

Family Court Competence Framework for Chairmen

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Introduction

This section provides information about the competence framework, what it is and how it can be used. Magistrates have been using a competence framework since 1998 for appraisal and training.

The competence framework sets out the knowledge, understanding and skills magistrates need to demonstrate to perform their role.

It also sets out the agreed standards for magistrates serving in England and Wales and forms the basis of many processes, from a magistrate's induction and initial training to appraisal of competence. Progression to the specialist roles of chairman, youth panel and family panel magistrate is also based on the *Adult Court Competence Framework for Magistrates*.

A standard competence framework helps ensure that all magistrates, regardless of where they sit, understand what is required of them to be effective in their role. It also ensures a greater consistency of approach to judicial decision making thereby increasing public confidence in the work of the magistrates' courts.

Magistrates are recruited on the basis of their personal attributes, called the six key qualities. The *Adult Court Competence Framework for Magistrates* and the *Family Court Competence Framework for Chairmen* build on these qualities by setting out the skills and knowledge which need to be developed and maintained by a competent magistrate.

The frameworks

There are six framework documents, one for each role a magistrate can have:

- adult
- family
- youth
- adult chairman
- family chairman
- youth chairman.

The adult framework document sets out the standards for all magistrates, whilst the adult chairman framework document builds on these and sets out the standards for those magistrates who chair adult courts. The same approach applies to the family and youth framework documents which include the additional specialist knowledge and skills required for these courts.

Reference need only be made to the relevant framework document that supports the role being performed. For example, a new magistrate need only look at the adult court competence framework document. Magistrates seeking to join a specialist panel (e.g. the Youth Court Panel or the Family Proceedings Court Panel) will need to refer to the relevant competence framework document for that court.

All documents are based on the same competence framework – the *Adult Court Competence Framework for Magistrates*. However, because the knowledge and approach required in each role can differ, the assessment guidance and knowledge criteria differ in each competence framework to reflect this.

The Family Court Competence Framework for Chairmen

The competence framework for family court chairmen is useful for:

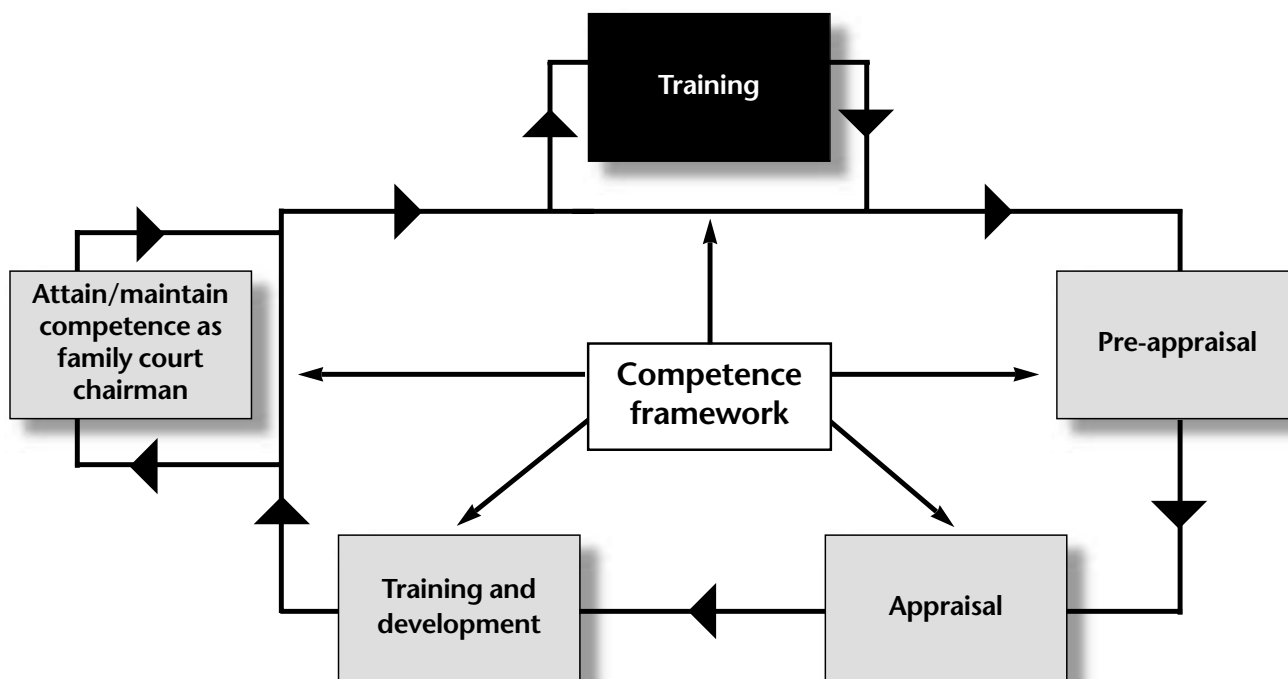
- *Progression* – this framework will be useful to the magistrate planning to move into a new role as a family court chairman.

