. As with the deployment proposals, it is possible that the option to increase the size of the TAAACs has the potential to increase journey times for committee members to attend meetings. For those committee members who hold protected characteristics that could make it harder to make longer journeys, including those with age-related illnesses, those in an age group more likely to have employment commitments, those with caring responsibilities, those with a disability or those experiencing pregnancy or maternity, committee members should have the option to attend meetings online wherever possible. Online attendance should help meet these members' needs and support the advancement of opportunity for people from these groups.

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78. We do not consider that the proposals relating to recruitment or leadership would have any significant impact on how the needs of magistrates with protected characteristics are met, other than by making the leadership role less time-intensive, which could support more magistrates with protected characteristics to apply to these roles where their characteristics make it harder to take on additional time commitments, as set out above, and therefore enhance opportunity for them. These proposals are unlikely to change the duties of magistrates generally or their day-to-day experience, and therefore we have not assessed that further action would be required to meet their needs as a result of the consultation proposals.
79. In addition, the proposed changes to the bench chair role may attract a more diverse range of applicants, helping to remove barriers to equal opportunity in leadership roles. Reducing the workload of the chair by dividing the workload could make the position more appealing to those who have previously been put off from applying, such as magistrates from younger age groups who are more likely to be in employment and therefore have to balance the role with working commitments. The responses to the consultation should help clarify these issues and identify further barriers to the advancement of equal opportunity, both in bench leadership and the magistracy more broadly.

## **8. Eliminating unlawful discrimination in relation to disability and duty to make reasonable adjustments**

80. The above assessment has set out how for a very small minority of magistrates, including potentially those with disabilities, our proposals could result in a small increase to journey times, or in disabled magistrates being allocated to different courts from those they are allocated to currently, which could then potentially not be accessible to them. As outlined above, HMCTS will ensure that reasonable adjustments for magistrates and applicants to the magistracy remain in place, in line with internal policies and guidance, including Customer Accessibility and Inclusion Reasonable Adjustment Guidance.<sup>2</sup>

### **Opportunities to promote magistrate diversity**

#### *Leadership proposals (Chapter 5)*

81. Reducing the remit of the Bench Chair role could potentially make it more attractive to a wider range of magistrates. This could include those with protected

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<sup>2</sup> [Customer Accessibility and Inclusion Reasonable Adjustment Guidance \(November 2018\)](#). - BSL Legal

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characteristics for whom it may be harder to take on the role in its current, more time-intensive form. For instance, younger magistrates may be more likely to be employed, and our anecdotal evidence is that currently the bench chair role may be too time-intensive to be appealing to those with additional work commitments. Likewise, female magistrates, older magistrates and older female magistrates might be more likely to have caring responsibilities which potentially take up more of their time, which could again make it harder for them to dedicate sufficient time to the bench chair role as it currently stands. A disability may limit the amount of time magistrates are able to dedicate to their voluntary role and so they may not be able to take on such a time-intensive additional commitment. Pregnancy and maternity could likewise limit the amount of time that magistrates are able to give to additional responsibilities. For some magistrates, these characteristics may intersect, which would have a compounding effect on their capacity for taking on additional voluntary responsibilities and mean that a more time-demanding role would be too much for them to take on. For instance, a young magistrate with a full-time job and a disability may find that they do not have sufficient additional time to take on the bench leadership role in its current form beyond their usual magistrate commitments.

82. We envisage that dividing the workload would make the role more appealing to applicants. This could help encourage a more diverse range of applicants to apply and thereby strengthen democratic representation for the bench by increasing competition for the role.
83. The assumption is that if one or more of our suggested options to reduce the scope of the leadership role are implemented, then the role could have less of a time commitment attached. Those whose protected characteristics limit the amount of time they can dedicate to additional responsibilities may therefore find they are able to take on the role when they would have not been able to commit to the bench chair role in its current form. However, this has not been empirically researched and would need to be tested out, as it is possible that for many with protected characteristics the additional time commitment of even a leadership role with reduced scope would still be too much of an additional commitment to manage considering how their protected characteristics limit the time they have available for voluntary duties. We are seeking views on these proposals in the consultation, which may help us better understand the issues and whether the proposals to streamline the role could make it more appealing.

