

**JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING
11 SEPTEMBER 2014
MINUTES OF MEETING**

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

1. Apologies and matters arising

1.1 Apologies were received from Martin Forde, Christopher Simmonds and Phillip Sycamore.

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

1.3 The minutes of the 10 July meeting were agreed and the Board Action Register noted.

2. Chairman's Report

2.1 The Chairman provided an update on his activities since his last report at the July meeting. He had met with the Lord Chief Justice, together with Noel Lloyd, to discuss appointments to judicial offices in Wales. He had also met with the Lord Chief Justice, together with Emily Jackson and Valerie Strachan, to discuss the recent Court of Appeal exercise. The selection panel was committed to providing feedback to candidates.

2.2 The Chairman reported that he had attended the Society of Legal Scholars' Annual Conference in Nottingham, with Nigel Reeder. He informed the Commission that he had sat on a panel as part of a plenary session on judicial diversity, alongside Baroness Hale of Richmond and Professor Erika Rackley of the University of Birmingham Law School.

2.3 The Chairman then invited Commissioners to comment on relevant activities of particular interest with which they had been involved. Lucy Scott-Moncrieff discussed her involvement, as Assigned Commissioner, in the exercise to select candidates for recommendation for appointment to the offices of Salaried and Fee-paid Judge of the First-tier Tribunal, Tax

Chamber. Katharine Rainsford also spoke of her experience as Assigned Commissioner in the Fee-paid Chairman of the Police Appeals Tribunal exercise.

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. He informed Commissioners that the JAC, as a result of careful planning, would be in a strong position to meet the anticipated reduction of ten per cent. The Commission, however, noted that longer-term budgetary pressure would also need to be prepared for.

3.2 The Chief Executive then provided an update on the progress of the Triennial Review of the JAC. He informed the Commission that Phase Two was underway and that the review was expected to conclude in early November.

3.3 The Chief Executive discussed the selection exercise programme for the remainder of the current financial year.

3.4 The Chief Executive then provided the Commission with a brief summary of progress in regard to the projects which together comprise the JAC's Change Programme. In respect of the Judicial Appointments Recruitment System (JARS), this was due to complete its build phase in November. The Commission noted that prior to that testing would be carried out towards the end of September. The Commission further noted that the Legislative Change project had completed, and that the project to reduce the 'end-to-end' time in which appointments are made, would be completed by November. The JAC and partners were on track to meet the 20-week end-to-end target timeline for all exercises launched in 2014/15.

4. Candidate Feedback after Sift

4.1 The Senior Manager, Operational Policy, presented a paper seeking the Commission's agreement to adopt a policy to provide individual feedback to all candidates who are rejected at shortlisting by way of a paper sift.

4.2 The Commission noted that the development of the policy followed a successful pilot of individual feedback provision which had been received positively. It further noted that the policy would not affect larger exercises where shortlisting was conducted by way of an online qualifying test.

4.3 Commissioners discussed the additional costs associated with the implementation of this policy. It concluded, however, that these would be justified by the improved candidate experience the policy would allow the JAC to offer.

4.4 The Commission agreed to the recommendation proposed. In coming to its decision, the Commission stated that constructive, evidence-based feedback letters should be tailored to each candidate. It was also suggested that the Assigned Commissioner might be invited to comment on draft letters.

5. Review of Selection Process for High Court Exercise

5.1 The Assistant Director, Selection Process Review, presented a paper, on behalf of the Head of Courts and Senior Appointments, seeking the Commission's agreement to the selection process to be used in the forthcoming High Court Judge exercise which was due to launch in November 2014. Alongside the recommendations made, the Commission was provided with an analysis of the processes used in the three previous High Court Judge exercises.

5.2 Noting its decision on feedback policy, as set out above, the Commission first agreed that all candidates would be provided with feedback following sift.

5.3 The Commission also agreed that shortlisting would continue to be based on consideration of all five qualities and abilities noting that the sifting panel could continue to consider Intellectual Capacity and Leadership and Management as key criteria, if this would be required in order to distinguish between candidates.

5.4 Consideration was given to a proposal that candidates would be asked to set out recent judgments and rulings as part of their application, with dates for when cases had been closed and consequent judgments or rulings made. After detailed discussion, the Commission agreed that such information would provide limited evidence of the qualities and abilities required, and should not be requested from candidates.

5.5 The Commission further agreed that a situational scenario would be included as part of the selection day, to assess candidates' ability to quickly absorb and analyse information.

5.6 Last, the Commission agreed that comments from statutory consultees would be sought at one point only in the process, between sift and selection day. The Lord Chief Justice would be asked to inform the JAC if any concerns came to light, about a candidate consulted upon, during the remainder of the selection process. JAC officials would liaise with the Lord Chief Justice's office to agree how this would operate in practice.

