

**JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING
10 JULY 2014
MINUTES OF MEETING**

PRESENT	
Commissioners	Staff
Christopher Stephens (Chairman) Julia Macur (Vice Chairman) Martin Forde Emily Jackson Usha Karu Noel Lloyd Katharine Rainsford Andrew Ridgway Alexandra Marks Christopher Simmonds Valerie Strachan Debra van Gene Alan Wilkie	Chief Executive Director of Operations Assistant Director, Selection Process Review Senior Manager, Operational Policy Private Secretary to the Chairman Board Secretary

1. Apologies and matters arising

1.1 Apologies were received from Lucy Scott-Moncrieff and Phillip Sycamore.

1.2 Commissioners confirmed that they had no personal interest in any matters to be discussed on the agenda.

1.3 The minutes of the 12 June meeting were agreed, subject to the addition of a new paragraph under 8.5 regarding the timing of the supply of references and referees' details.

1.4 Commissioners noted the Board Action Register.

2. Chairman's Report

2.1 The Chairman provided an update on his activities since his last report at the June meeting. He outlined his involvement as a panel member in the Court of Appeal selection exercise, along with Commissioners Emily Jackson and Valerie Strachan, as well as the Lord Chief Justice and the Master of the Rolls.

2.2 The Chairman reported that he had met with the Lord Chancellor, the Lord Chief Justice and Dame Ursula Brennan, Permanent Secretary at the Ministry of Justice both separately and together to discuss a number of different issues.

2.3 The Chairman then invited Commissioners to comment on relevant activities of particular interest with which they were involved. Emily Jackson reported that she had met with Professor Alan Paterson regarding engagement between legal academics and the JAC. Noel Lloyd

reported that the appointment of the President of the Welsh Language Tribunal, in which he had been involved, was soon to be announced.

2.3 Katharine Rainsford and Usha Karu informed Commissioners that they had attended the annual training event for Diversity and Community Relations Judges. Valerie Strachan reported on her involvement, as panel member, in the selection exercise to appoint to the office of Recorder of London, where the Lord Chancellor had again requested JAC assistance.

3. Chief Executive's Report

3.1 The Chief Executive provided an oral update on spending and the anticipated budgetary reduction in the next financial year, 2015/16.

3.2 The Chief Executive then provided an update on the selection exercise programme for the current year, 2014/15. He reported that while there would be many selection exercises in 2014/15, most were small and it was therefore anticipated that there would be a significant drop in the number of recommendations made in comparison with 2013/14, when the JAC had made a record 806 recommendations.

3.3 The Chief Executive notified Commissioners that the JAC's 2013/14 Annual Report was to be laid before Parliament later that day. He also mentioned that the Lord Chancellor had made a topical statement in the House of Commons on 1 July 2014 in which he had made positive comments with regard to the work of the JAC in increasing judicial diversity.

3.4 The Chief Executive also informed the Commission that the second phase of the Government's Triennial Review of the JAC was underway. He also gave advance notice of the next Selection Process Review Workshop, to be held on 25 September 2014.

3.5 The Chief Executive then provided the Commission with a brief summary of progress with regard to the delivery of the new Judicial Appointment Recruitment System (JARS). He informed the Commission that the project was on schedule and the new IT system should be available for use in a live environment around the end of October 2014, subject to the necessary hosting arrangements being in place to support the new system. A dummy exercise was due to be run over the summer.

3.6 Last, the Chief Executive informed Commissioners that the Judicial Diversity Taskforce was to be wound up, as most of the recommendations of the *Report of the Advisory Panel on Judicial Diversity 2010* (the 'Neuberger Report') had been implemented by the members of the Taskforce. The joint Diversity Forum had agreed to monitor any residual actions from the Report.

4. Judicial Panel Members Undertaking Multiple Roles in Selection Exercises

4.1 The Senior Manager, Operational Policy, presented a paper seeking the Commission's agreement to strengthen internal guidance for JAC staff on handling cases where the same individual may potentially hold more than one of the following roles in a selection exercise: statutory consultee, referee and panel member.

4.2 In line with current policy, the Commission agreed that it would be inappropriate for one person to fulfil all three roles set out above. While also undesirable, the Commission accepted that it may be unavoidable, in exceptional circumstances, for one person to hold two roles. The Commission noted that the following situation typified such a set of exceptional circumstances: a small selection exercise to an office requiring the successful candidate to have very specialist knowledge and/or meet narrow eligibility requirements, where there is only one selection panel and the JAC-nominated referee is known to most or all eligible candidates.

4.3 The Commission agreed that the guidance should set out a presumption that one individual should not have two roles, and that, wherever possible, this should be avoided. The Commission was particularly concerned about one individual being both a referee and a panel member.

4.4 The Commission agreed that the guidance for JAC staff should be developed in line with the discussion, and should be brought back to a future Commission meeting for final approval.

4.5 In reaching its decision, the Commission noted that the guidance, as proposed, indicated a number of safeguards designed to mitigate potential conflicts of interest. Safeguards included early identification of potential conflicts during exercise planning; the requirement for the approval of the Director of Operations and Assigned Commissioner where an individual was to hold two roles, on the basis that this was unavoidable; discussing and recording potential conflicts at panel member briefings and candidate moderation meetings; restricting individuals from any discussions that the selection panel or JAC staff may feel to be inappropriate, during the course of an exercise, and; recording any conflicts arising in the relevant Selection Exercise Project Record.