Making the leadership role less time-consuming, which in turn could enable leaders to have more availability to support the welfare and pastoral needs of magistrates, could provide additional support to those with protected characteristics. For example, if magistrates are experiencing difficulties related to their protected characteristics like a disabled or pregnant magistrate struggling to meet their sitting

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requirements, or a magistrate experiencing discrimination for any reason, our assumption is that having a leader with more availability to work with them could ensure that these magistrates are better supported.

#### *Other proposals (recruitment, deployment and training)*

- 84. Deployment proposals have been set out to ensure that magistrates continue not to have to make long journeys to attend to their duties. We hope that this will continue to attract magistrates to the role from a diverse range of backgrounds, including those with protected characteristics that mean it may be challenging for them to make longer journeys to volunteer.
- 85. We do not expect training committee proposals will have a significant effect on magistrate diversity, as these relate more to how the governance of training provision is organised and are unlikely to have significant effects on the day-to-day experience of sitting as a magistrate.
- 86. Similarly, we do not expect that the recruitment proposals will have a significant effect on magistrate diversity, as we are only expecting a very technical change that will not affect the experience of applying to the magistracy in a significant way.

## **9. Fostering good relations**

- 87. We do not consider the proposals to reform local justice areas will have any significant impact on the achievement of this objective.
- 88. We will continue to update this equality statement in light of any new evidence of impact in accordance with the ongoing nature of our responsibilities under the Public Sector Equality Duty (PSED).

## 10. Welsh Language

### Introduction

89. This section of the assessment aims to assess whether the proposals to reform LJAs will impact on the delivery of magistrates' court services in Welsh.
90. In accordance with the Welsh Language Schemes of the Ministry of Justice and His Majesty's Courts and Tribunal Service, we are assessing the proposals against the principles of:
- Linguistic equality (not treating Welsh less favourably than English)
  - Linguistic opportunity (opportunities for people to use Welsh)
91. In line with the MoJ Welsh Language Scheme, we have considered the significance of the consultation to Welsh magistrates and have produced a full translation of the consultation document. This is available at:  
<https://www.gov.uk/government/consultations/reform-of-local-justice-areas>

### Benches

92. The proposals to form benches as a replacement for LJAs will affect magistrates in terms of their recruitment, deployment, leadership and training. Potential impacts on linguistic equality and opportunity for Welsh-speaking magistrates are considered below.
93. We have not identified any other impacts on Welsh magistrates inherent in the forming of benches, but we invite respondents to submit feedback on this point through the consultation. If further evidence arises, we will update this statement accordingly.

### Recruitment

94. Our assessment is that the proposed changes relating to the recruitment system itself would not impact linguistic equality or opportunity for Welsh-speaking magistrates. Under the proposals, recruitment ACs would oversee the same areas they currently do; the only technical change is that magistrates would be recruited to a 'bench' as opposed to an LJA.
95. We have considered below whether the broader issue of magistrates' recruitment may be affected by the deployment proposals.
96. As above, if we have missed anything, we invite respondents to submit this through question 34 of the consultation.

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#### Deployment

97. We have considered how the changes in magistrates' deployment as a result of the proposals may affect magistrates' opportunities to speak Welsh, or treat Welsh less favourably than English.
98. Following abolition, we expect that most magistrates will be deployed to the same group of courts as they are currently. However, as the proposals suggest merging certain Welsh LJAs to form the North Wales and South Wales benches, there will be a small minority of magistrates who will be assigned to some different courts.
99. Based on the data for the number of Welsh-speaking magistrates in each court, we have considered how this may affect their opportunities to use Welsh. We find a significant difference in the number of Welsh-speaking magistrates across the LJAs in the proposed North Wales Bench, with a relatively small difference in those LJAs in the proposed South Wales Bench.
100. Section 22 of the Welsh Language Act 1993 gives the right to 'any party to legal proceedings in Wales to speak Welsh', and this includes magistrates. The deployment proposals would not affect this right. However, to avoid more generally limiting the opportunity of magistrates to use Welsh under the new deployment arrangements, we have proposed some mitigations in the consultation document.

