

Operational Framework Special Justices

Between

THE MAGISTRATES COURT AND YOUTH COURT
(Court Services Division)

AND

THE ATTORNEY-GENERAL'S DEPARTMENT
(Justice of the Peace Services)

AND

THE SPECIAL JUSTICES GROUP
(as representatives of special justices)

For the operational management of processes between the parties to the Framework which are intended to ensure the efficient and effective management of the appointment and utilisation of Special Justices.

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Purpose of Framework

The purpose of this Framework is to define the roles and responsibilities relating to the utilisation and management of special justices in the Magistrates Court and Youth Court of South Australia, and the consultative framework supporting the partnerships between the Magistrates Court and Youth Court, Justice of the Peace Services (JPS) of the Attorney-General's Department, and the Special Justice Group of the Royal Association of Justices (South Australia) (RAJSA) as representatives of South Australian Special Justices.

The Framework

- Clarifies the roles and responsibilities of the parties to the Framework.
- Provides an operational structure for the appointment, training, and utilisation of Special Justices.
- Establishes consultative structures to support open and effective communication and appropriate information sharing, monitoring and reporting processes.
- Enables sustainable partnerships to be maintained through agency collaboration and regular meetings.

Definitions of acronyms and terms used in this document

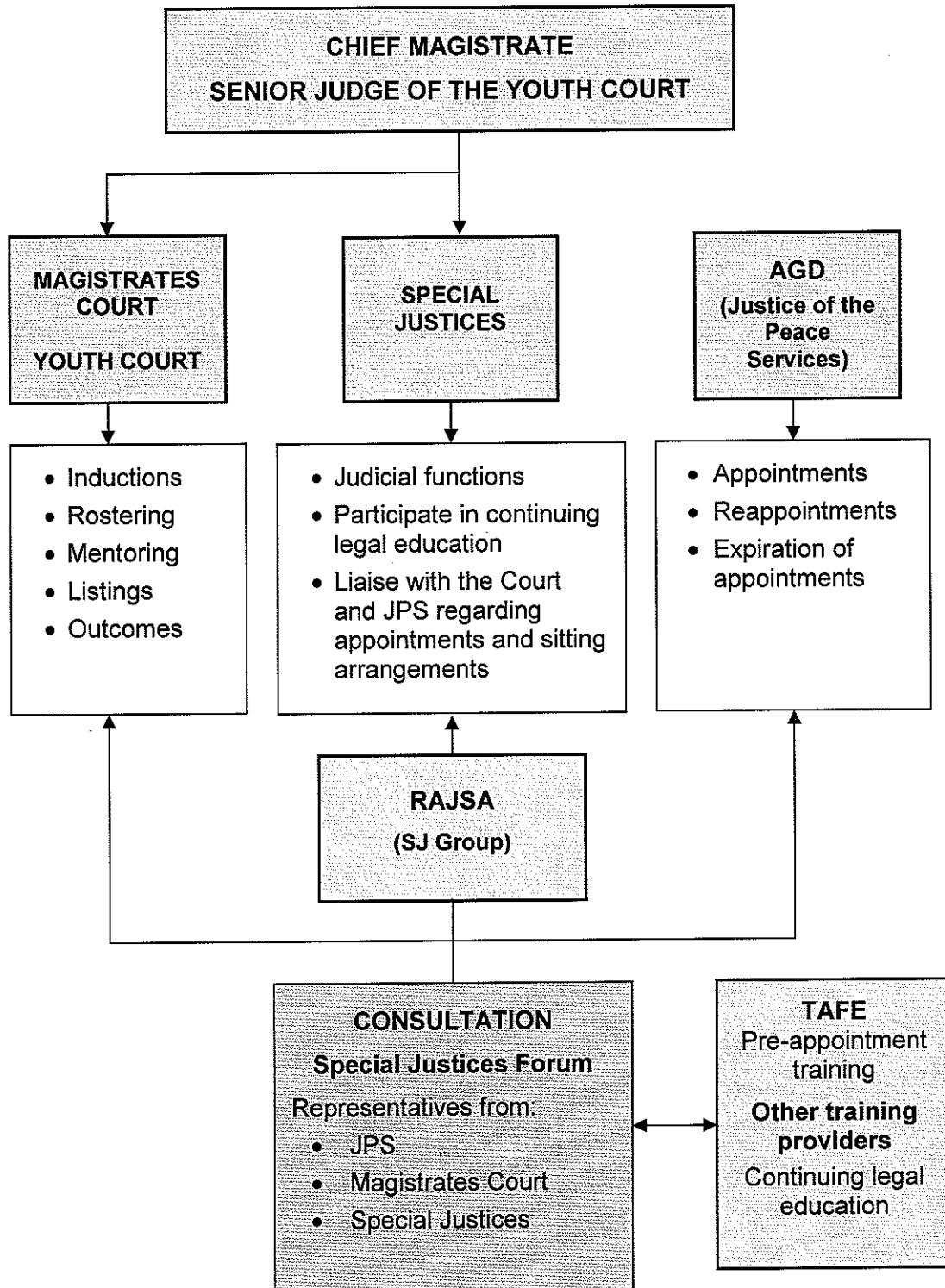
In this document:

- **'AGD'** refers to the Attorney-General's Department.
- **'JPS'** refers to Justice of the Peace Services of the Attorney-General's Department.
- **'RAJSA'** refers to the Royal Association of Justices (South Australia) Inc.
- The **'Special Justices Contact Person'** refers to the position appointed within the Magistrates Court in accordance with the 'Liaison and management responsibilities' section of this document.
- The **'SJ Group'** refers to the Special Justices Group of the Royal Association of Justices.
- The **'Special Justice Forum'** refers to the forum constituted pursuant to the 'Communications' section of this document (comprising of representatives of Magistrates / Youth Court, JPS, and Special Justices).

PART 1: MANAGEMENT

Special Justice Operational Framework

The operational framework supporting the Special Justices initiative is outlined below:



The responsibilities and functions in this framework are outlined in more detail in this document.

Outline of Responsibilities

The general responsibilities of the Magistrates/Youth Court and JPS are outlined below:

Magistrates/Youth Court	Justice of the Peace Services
Induction of newly appointed Special Justices	Administration of applications for appointment as a Special Justice
Organising mentoring opportunities for newly appointed Special Justices	Organising meetings of the Selection Panel for short-listing and interviewing applicants
Rostering Special Justices at each location	Provision of names of successful applicants to TAFE for enrolment
Assist in training when possible and as directed by the Chief Magistrate	Drafting Cabinet Submissions for recommendation for appointment
Administration of court files, listings, and outcomes	Notifying candidates and the Court of appointments
Provision of facilities for Special Justices including: <ul style="list-style-type: none"> • courtrooms • security • relevant operational and administrative support 	Administration of changes to appointments including: <ul style="list-style-type: none"> • Resignations • Reappointments • Changes of personal details

The Special Justices Group provides support to gazetted Special Justices within the framework of the RAJSA.

Communication

A Special Justices Forum will be established comprised of representatives from JPS, the Magistrates Court and Special Justices. The Terms of Reference for the Special Justices Forum are attached at Appendix 1. The Forum will meet twice yearly or as necessary to discuss training and administrative issues. Representatives from other stakeholder groups or training providers may also be invited to these meetings.

These meetings are to be organised by the Magistrates Court. Each meeting to contain the following agenda items:

- Review of the Operational Framework
- Training and development
 - Pre-appointment (TAFE course)
 - Post-appointment (induction and mentoring)
 - Continuing legal education
- Other issues

The training and development item is to focus on the revision of training needs and suitability of the delivery of existing training.

The Chief Magistrate and Senior Judge of the Youth Court may also meet with Special Justices representatives periodically to discuss issues of a judicial nature.

Funding

The Magistrates Court and Youth Court are funded to provide limited administrative and operational support for Special Justices.

The direct cost of the TAFE training course is to be funded by the Magistrates Court.

