

JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING
13 SEPTEMBER 2012
MINUTES OF MEETING

PRESENT

Commissioners

Chris Stephens (Chairman)
Jill Black (Vice-Chairman)
David Bean
Martin Forde
Noel Lloyd
Alexandra Marks
Alison McKenna
Stella Pantelides
Andrew Ridgway
Ranjit Sondhi
Valerie Strachan
Deborah Taylor
Alan Wilkie

Staff

Chief Executive
Selection Exercise Director
Operational Services Director
Assistant Director, Programme and
Candidate Services Team
Assistant Director, Change Programme and IT
Support
Private Secretary to the Chairman
Board Secretary

Guest Attendees:

Michael Todd QC (Chairman) and Mark Hatcher (Policy Advisor) of the Bar Council
(for item 8 only)

1. Apologies and matters arising

1.1 Apologies were received from Malcolm Birchall and John Thornhill.

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

1.3 Minutes of the 12 July meeting were approved and the Board action register noted.

2. Chairman's Update

2.1 The Chairman provided an update on his activities since his last report at the July Board. He had met with Lord Justice Sullivan, the Senior President of Tribunals, with Lucy Scott-Moncrieff, President of the Law Society and also with Sir John Brigstocke, Judicial Appointments and Conduct Ombudsman.

2.2 He had also attended the Judicial Diversity Taskforce meeting, sat on the selection panel for the Master of the Rolls appointment, and participated in the "next steps" discussions which were held fortnightly over the summer.

2.3 He informed the Commission that during the remainder of September he would be attending the Diversity Forum, and having a regular meeting with the Lord Chief Justice.

2.4 The Chairman invited Commissioners to provide an update to the Board on specific activities with which they were involved.

2.5 Noel Lloyd informed the Commission that he had been invited to sit on the selection panel for the appointment of a President for the Welsh Language Tribunal. The Chairman added that he was pleased that the JAC could assist with the selection processes of other bodies. The Recorder of London exercise, with which Alexandra Marks was involved, was another example.

2.6 Andrew Ridgway referred to a note on Independence which he had circulated to Commissioners, seeking to highlight areas of which Commissioners should be aware. He proposed that it be reviewed in early 2013.

3. Chief Executive's Report

3.1 The Chief Executive provided a report to the Commission on the continued budgetary pressure across Government.

3.2 He reported also that the JAC would join the Civil Service-wide staff survey to be conducted in October. This would be consistent with the shared services approach and there would be cost benefits.

3.3 Lastly, the Chief Executive provided an update on the work of the joint Programme Board over the summer, outlining the key areas where JAC intended to work with the Ministry of Justice, Judicial Office and Her Majesty's Courts and Tribunals Service to reduce the length of the end-to-end appointments process.

4. On-line Testing Evaluation

4.1 The Assistant Director, Programme and Candidate Services Team, presented a paper together with an Executive Summary of the Online Testing Evaluation Report.

4.2 The Board was asked to agree that online testing now be adopted for any selection exercise deemed appropriate for its use. The Commission discussed and endorsed the policy that future qualifying tests would be conducted online where appropriate.

Commissioners noted the feedback from candidates in the four pilot exercises, which had

been positive in terms of the enhanced confidentiality and greater convenience involved in taking the test online.

4.3 The Commission also discussed the importance of communicating this new policy. The communications plan, presented with the paper, would be developed further and information on the website adapted accordingly.

4.4 In particular, Commissioners noted that it was important to make clear to candidates that the test only required basic IT skills. The Operational Services Director also confirmed that any requirement for reasonable adjustments would still be available.

4.5 The Commission asked that the policy be reviewed in 12 months' time.

5. Future Selection Process

5.1 The Operational Services Director presented a paper to the Commission on the future selection process. The paper provided a high level outline of how a future process might look as a result of taking forward themes developed from the Selection Process Review Workshop held in July.

5.2 The Commission discussed the paper at length, commenting that it was useful to see the process set out as one coherent whole. There were discussions on the availability of funds and expertise required to take some of the proposals forward.

5.3 The Board endorsed the concept document. The Operational Services Director would incorporate the comments and suggestions made and circulate a final version to Commissioners out of committee. A blueprint would then be prepared and presented to the Board in December 2012.

6. Section 94: Review of Policy

6.1 The Operational Services Director presented a paper to the Commission which sought to review the current policy with regard to lists created under section 94 of the Constitutional Reform Act (CRA) 2005.

6.2 The Commissioners debated the issue at length. It concluded that future lists would be reviewed at the one-year point and closed at an appropriate point following that review. This would be the adopted policy of the Commission and would be applied to new lists created under section 94 of the CRA. Future letters to candidates would be adjusted to reflect the

new policy and business partners would also be informed.

7. Closure of Salaried Judge of the First Tier Tribunal, Immigration and Asylum Chamber (2009)

7.1 The Selection Exercise Director presented a paper to the Commission which sought approval to close the section 94 list for Salaried Judge of the First Tier Tribunal, Immigration and Asylum Chamber.

