



Department of
Justice

An Roinn Dlí agus Cirt
Máinnystrie O tha Laa

**Reappointment of lay magistrates - Public Service
Pensions and Judicial Offices Act 2022**

Summary of consultation responses

20 September 2022

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Introduction

- 1.1 The Public Service Pensions and Judicial Offices Act 2022 (“the Act”) raised the retirement age for the judiciary to 75 from 70. Before the passing of the Act, Lay Magistrates were obliged to retire at the age of 70 under the Justice Act (Northern Ireland) 2015. Unlike other members of the judiciary, there was no facility to extend the appointments of Lay Magistrates beyond the age of 70. Given the increase in judicial retirement age under the Act, it was considered that there was unfairness to those Lay Magistrates who were obliged to retire at 70. The 2022 Act therefore contains provision to reappoint retired Lay Magistrates, with the eligibility for reappointment to be determined in secondary legislation. This document is the response to the consultation, issued by the Department of Justice (“the Department”), on proposals for eligibility criteria to reappoint affected Lay Magistrates.
- 1.2 The consultation ran from 6 June 2022 to 1 August 2022.
- 1.3 If it would help you to have this document in a different format, such as Braille or large print, or in a language other than English, please contact us at AtoJ.Consultation@justice-ni.x.gsi.gov.uk.
- 1.4 This consultation response is also available on the Department’s website at the web link:

www.justice-ni.gov.uk/consultations/reappointing-lay-magistrates-public-service-pensions-and-judicial-offices-act-2022 .

Complaints

- 1.5 If you have any concerns about the way that this consultation process is being or has been handled, please contact us at standardsunit@justice-ni.x.gsi.gov.uk.

Consultation process

2.1 The Department launched a targeted consultation on proposals on the reappointment of Lay Magistrates on 6 June 2022 with a closing date of 1 August 2022.

2.2 Those affected or likely to be affected by these changes, as well as the relevant professional legal associations and bodies, were notified of this consultation.

2.3 The consultation welcomed the views of consultees on specific questions raised in the consultation paper. The paper is available to download from the Department's website at: www.justice-ni.gov.uk/consultations/reappointing-lay-magistrates-public-service-pensions-and-judicial-offices-act-2022.

2.4 The consultation asked the following questions:

Q1. Do you support the proposed approach taken to the eligibility criteria that is outlined above?

Q2. Do you have any comments on the proposed approach or do you wish to suggest any alternative eligibility criteria for reappointing Lay Magistrates under the provisions of the Act?

Q3. Do you have any comments on the Equality Screening or Rural Proofing Assessment included with this consultation paper?

2.5 The Department received three responses to the reappointment of Lay Magistrates proposals by the closing date of the consultation. We are very grateful to those who responded for taking time to consider the issues contained in the consultation and share their views. This paper analyses the responses received and sets out next steps for the Department.

Analysis of responses, conclusions and next steps

Analysis of responses

3.1 The consultation document asked for the views of consultees on a number of questions. This chapter considers the responses to these questions and provides the Department's view on the way forward.

Q1. Do you support the proposed approach taken to the eligibility criteria that is outlined above?

3.2 Three consultees responded to the question. All three responses were in agreement with the proposed approach taken to the eligibility criteria.

3.3 The eligibility criteria for appointment to the Lay Magistracy are contained in the Lay Magistrates (Eligibility) (Northern Ireland) Order 2004 which must be met. Additionally those Lay Magistrates seeking reappointment must not have been removed from the post as a result of disciplinary proceedings or have had any disciplinary proceedings pending at the date of their retirement. Individuals must be aged between 70 and 75 on the date of Royal Assent of the Act (10 March 2022) in order to be eligible to apply for reappointment.

3.4 One consultee highlighted the necessity for speed given the small pool of potential re-appointees, and the time that has already passed since the Act received Royal Assent and the timescale for the implementation of secondary legislation. The Department considers that applicants should be prepared to offer a reasonable length of service of six months before they reach the age of 75 and are required to retire under the provisions of the Act. The Department also considers that any individual seeking reappointment should be prepared to undertake any training or continuing professional development that may be identified as being necessary or desirable for their continued role as a Lay Magistrate. Finally the Department considers that any individual who is applying for reappointment should be subject to appropriate disclosure and barring checks, if those are not already in place.

Q2. Do you have any comments on the proposed approach or do you wish to suggest any alternative eligibility criteria for reappointing Lay Magistrates under the provisions of the Act?

3.5 All three consultees made no comment on the proposed approach or suggested any alternative eligibility criteria. One consultee highlighted that if someone wishes

to be reappointed they should continue to meet the appointment and eligibility standards which apply across the board to all sitting Lay Magistrates.

Q3. Do you have any comments on the Equality Screening or Rural Proofing Assessment included with this consultation paper?

3.6 Three consultees responded to the question and confirmed that they had no comments to make on the Equality Screening or Rural Proofing Assessment.

Conclusions

Reappointment of Lay Magistrates

- 4 The provisions of the Act afford an opportunity to Lay Magistrates who have recently been obliged to retire at 70, but are still under the age of 75 to return to their former role. Although the response received from consultees was limited, we note that there was support for the eligibility criteria for the reappointment of these Lay Magistrates that were proposed in the consultation paper. We therefore consider that the following eligibility criteria should be adopted.

Eligibility Criteria

- 5 The criteria for eligibility for appointment as a Lay Magistrate are contained in the Lay Magistrates (Eligibility) (Northern Ireland) Order 2004. The Department has concluded that it is appropriate for any Lay Magistrate in Northern Ireland who retired before 10 March 2022 and who is seeking reappointment, to still meet those criteria as well as the additional criteria under consideration in this consultation.

Additional Criteria

- 6 The Department also considers it necessary that individuals who apply for reappointment must not have been removed from their post as a result of disciplinary proceedings or have had any disciplinary proceedings pending at the date of their retirement.
- 7 It is considered that individuals seeking reappointment must have been aged between 70 and 75 on the date of Royal Assent of the Act (10 March 2022) in order to be eligible to apply for reappointment.
- 8 The Department considers that applicants should be prepared to offer a reasonable length of service of six months before they reach the age of 75 and are required to retire under the provisions of the Act. Those who cannot commit to the expected reasonable period of service should provide reasons with their application why they should be considered for reappointment and any reasonable explanation will be given due consideration.
- 9 The Department also considers that any individual seeking reappointment should be prepared to undertake any training or continuing professional development that

may be identified as being necessary or desirable for their continued role as a Lay Magistrate.

- 10 The Department considers that any individual who is applying for reappointment should be subject to appropriate disclosure and barring checks, if those are not already in place.
- 11 Consideration will also be given to the maximum complement of Lay Magistrates set under Schedule 3 to the Justice (Northern Ireland) Act 2002 during the reappointment process. However, it should be noted that the numbers of Lay Magistrates currently holding office is below the maximum complement.

Next Steps

- 12 The Department intends to take forward its proposals at the earliest opportunity. However, the Act makes provision for the Department of Justice to make secondary legislation to set the eligibility criteria for the reappointment of retired Lay Magistrates, requiring a debate to take place before the Assembly. The Department will take forward the necessary legislation when the Assembly is again functioning.