

Judicial Diversity Forum Action Plan – September 2020

This action plan sets out the wide range of activities which members of the Judicial Diversity Forum are undertaking to support and drive greater judicial diversity. Where possible, it follows a career path from a diverse pool of professionals, through attracting and supporting candidates for judicial office, open and fair application processes to supporting and encouraging retention and progression to the senior levels of the judiciary.

1) DIVERSE POOL OF PROFESSIONALS WHO HAVE THE SKILLS AND EXPERIENCE TO APPLY FOR JUDICIAL OFFICE AT ALL LEVELS

Lead: The Law Society

The Law Society runs a range of schemes aimed at encouraging diversity, inclusion and progression within the solicitor profession. Our D&I team, together with our Equality, Diversity and Inclusion Committee, coordinates with our relevant divisions: Women Lawyers, Ethnic Minority Lawyers, Lawyers with Disabilities and LGBT Lawyers, to support solicitors, whether external or in-house, in attracting, retaining and progressing people of all talents and backgrounds. We work closely with the SRA on these issues. Our work also includes promoting social mobility including through our Social Mobility Ambassadors and the Diversity Access schemes. In addition, the profession is driving diversity, inclusion, retention and progression using a range of activities, some of which are recent developments. These include setting BAME and gender partner targets; many firms have signed up to the Stonewall workplace equality index; others introduced gender pay gap reporting; in line with the Law Society women in law pledge – a number of firms have set targets/goals for women in senior roles backed by a published action plan; Reignite academy – firms participate in an initiative to improve their retention of female talent ; A number of firms take part in the 30% club – initiative to increase gender representation at Board and senior management level ; Several large firms are signatories to Rare Recruitment Race charter; PRIME – an alliance of law firms committed to improving access for candidates from socially and economically disadvantaged backgrounds.

The below provides a glimpse into our current projects relating to diversity in the profession:

BAME research/conference

- The Law Society is undertaking a multi-faceted research on the member experience of its BAME solicitors, including a reference to the BAME experience of accessing the judiciary. This included roundtables with practitioners from across different areas of legal practise and years PQE, will include one-to-one interviews with opinion formers and virtual roundtables with recruiters to capture insight from firms.
- A report will be produced and launched in Autumn 2020 and its recommendations will inform the Society's Race Diversity Strategy.

Timeframe/Frequency: Report to be published during Autumn 2020.

'Legally Disabled?'

- The Legally Disabled? Research project produced the first large-scale evidence based on the career experience of disabled people across the legal profession in England

and Wales (including in the judiciary). The project is in partnership with Cardiff University and the Lawyers with Disabilities Division (LDD) of the Law Society.

- The full report was published in January 2020: <http://legallydisabled.com/wp-content/uploads/2020/01/Legally-Disabled-full-report-FINAL.pdf>
- The Law Society held virtual roundtables with firms where the researchers provided practical and constructive overview of their research findings and recommendations.

The Law Society has recently launched a survey, in partnership with the Legally Disabled Project, to gather experiences of disabled people in the legal professions both during lockdown and post-lockdown. The findings will be used to inform best practice for the future and to evidence aspects of remote working that could benefit disabled people in the long term.

Lead: The Solicitors Regulation Authority (SRA)

Gathering diversity data

- The SRA has updated the diversity questions available for solicitors to complete on their individual mySRA account. They will be working with the Law Society and the profession to encourage people to provide their diversity information across all characteristics (including new standard indicators for social mobility). This will improve the data they are able to report and provide the opportunity for intersectional analysis.
- The SRA will continue with its biennial firm diversity data survey in 2021 which covers all staff working for law firms. The data is published in their [firm diversity data tool](#) which allows analysis by firm type, size and work area.

Diversity at entry level

- The SRA is planning to introduce the Solicitors Qualifying Examination (SQE) with effect from 2021, a new single, rigorous assessment to make sure that all aspiring solicitors meet the same consistent standard at the point they join the profession. They are working to realise the [potential diversity benefits](#) of this new, more flexible approach to create new and diverse pathways to qualification, while removing unjustified barriers. The SRA will be working with the SQE provider, Kaplan to monitor candidates by diversity characteristics and making a wide range of data available to allow future evaluation of the SQE and to track diversity of candidates annually.