#### *North Wales Bench*

101. The proposed North Wales Bench would comprise the current LJAs of North West Wales, Central North Wales and North East Wales.
102. Based on the data from the Ministry of Justice's Welsh Language Scheme's Annual Monitoring Report to the Welsh Language Commissioner for 2023-24, the percentage of Welsh-speaking magistrates as of November 2023 is as follows:
- North West Wales - 55%
  - Central North Wales 16%
  - North East Wales 8%
103. There is a significant difference in the number of Welsh-speaking magistrates between each of these LJAs, with a 47 percentage point difference in the largest case between North West Wales and North East Wales. This means that, for instance, if a magistrate currently assigned to the North West Wales LJA was assigned to a court currently in the North East Wales LJA, they could have reduced opportunities to speak Welsh.

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#### *South Wales Bench*

104. The proposed South Wales Bench would comprise the current LJAs of Cardiff, Swansea (West Glamorgan) and the South Wales area of the Mid Wales LJA.
105. Based on the data from the Ministry of Justice's Welsh Language Scheme's Annual Monitoring Report to the Welsh Language Commissioner for 2023-24, the percentage of Welsh-speaking magistrates as of November 2023 is as follows:
- Cardiff - 3%
  - Swansea (West Glamorgan) - 4%
  - Mid Wales - 5%
106. There is a smaller difference in the number of Welsh-speaking magistrates, with a 2-percentage point difference in the largest instance (between Mid Wales and Cardiff). Still, we acknowledge that this may impact linguistic opportunities for magistrates currently assigned to courts in, say, Mid Wales, if they were newly assigned to courts in the former Cardiff LJA for example.

#### *Proposed mitigations*

107. To preserve the principles of linguistic opportunity and equality, the consultation sets out some potential mitigations.
108. Paragraph 82 of the consultation document proposes that, before any confirmation of sitting arrangements, there would be a requirement to assess whether the court is both within a reasonable journey time of the magistrates' home or work address *and* whether that court would be appropriately resourced. If these criteria are not met, there would be 'room for case-by-case discretion' in sitting arrangements.
109. Paragraph 84 of the consultation document also stipulates that the deployment proposals would not affect the rights of Welsh-speaking magistrates to sit in Welsh-speaking courts where preferred.
110. We expect that the proposal to assign the court in which a magistrate has sat most frequently over the past 12 months as that magistrates' 'home court' (the court at which they will complete the majority of their sittings) should, in part, preserve magistrates' current sitting arrangements. This in turn will dampen the risk of disruption to a magistrates' ability to speak Welsh in court, as most will sit in the same court they currently do.
111. If there are any further deployment impacts that have not been identified above which may either (a) impact opportunities for people to use Welsh or (b) treat Welsh

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less favourably than English, we invite respondents to communicate this through question 34 of the consultation.

112. If there are any further mitigations in relation to the deployment impacts listed above that have not been considered, we invite respondents to communicate these through question 35 of the consultation.

### *Potential effect on recruitment*

113. We have considered whether the deployment proposals could also affect those that might wish to apply to become a magistrate. The Lord Chancellor's Welsh Language Standing Committee takes an active interest in the recruitment of Welsh speaking magistrates, and in the fact that the number of applicants across Wales is low. We wish to avoid implementing policies which may dissuade Welsh-speaking potential applicants from joining the magistracy.
114. Given that the proposals would still allocate a new magistrate to their home bench, and with the requirement to undertake 20-40% of sitting in other courts, we do not believe that the deployment proposals will necessarily be prohibitive to a potential Welsh speaking applicant. It could also be argued that the proposed arrangements may create further opportunities to speak Welsh by allowing for greater flexibility in the deployment of Welsh-speaking magistrates.

### Leadership

115. We do not foresee that the proposed changes relating to bench leadership would impact a magistrates' ability to use Welsh in court, or would privilege the use of English above Welsh. These changes are open questions and chiefly relate to the method of choosing bench chairs and their workload, which we do not expect would impact linguistic equality or opportunity for Welsh-speaking magistrates.
116. If there are any impacts relating to the bench leadership proposals which have not been considered here, we invite respondents to submit this through question 34 of the consultation.

