

Improving Judicial Diversity

Progress towards delivery of the
*'Report of the Advisory Panel
on Judicial Diversity 2010'*

May 2011

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The Law Society



This information is also available on the following websites:

Ministry of Justice website: www.justice.gov.uk

Judiciary of England & Wales website: www.judiciary.gov.uk

Judicial Appointments Commission: <http://jac.judiciary.gov.uk>

The Bar Council: www.barcouncil.org.uk

The Law Society: www.lawsociety.org.uk/home.law

Institute of Legal Executives: www.ilex.org.uk

Foreword

The report of the Advisory Panel on Judicial Diversity¹, chaired by Baroness Neuberger, was published in February 2010. It contained 53 recommendations, one of which was that a Judicial Diversity Taskforce, comprising the Ministry of Justice, senior members of the judiciary, the Judicial Appointments Commission, the Bar Council, the Law Society and Institute of Legal Executives, be constituted to oversee implementation of the recommendations.

Once established, the Taskforce met for the first time in March 2010. It accepted the recommendations of the Advisory Panel and committed to their implementation, subject to consideration of the financial and resourcing implications.

One year on from the publication of the Advisory Panel report, the Taskforce is delighted to publish this report, which shows progress has and is being made in respect of all of the recommendations.

There is, however, no room for complacency: continued determination will be essential for delivering the longer term initiatives and in maintaining momentum – we all share this commitment towards attaining our goal.

We would like to thank everyone who has been involved in the significant achievements so far that provide a firm basis for future progress.

¹ <http://www.justice.gov.uk/publications/docs/advisory-panel-judicial-diversity-2010.pdf>

Executive summary

On 28th April 2009, the independent Advisory Panel on Judicial Diversity was established. The establishment of the Panel reflected concerns expressed across Parliament, shared by the Right Honourable The Lord Chief Justice, Lord Judge, and the then Chairman of the Judicial Appointments Commission, Baroness Prashar, that, despite initiatives over many years, significant progress on judicial diversity had been slower than expected.

The Panel convened 11 times and met, corresponded with and received evidence from over 180 contributors. In February 2010, it published its findings. The Panel's report identified that there was no quick fix in moving towards a more diverse judiciary, and made 53 recommendations, which its members believed would help to make sustained progress to a more diverse judiciary at every level and in all courts in England and Wales.

The Panel's vision was that by 2020 there should be a much more diverse judiciary at all levels which:

- is as talented, respected and independent as it was in 2010;
- recognises the concept of a judicial career;
- seeks and finds talent in more unusual places;
- gives opportunities to a wider range of individuals, and
- is more flexible in its working practices.

In March 2010, the then Lord Chancellor Jack Straw MP, the Lord Chief Justice, the Chairman of the Judicial Appointments Commission, the Chairman of the Bar Council, the President of the Law Society, the President of the Institute of Legal Executives and the Senior President of Tribunals, welcomed the findings of the Panel's report, and agreed to work together to implement the report's recommendations.

In August 2010, the current Lord Chancellor Kenneth Clarke stated his commitment in principle to supporting the delivery of the recommendations. It was agreed that Lord McNally, the Department's Minister for Equality and Diversity, would lead on this work for the Ministry of Justice.

One year on from the publication of the Panel's findings, this report has been produced jointly to capture progress against the recommendations.

For each of the 53 recommendations, work has started and in some cases has been completed, despite financial constraints. Some projects will require ongoing commitment for years to deliver a difference, such as outreach work with students, whereas others can be completed in a fairly short space of time, and their outcomes evaluated.

The full report shows each recommendation with the actions taken to achieve it by those who are responsible for their implementation.

The Bar Council

The Bar Council strongly commended the work and recommendations of Baroness Neuberger and her Panel. The Bar has a good track record in encouraging diversity. Women are 34% of the practising Bar and over 40% of new pupils. BME barristers are 10% of the practising Bar, 14% of pupils. Our focus remains on widening access and retaining diversity within the profession. To that end we are supporting the regulatory strengthening of the Equality and Diversity Code for Chambers and Maternity Leave Guidelines to promote flexible working arrangements and career breaks from practice.

In addition, the Bar Council plays an active part in the Gateways to the Professions Collaborative Forum, which is implementing the recommendations of the Milburn Commission. We are working hard to interest school children with the right ability in a career at the Bar. Last year, with the help of the Social Mobility Foundation, we placed 48 first year sixth formers on mini-pupillage work experience in chambers. This year we are extending this scheme outside London. We have revised careers materials and have a programme of visits to schools and careers fairs and through these we aim to challenge stereotypes about a legal career.

The Chairman of the General Council of the Bar, Peter Lodder QC, has said

“Our priority for this year is to strengthen mentoring schemes across the profession as this is an important way of providing information about judicial and other career progression opportunities and of encouraging barristers when they are ready to apply for an appointment. We have appointed Circuit Diversity Mentors but in addition there are many informal schemes operated by chambers, Specialist Bar Associations and groups such as the Association of Women Barristers that we will be identifying and assisting.

We recognise that we cannot be complacent, and we also recognise that a diverse judiciary can only be drawn from a diverse pool of candidates. Lawyers and the judiciary are public servants who serve their communities, and we welcome this opportunity to work through the Taskforce and Senior Officials Steering Group to support the implementation of the Advisory Panel’s recommendations.”

Institute of Legal Executives (ILEX)

ILEX has been focused on the delivery of the 'Professions' related recommendations, both in collaboration with colleagues from other legal bodies and independently. Most notably, 2010 saw the first Legal Executive appointment for Deputy District Judge.

Supported by a programme of outreach events and regular communication to our Fellows, ILEX continues to encourage and promote applications from its diverse member base to relevant judicial posts.

David McGrady, the President of the Institute of Legal Executives has said

“ILEX is pleased to represent its members on the Judicial Diversity Taskforce, JAC Diversity Forum and several other diversity initiatives. It is committed to achieving both the long-term and short-term outcomes that such initiatives have identified.”

The Law Society

Solicitors undoubtedly have the key skills needed to become judges through their knowledge of case management and direct contact with clients. The profession is diverse and is an outstanding source of talent. The Law Society continues to encourage all solicitors who wish to apply for judicial office with the provision of information about the application and selection process, advice on how they can best prepare themselves and the provision of training workshops on competency based testing. These initiatives and the continued work with the Association of Women Solicitors, Solicitors with Disabilities, the Black Solicitors Network and Interlaw demonstrate the Society’s ongoing commitment to achieving greater diversity amongst judicial appointments.

The changing profile of the profession is encouraging and bodes well for an improvement in the diversity of solicitors applying for judicial appointments in the future. To help ensure that this diverse talent pool is retained and developed, the Society works with the profession in the adoption of best practice in addressing diversity issues through firms’ commitment to the Diversity and Inclusion Charter. Important elements of the Charter are the Equality and Diversity Standards and the toolkit that encourages firms to review comprehensively a wide range of their practices and importantly to ensure that talent is developed based on ability.