Family Court Competence Framework for Chairmen

- *Pre-appraisal and appraisal* – during the appraisal process, the magistrate will be appraised against the chairmen’s competence and given feedback about his performance. Any gaps highlighted by the appraiser can then be addressed through training and development.
- *Training and development* – the relevant framework will help the magistrate identify any areas in which further development, training and support is needed.

The competence framework is used by the training manager to ensure chairmanship training is focused and designed towards achievement of competence.

The pivotal role of this competence framework in the training cycle for family court chairmen is shown below:



This competence framework builds on the three core competences that apply to magistrates who sit on the wing in the family court. The core competences are:

1. Managing yourself
2. Working as a member of the team
3. Making judicial decisions.

The competence framework document for family court chairmen contains one competence, **Competence 4: Taking the chair: managing judicial decision making**. Competence 4 sets out the knowledge and skills needed by court chairman and only directly applies to magistrates taking this role.

The competence is broken down into a number of elements.

Each element is further defined by performance criteria which define that is what a magistrate needs to do and the knowledge a magistrate must acquire in order to demonstrate the competence.

The competence framework documents also includes assessment guidance. The purpose of this guidance is to provide a detailed description of the types of behaviour and knowledge that an appraiser should be looking for during the appraisal process.

The assessment guidance has been framed in such a way as to ensure that magistrates are appraised against the same standard. It can also be used by a chairman when reflecting on his own performance, identifying training needs or preparing for an appraisal.

The glossary of terms on the next page illustrates with an example the terminology outlined above.

Glossary of terms

Competence Describes a key activity magistrates undertake in order to demonstrate competence.

Element

Each competence is divided into the different elements which together make up the activity described by the competence as a whole.

Performance criteria

The performance criteria define what a magistrate needs to do to fulfil the elements of the competence framework.

Competence 4 ■ Managing judicial decision making

Element 4.1 ■ As the chairman working in partnership with colleagues and the legal adviser to ensure the effectiveness of the court

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
As a competent magistrate you will be:	The appraiser will be looking for the following types of behaviour:
<p>a Identifying issues for clarification prior to each court session and establishing the relevant structures and processes to facilitate routine applications and procedures.</p>	<p>■ Gathering key facts (e.g. the names of the parties and their representatives). Identifying whether there is a conflict of interest through prior knowledge, potential bias or other disqualifying factors.</p>

Knowledge

What a magistrate needs to know to be effective in that competence.

Assessment guidance

The guidance illustrates with examples the range of skills, knowledge and understanding the appraiser will look for during the appraisal process.

KNOWLEDGE	ASSESSMENT GUIDANCE
In order to demonstrate your competence you will need a knowledge and understanding of:	The appraiser will be checking for knowledge and understanding of:
<p>(ii) The practice direction on the role of the legal adviser including the role of the legal adviser in assisting in the formulation and drafting of reasons.</p>	<p>■ What the legal adviser can advise on and in what circumstances. When the legal adviser can be asked for guidance. When the legal adviser can offer guidance without invitation. When it is appropriate for advice to be given in the retiring room and when it should be given in open court. The legal adviser's role in assisting in</p>

Further information about the competence framework, the training programme, mentoring and appraisal schemes is outlined in the *MNTI 2 Handbook* which can be found at <http://www.jsboard.co.uk>.