### Training, Approvals, Authorisations and Appraisals Committees (TAAACs)

117. Our assessment is that the proposed changes related to training and TAAACs are unlikely to impact linguistic equality or opportunity for Welsh-speaking magistrates.



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118. The proposal to reduce the number of TAAACs from 45 to 14 would create one Justices' TAAAC and one Family TAAAC for each of the judicial circuits and London. As these proposed TAAACs would sit solely within the Welsh circuit, we do not anticipate that this will reduce opportunities for magistrates to speak Welsh, or to treat Welsh less favourably than English.
119. However, if respondents identify any further potential impacts on the use or status of the Welsh language, we encourage them to submit these through question 34 of the consultation.

### **Conclusion**

120. We do not assess that the proposals contained in the consultation relating to magistrates' recruitment, leadership or training will either (a) impact opportunities for people to use Welsh or (b) treat Welsh less favourably than English.
121. Regarding the deployment proposals, the merging of Welsh LJAs in the cases of the proposed North Wales and South Wales benches may risk negatively impacting magistrates' opportunity to sit cases in the Welsh language by assigning Welsh-speaking magistrates to courts where there are limited opportunities to speak in Welsh. However, the consultation offers several mitigations which aim to reduce that risk, including the stipulation that magistrates would retain the right to sit in Welsh-speaking courts where preferred and that sitting arrangements will be decided on a case-by-case basis.
122. During the process of finalising the proposals ready for implementation, we will conduct a full impact assessment of the linguistic implications of these proposals on the Welsh language. We will consider respondents' answers to questions 34 and 35 of the consultation in this process, where they concern impacts on Welsh-speaking magistrates. Finally, we will continue to review this statement in light of any new information.

## 11. Annex: Diversity Data

123. The 2024 Judicial Diversity statistics showed the following diversity patterns as of 1 April 2024:<sup>3</sup>

- a. 57% of magistrates were women, marking a 5 percentage point increase compared to 2014. This is 6% higher than the general population of women and girls.<sup>4</sup>
- b. 13% were from an ethnic minority background, an increase of 5 percentage points since 2014, when 8% of magistrates declared themselves to be from an ethnic minority. This is 5.3 percentage points lower than the general population.<sup>5</sup> As of 1 April 2024, 7% of magistrates self-declared as Asian or Asian British (2.3 percentage points lower than those of the general population who self-declared as Asian, Asian British, or Asian Welsh)<sup>6</sup>, and 4% as black or black British (the same as the percentage of the general population who self-declared as black, black British, black Welsh, Caribbean or African).<sup>7</sup>
- c. 81% of magistrates in post as of 1 April 2024 were aged 50 or over, while 53% were aged 60 and over (28.6% higher than the general population of England and Wales).<sup>8</sup>
- d. 7.8% of the magistracy are ethnic minority women; this is 10.5 percentage points lower than the general population<sup>9</sup>. As of 1 April 2024, 9.3% of the magistracy were ethnic minority magistrates aged 50 and older (29

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<sup>3</sup> Diversity of the Judiciary 2024 statistics, Ministry of Justice. <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2024-statistics/diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2024-statistics>

<sup>4</sup> According to the 2021 Census, women and girls made up 30.4 million (51.0%) of the population of England and Wales. Population and household estimates, England and Wales - Office for National Statistics (ons.gov.uk)

<sup>5</sup> The census uses different categories from the judicial diversity statistics. Unless otherwise stated, we have used the category of 'non-white' as the equivalent of 'ethnic minority' in the judicial diversity data. According to the 2021 Census, an estimated 18.3% of the population of England and Wales self-declared as 'non-white', including those who identified as: Asian, Asian British or Asian Welsh; black, black British, black Welsh, Caribbean or African; mixed or multiple ethnic groups; or "other" ethnic group. Population and household estimates, England and Wales - Office for National Statistics (ons.gov.uk)

<sup>6</sup> According to the 2021 Census, an estimated 9.3% of the population of England and Wales self-declared as Asian, Asian British or Asian Welsh. Population and household estimates, England and Wales - Office for National Statistics (ons.gov.uk)