Linda Lee the President of the Law Society has said

“One of our most popular initiatives has been the introduction of Meet the Judges events at which solicitors can have personal contact with solicitor judges and find out about a judicial career. We have begun the process of re-establishing a connection between the Society and those solicitors who serve as judges. I shall be interested to see how that project develops. Solicitor judges are a valuable resource for the profession and the assistance and goodwill of the solicitor judges who have taken part has been much appreciated. We don’t do enough to publicise the contribution they make to our justice system and society. Nor do we give sufficient recognition to their eagerness to help and encourage other solicitors to follow in their footsteps.”

Judicial Appointments Commission (JAC)

The Advisory Panel's report was an important contribution to the effort to increase the diversity of the judiciary. It confirmed that many of the barriers, real or perceived, were systemic and required work by more than just one body to bring about change. The JAC sees it as a priority to play its part in the task of implementation.

As recommended by the Panel the JAC has already:

- introduced a new system to allow it to share diversity data for successful candidates with the MoJ and Judicial Office;
- reviewed the qualifying test to ensure it acts as an effective sift process, and we are currently holding discussions with partners on alternative methods of short-listing and how the test could be used more flexibly, and
- as an alternative to individual feedback – which is simply not possible for the large numbers involved – we now prepare feedback reports for all qualifying tests to help candidates understand what characterised a successful test, where candidates performed poorly, and the identification and analysis of common problems.

The JAC has consulted on amending its merit criterion 'an ability to understand and deal fairly' in the light of the Panel's recommendation that it be replaced.

The JAC will continue to take forward these and the other proposals in the report, and after that will review and evaluate the impact and success of its work. It will also help other bodies implement their recommendations. The JAC believes that even in these times of financial restraint, diversity remains crucial to our vision of the judiciary, as a good in its own right and as a tool to creating a judiciary of the highest merit.

The Chairman of the JAC, Christopher Stephens, said,

“The JAC has a strong record of promoting diversity, spearheaded by my predecessor, Baroness Prashar. I look forward to carrying on this essential work. I give an undertaking that the JAC will continue to do all it can to continue the process of implementing its recommendations and helping partners implement theirs.”

The Judiciary of England & Wales

Judges have continued to work with other organisations and alone to reach out to the legal professions, students and others. Most particularly Diversity and Community Relations Judges have taken steps to make those links.

The judiciary has mentoring programmes in place for deputy district judges (in both county and magistrates' courts), recorders and for district judges without previous fee-paid experience. There is also an informal mentoring scheme for new entrants in the High Court. Expansion of the work shadowing scheme will be increased by the adoption of an electronic application scheme which will link more closely with the courts which host shadowing. Work has been undertaken to design the scheme which should become effective in 2011.

The Judicial College, which will offer training across the judiciary, came into being on 1 April 2011.

The amalgamation of the Courts and Tribunals services into one body (Her Majesty's Courts and Tribunals Service) on 1 April 2011 will assist in allowing judges to move from one role to another, thereby increasing the potential for a judicial career.

Lord Chief Justice of England and Wales, the Right Honourable Lord Judge has said:

“The co-operative approach adopted by all of the organisations involved in taking forward these recommendations is admirable. In particular, I am delighted to see how many judges have given their time to encourage suitable candidates to apply for judicial appointment and to assist in dispelling the myths surrounding the judicial role. More specifically, the work-shadowing scheme has given practitioners the chance to experience the view from the Bench, which has inspired many of them to apply for judicial appointment.”

The Tribunals Service

The professional, ethnic and gender mix within tribunals judiciary (judges and members) is relatively diverse – for instance, over 40% are women, and over 10% are from Black or Minority Ethnic groups. We are in the process of cleansing and checking our records with the 5,000 and more office holders and we hope in the near future to report in more detail.

The Senior President has set up a Tribunals Judicial Diversity Group (which includes a representative from the Lord Chief Justice's diversity team) which is looking at how to increase further the diversity mix of those entering tribunals' judicial office as well as those already appointed who want to move into the courts or judicial leadership roles. At present tribunal judges (who are already appointed through a JAC process) must go through a further JAC application

process (assessed on the same qualities and abilities as their tribunals office) if they want to serve in the courts at a parallel level – this is not the case for most court judges who want to sit in tribunals. Overcoming this hurdle will bring us nearer to the concept of a judicial career path.

The Senior President has also established a panel of diversity champions from across the jurisdictions (who have self selected as representing atypical backgrounds) some of whom have been taking part in the Law Society's Meet the Judges' events. Appraisal and informal mentoring schemes are already widespread within the tribunals and will be taken further when resources allow. We also participate in the judicial work shadowing scheme and, in preparation for the new on line system, have been reviewing its operation and evaluation in tribunals.

The Senior President of Tribunals, the Right Honourable Lord Justice Carnwath has said:

“As I meet tribunals' judges and members around the UK, I see for myself the quality and wide range of people who already serve in tribunals. I look forward to legislation enabling those who have the right experience, skills and abilities to extend their judicial role into the courts through a reciprocal interchange, and to the real progress that will make towards the concept of a single judicial career.”

Ministry of Justice

As part of the joint Secretariat with the Judicial Office, the Ministry of Justice has led on the co-ordination of the work to implement the Advisory Panel recommendations and has supported each of the individual organisations in developing implementation plans, thus helping to deliver recommendations 2 and 4 on delivering change. We have also sought to facilitate change by bringing together interested parties to deliver an outcome, such as for recommendation 6, which sought to deliver work on capturing, handling, sharing and updating judicial data.

The Ministry of Justice has also undertaken an evaluation of all of the recommendations, through analysis and discussions with the individual organisations in order to ascertain which, if any, of the recommendations were dependent upon the introduction of either Primary or Secondary legislation in order to enable successful implementation. We are committed to consult on any of the recommendations which will require legislation to enable implementation, once a suitable legislative vehicle has been identified.

The Right Honourable Lord McNally, Minister of State for Justice said

“One of the issues that the Advisory Panel identified concerned the duplication of effort undertaken by those within the judicial appointments process, often producing inaccurate and conflicting data which proved to be detrimental in supporting our ability to assess overall progress. It is therefore gratifying that this first step has been achieved, which will allow the development of a solid

foundation upon which we can measure overall progress towards achieving our goal of a more diverse judiciary. However, looking at the broader picture, I am convinced that we will need a much greater sense of urgency and commitment if we are to achieve meaningful diversity.

So these are the first of many steps on what will be a long road. We must build upon this initial success and maintain momentum. As demonstrated by the statistics contained within this report, we have a significant way to go, which can only be achieved through concerted action by all involved, the Executive, the Judiciary, the JAC and the Legal Professions to ensure that a person's gender, race, religion, disability or sexuality is not a barrier to becoming a judge.

The role of the Taskforce will therefore be to provide a firm hand upon the tiller. Our common aim must be to tear down the barriers, whether real or perceived, so that we attain our goal of improving the diversity of the judiciary by 2020.”

Recommendations-Progress update

A fundamental shift in approach

Recommendation 1

There should be a fundamental shift of approach from a focus on individual judicial appointments to the concept of a judicial career. A judicial career should be able to span roles in the courts and tribunals as one unified judiciary.