5. Commissioners as Applicants for Judicial Appointment

5.1 The Private Secretary to the Chairman presented a paper seeking the Commission's final agreement to maintain its policy, agreed in 2006, that a Commissioner should be invited to resign if they apply for judicial appointment in a JAC-run exercise, and to extend this policy to appointments above the High Court, either to the Supreme Court or where recommendations are made by a committee of the JAC.

5.2 The Commission noted that, following its review of the current policy in February, both the Lord Chancellor and the Lord Chief Justice had been consulted on the provisional decision to maintain the policy and extend it to senior appointments. It was further noted that the most recent appointment for a senior judicial Commissioner had been made for a term of three rather than five years as previously. Commissioners hoped that shorter terms, in line with those of other Commissioners, would reduce the risk that senior judges would be discouraged from joining the Commission by the extension of the policy.

5.3 The Commission agreed to the recommendations proposed.

6. Timing of Character and Statutory Eligibility Checks in the Selection Process

6.1 The Assistant Director, Selection Process Review, presented a paper outlining the JAC's policy with regard to the timing of character and statutory eligibility checks in the selection process, and seeking agreement to develop future changes to the policy which might be made possible through the implementation of JARS.

6.2 Commissioners noted that the changes proposed were designed to allow character and statutory eligibility issues to be 'flagged' at an earlier point during a selection exercise. The changes would be achieved through candidates answering multiple choice questions as part of the online application, with the new IT system bringing responses to the attention of staff. Commissioners were further informed that the JAC would continue to complete its own character checks rather than transferring the responsibility to the relevant professional body. In line with current practice, clarification on the nature of character issues arising would be sought from candidates, where appropriate.

6.3 The Commission noted that there was room for improvement with regard to the timing of character checks particularly. For reasons of resource, the Commission acknowledged that it was not possible, in the case of every selection exercise, to perform character checks before the completion of selection days and that candidates may proceed to the end of the selection process only then to be ruled out on grounds of character. The Assistant Director informed Commissioners that the proposed changes would help ensure the early consideration of character in a greater number of cases and would therefore enable the JAC to improve the service it provided to candidates.

6.4 After discussing the matter further, the Commission agreed for the changes, as proposed, to be developed.

6.5 Commissioners also emphasised that the onus was on candidates to declare any relevant issues, and that failure to do so should be treated seriously. At the request of Commissioner Alexandra Marks, the Assistant Director also undertook to reconsider the scope for requiring candidates to provide a 'certificate of good standing', as was required by some bodies in other fields.

7. Statutory Consultation Guidance

7.1 The Assistant Director, Selection Process Review, presented a paper seeking the Commission's approval of updated guidance for statutory consultees to be published on the Judicial Intranet and to be provided to consultees when their views are sought in respect of candidates in each selection exercise.

7.2 Commissioners noted that the guidance had been approved by both the Senior Presiding Judge and the Senior President of Tribunals. In light of this, and following lengthy consideration, the Commission approved the guidance, subject to the removal of a reference to previous guidance which was considered to be out of date in important respects.

7.3 In coming to its decision, the Commission identified further potential improvements which could be considered at such time as the guidance was next under review.

8. Working Group Reports

8.1 Alexandra Marks, Chair of the Advisory Group, provided the Commission with an oral report on the work of the Group which had last met on 26 June 2014. The Group had discussed: the qualifying test for the Police Appeals Tribunal exercise, and the situational scenario and technical questions for the exercises for Deputy Chairman, Agricultural Lands Tribunal (Wales), Fee-paid Judge, First and Upper Tiers of the Tax and Chancery Chamber, Senior Master of the Queen's Bench Division and Deputy Chamber President of the Health, Education and Social Care Chamber, First-Tier Tribunal.

8.2 The Commission was informed that the Advisory Group had also considered updates to selection processes, developed as part of the Selection Process Review, including progress made towards completing an 'Am I Ready Test?', designed to assist candidates to gauge their preparedness for judicial office. Alexandra Marks informed the Commission that the Group had found it useful to discuss these updates and looked forward to further such involvement for the Group in future.

8.1 Noel Lloyd, Chair of the Judicial Appointments Recruitment System (JARS) IT Project Steering Group, provided the Commission with an update on the JARS Project Steering Group

meeting held on 25 June. He indicated that good progress had been made and that the development of a 'minimal viable product', able to perform the basic functions required to undertake a selection exercise, was close to completion. He informed Commissioners that JARS has been developed to allow continual feedback to inform the design and build of the system, and that all JAC staff had contributed towards its development.

9. Management Information Pack

9.1 The Commission considered the monthly Management Information Pack. The Pack provided an overview of JAC activity up to the end of June. Commissioners noted that quarter one progress towards meeting the 2014/15 Business Plan objectives was reported on in the Pack.

10. Additional Item: Merit Lists in Selection and Character Committee Papers

10.1 The Assistant Director, Selection Process Review, presented a paper clarifying to the Commission the methods used to compile lists of candidates, by order of merit, in papers brought to the Selection and Character Committee. The Assistant Director suggested that a summary could be provided in Committee papers, setting out clearly how each individual list had been produced.

10.2 Commissioners noted the contents of the Assistant Director's paper and agreed to the inclusion of summaries in Committee papers, as suggested. In reaching agreement, the Commission discussed the impact of implementing the Equal Merit Provision. The Commission agreed that this would not impair the Committee's ability to distinguish between candidates who had provided evidence of demonstrably differing strength during a selection exercise.

Date of next meeting

The Chairman confirmed that the next Board meeting would be held on **Thursday 11 September**.

The Chairman reminded Commissioners of an additional Selection and Character Committee meeting to be held on 20 August 2014 to consider eligibility issues. It was confirmed that a quorate group of Commissioners had been identified to attend the meeting.