The Magistrates Court and Youth Court is responsible for reimbursing the Special Justices out of pocket expenses for court duties.

Complaints

Any complaints arising from a Special Justice carrying out duties in court, or in relation to their conduct as a Special Justice in the court environment, are to be referred to the Chief Magistrate or Senior Judge of the Youth Court for consideration.

Any complaints relating to the general appointment of Special Justices and Justices of the Peace are to be referred to JPS for consideration.

Complaints received are to be actioned as deemed appropriate and in accordance with existing complaints procedures.

PART 2: APPOINTMENTS

Special Justice Application and Appointment Process

JPS is responsible for the process of administering the application for appointment as a Special Justice.

This is to be undertaken in accordance with the 'Appointment Process Flowchart' at Appendix 2.

The Magistrates Court may request JPS to seek applications in particular locations in accordance with operational needs.

Upon the approval of His Excellency, the Governor in Executive Council, appointments of Special Justices are published in the Government Gazette.

Application for Reappointment as a Special Justice

JPS is responsible for administering the process to reappoint Special Justices.

JPS will write to Special Justices a minimum of 6 months prior to the expiration of their appointment to advise them of the date of expiration of their appointment, provide information about the reappointment process, and invite the Special Justice to reapply if they wish to do so.

Upon receipt of an Expression of Interest for Reappointment as a Special Justice:

- JPS send an acknowledgement letter to the Special Justice.
- JPS conducts a further Personal History Check with Police.
- If the Special Justice has a nil history record or no new offences since current appointment, the application progresses to the next stage.
- If the Special Justice has an adverse record, JPS send letter seeking verification and explanation of offence(s) and reason why the Special Justice regards themselves as suitable for re-appointment.
- JPS write to the Chief Magistrate or Senior Judge of the Youth Court seeking a recommendation for reappointment as Special Justice.
- JPS prepares a draft Cabinet submission for the Attorney-General's recommendation for appointment to the Governor.

Reappointment of Special Justices

Upon the approval of His Excellency, the Governor in Executive Council, appointments of Special Justices are published in the Government Gazette.

- JPS confirms reappointment through the Government Gazette.
- JPS prepares a letter for the Attorney-General congratulating Special Justices on their reappointment and providing a document which summarises their obligations and responsibilities.
- JPS advises the Chief Magistrate and Special Justices Contact Person in writing of reappointments.
- JPS advises the SJ Group of the Royal Association of Justices of appointments/reappointments if agreed to by the Special Justice.

Resignation of Special Justices

JPS is responsible for administering the resignation process for Special Justices.

Upon the resignation of a Special Justice:

- JPS actions the resignation.
- JPS prepares a letter for the Attorney-General acknowledging the resignation of a Special Justice.
- JPS writes to the Chief Magistrate or Senior Judge of the Youth Court and the Special Justices Contact Person informing them of the resignation of a Special Justice.
- The Magistrates/Youth Court remove the Special Justice from court rosters.

Expiration of Special Justice's Appointments

Upon the expiration of a Special Justice's appointment:

- JPS will write to the Chief Magistrate or Senior Judge of the Youth Court and Special Justices Contact Person advising of the expiration of appointments.
- JPS will prepare a letter for the Attorney-General thanking the Special Justice for their service.

PART 3: TRAINING AND LEGAL EDUCATION

Pre-appointment Training

Training for applicants is to be conducted through the Justice Studies branch of TAFE in a form approved by the Attorney-General after consultation with the Chief Justice.

Meetings of the Special Justice Forum will consider and make recommendations on the continuing relevance and appropriateness of the training course.

A suitable representative from the Magistrates/Youth Court may attend at the initial TAFE training course to provide training on court practice, procedure and administration.

Induction and Mentoring

The process for preparing newly appointed Special Justices to commence sitting is to be undertaken in accordance with the 'Appointment to Commencement of Sitting Flowchart' at Appendix 3.

The Magistrates/Youth Court will undertake to provide sufficient induction and mentoring to enable a newly appointed Special Justice to declare themselves ready to commence sitting.