Promoting diversity in the profession at all levels

- The SRA is delivering a range of initiatives to promote diversity in the profession, including an [Equality, Diversity and Inclusion \(EDI\) mentoring scheme](#) for law firms. Most recently the SRA has published resources to promote [disability inclusion](#) following their work with disabled solicitors and law firms, and has been [promoting race equality by sharing good practice](#) by some of the law firms who are leading the way in this area.

Research to understand challenging diversity issues

- The SRA continues to build on knowledge about diversity in the profession through [research](#) covering disability inclusion in the workplace, and quantitative and qualitative research about progression for BAME solicitors and women. The SRA's [Risk Outlook](#) continues to cover topical issues, which in recent years has included sexual harassment and the inappropriate use of non-disclosure agreements, the important of health and wellbeing and disability inclusion. The SRA has recently

announced its plans to undertake research into the attainment gap in legal education to support its work on promoting diversity on entry into the profession.

Lead: CILEx

Equality, Diversity and Inclusion Survey

- CILEx will consult its membership on an annual basis to hear differing perspectives from all their members who face discrimination and prejudice in the workplace. This work will allow CILEx to understand how issues may be disproportionately affecting groups within their membership and to specifically measure the impact of barriers to inclusion affecting their BAME members.

Bursary scheme

- CILEx are developing a bursary scheme which they have established via the CILEx Charitable Foundation which will ensure that financial hardship is not a barrier for underrepresented groups to access legal education and training including their own judicial development programme.

Lead: Bar Council

Bar Council has in place a wide range of programmes and activity which seeks to identify and address barriers and assumptions that inhibit the progression of those with a protected characteristic, or those from a non-traditional background, in both joining the profession and developing their career. Bar Council provides:

- A telephone helpline (for individuals facing unequal treatment and chambers/others looking to manage issues, develop good equality and diversity practices)
- AI/online reporting for incidents of discrimination, harassment and bullying
- Equality and diversity training, as well as wider education on these issues across the Bar
- Guidance/Policy support on compliance with the Bar Standard Boards' (BSB) Equality and Diversity rules and good practice
- Research data on the profile of the profession and trends
- Assistance to Bar based diversity networks, for example FreeBar, Black Barristers' Network and Association of Women Barristers
- In addition, Bar Council offers discrete Bar Council-led programmes and support to other Bar based stakeholders like the Circuits and Specialist Bar Association to promote access (e.g. work experience programmes and career advice), as well as retention and progression (e.g. mentoring, practice management support, work allocation initiatives and a new leadership programme). Full details of all activity are available on the Bar Council's website: www.barcouncil.org.uk

Lead: Bar Standards Board (BSB)

Work to address barriers to training for the Bar

- The BSB are undertaking qualitative research about the impact of equality policies of Authorised Training and Education Organisations (AETOs) for the vocational component of Bar, and a report to identify and influence best practice. A literature review identifying best practice has been completed and further research is currently being undertaken into AETOs' equality and diversity policies.

- The BSB will also update their 2017 research, “Differential Attainment at BPTC and Pupillage” to reflect changes that have been made to vocational training assessments and highlight any issues around differential attainment between different groups during training.

Work to encourage race equality at the Bar.

- In June 2019 the BSB formed a Race Equality Taskforce to promote race equality at the Bar. The Taskforce agreed its action plan in September 2019 and will continue to develop and implement that plan under this strategy.
- This includes publishing three good practice case studies and piloting a reverse mentoring project with members of the Taskforce and Black and Minority Ethnic people who are training for the Bar.

Work to address bullying, discrimination and harassment at the Bar

- In July 2019, the BSB formed a project with broad scope to address bullying, discrimination and harassment in the profession. The project includes our Pilot Harassment Support Scheme and a review of our mechanisms for reporting bullying, discrimination or harassment as serious misconduct.
- To support this work, the BSB has commissioned qualitative research about people’s experience of bullying, discrimination and harassment at the Bar, with a focus on race, disability, sex and sexual orientation. The research will generate evidence for the BSB’s work to address those behaviours at the Bar.

Review of the BSB’s Equality Rules

- The BSB is reviewing the Equality Rules in its handbook which aims to assesses the impact of the current equality rules in influencing inclusive working cultures and delivering the regulatory objectives of encouraging a diverse legal profession.
- As part of this project they will engage and consult stakeholders from across the profession and with a range of protected characteristics. The review will include a full Equality Impact Assessment of the current equality rules, identify any issues with the current rules, and inform any subsequent policy solutions to any issues identified.

Work to encourage disability inclusion at the Bar.

