

**JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING  
8 MAY 2014  
MINUTES OF MEETING**

<b>PRESENT Commissioners</b>	<b>Staff</b>
Christopher Stephens (Chairman) Julia Macur (Vice Chairman) Martin Forde Emily Jackson Noel Lloyd Alexandra Marks Katharine Rainsford Andrew Ridgway Lucy Scott-Moncrieff Christopher Simmonds Valerie Strachan Debra van Gene	Chief Executive Director of Operations JAC Programme Manager (for item 4) Assistant Director, Selection Process and Policy (for items 5 & 7) Senior Manager, Operational Policy (for items 8 & 9) Assistant Director, Operational Support (for item 10) Assistant Director, Human Resources (for item 11) Assistant Director, Finance (for item 13) Private Secretary to the Chairman Acting Board Secretary  <u>Observing</u> JAC Occupational Psychologist  <u>Board Guests (item 6 only)</u> Nicholas Lavender, Chairman of the Bar Council Alistair MacDonald, Vice Chairman of the Bar Council

**1. Apologies and matters arising**

1.1 Apologies were received from Alan Wilkie.

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 13 March 2014 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 13 March meeting. He had met with Lord Thomas of Cwmgiedd, Lord Chief Justice; Sir Jeremy Sullivan, the Senior President of Tribunals; and Professors Kate Maleson and Rosemary Hunter, of Queen Mary University, London.

2.2 In addition, the Chairman had addressed a plenary meeting of the High Court Judges Association, and attended a meeting of HM Courts & Tribunals Service (HMCTS) Board.

2.3 The Chairman then invited Commissioners to comment on activities of particular interest with which they had been involved.

2.4 Alexandra Marks reported on her attendance at an event of the Junior Lawyers Division of the Law Society at which she had spoken about judicial careers.

2.5 Andrew Ridgway reported that the report on *Barriers to Application for Judicial Appointment* had been published.

2.6 Martin Forde reported back on an event arranged by the Bar Association for Commerce, Finance and Industry at which he had spoken about judicial appointments.

2.7 Noel Lloyd provided an update on progress towards appointing members to the Welsh Language Tribunal, on which the JAC had provided assistance.

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

3.1 The Chief Executive provided an oral update outlining a projected eight percent reduction in costs when comparing 2014/15 to the previous financial year. He further stated that it was his expectation that there would be a funding reduction of at least ten per cent in the next financial year.

3.2 He informed the Commission that the selection exercise programme for 2014/15 was beginning to stabilise, but was still subject to uncertainty due to budgetary pressures and ongoing reform of HMCTS.

3.3 He then highlighted the Triennial Review of the JAC which was being conducted by the MoJ. He informed the Commission that the deadline for evidence on the first stage of the review had passed and that the evidence submitted by the JAC had been well received.

### **4. Review - Section 94 Lists**

4.1 The Programme Manager presented a paper which sought Commission decisions in relation to four 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 four lists were:

- i. Salaried Judge of the First-tier Tribunal, Health, Education and Social Care Chamber (Mental Health)
- ii. Deputy Regional Judge of the First-tier Tribunal, Property Chamber

- iii. District Judge (Magistrates' Courts)
- iv. Salaried Employment Judge of the Employment Tribunal.

4.2 The Commissioners reiterated their concerns about the use of section 94 lists, particularly in respect of the uncertainty experienced by candidates. The Director confirmed that progress was being made with partners on reducing the use of such lists.

4.3 In considering the following recommendations the Commission took into account its statutory duty to select solely on merit and its general policy on s94 lists. That policy recognised that s94 lists could generally be relied on for 12 months but beyond that it became increasingly possible that more meritorious candidates might come forward if a fresh exercise were to be run. The Commission's general policy was that s94 lists should be reviewed after 12 months and closed by 24 months:

- Salaried Judge, First-tier Tribunal, Health Education and Social Care Chamber (Mental Health)) – JAC staff had proposed that the list should be closed as it had been created in January 2012 and therefore was 28 months old. However as the JAC had received a section 87 Vacancy Request on 19 March, the Commission discussed whether it should consider any candidate remaining on the s94 list. The Vice-Chairman and Commissioner Emily Jackson considered that the Commission should not divert from its published policy and that the list should be closed immediately. However, on balance the Commission concluded that the list should remain open until the next Selection and Character Committee meeting so that the SCC could consider the Vacancy Request and whether any candidate remaining on the s94 list should be recommended. The Board agreed that whatever decision the SCC reached, the s94 list should be closed immediately after that meeting.
- Deputy Regional Judge of the First-tier Tribunal, Property Chamber – the Commission noted that the s94 list had been created in May 2013. As it was a year old, and there were no vacancies expected in the next six to 12 months, the Commission agreed that, in line with the recommendation set out in the paper, the list should be closed.
- District Judge, Magistrates' Courts – the Commission noted that the s94 list had been created in February 2013.. As a Vacancy Request had now been received, the Commission agreed that, in line with the recommendation set out in the paper, the list

should remain open. It further agreed that the list would close once candidates for this Vacancy Request had been considered by the Selection and Character Committee.

- Salaried Employment Judge of the Employment Tribunal – the Commission noted that the s94 list had been created in March 2013. Noting that the newly appointed President of the Tribunal was considering resource requirements, the Commission agreed that, in line with the recommendation set out in the paper, the list should remain open and be reviewed again in October 2014.

4.4. In reaching the above decisions, the Commission noted that its policy on s94 lists had recently been tightened to provide that lists should be reviewed one year after they had been created. However, it was agreed that the policy should be further reviewed to consider issues such as whether there should be a presumption of closure at the one-year point.

## **5. Selection Process Review Update**

5.1 The Assistant Director, Selection Process and Policy provided an update to the Commission on the ongoing work to improve the selection process, and to seek its agreement on a proposed policy for the use of judicial appraisals in JAC selection processes.

5.2 The Commission noted the record of discussions at the strategic event in March 2014, and agreed the list of actions arising from these discussions for the Selection Process Review. It also welcomed the newly appointed Occupational Psychologist, Bijal Patel, who would be working with the Assistant Director on the Selection Process Review.

5.3 The Commission then considered the proposal regarding the use of judicial appraisal evidence in selection processes, which had previously been discussed at the strategic event. At this event Commissioners had come to the provisional view that appraisal material should not be provided in lieu of references, but that judicial referees should be encouraged to draw upon such material where available and recent.

5.4 After much discussion, the Commission decided that it needed further information on the nature of the various types of judicial appraisal which might be used, before deciding whether the proposal should be implemented, or whether it would instead be appropriate for appraisal material to be provided directly to selection panels. If the proposal were to be implemented, Commissioners considered that referees would need careful guidance on how to draw upon material which might be designed for the purposes of development as well as evaluation.

## **6. Board Guests – Nicholas Lavender QC (Chairman) and Alistair MacDonald QC (Vice Chairman) of the Bar Council**

6.1 The Chairman welcomed the two Board guests, before inviting Nicholas Lavender to speak.

6.2 Nicholas Lavender spoke to the Commission about the evidence that the Bar Council had submitted to the ongoing Triennial Review of the JAC, which was very supportive of the JAC and its effective links with the Bar Council. Next, he outlined barristers' experience of judicial appointments, and in doing so delineated three areas of which he wanted to make the Commission aware. These were: the importance of feedback for candidates; the uncertainty regarding future recruitment of Recorders; and the allocation of work to Recorders. In respect of the latter, he expressed concern that some more recently appointed Recorders were not gaining the experience they needed in order to seek salaried roles, as more work was allocated to those towards the end of their careers who were more likely to be available at short notice.

6.3 The Chairman then opened up the discussion to Commissioners. A wide range of issues was discussed, centred on the future shape of the Bar and the outlook for potential advocates and judges.

## **7. Pilot Proposal - Police Appeals Tribunal**

7.1 The Assistant Director, Selection Process and Policy presented a paper that set out a proposal to pilot a two-stage shortlisting process on the selection exercise for Chairman of the Police Appeals Tribunal (PAT).