The induction and mentoring is to be undertaken in accordance with the Induction Manual and mentoring practice established by the Magistrates/Youth Court and reviewed in consultation with the Special Justices Forum and Chief Magistrate.

Continuing Legal Education

The Magistrates Court and Youth Court may contribute to continuing legal education where necessary to ensure currency of knowledge for Special Justices in accordance with legislative changes and identified areas of need.

Delivery of continuing legal education may be organised in consultation with the Special Justices Forum by the SJ Group or Magistrates/Youth Court.

Staff of the Magistrates Court, the Youth Court and the magistracy, may assist in the delivery of such training as agreed or directed by the Chief Magistrate or Senior Judge of the Youth Court.

A framework for the pre-appointment, post-appointment and continuing legal education of Special Justices can be found at Appendix 4.

Resources

Resources available to all Special Justices may be developed in consultation with the Special Justices Forum having regard to current practice, procedure and legislation. These resources may include the Special Justice Handbook and Bench Book.

Current electronic versions of these documents may be maintained by the Magistrates Court and distributed to newly appointed Special Justices upon induction, and current Special Justices through the Special Justice site (on the Royal Association of Justices website) and upon request.

The Handbook may be used as a tool for the provision of feedback on the practice and procedure relating to the work of Special Justices. This feedback may be provided by Special Justices, Magistrates, registry staff, or sheriff officers and approved for inclusion in the Handbook by the Special Justices Forum.

Process for Amending Handbook or Bench Book

If the need for an amendment to the Special Justice Handbook or Bench Book arises at any time, it may be brought to the attention of the Special Justice Contact Person. Requests for amendments can be made by Special Justices, Magistrates, registry staff, Registrars, or staff of the Attorney-General's Department.

Amendments can be required to correct errors, improve the accuracy, and assist the interpretation of information or to reflect changes to legislation, practice, or procedure. Amendments can also be required to add new information or expand further on information in the document, including information specific to a certain location if necessary.

If an amendment is requested the Special Justice Contact Person may raise it at the next meeting of the Special Justices Forum for consideration, or if urgent, members of the Special Justices Forum can be contacted by email, and a meeting called if required.

When significant amendments are made, the Magistrates Court is to send notification of the change by email to all Special Justices.

PART 4: COURT DUTIES

Court Duties

Special Justices are expected to conduct themselves appropriately while performing court duties and adhere to Section 10 and 11 of the *Justices of the Peace Regulations 2006* and the Code of Conduct for Justices of the Peace.

Special Justices are expected to:

- Attend court when rostered or notify the relevant court of their unavailability to attend a rostered sitting as soon as possible.
- Notify the local court and JPS of any changes to availability or contact details as soon as possible.
- Observe the directions of the appropriate supervising Judicial Officer.
- Seek the advice of an appropriate Judicial Officer (where possible) regarding any questions of law.
- Seek the advice of an appropriate court officer (where possible) regarding any questions of procedure or process.

Support and Facilities

The Magistrates Court and Youth Court is responsible for providing Special Justices adequate support and facilities to perform their duties when they are rostered for duty. Such support and facilities include:

- A safe work environment.
- An induction program appropriate to each work area.
- Appropriate access to the workplace.
- Provision of appropriate identification (Photo ID cards).
- Provision of an appropriate workspace.
- Access to tea & coffee-making facilities where possible.
- Consultation on matters affecting Special Justices in the performance of their duties.

PART 5: ADMINISTRATION

Liaison and Management Responsibilities

Special Justices are required to contact the relevant Registrar at their rostered sitting location in relation to day to day operational and procedural matters.

The Magistrates Court will also assign a relevant staff member to deal with high level strategic and operational matters affecting the Special Justice initiative.

The specific responsibilities of this staff member are to be determined by the Court Services Division of the Magistrates Court in consultation with the Special Justices Forum. These responsibilities may include:

- Participating in the Special Justices Forum.
- Liaising with staff from Magistrates/Youth Court and JPS, and Special Justices on matters of operational and strategic significance.

Contact details for the relevant officer will be made available to JPS, all Magistrates Court and Youth Court staff and all Special Justices.

