

**JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING**  
**12 February 2015**  
**Minutes of Meeting**

<b>Present</b>	
<b>Commissioners</b>	<b>Staff</b>
Christopher Stephens (Chairman) Julia Macur (Vice Chairman) Emily Jackson Usha Karu Noel Lloyd Katharine Rainsford Andrew Ridgway Lucy Scott-Moncrieff Christopher Simmonds Valerie Strachan Phillip Sycamore Debra van Gene Alan Wilkie	Chief Executive Head of Operations Head of Policy and Change Judicial Appointments Recruitment (IT) System (JARS) Project Leader Head of Senior and International Appointments Assistant Director, Selection Process Review Policy Officer Board Secretary
<b>Guests</b>	
Baroness O'Neill, Chair, Equality and Human Rights Commission (EHRC) Rebecca Hilsenrath, Chief Legal Officer, EHRC	} Item 7 only
Steve Parkes, Managing Director, WunderRoot Ltd	} Item 8 only

**1. Apologies and matters arising**

1.1 Apologies were received from Martin Forde and Alexandra Marks.

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 11 December meeting were agreed, subject to minor amendment, and the Board Action Register noted. The Commission noted that Lady Justice Hallett, who had been unable to attend the December meeting as a guest, would attend in June 2015.

1.4 The Commission noted that a record of the 15 January Selection Process Review meeting had been circulated to all Commissioners, setting out the decisions reached in respect of the selection process to be followed in the forthcoming Recorder exercise. It agreed that the record of the meeting should be tabled and formally noted at the next Board meeting.

**2. Chairman's Report**

2.1 The Chairman provided an update on his activities since his last report at the December meeting. He reported that he had met with the Lord Chief Justice and with the Lord Chancellor. He also reported on a meeting with Alison Levitt QC, the former Principal Legal Advisor to the Director of Public Prosecutions, to discuss opportunities for lawyers who are employed or have been employed by the Government Legal Service or Crown Prosecution Service to be appointed to judicial office.

2.2 The Chairman then informed Commissioners of a recent meeting with the Permanent Secretary to the Welsh Government, the Lord Chief Justice and Noel Lloyd to discuss issues pertaining to judicial appointments in Wales. He also reported on a meeting with Alistair MacDonald QC, the new Chairman of the Bar. Last, the Chairman reported on his attendance at a meeting of the Association of General Counsel and Company Secretaries working in FTSE 100 Companies (GC100), alongside the Vice Chairman.

2.2 The Chairman then invited Commissioners to comment on relevant activities of particular interest with which they had been involved. Christopher Simmonds informed Commissioners that he had attended a meeting with the Chartered Institute of Legal Executives (CILEx), accompanied by the JAC's Assistant Director, Selection Process Review. Noel Lloyd made reference to work undertaken recently to make appointments to the Welsh Language Tribunal (Tribiwnlys y Gymraeg).

2.3 Valerie Strachan reported that she had met with Presiding Judges based in London and the South East of England, with the JAC's Head of Operations. Andrew Ridgway informed the Commission that he had attended the final meeting of the Barriers to Application Working Group. The Commission noted that the Diversity Forum would take forward any residual actions from the Group. Andrew Ridgway also expressed his gratitude for the work of the Equality and Fair Treatment Manager who had left the JAC in January.

### **3. Chief Executive's Report**

3.1 The Chief Executive provided an oral update on current activity at the JAC. He reported on the JAC's financial position, informing the Commission that the JAC's budget for 2015/16 had been indicated as £4.1m (a reduction of ten per cent on the allocation for 2014/15). He then reported on staffing levels and made reference to the Voluntary Early Departure Scheme which was underway and due to be completed at the end of the current financial year.

3.2 The Chief Executive then reported on work to the physical environment of the 102 Petty France building, due to start in mid-February 2015. He informed the Commission that planning had been undertaken to ensure any disruption to candidates attending the building would be kept to a minimum by the alterations due to be made.

3.3 The Chief Executive further reported that the selection exercise programme had been confirmed for the first two quarters of 2015/16. In respect of recommendations made in the recent report of the Triennial Review of the JAC, he informed Commissioners that a progress report would be provided to the Cabinet Office in summer 2015.

3.4 Last, the Chief Executive provided a summary of other activities, including the implementation of the Judicial Appointments Recruitment (IT) System (JARS) and the new JAC website, work undertaken as part of the Change Programme, and action taken in response to the *Accelerating Change* report by Sir Geoffrey Bindman and Karon Monaghan QCs.

#### **4. Review of two s94 Lists**

4.1 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 Judge, First-tier Tribunal, Health, Education and Social Care Chamber (Mental Health)
- ii. Deputy Judge, Upper Tribunal, Administrative Appeals Chamber

4.2 The Commission agreed to close both lists with immediate effect in line with its agreed policy, as they had both been open for 12 months. It noted that it was considered highly unlikely that immediate vacancies would arise in respect of either office in the near future.

#### **5. JAC Assistance to Other Government Departments and Devolved Governments**

5.1 The Head of Senior and International Appointments presented a paper updating the Commission on the JAC's assistance to Other Government Departments (OGDs) and Devolved Governments in making selections for judicial appointment. He also provided legal advice which the JAC had received on the nature of this assistance and informed Commissioners of the steps to be taken in order to explore the expansion of such assistance in line with the relevant recommendations made in the recent report of the Triennial Review of the JAC.

5.2 The Head of Senior and International Appointments also provided Commissioners with a draft set of principles to which OGDs, Devolved Governments and others bodies would be asked to agree, in order for the JAC to provide assistance in future. Commissioners were invited to provide comment on the draft principles presented.