- The BSB is engaging with disability experts to influence regulatory good practice. As part of this work, the BSB will publish three good practice case studies about inclusion of different types of disability at the Bar.

2) DIVERSE PROFESSIONALS SEE A JUDICIAL CAREER AS AN ATTRACTIVE OPTION AND ARE SUPPORTED AND ENCOURAGED TO APPLY FOR JUDICIAL CAREER

Lead: *Judicial Diversity Forum*

Pre-Application Judicial Education programme (PAJE)

- The programme seeks to provide participants from underrepresented groups with in-depth education and training on all aspects of judge-craft. The programme consists of (i) online training videos/modules and (ii) judge-led discussion groups to help applicants develop the skills and competencies needed.
- 178 candidates have already engaged in the programme through judge-led discussion group courses (coordinated by the professional bodies), with a further 94 to participate in virtual judge-led discussion group courses this Autumn/Winter 2020.
- Applications for the next cohort of PAJE judge-led discussion groups will open in Autumn 2020, in preparation for courses from January 2021.

Timeline/Frequency: At least 4 judge-led discussion groups are held in Autumn/Winter, Winter/Spring and Spring/Summer each year.

Lead: *Judiciary*

Increasing interest in senior judicial careers among ethnic minority lawyers

- Qualitative research will be undertaken in order to better understand the reasons why highly qualified, senior lawyers from minority ethnic backgrounds do not apply for senior judicial appointment and what practical steps can be taken to increase interest in and the attraction of a judicial career at this level. They will consider the findings of the research and respond as soon as reasonably practicable with proportionate and properly targeted actions and/or programmes.

Solicitor Support programme

- The programme is aimed at senior lawyers considering applying to become Deputy High Court Judges (selected with assistance of City of London Law Society). The programme offers two workshops focussing on the Judicial Appointments Commission (JAC) process and role of DHCJ. Participants will be mentored by a High Court or Court of Appeal judge.

Timeline/Frequency: Programme runs from October to December/January

Judicial Work Shadowing Scheme

- Provides eligible legal practitioners who are considering a career in judicial office an insight into the work of a Circuit Judge, District Judge or Tribunal Judge. Shadowing can cover any aspect of a judge's work, both in and out of court.

Timeline/Frequency: In the process of being reopened

Judicial Mentoring Scheme

- Provides opportunity to shadow judge for up to two days. The scheme is open to barristers, solicitors, Fellows of Chartered Legal Executives and professionally

qualified legal academics who have participated in the Judicial Work Shadowing Scheme and who are either: female, from a BAME background, lawyers who attended a (non-fee paying) state school and lawyers who were the first generation in their family to attend university. Applicants must be seeking an appointment in the next two years (or at the next available opportunity). It is similarly open to judges seeking to progress to higher office within the same period.

Timeline/Frequency: In the process of being reopened

Judicial application seminars and bespoke judicial application seminars

- Provides up to date guidance and advice on the JAC's selection process and an opportunity to ask questions about judicial life and the selection process. The seminars are open to suitably qualified legal professionals who are either: female, from a BAME background, lawyers who attended a (non-fee paying) state school and lawyers who were the first generation in their family to attend university.
- Specifically tailored for target audience, with reference to perceived barriers, addressing how these may be overcome.

Timeline/Frequency: Ongoing

Lead: The Law Society

Solicitor Judges Division (SJD)

The Solicitors Judges Division (SJD) supports solicitors who are interested in a judicial career as well as solicitors already in the judiciary who want to take on more senior roles. Its main aims are to increase the number of solicitors who become judges and encourage solicitors from diverse backgrounds and experiences to apply for judicial posts. It does this by providing career-enhancing events, materials and networking opportunities, as well as working in collaboration with stakeholders on breaking down barriers to appointment.

Ongoing activities

The SJD regularly hosts networking events and seminars. The Law Society also provides a workshop on preparation for judicial interviews which runs about 8-10 times a year. Members interested in support of further information can contact the designated mailbox: solicitorjudges@lawsociety.org.uk

Online resources

- Members can benefit from the range of resources available on our website where they can find information about the application process, preparations required for judicial applications, case studies of solicitor judges and updates from the SJD and our stakeholders.
- *The Judicial Pathway* aims to provide clear guidance to solicitors, at all stages of their career, on how they can upskill to secure judicial appointment. It was authored by Alexandra Marks OBE in partnership with the SJD.
- *Understanding judicial roles* – this online leaflet provides members with a detailed overview of judicial roles and their eligibility criteria. The SJD are working to create a document on 'Understanding tribunal roles' with support from the JAC and the Judicial Office