Contextual paragraph from Advisory Panel report:

(Para. 36) – The judiciary differs substantially from other professions in that there is a focus on judicial appointments, not a judicial career. This has meant that efforts to increase diversity have tended to focus on outreach and the selection process in order to affect individual appointments, rather than developing policies and processes to support diversity throughout a judicial career from the time an individual may first consider becoming a judge to progression to the most senior levels.

Organisation taking forward: Judiciary

Action completed to date:

It was agreed by all members of the Diversity Taskforce that isolated recommendations implemented on their own would not deliver the cultural change identified by the Advisory Panel. The wider package of reform instigated through implementation of these recommendations will support delivery of this recommendation.

In April 2011 HM Courts Service combined with the Tribunals Service, and the offices which support the courts and tribunals judiciary were merged.

From the 1 April the Judicial College came into existence, so that training for judges in courts and tribunals is delivered by the same body.

Future actions planned:

The unification of courts and tribunals will provide a foundation upon which the development of a unified approach to judicial training and career development can be developed and progressed. Work is being undertaken jointly to see whether a common framework of competences, suitable for the selection, training and appraisal can be developed, which will assist in career development.

Forecast completion date:

April 2011 – Merger of Courts and Tribunals Services

October 2011 – Review progress towards developing common competences

Recommendation 2

The recommendations made in this report must be implemented as an integrated package and sequenced carefully.

Contextual paragraph from Advisory Panel report:

(Para 39) - Significant progress will take a fundamental shift in approach, to embed diversity throughout the system: through attracting, appointing, retaining, developing and promoting the best talent.

Organisation taking forward: Ministry of Justice

Action completed to date:

Upon analysis, it was clear that good progress could be made on the majority of the recommendations, with effective communication and co-ordination between those involved and without the need for elaborate integrated programme management.

Each organisation has produced individual milestone maps that detail the implementation of their managed recommendations.

There are regular meetings between organisations to ensure efforts are co-ordinated where necessary.

Future actions planned:

This report draws together progress on all recommendations by Taskforce members.

The report was agreed by Judicial Diversity Taskforce members in March 2011.

The Judicial Diversity Taskforce has agreed that they will publish a progress report on an annual basis.

Regular meetings between organisations will continue over the next 12 months.

Forecast completion date: May 2011 – Ongoing annual progress report

Recommendation 3

The tripartite judicial diversity strategy between the Lord Chancellor, the Lord Chief Justice and the Chairman of the Judicial Appointments Commission should be extended to include the leaders of the legal profession (Bar Council, Law Society and Institute of Legal Executives) and the Senior President of Tribunals. It should be refocused on implementing the changes we have recommended.

Contextual paragraph from Advisory Panel report:

(Para 41) - The sustained commitment and leadership required to deliver change will necessitate close working between the judiciary, the Judicial Appointments Commission, the legal professions and Government.

Organisation taking forward: Ministry of Justice

Action completed to date:

The Judicial Diversity Taskforce now includes representation in accordance with this recommendation and is taking a strategic overview of implementation of the Advisory Panel on Judicial Diversity recommendations. The first meeting took place in March 2010. In support of the Taskforce, a Senior Officials' Steering Group has been created to assist in the decision making process.

Future actions planned:

Further Taskforce and Senior Officials' Steering Group meetings have taken place in early 2011.

Regular meetings will continue over the next 12 months between officials, in order to monitor progress and discuss ongoing initiatives. This will also include attendance at external diversity forums arranged through the JAC and Legal Services Board.

The Judicial Diversity Taskforce has agreed that they will publish a progress report on an annual basis.

Forecast completion date: Completed

Recommendation 4

This Judicial Diversity Taskforce should oversee an agreed action plan for change and publish an annual report setting out the progress made. The Advisory Panel on Judicial Diversity will meet again in 2011 to take stock of what the Taskforce has achieved.

Contextual paragraph from Advisory Panel report:

(Para 42) – The tripartite group should be re-focused into a body with responsibility for overseeing change, and with a duty to report annually on progress so there can be public and parliamentary scrutiny of what is an area of legitimate public concern.

Organisation taking forward: Ministry of Justice

Action completed to date:

The initial action plan was produced and approved by the Senior Officials Steering Group and each organisation has been delivering in accordance with that plan.

Future actions planned:

Those involved in delivering each of the recommendations will continue to take action to deliver them, under the oversight of the Taskforce.

The progress report was signed-off by the Taskforce in March 2011 and published in early May 2011.

The Judicial Diversity Taskforce has agreed that they will publish a progress report on an annual basis.

Forecast completion date: May 2011 - Annual progress report. Annually - ongoing

Recommendation 5

There should not be diversity quotas or specific targets for judicial appointments.

Contextual paragraph from Advisory Panel report:

(Para. 44) - Quotas were firmly and almost unanimously rejected by those we consulted, particularly by those from under-represented groups. Their main concern was that the introduction of quotas would be seen as undermining the position of people from under-represented groups appointed on the strength of their true personal ability.

Organisation taking forward: Ministry of Justice

Action completed to date:

The Judicial Diversity Taskforce agreed with the view of the Advisory Panel in its recommendation surrounding the use of quotas and targets.

Future actions planned: No further action is planned.

Forecast completion date: Closed

Recommendation 6

The work already under way on the capturing, handling, sharing and regular updating of judicial data between the Ministry of Justice, Judicial Appointments Commission, and the Directorate of Judicial Offices is essential and should be in place within 12 months of this report's publication.

Contextual paragraph from Advisory Panel report:

(Para. 50) – In other instances, different parts of the system are either collecting slightly different data or duplicating data collection. This makes reconciling the figures difficult or impossible.

Organisation taking forward: Ministry of Justice

Action completed to date:

Working together the Ministry of Justice, the Judicial Office of England and Wales, and the Judicial Appointments Commission established a way forward to deliver this recommendation.

Reflecting both the views of the Panel and specifications within the Equality Act, the necessary changes to the relevant databases were identified.

The JAC's monitoring form has been updated following a consultation ('Data Sharing Consultation')² and a system is about to be launched to transfer the data.

Future actions planned:

Work to update databases will be completed to facilitate the collection and transfer of data between them.

All data on successful candidates, collected after 1 April 2011 will be shared, with candidate consent.

The JAC will monitor and evaluate the effectiveness of the new form for collecting the required data in October 2011.

Forecast completion date: March 2011 - Implementation, October 2011 - Evaluation

² 23 March 2011 – JAC Consultation 'Sharing personal data about candidates recommended for judicial appointment with the Ministry of Justice, Judicial Office and Tribunals Judicial Office'

Recommendation 7

The Judicial Diversity Taskforce should use this information (see Recommendation 6) as a starting point to set a baseline against which it will measure future progress.

Contextual paragraph from Advisory Panel report:

(Para. 52) - This work must ensure: - data is collected in a way that enables the evaluation of the impact of policy and procedural change – we need to be able to track progress and identify more clearly where there are potential blockages.

Organisation taking forward: Ministry of Justice

Action completed to date:

At present the JAC publishes diversity information about all its selection exercises, broken down by gender, ethnicity, disability and professional background. This forms a baseline against which to measure progress towards greater diversity for each selection campaign.