6. Review of two s94 Lists

6.1 The Programme Manager presented a paper seeking the Commission's decision in relation to two lists that had been established under s94 of the Constitutional Reform Act (CRA) 2005 for vacancies which may arise in the foreseeable future. Specifically, the two lists were:

- i. Fee-paid Employment Judge of the Employment Tribunal
- ii. Salaried Employment Judge of the Employment Tribunal

6.2 The Commission agreed to close list (ii) with immediate effect, and list (i) in October, once it had been open for 12 months.

6.3 Owing to the reduced business need of the relevant Tribunal, the Commission noted that no immediate vacancies had arisen since the creation of either list, and that HM Courts & Tribunals Service had advised that there was no requirement for further judges.

6.4 The Commission noted that, due to the circumstances outlined above, there were an exceptional number of strong candidates on the lists, and that this would need to be communicated clearly.

7. Authorisations for Circuit Judges Sitting in the Court of Appeal Criminal Division

7.1 The Assistant Director leading on legislative change presented a paper seeking the Commission's approval of a policy to determine the process for the JAC's concurrence with authorisations for Circuit Judges to sit in the Court of Appeal Criminal Division (CACD).

7.2 The Commission noted that lead Commissioner Andrew Ridgway had worked with Lady Justice Hallett in preparing the policy. All Circuit Judges would be written to in order to make them aware of the opportunity available through authorisation. Commissioners emphasised that candidates for authorisation might have relevant experience of criminal law from time on the bench or in practice.

7.3 Alexandra Marks commented that observers of the process would need to allow time for the necessary changes to be implemented and become embedded, in order for the impact of the new policy to be considered fully.

7.4 The Commission agreed to the policy proposed, noting that it would bring greater transparency to authorisations and provision to monitor the diversity of candidates. It also noted that the policy would seek to introduce three-year terms for authorisations.

8. Policy Covering s9(1) Authorisation of Designated Family and Civil Judges

8.1 The Assistant Director leading on legislative change presented a paper seeking the Commission's approval to an extension of the JAC's existing s9(1) authorisation policy, published in February 2014. In doing so, the Commission was asked to approve a process to authorise Circuit Judges, who may or may not already have s9(1) authorisation to sit as Deputy High Court Judges, to take up the leadership roles of Designated Family Judge or Designated Civil Judge.

8.2 Lead Commissioner Noel Lloyd endorsed the proposal, and the work of the Senior Manager, Courts Selections, in developing the proposed process was recognised by the Commission.

8.3 The Commission agreed to the process proposed and for the JAC's s9(1) policy to be amended accordingly.

9. A Report on the Independence of the Judicial Appointments Commission

9.1 Andrew Ridgway, lead Commissioner on JAC independence, reported on key risks to the JAC's independence.

9.2 Following a discussion, Commissioners were invited to flag up any issues with JAC staff and Andrew Ridgway, should they arise. One matter the Commission particularly considered was the JAC's move to 102 Petty France, the Headquarters building of the Ministry of Justice. The Commission noted that, overall, initial concerns regarding the potential impact on perceptions of the JAC's independence had not been borne out. However, Commissioners agreed that this risk should continue to be monitored.

9.3 The Commission agreed to have a further detailed discussion on the JAC's independence in March 2015.

10. Working Group Reports

10.1 Valerie Strachan, Chair of the Audit and Risk Committee, provided the Commission with an update on the Committee's meeting held on 24 July. At this meeting, the Committee had considered the Management Information Pack, which outlined, for the first time, progress towards meeting the objectives as set out in the JAC's 2014/15 Business Plan.

10.2 Valerie Strachan informed the Commission that implementation of recommendations by internal and external auditors was progressing well. Turning to the next meeting of the Committee in October, she stated that the mid-year assurance of governance arrangements would be considered. She also informed the Commission that the appointment of a new

independent member of the Committee, to replace the current independent member who was due to step down at the end of the calendar year, would also be considered.

10.2 Noel Lloyd, Chair of the Judicial Appointments Recruitment System (JARS) IT Project Steering Group, provided the Commission with an update on the Steering Group meeting held on 23 July, and progress made on the project since the meeting. He informed the Commission that the first phase of the project had been completed, and that the second phase would be completing in November 2014.

11. 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 August.

12. Any Other Business

12.1 The Chairman informed Commissioners that he would be meeting with Professor Andrew Lynch, of the University of New South Wales, on 15 October, to discuss judicial appointments. He invited Commissioners to join him. Valerie Strachan confirmed her availability to attend.

Date of next meeting

The Chairman confirmed that the next Board meeting would be held on **Thursday 9 October**.