Future activity

- SJD are planning a webinar with the JAC/JO on 'the next step' – aimed at solicitors already in fee-paid roles looking for promotion into a senior/salaried role.
- SJD are working with stakeholders on support schemes for solicitors interested in specific judicial roles. The workshops will target solicitors with the right level of experience who plan to apply soon and most likely to benefit from tailored support. These workshops will take place in Spring 2021.
- The SJD will launch a survey to their membership about their experiences and aspirations regarding judicial appointments. This survey will provide insights on their members' experiences, their judicial career plans and any perceptions they have on the current process. The survey is planned to be launched during this Autumn.

Timeline/Frequency: Ongoing; events are held usually 2-3 times a year, with additional webinars delivered online

BAME Becoming a Judge

- The Law Society runs a free workshop about judicial appointments for BAME solicitors who are currently underrepresented in the judiciary. The intensive one-day training focusses on tailoring candidates' submission to make a positive impact in the competency-based application and selection process.

Timeline/Frequency: The workshop currently runs twice a year and we are expecting the next round to be held in October-November 2020.

Lead: CILEx

The CILEx Judicial Development Programme

- The programme has been developed by CILEx to support their members who wish to learn more about applying for a judicial appointment. The aim is to provide members with information, support, training, mentoring and encouragement to assist in preparing for the judicial appointment process to become a judge. Further information on this is available here: https://www.cilex.org.uk/about_cilex/about-cilex-lawyers/why-be-a-cilex-lawyer/cilex-judges/about_the_judicial_development_programme

Timeline/Frequency: Aims to run the programme at least twice a year, although they are equipped to run up to four times a year if there are sufficient numbers.

Lead: Judicial Appointments Commission (JAC)

Outreach and resources for potential candidates

- The JAC supports targeted programme of exercise-specific and generic outreach activity. JAC Commissioners and senior officials regularly present at conferences and/or participate in discussions/roundtables providing information about the recruitment process and how prospective candidates can engage with it. The JAC regularly liaises with the professions and other interested parties to encourage those from underrepresented backgrounds to apply for judicial appointments. The JAC offers a wide range of resources on its website and social media channels to encourage and support candidates from diverse backgrounds to apply when they are ready.

Timeline/Frequency: Multiple events every month; online resources available to all.

Lead: JAC and Ministry of Justice (MoJ)

Targeted Outreach and support – targeted candidate outreach and support for senior court and tribunal roles

- The MoJ is funding a 2-year pilot programme of targeted outreach and support activity by the JAC; a small and separate unit (from selection exercise assessments and decisions) within the JAC is tasked to engage with, and provide advice and guidance to, potential BAME, women, disabled and solicitor candidates for specific senior court and tribunal roles.

Timeline/Frequency: Commencing September 2020

Lead: Ministry of Justice (MoJ)

Salaried Part-Time Working (SPTW)

- The current SPTW policy (2010 version) has been reviewed and revised to support the provision of a more flexible working pattern/environment for new entrants into the judiciary and current salaried judicial office holders. The revised policy will be published in September 2020.

Review barriers to certain legal professionals e.g. CILEx members to apply for judicial office

- MoJ will review the statutory and non-statutory eligibility criteria for appointment with the aim of removing barriers that discourage or prevent application for judicial posts from CILEx.

Timeline/Frequency: To begin from Autumn 2020

3) APPLICATION PROCESSES ARE OPEN AND FAIR

Lead: JAC

Diversity Checkpoints

- The JAC works with statisticians to analyse candidate progression through exercises. The JAC maintains a system of diversity checkpoints at all the key stages during every selection exercise. The JAC monitors the progression of the four-target candidate groups and investigates the reasons for any disparities

Timeline/Frequency: Covers all applicants from target groups for each exercise.

Equality-proofing selection materials

- The JAC Advisory Group and JAC staff review all selection exercise materials to ensure that the content and tone of materials does not contain stereotypes, colloquialisms or language that may be off-putting to different groups, and that role plays and scenarios feature characters from diverse backgrounds. These quality assurance checks ensure that selection materials do not unfairly advantage or disadvantage any candidate on the basis of their diversity characteristic or professional background.