5.3 Commissioners discussed particularly the JAC's assistance to the Foreign and Commonwealth Office, to recommend candidates for selection to judicial offices in Crown Dependencies, British Overseas Territories and for those offices with a transnational jurisdiction (including the competition to select a Judge at the General Court of the European Union).

5.4 The Commission discussed the development of a business model by which the JAC could charge for the assistance it provides, in line with the recommendations in the Triennial Review

report. The Commission noted that it would consider this issue further at its Annual Strategic Review in March 2015.

## **6. Judicial Panel Members Undertaking Multiple Roles in Selection Exercises**

6.1 The Policy Officer presented a paper seeking the Commission's approval of an updated policy and internal guidance for handling possible conflicts of interest for panel members undertaking multiple roles in a selection exercise (namely, the roles of statutory consultee and referee, in addition to their role as panel member).

6.2 The Commission noted that it had considered the matter at its meeting on 11 December. It further noted that the policy and guidance before it reflected its comments at that meeting.

6.3 After further discussion, the Commission agreed to the updated policy and internal guidance as presented. It agreed that both documents provided for an open and transparent process that clearly set out the controls that would be put in place in instances where a potential conflict of interest arose.

6.4 In coming to its decision, the Commission noted that statutory consultees' views on candidates are routinely informed by feedback from other office holders sitting in a particular jurisdiction. As such, the Commission concluded that the policy and guidance would extend to all office holders who participate in the wider statutory consultation process and not simply those individuals who are set out in statute.

## **7. Guests: Baroness O'Neill, Chair, and Rebecca Hilsenrath, Chief Legal Officer, Equality and Human Rights Commission (EHRC)**

7.1 The Chairman welcomed Baroness O'Neill and Rebecca Hilsenrath to the meeting and introductions were made.

7.2 Baroness O'Neill reflected on her experience and understanding of methods to increase the diversity of appointments. While supportive of positive action, she confirmed that positive discrimination was not permissible under current legislation. In respect of the career progression of women to senior positions, she stated that it was necessary to have a consideration of the wider societal context.

7.3 Baroness O'Neill made reference to a number of examples of employment practice that could have a positive impact on the professional development of women. These included practices which allow for flexible working and which help women maintain their skill levels and professional networks throughout their careers. She also made reference to the importance of recruitment

campaigns following a clear process with a high degree of specificity in the job descriptions for advertised roles.

7.4 There followed a wider discussion of the merits of differing measures to increase the diversity of appointments, including the Equal Merit Provision, the use of targets or quotas, professional mentoring and regular in-role appraisals. The range of legally protected characteristics was also discussed.

7.5 The Chairman made reference to the work of the JAC in seeking to attract the widest range of applicants from among those eligible to apply. It was agreed that a continuing dialogue should be maintained between the JAC and the EHRC going forward.

## **8. Judicial Appointments Recruitment System Update**

8.1 The Judicial Appointments Recruitment (IT) System (JARS) Project Leader updated the Commission on issues relating to JARS and the new JAC website following their launch in January. He was accompanied by Steve Parkes, the Managing Director of WunderRoot Ltd.

8.2 The Commission was informed that there had been a number of technical issues which had affected candidates' ability to apply for selection exercises run using JARS, which had been resolved. It was stressed that none of the issues that had arisen compromised the security of candidates' personal data.

8.3 Nevertheless, it was recognised that some candidates had been inconvenienced by the technical issues. The Commission noted also, however, that candidates were still familiarising themselves with JARS – as a new system – and that they would have varying levels of IT ability.

8.4 The Commission was further informed that JAC staff were undergoing further development in order to enable them to best handle queries from candidates, and that sufficient support for applicants would be in place during periods of peak activity (for instance, during the running of an online qualifying test). Noel Lloyd, as chair of the JARS Project Steering Group, stated that he was content with the response to the technical issues that had arisen.

8.5 The Commission noted that guidance for candidates was being redrafted on the basis of candidates' experience to date. The Commission agreed that candidates should be made aware that the information they provide in respect of each exercise would not be considered for the purposes of assessment until the point at which the candidate had submitted their application through the system.

## **9. Report Back from Working Groups**

9.1 Emily Jackson, Chair of the Advisory Group, provided the Commission with an update on the Group's meeting of 21 January. The Group had discussed the Situational Scenario/Technical Questions in the High Court exercise, the new competency frameworks for use in the Recorder exercise and research on BAME candidates participating in online testing. Emily further informed the Commission that work would be undertaken to review the membership and operation of the Group.

9.2 Valerie Strachan, Chair of the Audit and Risk Committee, provided the Commission with an update on the Committee's meeting of 29 January. She informed the Commission that it had been the first meeting of the new independent Committee member, Alison Mitchell. She further reported that the Committee had considered three internal audit reports on sickness absence, the selection process review and recruitment of staff to the JAC. It had also considered the documentation that the JAC produces to evidence assurance and whether this is appropriate.

9.3 Noel Lloyd, Chair of the JARS IT Project Steering Group, provided the Commission with an update on the Group's meeting on 15 January. He informed Commissioners that there would be one further meeting of the Group at which the project would be signed off following the entry of JARS and the new website into live service.

## **10. Management Information Pack**

10.1 The Commission considered the monthly Management Information Pack. The Pack provided an overview of JAC activity up to the end of January 2015.

### **Date of next meeting**

The Chairman confirmed that the next Board meeting would be held on **Wednesday 11 March**. He also confirmed that there would be a meeting of the Selection and Character Committee on this day.

He also reminded Commissioners of the Annual Strategic Review which would take place on **Wednesday 11 and Thursday 12 March**.