Rostering

The Magistrates/Youth Court is responsible for rostering Special Justices in a fair and equitable manner having regard to court listings procedures and individual Special Justices availability. Where necessary priority may be given to newly appointed Special Justices to enable them to consolidate their skills and experience.

The Magistrates/Youth Court is responsible for providing rostered Special Justices with information about the location and duration of their rostered sittings.

The Magistrates/Youth Court is responsible for providing JPS with information about the occurrence and location of sittings and how many Special Justices are available to sit at each location on a periodic basis.

Listings

The Magistrates/Youth Court is responsible for managing listings.

A list of offences under the jurisdiction of Special Justices should be available to AGD, Magistrates/Youth Court staff, all Special Justices, TAFE, and SAPOL.

This list is to be used to maintain consistency with listings across all court locations.

Reporting

The activities of the Special Justice initiative are to be reported as part of the Magistrates Court's Annual Report. A more detailed analysis of the performance of this initiative may be completed annually by the Strategic Initiatives Unit. This report will be provided to the Chief Magistrate and the Special Justices Forum, and may contain:

- Numbers of Special Justices currently appointed.
- Numbers of new Special Justices appointed.
- Numbers of matters heard by Special Justices at each location.
- An outline of what training was available to Special Justices.
- Any other information deemed of relevance.

This report may be used in consultation with the Special Justices Forum as the basis for continuing review and improvement of the Special Justices initiative.

Updating the Register of Special Justices

JPS is responsible for maintaining a current register of Special Justices. The register is to be provided to the Magistrates/Youth Court for rostering and listings purposes, and to the SJ Group for consultation purposes. JPS are responsible for notifying the Special Justices Contact Person and the SJ Group of amendments to the register, including:

- Appointments of Special Justices (including appointment start and end dates).
- Resignation of Special Justices.
- Expiration of appointments.
- Changes to contact details where appropriate.

The Magistrates Court and Youth Court may also provide JPS with statistics on the rostering and sitting of Special Justices as required.

SPECIAL JUSTICES FORUM

Terms of Reference

1. Scope & Purpose

- 1.1. The terms of reference as outlined below shall apply to the Special Justices Forum ('The Forum').
- 1.2. The Forum provides a consultative means for the key stakeholders in the Special Justices initiative to discuss issues relating to the training and administration of Special Justices in South Australia.

2. Overarching Objective

- 2.1. The effective and efficient operation of the Special Justices initiative.

3. Function

- 3.1. The Forum is consultative only. It is not intended that the Forum replace the role of the AGD or Magistrates Court and Youth Court in authorising the policies, procedures, and processes directly related to the Special Justice initiative.
- 3.2. The Forum has the following functions:
 - 3.2.1. Discuss and review the Operational Framework.
 - 3.2.2. The revision of training needs, content of training courses, and suitability of the delivery of existing training, for:
 - Pre-appointment training (TAFE).
 - Post-appointment training (induction and mentoring).
 - Continuing legal education.
 - 3.2.3. Monitor and review the effectiveness of administrative and procedural systems.
 - 3.2.4. Identify and discuss issues relating to the Special Justice initiative.
 - 3.2.5. Assist with the development of processes and procedures to address identified issues and improve the effectiveness of the Special Justice initiative.

4. Membership

- 4.1. The Forum shall consist of representatives from the key stakeholders in the initiative:
 - Magistrates Court
 - AGD (Justice of the Peace Services)
 - Special Justice representatives
- 4.2. The Magistrates Court may also invite representatives from the Youth Court.
- 4.3. Representatives from TAFE or other training providers may also be invited to attend.

5. Roles and responsibilities of members

5.1. Members of the Forum shall be responsible for:

- 5.1.1. Attending meetings or forwarding apologies if unable to attend. Where possible members should arrange for a proxy to attend in their absence (where a proxy attends that person shall have the full rights of the representative).
- 5.1.2. Being prepared for the meeting.
- 5.1.3. Actively participating and contributing to the meeting.