This framework in detail

Competence	Elements	Pages
Managing judicial decision making	4.1 Working in partnership with the legal adviser to ensure the effectiveness of the court	10
	4.2 Managing court proceedings using appropriate communication skills	16
	4.3 Seeking and enhancing the contribution of colleagues in order to ensure effective decision making	22
	4.4 Engaging in ongoing learning and development	26

Competence 4 ■ Managing judicial decision making

Element 4.1 ■ Working in partnership with the legal adviser to ensure the effectiveness of the court

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>a Identifying issues for clarification prior to each court session and establishing the relevant structures and processes to facilitate routine applications and procedures.</p>	<ul style="list-style-type: none"> ■ Gathering key facts (e.g. the names of the parties and their representatives). Identifying whether there is a conflict of interest through prior knowledge, potential bias or other disqualifying factors. Reading (and ensuring colleagues read) statements, reports and other written information prepared for the court hearing in a timely fashion. ■ In consultation with the legal adviser identifying potential complex issues from the court list/court papers or whether anyone attending may have special needs and agreeing how these could be addressed. ■ Identifying and referring to guidelines, decision-making guides and checklists. Agreeing the most appropriate structure for decision making with colleagues (and the legal adviser). When clarification needed seeking the advice of the legal adviser promptly. Using the welfare checklist where appropriate and applying

KNOWLEDGE

In order to demonstrate your competence you will need a knowledge and understanding of:

- (i) Law, practice and procedure relating to the range of decisions made in the family proceedings court. Policies, practices, protocols and procedures for case management and management of the court room. Factors that could disqualify a magistrate from hearing a case or application including issues of potential bias.

ASSESSMENT GUIDANCE

The appraiser will be checking for knowledge and understanding of:

- The difference between adversarial and inquisitorial proceedings. When the court should adopt an inquisitorial approach in gathering information. The value and method of using structured decision-making guides, local and national protocols and guidelines in the decision-making process. The key principles in relation to family proceedings (e.g. no order principle, welfare principle and no delay principle). The role of the legal adviser (e.g. in giving directions and formulating reasons). The jurisdiction of the family proceedings court (e.g. children, finance, protection) and the types of orders available in those proceedings.
- The principle of an unbiased and impartial tribunal. Relationships and knowledge that could risk compromising these principles. How such an issue should be resolved without compromising the rest of the bench or the rights of the parties. Article 6 of the Human Rights Act 1998.

Element 4.1 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
As a competent chairman you will be:	The appraiser will be looking for the following types of behaviour:
<p>a continued</p>	<p>key principles (e.g. welfare principle, no order principle, delay principle).</p> <ul style="list-style-type: none"> ■ Reading (and ensuring colleagues read) statements, reports and other written information prepared for the court hearing in a timely fashion.
<p>b Agreeing with the legal adviser respective roles and responsibilities and maintaining these.</p>	<ul style="list-style-type: none"> ■ Holding a pre-court briefing (e.g. to identify issues that may arise during the sitting, agree speaking roles). ■ Seeking timely information when asking the legal adviser to advise the bench. Being receptive to advice from the legal adviser whether specifically requested or not and ensuring that the advice received is considered and applied to the decision-making process. Providing the legal adviser with an opportunity to restate the basis for the advice if proposing to depart from it. ■ Regularly informing the legal adviser of the progress being made in the decision-making process. Involving the legal adviser in the formulation of reasons.

KNOWLEDGE

ASSESSMENT GUIDANCE

In order to demonstrate your competence you will need a knowledge and understanding of:

The appraiser will be checking for knowledge and understanding of:

(i) continued

- The benefits of prior knowledge and judicial continuity in some family proceedings cases.
- The different order of proceedings for family cases. An understanding of the meaning of the phrases 'beyond reasonable doubt' and 'balance of probabilities'.
- Scheduling, listing and case management protocols. The court's role in minimising unnecessary delay in legal proceedings. The wider interests of justice. The need to balance formality and informality. The roles of the participants in the case and protocols relating to their work.

(ii) The practice direction on the role of the legal adviser including the role of the legal adviser in assisting in the formulation and drafting of reasons.

- What the legal adviser can advise on and in what circumstances. When he can be asked for guidance. When he can offer guidance without invitation. When it is appropriate for advice to be given in the retiring room and when it should be given in open court. The legal adviser's role in assisting in formulating and drafting reasons and pronouncements.