<sup>7</sup> According to the 2021 Census, an estimated 4% of the population of England and Wales self-declared as black, black British, black Welsh, Caribbean or African. Population and household estimates, England and Wales - Office for National Statistics (ons.gov.uk)

<sup>8</sup> According to the 2021 Census, an estimated 24.4% of the population of England and Wales were aged 60 or over. Population and household estimates, England and Wales - Office for National Statistics (ons.gov.uk)

<sup>9</sup>

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/datasets/ethnicgroupbyageandsexinenglandandwales>

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percentage points lower than the general population); and 5.1% of the magistracy were ethnic minority magistrates aged 60 and older (19 percentage points lower than those of the general population).<sup>10</sup>

124. Of the 1,710 ethnic minority magistrates, 70% are aged 50 years and over, and 38% are aged 60 and over. There is currently no comprehensive data to indicate how many magistrates possess the other protected characteristics. The protected characteristics most consistently recorded in the Judicial Office e-HR database (which contains all current judicial office holders), are sex, race, and age. Magistrates may also self-declare a disability on e-HR. However, declaration rates do not yet meet the threshold for publication as official statistics, in line with the Official Statistics Policy and the professional standards set out in the Code of Practice for Statistics.<sup>1112</sup>

125. As a higher proportion of magistrates are women than in the general population, and there is a greater prevalence of caring responsibilities amongst women in the general population, we therefore assume that magistrates are more likely to have caring responsibilities than the general population.<sup>13</sup> As of April 2024, 46% of magistrates in post are female and aged 50 or over, and 29% are female and aged 60 or over.<sup>14</sup> Women are significantly more likely to provide unpaid care than men in every age group up to 75 to 79 years, with older age groups in particular providing the highest hours of unpaid care per week.<sup>15</sup> Therefore, older female magistrates are particularly likely to have caring responsibilities, in comparison with the general population.

126. There is currently no centralised data on the protected characteristics of those magistrates in the leadership roles considered in our proposals in chapter four, or those magistrates who sit as TAAAC members, who may be affected by the TAAAC proposals in chapter five. Therefore, we do not know whether those in these positions, and those who apply to them, are more likely to hold protected characteristics than the general population.

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<sup>10</sup> [Ethnic group by age and sex, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-and-population/ethnic-groups/articles/ethnic-group-by-age-and-sex-england-and-wales-2019)

<sup>11</sup> [Official Statistics Policy – Office for Statistics Regulation \(statisticsauthority.gov.uk\)](https://statisticsauthority.gov.uk/publications/official-statistics-policy)

<sup>12</sup> [Code of Practice for Statistics \(statisticsauthority.gov.uk\)](https://statisticsauthority.gov.uk/publications/code-of-practice-for-statistics)

<sup>13</sup> [Family Resources Survey: financial year 2020 to 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/family-resources-survey-financial-year-2020-to-2021)

<sup>14</sup> [https://assets.publishing.service.gov.uk/media/64fae71b1886eb000d976fe6/2023\\_JDS\\_tables.ods](https://assets.publishing.service.gov.uk/media/64fae71b1886eb000d976fe6/2023_JDS_tables.ods), table 3.7

<sup>15</sup> [Unpaid care by age, sex and deprivation, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-and-population/ethnic-groups/articles/unpaid-care-by-age-sex-and-deprivation-england-and-wales-2019) In England, the highest percentage of unpaid carers was in individuals aged between 55 and 59 years for females (19.9%) and between 60 and 64 years for males (13.05). In Wales, the highest percentage of unpaid carers was in individuals aged between 55 and 59 years for females (21.9%) and between 55 and 64 years for males (15.0%).

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127. Work is currently underway to collect and publish more detailed demographic data on the magistracy as part of the new magistrate recruitment programme, including on the diversity of applications and appointments. This is being collected to ensure we are targeting under-represented groups in our recruitment to the magistracy. However, as the new programme has not been in place for long, there is not yet sufficient data to draw reliable conclusions from this regarding the proportion of applicants and recently appointed magistrates who hold protected characteristics, and the progression of those with protected characteristics through the recruitment process.