6. Appointment of the Chairperson

- 6.1. Members of the Forum may elect the Chairperson.
- 6.2. The Chairperson may change from time to time by agreement of the Forum.

7. Chairperson's responsibilities

7.1. The chairperson is responsible for:

- 7.1.1. Opening meetings on time, following the agenda and controlling the proceedings.
- 7.1.2. Encouraging active participation of members.
- 7.1.3. Ensure that issues raised are in accordance with the Forum's functions.

8. Visitors, advisors and consultants

- 8.1. Visitors, advisors and consultants may attend meetings at the invitation of the chairperson and may address or advise the Forum on relevant issues.

9. Meeting Frequency

- 9.1. The Forum will meet twice annually.
- 9.2. Special meetings may be called at the request of members and by agreement of the Forum.
- 9.3. The Forum may meet more frequently during the implementation of significant changes to the operational framework.

10. Agenda

- 10.1. An agenda shall be distributed to Forum members before the meeting and should include the following (as a guide):

Present/apologies

Minutes:

- Previous minutes
- Business arising

Review of Operational Framework

Training and development:

- Pre-appointment (TAFE course)
- Post-appointment (induction and mentoring)
- Continuing legal education

Other business

Next meeting

- 10.2. All items to be placed on the agenda must be sent to the chairperson five working days prior to the meeting along with any papers that are to be distributed at the meeting.

11. Decision Making

- 11.1 The Forum is consultative only and does not have power to make decisions with the following exceptions:

- 11.1.1 Decisions relating to these Terms of Reference
- 11.1.2 Approving minutes of meetings
- 11.1.3 Electing a chairperson
- 11.1.4 Other decisions directly relating to the administration, function, or constitution of the Forum

- 11.2 In these cases decisions can be made by majority vote, with the chairperson having the deciding vote in case of a tie.

12. Minutes

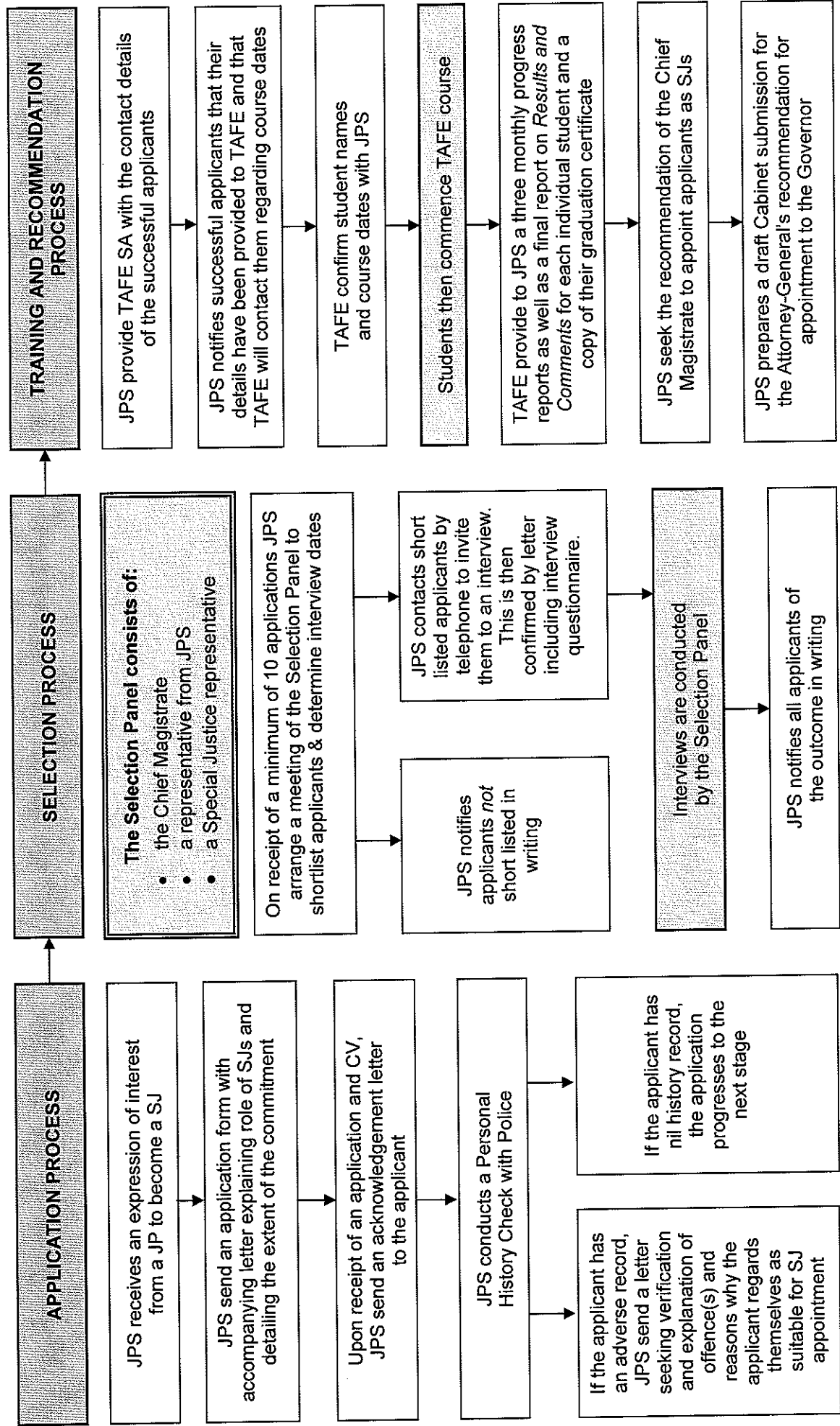
- 12.1. A detailed record of all proceedings must be kept.
- 12.2. A copy of the previous meeting minutes shall be available to members at a reasonable time prior to the meeting.
- 12.3. The Magistrates Court is to keep copies of all minutes endorsed by the Forum (including all amendments).
- 12.4. The Magistrates Court is to provide approved minutes to all Special Justices.