Element 4.1 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
As a competent chairman you will be:	The appraiser will be looking for the following types of behaviour:
c Reviewing the day's sitting with the legal adviser.	■ Discussing with the legal adviser the effectiveness of the sitting and seeking, receiving and giving feedback to improve performance.

KNOWLEDGE

In order to demonstrate your competence you will need a knowledge and understanding of:

ASSESSMENT GUIDANCE

The appraiser will be checking for knowledge and understanding of:

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- | | |
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| <p>(iii) The range of issues on which feedback can be given and sought. When and how to obtain and give useful feedback and the local protocols for doing so.</p> | <ul style="list-style-type: none"> ■ The qualities of effective feedback (e.g. specific, non-judgemental and focusing on behavioural aspects capable of being changed). ■ The best circumstances in which to give and receive feedback. Including considerations as to location, timing and receptiveness. Any local protocol and human resources policy that may be in force. |
|--|--|

Element 4.2 ■ Managing court proceedings using appropriate communication skills

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>a Ensuring the purpose and framework of the hearing is established at the outset by giving appropriate directions, setting realistic timetables, seeking explanations from participants for failure to comply with directions and taking appropriate action.</p>	<ul style="list-style-type: none"> ■ For the effective administration of justice confirming with the legal adviser that he has sufficient time, for example to complete paperwork, research legal issues or make other practical arrangements and responding positively when the bench is asked to adjourn. ■ Discussing with the legal adviser the effectiveness of the sitting and seeking, receiving and giving feedback to improve performance.

KNOWLEDGE

In order to demonstrate your competence you will need a knowledge and understanding of:

- (i) The importance of case management and the role of the chairman in ensuring cases proceed effectively. The occasions on which the court adopts an inquisitorial approach and the different skills that should be used by the chairman when gathering information in these circumstances.

ASSESSMENT GUIDANCE

The appraiser will be checking for knowledge and understanding of:

- Local and national case management protocols. The role of clear and unambiguous directions in controlling the timetable and managing cases effectively.
- The chairman's role in taking the lead in ensuring that appropriate questions are asked and followed up promptly. The need to ensure that information gathered is correctly utilised in the decision-making process. The need for attentive listening and effective questioning techniques including types of questions (e.g. open, closed, probing, reflective, summarising).

Element 4.2 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>b Giving clear instructions to participants throughout the proceedings and checking that all those involved understand what is happening in the court room and any decisions that have been made.</p>	<ul style="list-style-type: none"> ■ Checking the stage of the proceedings that has been reached. Confirming the history of the case and the court's expectations for the hearing. Checking whether the parties understand the purpose of the hearing. Checking whether the parties have complied with previous directions by the court. Maintaining a balance between formality and informality as appropriate. Agreeing the correct order of proceedings but allowing flexibility where appropriate.
<p>c Addressing those in court fluently, clearly and audibly at all times.</p>	<ul style="list-style-type: none"> ■ Asking questions to find out the reasons for non-compliance. If necessary asking follow-up and probing questions to identify who is responsible and whether the bench should consider further action (e.g. regarding wasted costs). ■ Adhering to local and national case management protocols. Taking account of local listing practices. Giving directions designed to control the timetable and manage the case. Using standard directions/pro formas where appropriate.

KNOWLEDGE

ASSESSMENT GUIDANCE

In order to demonstrate your competence you will need a knowledge and understanding of:

The appraiser will be checking for knowledge and understanding of:

(ii) Diversity and fair treatment issues including the importance of ensuring that the requirements of court users, who are vulnerable, unrepresented or who have special needs are met within the capabilities of the court.

■ Why full participation is important to the legal process. What special facilities and actions are available to the court to meet special requirements. How these can be best accessed.

(iii) How to project your voice and speak in a clear, logical way so you are heard and understood within the court room.

■ Techniques for being heard without shouting or straining the voice. The importance of pitch, tone, speed and rhythm when speaking and their impact on effective communication.

■ Techniques for summarising and paraphrasing to check understanding.