Following the completion of Recommendation 6, the Ministry of Justice will revisit this recommendation, to further discuss baseline data, and its use to measure progress.

The Ministry of Justice is also mindful of proposals currently being consulted on to collect and monitor diversity data. In particular, by the Legal Services Board (LSB) and the Bar Standards Board (BSB). Both organisations have recently concluded consultations relating to equality and diversity.

Future actions planned:

Upon completion of Recommendation 6, together with the results from the LSB and BSB consultations, further discussion will take place with MoJ Research Analysts, and other interested parties to develop a baseline against which progress can be measured, and to avoid any unnecessary duplication.

Forecast completion date: October 2011 - Implementation

Recommendation 8

One principal responsibility of the Taskforce must be to ensure that there is systematic, consistent monitoring and evaluation of what works and what does not.

Contextual paragraph from Advisory Panel report:

(Para. 52) - This work must ensure: - data is collected in a way that enables the evaluation of the impact of policy and procedural change – we need to be able to track progress and identify more clearly where there are potential blockages.

Organisation taking forward: Ministry of Justice

Action completed to date:

A guidance note on various options for evaluation has been produced, through discussions with all Taskforce members.

Taskforce delivery plans have been reviewed to ensure that an appropriate action for evaluation is included within the delivery plan.

Future actions planned:

The organisations engaged in implementing the recommendations have agreed the guidance note, and will evaluate their initiatives. For example, the MoJ has recently updated its policy for disabled judicial office holders and will be evaluating its effectiveness in November 2011.

Forecast completion date: April 2012 - Evaluation of data to be collected

Encouraging new entrants to the Judiciary

Recommendation 9

Judges and members of the legal profession should engage with schools and colleges to ensure that students from under-represented groups understand that a judicial career is open to them.

Contextual paragraph from Advisory Panel report:

(Para. 54) - As highlighted in the report on “Fair Access to the Professions”, it is important that the idea of a career in the judiciary is planted early no matter what branch of the legal profession an individual intends to enter.

Organisations taking forward: Judiciary and Legal Professions

Actions taken and planned:

ILEX, the Bar Council and Law Society will continue to work together, and with the Judiciary, on existing and new projects which are focused on raising awareness and increasing diversity into the legal profession and the judiciary.

Judiciary: Outreach work continues across England and Wales with Judges at all levels engaging with schools and colleges, and particularly new universities. The type of work with which they assist includes court visits, marshalling placements, mock trials and careers events; for example a High Court Judge recently gave a career talk to a group of Black, Asian and Minority Ethnic (BAME) students from new London universities. Many Diversity and Community Relations Judges (DCRJ) engage with schools – one wrote to over one hundred schools and colleges in his area inviting them to visit court which led to over 40 visits and further requests due to be arranged. This has developed the interaction of a large number of students with the judiciary and enhanced their understanding of the judicial role. The judiciary are also supporting other organisations by attending seminars and meetings for the Law Society, Bar Council and ILEX. Law Society ‘Meet the Judges’ events continue with active participation from Courts and Tribunals judiciary. The judiciary have held discussions with the Bar Council to establish a scheme where DCRJ act as a conduit between all three legal professions and universities, to give law students a better understanding of advocacy, the court process and the career options available in the law. Further outreach events are envisaged with other organisations together with future events arranged with the Law Society, Bar Council and ILEX. Some DCRJ, mentor students from low income backgrounds as part of the Social Mobility Foundation programme³.

ILEX: ILEX visits a number of schools and colleges across England and Wales, and as part of its presentation and discussion with students and careers advisers, it ensures that audiences are made aware of the opportunity to apply for certain judicial posts. Mention is made of judicial appointments in all main marketing materials and there is a dedicated web page to this effect. ILEX has developed new links with a range of diverse organisations such as Business in the Community⁴ and Black Lawyers’ Directory.

³ <http://www.socialmobility.org.uk/> ⁴ <http://www.bitc.org.uk>

Law Society: The Law Society has long-running programmes to promote careers in the legal profession to young people from all backgrounds and a new guide to a career as a solicitor is being published this year. This includes information about judicial careers, all of which is also available online. They also provide funding to the Citizenship Foundation⁵ to undertake work in schools across the country, and for the last two years the Law Society's Black History Month events have included direct outreach to schools in the London area.

Many individual solicitors and firms undertake a vast range of activity to broaden membership of the profession. To assist that, the Society has been working with the Milburn Commission to identify ways to improve social mobility. They are also committed to supporting Access Professions, which provides opportunities for internships and work experience on an open and transparent basis to young people from all backgrounds. The Society's involvement in this web project will ensure that more firms can participate easily and will make an immediate, practical difference.

Bar Council: The Bar Council has a number of ongoing programmes designed to increase knowledge about a career in the profession. It participates in Mock trial competitions organised in schools through the Citizenship Foundation across the country. Inner Temple⁶ has an ongoing schools project which invites over 200 state schools to send a member of staff to the Inn annually for information on careers at the Bar and provides three days of activity for school students across the country organised by Pathways to Law⁷. This aims to challenge stereotypes about legal careers. Barristers address approximately 500 schools a year on a career at the Bar. With assistance from 'Aim Higher'⁸ to target state schools and local universities, the Bar Council additionally organises about 4 large careers days a year in major cities. In 2010 the Bar Council and Inns of Court will have attended 28 law fairs. Through the Social Mobility Foundation⁹ every year for the past 4 years the Bar Council has placed school children in mini-pupillage places to experience the work of a barrister. This year 48 children were placed and their onward progress is being monitored by the Social Mobility Foundation. Work is going ahead to extend this placement scheme to the circuits. Materials about careers in the profession have been updated and a podcast produced. An e-mentoring scheme is being designed to provide further opportunities for students to understand the work of the profession and this will be taken forward next year. Work is underway on a proposal to link law school and university students, interested in seeing oral advocacy in action, with court centres. Exploratory discussions are being held with the Judicial Office on linking up with Diversity and Community Relations Judges to increase knowledge of careers across the whole of the legal profession to be taken forward in 2011. The Bar Council and judiciary are establishing a scheme pairing every law school with one or more courts within the relevant circuit through nominated contacts within each circuit, court centre and law school. The aim is to give law students a better understanding of advocacy, the court process and careers in the law.

Forecast completion date: Ongoing

⁵ <http://www.citizenshipfoundation.org.uk> ⁶ <http://www.innertemple.org.uk/> ⁷ <http://www.pathwaystolaw.org/>

⁸ http://www.directgov.uk/en/EducationAndLearning/UniversityAndHigherEducation/DG_073697

⁹ <http://www.socialmobility.org.uk/>

Recommendation 10

Diversity and Community Relations Judges should have responsibility for organising contacts with institutions and the professions to promote a judicial career among those from under-represented groups.

Contextual paragraph from Advisory Panel report:

(Para. 57) - Diversity and Community Relations Judges (DCRJ) act as a bridge between the judiciary and the community so that the public gains a better understanding of the justice system and the role of the judge.

Organisation taking forward: Judiciary

Action completed to date:

Diversity and Community Relations Judges (DCRJ) continue to lead on engaging with schools and colleges within their local community. This work is voluntary and undertaken out of court hours, with some support from the Judicial Office. One judge has linked with a local university which has a high representation of students from groups under-represented in the judiciary. The judge discusses with them the case they observed, sometimes adjudicates on a mock trial, and invites interested students to return to marshal a judge. Some DCRJ have volunteered to mentor students from low income backgrounds as part of the Social Mobility Foundation programme. Judicial Office piloted an outreach event in Birmingham aimed at women lawyers from all three professions, to encourage them to consider a judicial career. Judges from several levels of the judiciary comprised the panel and spoke about their experience of becoming and being a judge.

Future actions planned:

The role of DCRJ will be extended to the District Bench (in both county and magistrates' courts). It is envisaged that this will lead to more work in different sections of the community as District Judges may have different links with the local community and become aware earlier of community issues because of their earlier involvement in cases. The emphasis of their work will be on further engagement with local educational institutions and the legal professions, with a view to making them aware that a career as a judge is open to individuals of all backgrounds.

The seminar for women lawyers organised by Judicial Office was very successful and further, similar events are planned for the future.

Forecast completion date: Ongoing

Recommendation 11

Judges' Marshalls and judicial assistant's schemes should be extended, openly promoted, transparent as to process, targeted at under-represented groups, supportive of the work of the courts, and properly evaluated.

Contextual paragraph from Advisory Panel report:

(Para. 59) - The DJO has contacted the Council of the Inns of Court¹⁰ on developing the Inns' marshalling schemes and, in particular, thinking about how the scheme could be targeted at groups under-represented in the judiciary. The Panel would like to see this scheme extended to other branches of the legal profession.

Organisation taking forward: Judiciary and UK Supreme Court

Action completed to date:

Judiciary: Work is being undertaken with the Bar Council and Council of Inns of Court to discuss how the marshalling scheme could be extended and targeted. The Judicial Assistants scheme for the High Court has already commenced. As a result of lessons learned from the pilot of that scheme, a new, wider scheme is being developed. Judges are making links with universities, particularly new universities where the demographic of students is more diverse, and encouraging them to visit courts and to shadow the judges if they wish to do so.

UK Supreme Court: To promote the UK Supreme Court Judicial Assistants scheme, a Justice, together with a couple of recent Judicial Assistants, has undertaken two events. This has been in participation with universities, to promote and to improve the awareness of the scheme together with the benefits that it can provide, to law students. Other Justices also promote the Judicial Assistants scheme in talks they give to students and others. The UKSC Judicial Assistants scheme is advertised widely across all of the UK jurisdictions and on the Careers section of the Supreme Court website.¹¹

Future actions planned:

Judiciary: The extended marshalling scheme will be implemented, and evaluated 12 months after commencement. The new Judicial Assistants scheme will be evaluated to assess the scheme's effectiveness in supporting the development and assisting the progress of participants.

UK Supreme Court: Following a successful pilot last year, the UK Supreme Court intends to develop their partnership with the National Centre for Citizenship and Law (NCCL)¹² to offer schools the opportunity to spend a day at the court discussing and debating recent cases, learning about the concepts of advocacy, common law and the Rule of Law. It is intended that Judicial Assistants will be helping with the debates where they can.

Forecast completion date: Ongoing

¹⁰ <http://www.barcouncil.org.uk/about/otherorganisations/counciloftheinnsofcourtcoic>

¹¹ <http://www.supremecourt.gov.uk/index.html> ¹² <http://www.nccl.org.uk>

Recommendation 12

The Panel recommends that the Bar Council, the Law Society and ILEX set out a detailed and timetabled programme of change to improve the diversity profile of members of the professions who are suitable for appointment at all levels. They should bring this plan to the Judicial Diversity Taskforce within 12 months of the publication of this report. This plan should include information on how progress will be monitored.

Contextual paragraph from Advisory Panel report:

(Para. 63) - Diversity in the judiciary must start with diversity in the legal profession. There will only be the potential for diverse appointments if the legal profession can attract and retain gifted men and women from all backgrounds up to the stage when they are ready and suitable for judicial appointment.

Organisation taking forward: Legal Professions

Actions taken and planned:

ILEX, the Bar Council and the Law Society are all committed to developing an action plan under the following topic heads: (1) Schools/university outreach; (2) Judicial information outreach to practitioners; (3) Promotion of good equality and diversity practice across the profession, and (4) Changing the culture. Many of the Professions programmes to increase diversity on entry to the profession and to raise awareness of opportunities in the judiciary are long term commitments. The Professions have reservations about the ability to achieve increased diversity in the pool for judicial appointments within precise timescales in the current economic climate, the reductions to legal aid funding, major structural changes to the profession and reliance on firms, chambers and new entities to make progress. The Professions are also supporting organisations reviewing their equality and diversity work to assess what more could be done in relation to judicial appointments, and develop careers programmes to encourage diversity in those who are embarking upon a legal career. They feel it is important to reach those who are embarking upon legal education and a career if they are to bring about a more diverse judiciary. ILEX encourages Government and all stakeholders in the education sector to continue to monitor the diversity and socio-economic backgrounds of those embarking on legal education and a subsequent legal career. The Bar Council has added to its diversity monitoring questions to measure the socio economic backgrounds of students entering the Bar Professional Training Course and pupillage.

Forecast completion date: Ongoing

Recommendation 13

The legal professions and the judiciary should put in place systems for supporting suitable and talented candidates from under-represented groups to apply for judicial appointment.

Contextual paragraph from Advisory Panel report:

(Para. 71) - The professions and the judiciary should actively encourage gifted suitable candidates to apply for judicial office and for promotion.

Organisation taking forward: Judiciary and Legal Professions

Actions completed and future actions planned:

Judiciary: The former lead Diversity and Community Relations Judges (DCRJ) worked closely with the Law Society to create videos providing practical tips and advice on role plays and interviews for the judicial appointment process. Judges have arranged a first 'women only' seminar, giving women the chance to put questions in a small group to a panel of women judges. A judge was a leading speaker at an event put on by the Law Society for Black History Month. The Judicial Office gives support to ILEX by attending conferences and encouraging Fellows of ILEX to apply for work shadowing and for judicial office.

ILEX continues to reach out to its eligible Fellows from all backgrounds through the monthly Journal magazine and from regional Road shows (September 2010), including one in Birmingham aimed specifically at women candidates (October 2010). The ILEX web pages on judicial appointments¹³ provide guidance and support to all members with links to the respective judicial bodies i.e. JAC for further guidance and advice. They have co-funded the print of a recent JAC book and alongside making copies available to their Fellows, are in the process of distributing additional copies to a range of other diverse organisations.

The Bar Council has appointed Circuit Diversity Mentors¹⁴ whose primary task is to encourage greater diversity in applications for judicial appointment. They organise judicial diversity outreach events, particularly linked to competitions, but also aim to encourage diverse groups to develop their careers with a judicial appointment in mind. They also provide mentoring support to those in chambers where there is little experience of judicial appointment. In 2011, they will review and help to extend the mentoring support offered by Diversity Mentors, by other Bar groups and by members of chambers to more junior members. Regular outreach events are organised by the Bar Council to de-mystify and explain the judicial appointments process and further information is on the Bar Council website.

¹³ http://www.ilex.org.uk/membership/be_a_judge.aspx

¹⁴ <http://www.barcouncil.org.uk/news/JudicialAppointmentsandSilk>

ILEX, the Bar Council and the Law Society are members of the Minority Lawyers' Conference organising committee and every conference has workshops dedicated to encouraging applications for judicial appointment. The first Legal Executive Judge was a panel member at one such workshop in April 2011.

ILEX, the Bar Council and the Law Society have all taken part in the process of equality proofing all JAC selection exercises to ensure that they do not inadvertently unfairly exclude any candidates.

The Law Society continues to work closely with the JAC to encourage wider participation in selection exercises. The information events held around the country are very popular and the online resources for candidates are well-used, especially the videos looking at the role play exercise.

Forecast completion date: Ongoing

Recommendation 14

The Judicial Diversity Taskforce should promote the availability of bursaries for people from under-represented groups to undertake Developing Judicial Skills courses.

Contextual paragraph from Advisory Panel report:

(Para. 71) - The professions and the judiciary should actively encourage gifted suitable candidates to apply for judicial office and for promotion.

Organisation taking forward: Ministry of Justice

Action completed to date:

This Recommendation is related to Recommendation 16, a Developing Judicial Skills course approved by the Judicial Studies Board.

Future actions planned:

Work on the bursaries for the Developing Judicial Skills course will be considered in light of developments in relation to such courses.

Additionally, it has been noted that University College London will commence its new course (Understanding Judging: Roles, Skills and Challenges)¹⁵ in September 2011, where 25% of all places will be funded by bursaries.

Forecast completion date: September 2012 - Meet with UCL Judicial Institute to discuss lessons from first year

¹⁵ <https://www.ucl.ac.uk/laws/judicial-institute/events.html>

Recommendation 15

The Judiciary should expand the judicial job shadowing scheme.

Contextual paragraph from Advisory Panel report:

(Para. 79) - The scheme needs to be extended, promoted more consistently and targeted more specifically at under-represented groups who may not have had the exposure to court based work of other potential applicants. It will also need to be evaluated.

Organisation taking forward: Judiciary

Action completed to date:

Judicial Office, in consultation with Tribunals Judicial Office, is working on expanding the Judicial Work Shadowing Scheme and simplifying the process of application. The scheme is particularly successful in targeting under-represented groups.

In 2010, of the 600 applicants applying for judicial work shadowing, 76% were solicitors, 6% fellows of ILEX, 59% were female, 30% were BAME and 4% declared a disability.

Future actions planned:

An electronic application process for the judicial work shadowing scheme will be introduced during 2011. This will improve the efficiency of the process for applying for shadowing, which will form the foundation for expanding the scheme further. The Judicial Office continues to look for ways to expand the scheme, by looking for new areas for shadowing.

Evaluation of the expanded scheme and simplified process will be undertaken after the electronic scheme has been implemented.

Forecast completion date: June 2012 - Evaluation of electronic scheme

Recommendation 16

Developing Judicial Skills courses approved by the Judicial Studies Board should be developed to help aspiring judicial candidates understand and develop the skills they need for judicial appointment.

Contextual paragraph from Advisory Panel report:

(Para. 81) - We recommend that a course in Developing Judicial Skills be developed. Such a course would combine practical sessions focused on the key skills required in being an effective judge along with a period of sitting in with an experienced judge.

Organisation taking forward: Judiciary

Action completed to date:

The Judicial Studies Board (JSB) Executive Board, as it then was, gave careful consideration to this recommendation. It concluded that:

- a) Given constraints on public expenditure; such work could only be taken forward by displacing activity on core judicial training.
- b) Even if there were to be a charge for use of JSB developed training, the revenue would be uncertain and there would be up front costs including judicial and staff time.
- c) There is no firm evidence that pre-appointment training will definitely have a positive impact on the diversity of the judiciary proportionate to the investment and diversion from its core purpose which would be required.

Future actions planned:

University College London has set up a Judicial Institute¹⁶ and has established a course for practitioners to assist them in understanding the judicial role. The first course on "Understanding Judging" takes place in 2011. The Judicial College (formerly JSB) will monitor the outcome of this training before deciding what involvement the Judicial College would have in pre-appointment training in the future.

The Judicial College would consider the suitability for approval of any courses submitted to it, mindful of the risk of judicial endorsement being presented in a commercial environment as offering some sort of guarantee of either entry to the selection process or eventual success.

Forecast completion date: September 2012 - Meet with UCL Judicial Institute to discuss lessons from first year

¹⁶ <https://www.ucl.ac.uk/laws/judicial-institute/events.html>

Recommendation 17

- a) Law firms should regard part time judicial service as positive for their practices and should encourage part-time service as proposed by the Solicitors in Judicial Office Working Group.
- b) A simplified payment regime should be introduced for solicitor fee-paid judges.

Contextual paragraph from Advisory Panel report:

(Para. 85) - Solicitors and Legal Executives have not viewed applying for judicial office as the natural extension of a legal career in the same way as barristers. Firms have not always encouraged a judicial career or supported those applying for fee paid judicial office...The answer to this problem lies as much with law firms as with the JAC and the criteria for appointment.

Organisation taking forward: a) Legal Professions, b) Ministry of Justice

Action completed to date:

- a) The Law Society notes that this is a long-term ambition that will need a degree of cultural change. Dialogue with the profession has begun.
 - b) The Ministry of Justice – The recommendation has been considered in conjunction with other recommendations of a similar nature, and work has commenced to develop a factsheet to provide additional information.
-

Future actions planned:

- a) Continued discussion with the profession to identify ways to engender cultural change. The Law Society will arrange to meet with the Solicitors in Judicial Office Working Group in May 2011 to review existing initiatives and discuss innovative ways of encouraging firms to view judicial appointments in a positive light.
 - b) A factsheet will be produced on judicial appointments and Terms & Conditions, which will include specific information on tax issues which affect all fee-paid judges to promote awareness (see also recommendation 53). This factsheet will also explain to fee-paid judges that fees due while sitting as a judicial office can be paid into the practice account rather than an individual's personal account.
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Forecast completion date:

- a) Ongoing discussions & May 2011 – meeting with Solicitors in Judicial Office Working Group
 - b) December 2011 – evaluate effectiveness new factsheet
-

Recommendation 18

Employed lawyers in the public sector with the relevant skills should be encouraged to apply for fee paid roles in jurisdictions where it is less likely that an actual or perceived conflict of interest will arise. They should also be encouraged to consider other opportunities to develop their skills, such as Developing Judicial Skills courses. The Panel looks to professional bodies to play their part in encouraging employers to permit this development.

Contextual paragraph from Advisory Panel report:

(Para. 92) - Such part time roles should be encouraged and permitted, not only in the GLS and CPS but also by those lawyers employed in Local Authorities, and as legal academics. The professional bodies should work with their employed lawyer groups to promote part time judicial service, including as a magistrate, and take up of the Developing Judicial Skills courses available.

Organisation taking forward: Legal Professions

Actions completed and future actions planned:

The Bar Council's Employed Barrister Committee supports its members in seeking judicial appointment. In May 2010 it organised a judicial appointment event with the JAC and later in the year included judicial appointment information for those attending the Employed Bar Conference. The Employed Bar Committee will continue to promote judicial opportunities to the Employed Bar.

The Law Society is continuing its work encouraging employers to see the positive benefits of their staff taking up judicial appointments. They will work with some of the employed solicitor organisations in 2011 who have shown an interest in this area, and also look forward to working with the Solicitors in Judicial Office Working Group.

The Ministry of Justice continues to engage with the GLS through focussed outreach events together with meetings to discuss specific issues. Representatives from the MoJ recently attended a Law in Government lecture arranged via the GLS, entitled 'Life in the Judiciary' to provide background information to those interested in becoming a judge.

Forecast completion date: Ongoing

Recommendation 19

The terms and conditions for all employed lawyers should permit a part time judicial role.

Contextual paragraph from Advisory Panel report:

(Para. 90) - In the past, Serious Fraud Office (SFO), other Government Legal Services lawyers and CPS lawyers were eligible to apply for appointments only in jurisdictions where the State was not habitually a party. In June 2003 the Attorney General and Lord Chancellor announced a revised policy meaning that:

- CPS and SFO lawyers are eligible to sit in tribunals where the Government is a party.
- CPS, SFO and GLS lawyers are eligible to sit as Recorders in civil work, except in civil matters that involve their own Department.
- CPS and SFO lawyers are eligible to sit on criminal matters as Deputy District Judges in cases not involving their own department.

Organisation taking forward: Legal Professions

Actions completed and future actions planned:

The Bar Council and the Law Society note that this will require a cultural, as well as, operational change, and that this is a long-term ambition. Dialogue with the professional bodies representing employed lawyers has begun.

The Ministry of Justice - Government lawyers are currently eligible to sit as Deputy District Judges in the Magistrates' Court, as civil recorders, and as fee-paid Tribunals judges, except in matters which involve their own Department.

Forecast completion date: Ongoing

The selection and recommendation process for judicial appointments

Recommendation 20

The JAC's merit criterion 3, "an ability to understand and deal fairly", should be replaced.

Contextual paragraph from Advisory Panel report:

(Para. 97) - There is no incompatibility between the intention to increase judicial diversity and selection on merit: talent is not concentrated in people from one particular gender, ethnic or other background. So fishing for talent in wider pools increases the chances of landing more talented people as long as the definition of merit supports the appointment of the most talented applicants from a wide range of backgrounds.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC launched a consultation¹⁷ on changing the merit criterion, on the basis of the ideas in the Report.

Future actions planned:

The consultation ended on 21 April, the JAC will publish a response in July and make any changes at that time.

Forecast completion date: July 2011 - result of consultation

¹⁷ http://www.judicialappointments.gov.uk/static/documents/JAC_merit_criterion_consultation_Feb_11.pdf

Recommendation 21

The JAC should make use of the Equality Bill positive action provisions where the merits of candidates are essentially indistinguishable.

Contextual paragraph from Advisory Panel report:

(Para. 99) – We (the Advisory Panel) welcome the positive action provisions for recruitment or promotion in the Bill whereby possession of a protected characteristic can tip the balance in favour of that candidate where two or more applicants are essentially indistinguishable.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC has considered the Equality Act and its accompanying guidance.

Future actions planned:

The JAC will always select on merit and has to date been able to distinguish between the relevant merits of different candidates based on a careful assessment of an applicant's entire profile and background. The JAC therefore does not anticipate that this provision of the Equality Act¹⁸ will be relevant in practice.

Forecast completion date: May 2011 - Review Equality Act Guidance

¹⁸ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Recommendation 22

All non-statutory¹⁹ criteria must be justified.

Contextual paragraph from Advisory Panel report:

(Para. 101 & 102) - The JAC and others have expressed concern ... that the use of non-statutory criteria restricts the eligible pool, limiting the possibility of candidates from non-traditional backgrounds being appointed.

Organisation taking forward: Ministry of Justice

Action completed to date:

Whilst this recommendation is in accordance with the current policy, concerns that the use of non-statutory criteria limits the pool of possible candidates are noted.

Where a request for the inclusion of non-statutory criteria is received from a business area, i.e. HM Courts & Tribunals Service (formerly the Tribunals Service and Her Majesty's Court Service) such a request is always reviewed.

This establishes whether non-statutory criteria are a critical requirement in selecting the post holder, and the potential impact of the criteria on reducing the pool of candidates. This work is undertaken by Delivery Teams, with representation from the Ministry of Justice, the Judicial Appointments Commission and the business area, for each campaign.

Future actions planned:

Delivery Team meetings will continue to consider, and where necessary challenge, non-statutory criteria.

The effectiveness of the Delivery Team process will be monitored and evaluated.

Forecast completion date:

December 2011 - evaluate effectiveness of Delivery team process

¹⁹ Non-statutory criteria are additional requirements for a judicial office specified by the Lord Chancellor, following consultation with the Judiciary, for particular posts.

Recommendation 23

Those applying for salaried judicial posts should normally be expected to have previous judicial experience. There should be provision for exceptional cases where candidates have demonstrated the necessary skills in some other significant way.

Contextual paragraph from Advisory Panel report:

(Para. 106) - There should be a continued expectation that candidates will usually have had some form of judicial experience, preferably fee paid. Such service acts as a necessary probationary period.

Organisation taking forward: Ministry of Justice

Action completed to date:

Following the publication of the Advisory Panel's Report the wording of the Lord Chancellor's policy in this area has been changed to make it clearer that there continues to be an expectation, that those applying for salaried judicial posts should normally be expected to have previous experience. There remains provision to consider candidates who lack previous judicial experience in exceptional cases.

Following the conclusion of a Judicial Appointments Commission's selection exercise, a post selection process managed by the Ministry of Justice provides a further opportunity for the application of the Lord Chancellor's policy to be assessed. Recommendations to the Lord Chancellor following a selection exercise will draw attention to exceptions that have been made and the reasons for them.

Future actions planned:

The solutions outlined for this recommendation are working well, and work is ongoing. The effectiveness of the revised wording will be monitored and evaluated.

Forecast completion date:

December 2011 - evaluate effectiveness of revised wording

Recommendation 24

In those rare cases where candidates have no previous judicial experience they must be tested for suitability for appointment in the same way as those applying for fee-paid office.

Contextual paragraph from Advisory Panel report:

(Para. 107, 4th bullet) – Those applying for salaried office who have no previous judicial experience must be tested in the same way as those applying for fee-paid office. At present the selection process for fee paid judicial posts includes a role play exercise to test a candidate in the sort of situations they may encounter as a judge. The process for salaried appointments does not include this test on the assumption that candidates will have been tested when they apply for fee paid appointments. This could mean that candidates without judicial experience are not tested in what is seen as a key element of the selection process.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

Preparing a role play for all candidates without previous judicial experience has been costed and is currently prohibitively expensive. However, the JAC's current review of processes includes a stream to make selection processes more flexible and responsive to the needs of an individual exercise.