13. Review

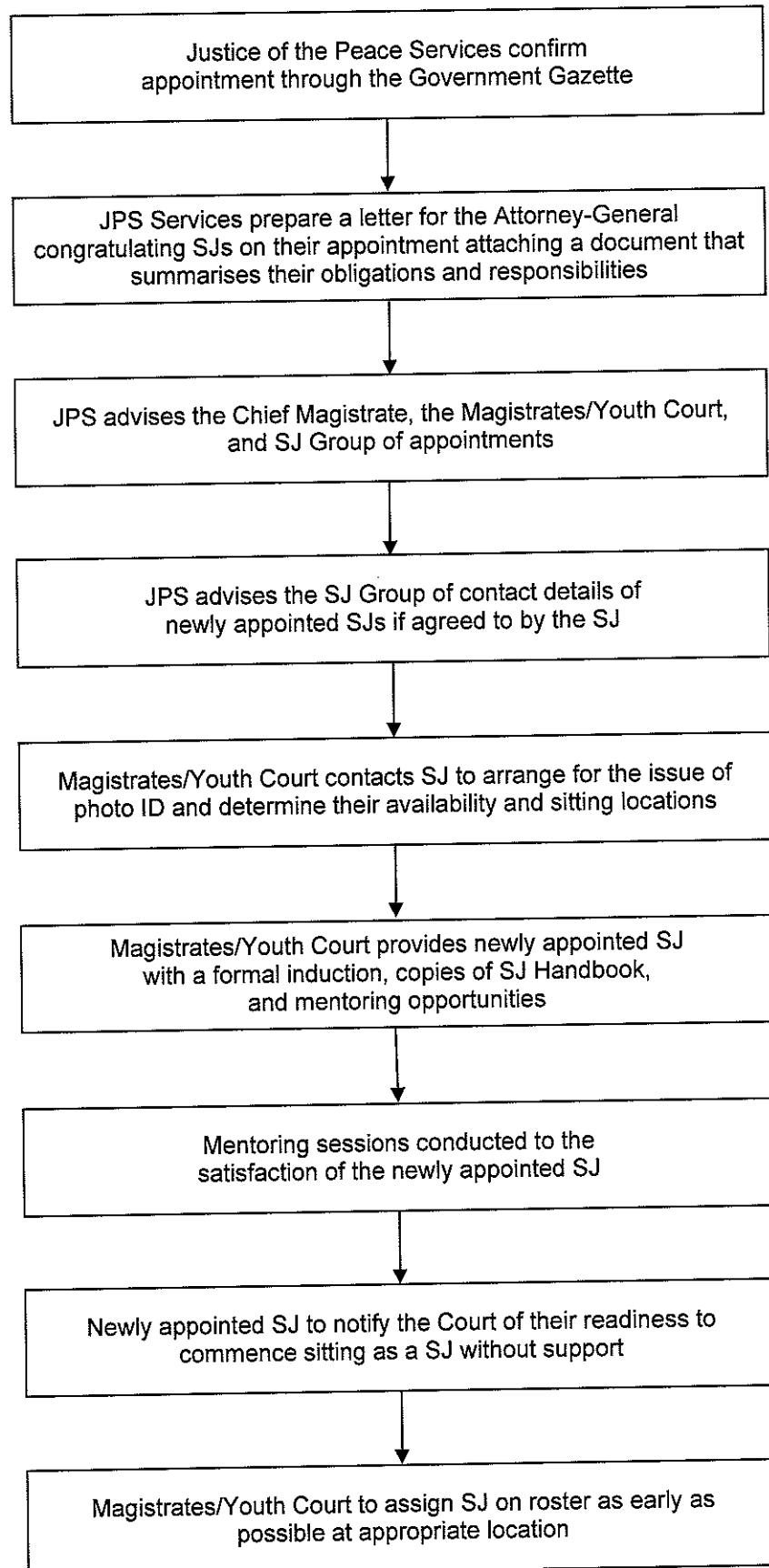
- 13.1. The Terms of Reference are to be reviewed annually by the Forum.