Element 4.2 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>d Encouraging participants at the hearing to contribute constructively and dealing assertively with any inappropriate, inaccurate or unhelpful contributions by restricting representations, speeches and discussions and dealing promptly with any behaviour that is or may disrupt the functioning of the court.</p>	<ul style="list-style-type: none"> ■ Using clear, unambiguous, jargon-free language appropriate to age and any special needs. Applying local protocols and procedures. Giving focused directions that are clear and unambiguous. ■ Asking questions to ascertain whether information has been understood. Allowing the legal adviser time to provide assistance to unrepresented parties as required. ■ Projecting the voice and speaking clearly. Varying the rhythm, tone and pitch of the voice. Speaking at an appropriate speed and volume. ■ Speaking in language that is appropriate to the hearing, straightforward, jargon free and can be understood by all participants. Checking understanding and adapting style if there are signs that there is a risk of misunderstanding.

KNOWLEDGE

In order to demonstrate your competence you will need a knowledge and understanding of:

- (iv) Approaches that balance the need to control proceedings and maintain relevance with the need to respect the rights of the parties to present their cases and have a fair trial. Contempt of court procedures. When and how to constructively challenge stereotyping and discriminatory comments made in court or in the retiring room.

ASSESSMENT GUIDANCE

The appraiser will be checking for knowledge and understanding of:

- Ways of managing disagreement.
- The essential elements of assertive behaviour including the impact of verbal and non-verbal communication.
- The range of options available to the court when faced with contempt of court. The roles of others (e.g. the legal adviser, security officer, prison escort services) in a contempt situation. The skills and techniques that can be used to resolve conflict, aggression and disruptive behaviour.
- The value of using enquiry and/or feedback methods when challenging comments. The importance of not disrupting or delaying proceedings unless essential to the interests of justice. The importance of choosing a time and venue when the recipient will be most likely to be receptive and when there will be sufficient time to discuss specific issues without interruption.

Element 4.3 ■ Seeking and enhancing the contribution of colleagues in order to ensure effective decision making

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>a Asking colleagues to take responsibility for key tasks (e.g. checking guidelines and locating appropriate structures).</p>	<ul style="list-style-type: none"> ■ Agreeing with colleagues specific roles during the pre-court briefing: for example agreeing to note agreed and disputed facts. ■ With colleagues identifying the decision that needs to be made and the process to follow. Using guides, checklists and other decision-making tools as appropriate. If necessary seeking advice from the legal adviser as to the appropriate structure to use.
<p>b Facilitating discussion by focusing on the structure, identifying and summarising key issues, intervening promptly when disagreement is preventing constructive discussion and progressing and exploring areas of disagreement in order to achieve resolution.</p>	<ul style="list-style-type: none"> ■ Making reference to the court list and other relevant documents (e.g. reports and own notes of proceedings) in order to identify key issues. ■ Asking questions to encourage equal participation from colleagues that is focused and relevant. Actively listening to the contributions of others. Intervening to prevent discussions straying from the agreed structure and irrelevant issues or assumptions being introduced into the process. ■ Controlling the discussion. Summarising it and the agreed issues at appropriate stages to achieve clarity and resolution. Curtailing discussions once all relevant issues have been covered and requesting a majority decision if consensus is not possible.

KNOWLEDGE	ASSESSMENT GUIDANCE
<p>In order to demonstrate your competence you will need a knowledge and understanding of:</p>	<p>The appraiser will be checking for knowledge and understanding of:</p>
<p>(i) The practical contribution that all magistrates can make to the management of judicial decision making.</p>	<ul style="list-style-type: none"> ■ The ways in which a chairman can be supported by colleagues and the communication skills that encourage positive contributions.
<p>(ii) How to summarise key points accurately and techniques for managing disagreement and potential conflict.</p>	<ul style="list-style-type: none"> ■ The importance of summarising to progress and focus discussion on relevant issues. ■ The advantages of using a structured approach to decision making. The need to focus on the decision in hand and agree with colleagues on a structured approach. The need to follow the agreed structure, to summarise at appropriate points and move on.

