

JUDICIAL APPOINTMENTS COMMISSION (JAC) MEETING

12 May 2016

Minutes of Meeting

| Present | |
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| Commissioners | Staff |
| Ian Burnett (Vice Chairman) Martin Forde Emily Jackson Usha Karu Noel Lloyd Alexandra Marks Katharine Rainsford Andrew Ridgway Christopher Simmonds Valerie Strachan Phillip Sycamore Debra van Gene | Chief Executive Head of Operations Head of Policy and Change Head of Selection Policy and Process Head of Equality and Diversity Head of Human Resources, Business Services and Complaints Senior Team Manager, Senior & International Appointments Senior Communications Manager Private Secretary to the Chairman Board Secretary |

1. Apologies and matters arising

1.1 Apologies were received from Lucy Scott-Moncrieff and Alan Wilkie.

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 21 April 2016 meeting were agreed subject to minor amendments; and the minutes of the 7 April 2016 meeting were also agreed.

1.4 The Board Action Register was noted.

2. References

2.1 The Head of Selection Policy presented a paper for discussion which set out options for addressing issues and concerns which have been raised by Commissioners and stakeholders about the collection and consideration of references in the selection process.

2.2 The Commission considered and discussed a wide range including: the amount of weight given to references and how they are used in assessing merit; the format and content of the reference form; the terminology used around the use of references; the timing of the collection of references; and the quality of guidance to referees and panel members.

2.3 The Commission noted that changes to the structure of the reference form would require further JARS development.

2.4 The Commission agreed the following:

- (i) that the content of references formed part of the evidence base available for the assessment of candidates for judicial office and should be treated as evidence along with the self-assessment, interview and any other tools used in the process. They were not to be treated simply as a check at the end of the process.
- (ii) that the term “reference” was not a good description of the evidence sought from those who know a candidate’s work. The description would be changed to “assessment”, reflecting the way they are used. That differs significantly from their use in most other selection processes as a final check once a provisional decision has been made. In order to distinguish it from the “self-assessment” in the application form, a qualifier such as “independent” should be used.
- (iii) that the current structure of the form would be changed. At present the bullet-point “indicators” for each of the competencies appears next to the competency in the reference form. This is apt to confuse and distract referees from giving their information in a clear way. Those indicators would now be provided separately in full, ideally as an annex to the form.
- (iv) that a new box would be introduced unrelated to any competency to enable the assessor to provide a conclusion and general evidential description of an overall assessment.
- (v) that the guidance given to the panel chairs, the panellists and referees would be updated to make clear that these assessments are to be given whatever weight their content deserves, and neither diminished or enhanced weight.

2.5 Commissioners recognised that some additional work would be needed to determine the nature of the additional box, but that the other changes should be made as soon as possible.

3. Reviewing the Process for Non-Legal and Specialist Exercises

3.1 The Head of Selection Policy presented a paper seeking the Commission’s approval to recommendations for additions to the menu of selection tools and selection process guide, to formalise the processes already being used in a small number of niche exercises for non-legal, specialist roles.

3.2 After careful consideration, the Commission agreed for additions to the menu of selection tools, as proposed.

4. Section 9(4) Deputy High Court Judge (Fixed Term) exercise

4.1 The Senior Team Manager presented a paper requesting that the Commission note the key lessons learned and next steps regarding the Deputy High Court Judge exercise run under the provisions of section 9(4) of the Senior Courts Act 1981.

4.2 Commissioners welcomed the paper, noting also that this was the first time the JAC had run an exercise to recruit candidates to become Deputy High Court Judges direct from practice.

4.3 The Commission noted that while the exercise was successful in attracting a diverse field of applicants, there was more work to be done to encourage and support non-traditional candidates in applications for High Court roles.

5. Academic Review of JAC Processes

5.1 The Head of Selection Policy presented a paper seeking the Commission's approval of an independent academic review of the JAC's selection processes for large fee-paid 'entry-level' exercises.

5.2 Following discussion, the Commission agreed to the proposal for a legal academic to conduct the review in partnership with an academic expert in recruitment and selection. The Commission further agreed to the proposed timeline for the review.