7.2 The paper outlined the rationale for the pilot, which would allow for an assessment of candidates that would be more specifically tailored to the type of 'box work' that made up a large proportion of the work of a PAT judge. This would be in line with the Work Psychology Group recommendation that assessments should be tailored to the qualities that the job-holder must have to perform effectively in the role. A second shortlisting tool would also be particularly appropriate in light of the high number of applicants anticipated for a small number of vacancies.

7.3 The Commission discussed the proposal and agreed that the pilot should be conducted.

## **8. Chairman of the Competition Appeals Tribunal, Selection Exercise Process**

8.1 The Senior Manager, Operational Policy presented a paper to the Commission which sought agreement to use a streamlined selection process to fill an expected Vacancy Request for the office of Chairman of the Competition Appeals Tribunal.

8.2 During detailed discussion, Commissioners expressed some concerns about the streamlined nature of the proposed selection process. The Senior Manager agreed to explore the options further and bring a refined proposal to the Board.

## **9. Welsh Language Policy**

9.1 The Senior Manager, Operational Policy presented a paper to the Commission which sought its approval to create a JAC Welsh Language Scheme (WLS).

9.2 The paper outlined that the JAC did not have a WLS of its own, but had operated a free-standing policy to test Welsh language skills where appropriate. It proposed that a new WLS would incorporate this policy, as well as the existing JAC Welsh language policy for all published materials. Commissioner Noel Lloyd endorsed the proposal, emphasising that the WLS would be based on the MoJ WLS, but would be shorter and simpler, and incorporate bespoke features to suit the business need of the JAC.

9.3 The Commission considered the proposal and agreed that a draft WLS should be brought to the Board for discussion in July.

## **10. Judicial Appointments Recruitment System (JARS)**

10.1 The Assistant Director, Operational Support presented a paper updating the Commission on the progress of the JARS project and seeking approval of the security approach recommended by the Steering Group.

10.2 The update focused on the progression of the project and the costs involved, both of which were proceeding as planned.

10.3 The Commission noted the update and agreed to the proposed security approach for JARS.

## **11. Annual Review of HR Activities**

11.1 The Assistant Director, Human Resources (HR) presented a paper to the Commission which summarised the key HR activities in 2013/14 and the planned initiatives to be taken forward in 2014/15.

11.2 The Assistant Director's presentation covered attendance, staff turnover, remuneration, staff development, and staff engagement. He emphasised that the number of Reward and Recognition awards had increased, as had the level of learning and development activities undertaken by staff. The office move to Petty France had been successful and well received by staff, and the results of the staff engagement survey had been more positive than the previous year and above the civil service average.

11.3 The Commission noted the points outlined in the paper, and the Chairman thanked the JAC staff for their work.

## **12. Report Back From Working Groups**

12.1 Alexandra Marks, Chair of the Advisory Group, updated the Commission on the work of the Group. She informed it that the Group had discussed Situational Scenario/Technical Questions for Fee-paid Chairman of the Police Appeal Tribunal, Chamber President of the First-tier Tribunal (WPAFCC), Deputy Regional Valuer of the First-tier Tribunal, Senior Costs Judge, and Feedback Reports on Circuit Judge, Chamber President of the First-tier Tribunal, and Fee-Paid Judge (SSCS) Scotland. The remit of the Group had also widened to consider broader issues such as aspects of the Selection Process Review.

12.2 Valerie Strachan, Chair of the Audit and Risk Committee, updated the Commission on the work of the Committee, which had last met on 24 April to discuss Year-end Assurance Statements, the Chair's annual Report, and the performance indicators dashboard. She stated that actions to mitigate key organisational risks, as set out in the Corporate Risk Register and reviewed by the Committee, were appropriate and proportionate, and that the overall risk rating for the JAC was acceptable. The new members of the Committee, Noel Lloyd and Christopher Simmonds, commented that they had undergone a very useful induction which had helped them to assume their new responsibilities.

### **13. Management Information Pack**

13.1 The Assistant Director, Finance presented to the Commission the monthly Management Information Pack, which provided an overview of JAC activity up to the end of March 2014.

13.2 Commissioners noted the contents of the pack. The Assistant Director asked that any comments should be provided out of committee.

### **Date of next meeting**

The Chairman confirmed that the next Board meeting would be held on **Thursday 12 June**.