Element 4.3 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>c Agreeing the decision, reasons and pronouncement to be given in court.</p>	<ul style="list-style-type: none"> ■ Encouraging equal contributions from colleagues when finalising the decisions and formulating the pronouncement and reasons. Using standard pronouncements and reasons forms where applicable. ■ Involving the legal adviser in the preparation of the reasons and pronouncements.
<p>d Reviewing the day's sitting with your magistrate colleagues and/or the legal adviser and seeking, receiving and giving feedback.</p>	<ul style="list-style-type: none"> ■ Participating in post-sitting reviews. Giving feedback in a constructive and non-judgemental way. Seeking feedback on performance from colleagues and the legal adviser.

KNOWLEDGE

ASSESSMENT GUIDANCE

In order to demonstrate your competence you will need a knowledge and understanding of:

The appraiser will be checking for knowledge and understanding of:

(iii) How to identify the appropriate pronouncement using the court bench books or guide.

- The range of resources available (e.g. bench book and reasons forms). The role the legal adviser can play in assisting to create a pronouncement that caters for all the relevant statutory and other issues.

(iv) Techniques for giving objective feedback with a view to minimising interpersonal conflict.

- The conditions that enable feedback to be heard and accepted including location, timing and receptiveness, creating rapport and an environment of trust. The qualities of effective feedback (e.g. focusing on specific behaviour and aspects capable of being changed) and being non-judgemental. The use of enquiry to encourage self-reflection.

Element 4.4 ■ Engaging in ongoing learning and development.

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>a Assessing your own performance against the competence framework. Regularly seeking feedback and identifying your learning and development needs on a continuous basis.</p>	<ul style="list-style-type: none"> ■ Periodically (e.g. following a sitting, bench or panel meeting, training course) reflecting on individual performance as a magistrate and assessing competence against the competence framework, ■ Participating in post-sitting reviews and seeking feedback on performance from colleagues including the legal adviser. ■ Following self-assessment and/or feedback, noting any identified learning needs and reflecting on how these could be met (e.g. reading, discussion with legal adviser or experienced magistrates). When appropriate reporting the identified need to the Justices' Clerk or training manager.

KNOWLEDGE

In order to demonstrate your competence you will need a knowledge and understanding of:

- (i) The importance of providing and receiving feedback in ongoing learning and development. How to elicit useful feedback and assess your own competence against the competence framework and how to select the most appropriate methods to meet your learning needs.

ASSESSMENT GUIDANCE

The appraiser will be checking for knowledge and understanding of:

- The qualities, experience and behaviour to look for in individuals capable of providing valid feedback. The need when asking for feedback to accept the information given not as fact but as another individual's point of view for consideration.
- The need to consider location, timing and receptiveness when providing feedback. The qualities of effective feedback (e.g. focusing on specific behaviour capable of being changed) and adopting a non-judgemental approach.
- The knowledge and understanding of the standard of performance defined by the whole competence framework.
- Preferred learning styles and their potential impact on the effectiveness of the range of training options available. Potential barriers to learning as an adult.

Element 4.4 continued

PERFORMANCE CRITERIA	ASSESSMENT GUIDANCE
<p>As a competent chairman you will be:</p>	<p>The appraiser will be looking for the following types of behaviour:</p>
<p>b Adapting and developing your own performance in light of changes to law, practice, procedure, research and other developments. Keeping your own resource materials (e.g. bench book, handbooks, guidelines) up to date.</p>	<ul style="list-style-type: none"> ■ Keeping up to date with changes in law, practice and procedure by reading promptly any guidance provided nationally and locally, attending training sessions, bench and panel meetings, etc. When presented with new information checking and clarifying understanding. Applying the latest information to improve performance. ■ Using a succinct, up-to-date and easily accessible set of notes/reference material that does not disrupt or delay proceedings.

KNOWLEDGE

ASSESSMENT GUIDANCE

In order to demonstrate your competence you will need a knowledge and understanding of:

The appraiser will be checking for knowledge and understanding of:

(ii) The range of source material, training and other events available to use to ensure you are fully informed and up to date on law, practice and procedure.

- The types, range and reliability of a variety of sources of information (e.g. media, *The Magistrate*, Department for Constitutional Affairs/Home Office guidance, local guidance notes from the Justices' Clerk).
- The responsive and changing nature of the law and the need for the judiciary to keep up to date with legislative and other changes in order to ensure a consistency of approach.



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