6. Update on Analysis of Progression of BAME Candidates in Qualifying Tests

6.1 The Head of Equality and Diversity presented a paper requesting that the Commission note the results of ongoing statistical analysis into the progression of BAME candidates; and steps that are being taken to address the issues identified. This initial work was carried out initially by the Work Psychology Group (WPG) and more recently Ministry of Justice (MoJ) Statisticians. It focused on the results in a number of qualifying tests used in large exercises.

6.2 The Commission noted that the research showed that BAME candidates overall had significantly lower success rates when compared to white candidates in the tests analysed so far. However, the research had not yet been able to identify any factor that might help to explain this differential in performance, either in terms of the nature of the tests or the profile of the candidates.

6.3 Commissioners noted the series of steps that were being taken both to take the research further and to mitigate the risks in respect of future exercises.

7. Vice-Chairman's Report

7.1 The Vice-Chairman provided an update on his activities since the last Commission meeting on 21 April. He reported that he had met the new Director of Judicial Policy within the MoJ, and separately the Senior President of the Tribunals.

7.2 The Vice-Chairman then invited Commissioners to comment on relevant activities of particular interest with which they had been involved.

7.3 Valerie Strachan reported on her work as a member of a panel to select three High Court Judges to the Investigatory Powers Tribunals (a non-JAC exercise).

8. Chief Executive's Report and Management Information Pack

8.1 The Chief Executive provided an oral update on current activity at the JAC. He reported on the JAC's financial position, confirming the JAC's budget allocation for 2016/17 of £4.29m.

8.2 The Chief Executive then reported on staffing levels at the JAC, stating that some key positions were being filled.

8.3 The Chief Executive then provided an update on the selection exercise programme for the current year, 2016/17. He reported that a public appointments exercise to recruit Parole Board members, in respect of which the JAC was providing assistance under s98 of the Constitutional Reform Act 2005, was expected to launch in May. The MoJ is running the exercise but using the JACs online recruitment system to process applications.

8.4 The Chief Executive then reported on the JAC's follow up work to assist the Myanmar government, following the JAC's visit as part of a delegation in March. He confirmed that a JAC-drafted report had been sent to Aung San Suu Kyi, Leader of the National League for Democracy, for consideration.

8.5 The Commission considered the monthly Management Information Pack. The pack provided an overview of JAC activity up to the end of March 2016.

9. Report of the Governance Group

9.1 Valerie Strachan provided the Commission with an update on the first meeting of the JAC interim Governance Group, held earlier that day. She stated that key issues had been discussed across the range of core areas with which the group was concerned.

10. Annual Review of Human Resources (HR) Activities

10.1 The Head of Human Resources, Business Services and Complaints presented a paper to the Commission which summarised the key HR performance indicators for 2015/16 and the planned initiatives to be taken forward in 2016/17, including reassurance regarding Health and Safety matters.

10.2 The Commission noted the paper which included key performance indicators in relation to staff turnover, staff engagement, and sickness absence levels and staff recruitment.

11. Annual Complaints Update

11.1 The Head of Human Resources, Business Services and Complaints presented a paper to the Commission which summarised the number of formal complaints received from applicants during 2015/16.

11.2 The Commission noted the paper, and that the JAC received 54 complaints during 2015/16 compared to 12 complaints in 2014/15. Out of the 54 complaints, only 1 case was partially upheld. No significant trends were identified, but the JAC will continually review its processes to take into account any arising issues. The increased number of complaints was attributed to the large Recorder exercise, which resulted in 40 complaints. However, taking the Recorder exercise out of the equation, levels of complaints remained low. The Commission noted out of the 4 complaints referred to JACO, none were upheld.

12. Report Back from Working Groups

12.1 Emily Jackson, Chair of the Advisory Group, provided the Commission with an update of the Group's meeting held on 13 April, with reference to a change in membership of the group and positive feedback on changes in the format of its meetings.

12.2 Valerie Strachan, Chair of the Audit and Risk Committee, provided the Commission with an update of the Committee's meeting of 21 April 2016. She informed the Commission that the Committee considered the Management Information Pack and Corporate Risk Register. She also informed the Commission that the JAC had received the best possible rating of 'substantial' assurance from Internal Auditors in their Annual Report.

Date of next meeting

The Vice Chairman confirmed that the next Board meeting would be held on **Thursday 9 June 2016**.