APPENDIX 2:

SPECIAL JUSTICES APPOINTMENT PROCESS FLOWCHART



APPENDIX 3: SPECIAL JUSTICES APPOINTMENT TO COMMENCEMENT OF SITTING FLOWCHART



APPENDIX 4: SPECIAL JUSTICES LEGAL EDUCATION MODEL

When	What	How	From who
On application	General background information on role of SJ and extent of commitment	Letter	AGD
Pre-appointment	High-level background on justice system in SA, basic knowledge of legislation.	Training course – “Key Concepts” – 1 semester or 3-4 days compressed with exam, in class or external	TAFE
	Practical and procedural information. Court process and procedure, fines system, and court listings.	Training course – “Judicial Functions” – 3-day intensive plus possible additional 2 days Provision of resources – Bench Book, SJ Handbook	TAFE/ Magistrates/ Youth Court
	Practical experience – how SJ court is run, what is expected of SJs	Observing in SJ sitting court / SM Court	TAFE/ Magistrates/ Youth Court
Post-appointment	Summary of SJ obligations and responsibilities	Letter	AGD
	Familiarisation with building, OHS&W, court staff, security information, how to obtain access cards, expense reimbursements etc.	Formal induction – half day session in local court	Magistrates/ Youth Court
Pre-sitting	Practical experience – practice and procedure of running SJ court (including court documentation, court files, registry functions, sheriff functions etc)	Mentoring program – observing the bench Special Justice Handbook and Bench Book	Magistrates/ Youth Court
	Development of skills necessary to sit as a SJ	Self-appraisal checklist (non-compulsory)	New SJ
Continuing	Skills maintenance, updates to law	Training sessions, seminars, etc as appropriate	Appropriate training providers/ Magistrates/ Youth Court

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SIGNED by Ruth Ambler
Director, Court Services
for Courts Administration Authority

Date:

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SIGNED by Jerome Maguire
Chief Executive Attorney-General's Department
and Department of Justice

Date:

.....
SIGNED by Garth Challans
Chairperson of the Special Justices Group

Date: