

JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING

9 July 2015

Minutes of Meeting

Present	
Commissioners	Staff
Christopher Stephens (Chairman) Julia Macur (Vice Chairman) Martin Forde Emily Jackson Usha Karu Noel Lloyd Alexandra Marks Katharine Rainsford Christopher Simmonds Valerie Strachan	Chief Executive Head of Policy and Change Head of Senior and International Appointments Head of Selection Process and Policy Senior Manager, Operational Policy Senior Communications Officer Private Secretary to the Chairman
Guest (Item 1 only) Lord Chief Justice of England and Wales	

1. Board Guest: Lord Thomas, Lord Chief Justice of England and Wales

1.1 The Chairman welcomed the Lord Chief Justice of England and Wales to the meeting.

1.2 The Lord Chief Justice spoke to the Commission about the recently announced reforms of Her Majesty's Courts and Tribunals Service (HMCTS), and the wider context of financial constraint. A discussion followed with Commissioners regarding potential implications for the judiciary and judicial appointments, particularly during this transitional period.

1.3 The importance of each and every judicial appointment was discussed, with the Lord Chief Justice emphasising that the JAC has an excellent record in terms of recommendations for appointment.

1.4 There was a general discussion on attracting a broader range of candidates – including solicitors – to the judiciary. There was an allied point about the current pressures on the justice system and how business areas wanted selected candidates to be able to “hit the ground running”. Some candidate groups had taken the view that this has implications for the openness of jurisdiction-specific exercises to all eligible candidates.

1.5 The Lord Chief Justice raised the importance of seeking to ensure as level a playing-field for candidates as possible. He asked whether the JAC might consider a return to the use of fictional jurisdictions in its qualifying tests, as one possible way of reducing the requirement for jurisdictional knowledge and increasing the focus on the skills needed to be a judge.

1.6 Finally, the Chairman raised the importance of running regular selection exercises, even if for smaller numbers, in order to attract the best candidates. In particular, he emphasised that regular exercises for fee-paid appointments helped to bring new, diverse and high quality candidates in to the judiciary.

2. Apologies and matters arising

2.1 Apologies were received from Debra van Gene, Alan Wilkie, Philip Sycamore, Andrew Ridgway, and Lucy Scott-Moncrieff.

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

2.3 The minutes of the 11 June meeting were agreed and the Board Action Register noted.

2.4 It was further noted that the issue of non-JAC observers attending Selection and Character Committee Meetings will be revisited at the September Board meeting.

3. Chairman's Report

3.1 The Chairman provided an update on his activities since his last report at the June meeting. He reported that he had met with the Chairman and Chief Executive of the Legal Services Board (who plan to arrange LSB attendance at future Diversity Forum meetings), the new Chief Executive of HMCTS and the outgoing President of the Law Society. He also reported that he had attended a meeting of the GC100 – general counsel and company secretaries of FTSE 100 companies. Most recently, the Chairman reported that he had met with Robert Pe – legal adviser to Aung San Suu Kyi – and had discussed the JAC's role in securing a fair and independent judiciary, and what Myanmar might be able to draw on from the UK experience.

3.2 The Chairman then invited Commissioners to comment on relevant activities of particular interest with which they had been involved. Emily Jackson stated that she had written to the head of law schools in relation to the Deputy High Court Judge exercise.

4. Chief Executive's Report and Management Information Pack

4.1 The Chief Executive provided an oral update on current activity at the JAC. He also reported that the National Audit Office had completed their review of our accounts, and approved them without qualification.

4.2 The Chief Executive noted that the Permanent Secretary for the Ministry of Justice – Ursula Brennan – is retiring, and will be replaced by Richard Heaton who is currently the Permanent

Secretary of the Cabinet Office. Richard Heaton is also currently the 'Race Champion' for the Civil Service.

4.3 The Chief Executive reported that the Chairman had now written to the Lord Chancellor, jointly with the Senior Presiding Judge, to seek a partial exemption from the Rehabilitation of Offenders Act 1974. The JAC had also provided a response to an OECD consultation on gender equality.

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

5. Triennial Review Progress update

5.1 The Private Secretary to the Chairman presented a paper on the JAC's progress in respect of the recommendations and finding of the Ministry of Justice's Triennial Review, which would feed into an MoJ progress report to the Cabinet Office.

5.2 The Committee discussed the contributions and agreed with the content of the paper, subject to adding reference to the Chairman's recent meeting with Aung San Suu Kyi.

6. Resolving Panel Disagreement

6.1 The Head of Selection Process and Policy presented a paper informing the Commission of a clarification of the existing policy with respect to resolving selection panel differences on grading.

6.2 The paper set out the steps that panels should take when faced with a strong difference of view, as well as further options that might be considered in the rare event that a panel could not reach agreement through this process.

6.3 Commissioners expressed their support for the policy, suggesting the addition of text setting out the main types of disagreement which might arise. It was also noted that Assigned Commissioners could play a useful role in facilitating agreement in certain circumstances, but that they should not involve themselves in the panel decision itself.

7. Welsh Matters (Including Welsh Language Scheme)

7.1 The Senior Manager (Operational Policy) presented a paper seeking the Commission's agreement to a JAC-specific Welsh Language Scheme.

7.2 It was noted that the JAC is currently covered by the MoJ language scheme, but that this was not tailored to the JAC's purposes. Therefore, the JAC had developed its own scheme which will form the basis of public consultation in October 2015.

7.3 The Commission agreed the Welsh Language Scheme in principle, noting that a further revised version would come to the Board in September, alongside a draft consultation paper.

8. Authorisations for circuit judges sitting in the Court of Appeal Criminal Division

8.1 The Head of Senior and International Appointments presented a paper seeking the Commission's agreement to a policy to determine the process for authorisations of Circuit Judges sitting in the Court of Appeal Criminal Division (CACD). This policy had been developed jointly by the JAC and the senior judiciary, with the close involvement of Andrew Ridgway and Lady Justice Hallett. Commissioners noted that it had been developed to give effect to changes made by the Crime and Courts Act 2013, according to which such authorisations now had to be made with the concurrence of the JAC.

8.2 The Commission noted that the Lord Chief Justice supported the proposed policy, and the Commission itself provided agreement to the policy. In doing so it was noted that a regular Expressions of Interest exercise would help to open up opportunities to sit in the CACD.

9. Role of the Assigned Commissioner

9.1 The Head of Policy and Change presented a paper requesting that the Commission note the recently updated Assigned Commissioner 'checklist', which detailed activities with which Commissioners might be involved as part of their quality assurance role in selection exercises.

9.2 Commissioners discussed the checklist, welcoming the clarification of the nature of the Commissioner role, as well as the further detail regarding expected involvement. It was noted that the estimated time commitment for each stage of an exercise could vary significantly depending on its scale and complexity, and therefore for some exercises the actual time commitment was significantly greater than the estimate.

9.3 Commissioners also emphasised the importance of updates to exercise timelines being shared with Assigned Commissioners as soon as possible.

9.4 Finally Commissioners discussed whether certain tasks could appropriately be divided where there was more than one Assigned Commissioner for an exercise, and whether guidance to cover this situation could be covered in the 'checklist'.

9.5 It was agreed that the Commissioners' comments on the checklist would be incorporated and a revised version would be circulated for information to both Commissioners and selection exercise staff.

10. 'Am I Ready' tools

10.1 The Head of Selection Process and Policy presented a paper seeking the Commission's agreement to proceed with publication of the Am I Ready tools on the JAC website.

10.2 It was agreed that the tools as currently drafted should be adopted, and that they would be further refined over time in light of exposure and feedback.

11. Report back from Working Groups

11.1 Valerie Strachan reported that the Audit and Risk Committee had signed off the annual accounts.

11.2 It was also noted that an internal audit report had been received on the JAC's corporate governance; it had been very positive and no concerns had been reported.

Date of next meeting

The Chairman confirmed that the next Board meeting would be held on **Thursday 10 September 2015**.