Equal Merit Approach

- Where two or more candidates are assessed as being of equal merit, the JAC select a candidate for the purposes of increasing judicial diversity using the equal merit provisions. The selection applies where there is underrepresentation of protected characteristics in terms of gender and ethnicity. This applies at shortlisting and the final decision-making stage.

Name Blind Sifting

- The JAC uses name-blind shortlisting for all exercises using a paper sift as a shortlisting method, to further promote fair selection and diversity. The candidate's name is automatically removed and replaced with a unique identifier. All online tests are marked name-blind.

Timeline/Frequency for equality proofing material, equal merit approach and name blind sifting: Covers all exercises

Lead: JAC/Judiciary

Ensuring ethnic diversity in selection panels

- The JAC have undertaken targeted outreach to potential BAME applicants to a rolling recruitment programme of lay panel members, to increase the diversity of cadre of lay panel members.
- This will support the introduction of an "exercise gateway test" (alongside gender) to ensure that panels, on aggregate, have ethnic diversity for each exercise to proceed.
- Judicial Office are refreshing the pool of judges for deployment on JAC exercises. In relation to more senior exercises, the senior judiciary are committed to ensuring a greater proportion of BAME judges are made available to serve on selection panels

Timeline/Frequency: New approach will apply to all selection exercises by the end of 2020

Lead: JAC

Support for selection panels

- The JAC undertakes a number of quality assurance measures to ensure that selection panels are fully supported and that assessment is non-discriminatory. Panel members receive training in fair selection and unconscious bias. A JAC Commissioner is assigned to oversee every selection exercise. The JAC undertakes selection day observations and panel reports are reviewed and moderated.

Timeline/Frequency: Covers all exercises

Lead: JAC

Candidate Feedback

- Following three pilots, the JAC has further developed its approach to candidate feedback. Candidates at the qualifying test stage are now being provided with their test scores and a published feedback report which provides further details on the test, pass-marks and the relative performance of candidates. 'near-miss' candidates applying for fee-paid roles are offered individual feedback following selection day to help inform future applications, and all unsuccessful candidates applying for salaried roles invited to selection day will be offered individual feedback. .
- The JAC regularly seeks stakeholder feedback to support the review and improvement of its selection processes. Tailored questionnaires are sent after each stage of an exercise to every candidate asking a range of questions about their experience. Results are analysed by target group. Survey results are published as part of JAC's Evaluation and Feedback reports covering each key stage of the selection process.

Timeline/Frequency: Covers all applicants for each exercise.

Lead: JAC

Research, analysis and stakeholder engagement on diversity measures used by other common law jurisdictions

- The JAC will carry out research and analysis, to supplement that done in the JDF Rapid Evidence Assessment (REA), into measures used in other common law jurisdictions with improve judicial diversity outcomes. This will include consultation and engagement with stakeholders on lessons for England and Wales.

Timeline/Frequency: To begin autumn 2020 and be completed over 12 months.

4) SUPPORT RETENTION AND PROGRESSION THROUGH THE JUDICIARY

Lead: Judiciary

A **five-year strategy** will be published later this year building on the actions already taken by the judiciary. This will focus on the following:

- Strengthening and supporting the role of leadership judges in promoting a more respectful and inclusive working environment, encouraging a wider, more diverse pool of talented lawyers to apply for judicial roles in the area for which they have responsibility, and supporting the progress and development of those who are appointed in their area.
- Supporting and building a more inclusive and respectful culture and working environment within the judiciary, so that all judicial office holders feel supported and included, with the diverse experiences of judges from different backgrounds considered as policies and practices are developed.
- Supporting and developing the career potential of existing judges, by offering support, encouragement and the opportunity to develop irrespective of personal or professional background.
- Supporting greater understanding of judicial roles and achieving greater diversity in the pool of applicants for judicial roles, including through engagement with schools, universities and communities to encourage interest in legal careers and in the magistracy.

Section 9(4) Support Programme

- The programme provides the opportunity to meet with a judge in the High Court and to explore the nature of their work, ask questions about their role and decide whether a High Court appointment is suitable for them.
- A one-day workshop offers guidance on how to prepare for the selection exercise. It provides tips and advice on presenting evidence against the JAC's skills and abilities framework to suit the distinct stages of the selection process.

Timeline/Frequency: Annual – subject to evaluation

Section 9(4) Seminar

- The seminar is open to all judicial office holders. It is aimed to assist those attending to be better prepared to make an application and to receive up to date guidance/advice on the JAC's selection process.

Timeline/Frequency: Early September