7.1 The Commission agreed to the closure of the list. The Selection Exercise Director would write to the candidates as discussed.

8. Board Guests

8.1 The Chairman welcomed and introduced Michael Todd QC and Mark Hatcher of the Bar Council to the meeting.

8.2 Michael Todd began by saying that he was particularly interested in social mobility and diversity. He indicated that the Bar Council had set up a committee on Social Mobility.

8.3 He went on to say that the data available showed that, to a large extent, new entrants to the Bar were still coming from a limited section of society. However, he then spoke of the various initiatives that the Bar were taking to encourage recruitment from a wider range of people.

8.5 Michael Todd then indicated that data monitoring was improving through the introduction of a social mobility survey. However, changes to legal aid were likely to have a negative impact on the diversity of the Bar, as practitioners focussing on publicly funded work tended to come from more diverse backgrounds.

8.6 The Chairman asked if there were any particular points or messages to share with the Commission regarding the Bar's view of the JAC. Michael responded by saying that the JAC and its selection processes were now respected, although any further streamlining of the length of the end-to-end appointment process would be welcome. However, there were concerns over wider issues such as the changes in judicial pensions which may make a judicial appointment less attractive to those at the Bar.

8.7 The Chairman then opened a discussion with Commissioners, who took the opportunity to ask Michael's views on a range of issues, and held an interesting debate on some of the issues and barriers around improving social mobility and diversity.

8.8 The Chairman concluded by expressing his appreciation to Michael Todd for making the time to come and talk to the Commission and added also how much he enjoyed working with him and the Bar Council.

9. Non-Statutory Eligibility Criteria

9.1 The Operational Services Director presented a paper to the Commission which outlined the additional selection criteria that may be applied to selection exercises by the Lord Chancellor, and asked the Commission to review its existing policy as to how these should be treated as part of the selection processes.

9.2 The Commission was asked to agree the revised terminology from Non-Statutory Eligibility to Additional Selection Criteria (ASC), the approach to consider ASC and the reporting policy for accuracy and audit purposes.

9.3 The Board discussed these issues at length and endorsed the new terminology, which would be implemented with immediate effect. The Commission agreed that the ability of a candidate to provide a set reasonable length of service after appointment should continue to be considered at the Eligibility stage. It agreed that there must be some specific justification for a candidate to be allowed to proceed despite not being able to provide the required length of service.

9.4 In relation to the requirement for fee-paid experience, Commissioners directed that the application form should be amended to require the candidate to explain the reasons why they should be considered as an "exceptional" case. This information must explain why the case is exceptional and how the skills have been demonstrated in some other significant way. It would help the Commission to decide, at the appropriate stage in the selection process, whether candidates should proceed without this experience.

9.5 The Commission agreed the future reporting policy in that only cases where a decision was required with regard to ASC would require a paper to be brought to the Selection and Character Committee. Where there are no issues to be considered, or where a candidate is removed on grounds of statutory eligibility, an oral report would be made.

10. Q1 Performance Report, Corporate Risk and Management Accounts

10.1 The Operational Services Director presented the Q1 Performance Report, Corporate Risk Register and Management Accounts and deferred to Valerie Strachan, chair of the Audit and Risk Committee.

10.2 The Commission noted the report and accounts.

11. Report Back from Working Groups

11.1 Valerie Strachan reported to the Commission on the work of the Audit and Risk Committee which had last met on 17 July. It had discussed the Summary of Risk Management, the Quarter 1 Performance Report and Corporate Risk and Finance. They also discussed the Clear Line of Sight Accounts, progress towards the implementation of audit recommendations, reports on Internal and External Audit updates and the implications of the 2011/12 Governance statement.

11.2 Noel Lloyd provided an oral update on the IT working group which held its first meeting on 12 September. They had discussed the IT project, the On-line Testing Evaluation report and the Equitas Improvements paper.

11.3 Valerie Strachan provided an oral update on the Next Steps group which had held regular teleconference discussions over the summer to discuss the implications of draft regulations under the Crime and Courts Bill, which the Government was expected to publish in October.

12. Directors Reports

12.1 The Selection Exercise Director provided an update to the Commission on key issues within her Directorate. She also informed Commissioners that she had been invited to observe the process for a High Court appointment in Scotland.

12.2 In addition, she indicated that there may be a requirement for an additional Selection and Character Committee meeting in November or early December due to the number of selections to be considered at that time, prior to sending reports to the Lord Chancellor prior to the Christmas break.

12.3 The Operational Services Director updated the Commission on key issues within his Directorate. He also referred to a paper produced on multiple applications which would be of interest to the Commission and which he would circulate out of committee.

13. Any other Business

13.1 Deborah Taylor, Martin Forde and Ranjit Sondhi informed the Board of upcoming meetings and events that they were attending individually.

13.2 Jill Black said she would welcome a discussion at a future Commission meeting on the policy of ranking candidates on merit with particular reference to “C” grade candidates.

Date of next meeting

The Chairman confirmed that the next Board meeting would be **held on 11 October 2012.**