Future actions planned:

While resources remain unavailable to extend a role play to all exercises, the JAC will try to achieve the aims of this recommendation by developing situation interviewing, to serve some of the functions of a role play.

Forecast completion date:

September 2011 - evaluate effectiveness of situation training

Recommendation 25

The qualifying test should be put online.

Contextual paragraph from Advisory Panel report:

(Para. 114) – ...the introduction of an online test. This would allow:

- i) potential applicants to complete the first stage of the process more confidentially,
- ii) feedback to unsuccessful candidates on their test performance to be given automatically (e.g. in which quartile their test results fall),
- iii) the development of more effective self-assessment, so that candidates apply only when they are ready.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

Plans were in place to implement this recommendation which had to be suspended due to resource constraints.

Future actions planned:

This is a priority for the JAC and it hopes to move to online testing as soon as possible. The JAC is currently working on ways to do that and is optimistic that it can be achieved.

Forecast completion date:

April 2012 - Review supporting business case

Recommendation 26

The qualifying test should be reviewed to ensure it is acting as an effective sift process.

Contextual paragraph from Advisory Panel report:

(Para. 111) - An anonymous test is a transparent means of undertaking a first sift where there are very large numbers of applicants. The key issue is getting the right test.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The Qualifying Test²⁰ is routinely reviewed upon completion of all relevant selection exercises, through the production of closedown reports and subsequent review by the JAC's Quality Assurance Working Group, to make sure a Qualifying Test is working as a short-listing tool in general, and that each individual test has worked well. In addition, a review of all JAC processes, including the Qualifying Test, is now underway.

Future actions planned:

Further evaluation will be undertaken considering alternative methods of short-listing and more flexible use of the qualifying test. Options will be discussed with business partners.

Forecast completion date:

April 2012 - Options analysis completed

²⁰ <http://jac.judiciary.gov.uk/selection-process/19.htm>

Recommendation 27

All candidates for judicial appointment should have access to feedback, including on their performance in the qualifying test.

Contextual paragraph from Advisory Panel report:

(Para. 116) - Feedback can be very important for unsuccessful applicants, particularly those from under-represented groups who have responded to the JAC's outreach events encouraging them to apply, or who have been persuaded to apply by their peers.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

Candidates who attend a selection day receive personal feedback written by the panel chair, on request.

A detailed costs analysis of the possible options available to provide feedback to the large number of candidates at the short listing stage was undertaken. Personal feedback that was meaningful to candidates was too costly. The JAC therefore considered how to provide meaningful feedback in a more cost effective way and started to publish a qualifying test feedback report alongside the test papers on the JAC website.

Future actions planned:

Evaluation of this approach has determined that it has been widely welcomed and has resulted in no complaints being received, concerning lack of feedback, over the last 6 months. Ongoing monitoring and evaluation of this approach will continue over the next 2 years. A similar feedback report to be produced after participation in a paper sift, is now being considered.

Forecast completion date:

December 2011 - evaluation of feedback process

April 2012 - Options analysis for paper sift feedback process

Recommendation 28

The JAC should capture its statistical data in a way that would allow the monitoring of the number of people who chose to re-apply following a previous unsuccessful application.

Contextual paragraph from Advisory Panel report:

(Para. 117) - We (*the Advisory Panel*) have been told by groups representing women and practitioners from BAME backgrounds that unsuccessful applicants with significant judicial potential may currently be deterred from re-applying.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC already collects its data in this way.

Future actions planned:

None, as the recommendation has been implemented.

Forecast completion date: Closed

Recommendation 29

Candidates should not be asked for references until after they have been notified that they have completed the qualifying test successfully.

Contextual paragraph from Advisory Panel report:

(Para. 118) - Under the current system, applicants are required to identify referees at the earliest stage in the application process... This requirement may deter some applicants from applying.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

At present candidates provide referee contact details on applications, but need not inform referees they would like a reference until after they know they have been successful at the qualifying test used for short listing.

Future actions planned:

The JAC will pilot a process for candidates to obtain references themselves, once they know that they have been successful at the short listing stage. If that proves effective, the JAC will consider the option for candidates of informing the JAC of the names of their referees after the qualifying test (subject to the impact on cost and selection exercise length).

Forecast completion date: October 2011 - Evaluation

Recommendation 30

Clear guidance should be given to candidates and referees that references must be evidence based and relate to the skills being tested.

Contextual paragraph from Advisory Panel report:

(Para. 119) - The quality of references remains variable. Determined measures need to be taken to improve the quality of references so that decisions are made on the basis of evidence of the candidate's skills and suitability for judicial office.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC always provides clear guidance²¹. It also undertakes regular analysis of references and the supporting processes. This ensures that lessons learnt from all exercises are incorporated on a regular basis into the guidance.

In response to this recommendation a separate review was commissioned.

The JAC held a workshop in January with other members of the JAC family to explore the scope for improving references.

Future actions planned:

The result of this review will enable improved guidance to be provided for referees. The JAC will work with the Judicial College to enhance guidance for judicial referees.

Work is jointly underway with the Judiciary and HM Courts and Tribunals Service (HMCTS) to consider using appraisals as part of the reference process.

A number of initial ideas generated at the January workshop will be explored to assist improvement in judicial references.

Forecast completion date: April 2012 - Evaluation

²¹ <http://jac.judiciary.gov.uk/selection-process/126.htm>

Recommendation 31

The JAC must assemble diverse selection panels. There should always be a gender and, wherever possible, an ethnic mix.

Contextual paragraph from Advisory Panel report:

(Para. 122) - The success of any recruitment exercise depends heavily on the composition and quality of selection panels. It is important that JAC selection panels demonstrate the highest levels of professionalism and are themselves diverse.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

Analysis was undertaken of recent Panel membership and it identified that Panels often contain a gender and sometimes contain an ethnic mix.

Future actions planned:

Achieving a gender and ethnic mix will be a priority as the JAC recruits a new cadre of panellists, without recourse to positive discrimination in recruitment or allocation of work.

Forecast completion date: Ongoing - Assess new panellists April 2012

Recommendation 32

Panel chairs and members must receive regular equality and diversity training that addresses how to identify and value properly transferable skills and also to ensure that they are aware of any potential issues regarding their unconscious bias.

Contextual paragraph from Advisory Panel report:

(Para. 122) - They should be skilful in identifying ability and potential among a diverse pool of candidates and be able to value properly transferable but unusual skills-sets and career histories. Panel members should understand the demands of the judicial role and variety of skills required.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC undertake regular reviews of the equality and diversity training provided to Panel members. This ensures that lessons learnt from all exercises are incorporated on a regular basis into the guidance. Needs are identified through the systems of monitoring and evaluation.

All Panellists receive equality and diversity training as part of the training that is delivered before each exercise and continual training through newsletters, appraisals, etc. This reflects best practice in the provision of diversity training.

Future actions planned:

As part of its regular reviews of training provided to Panel members, the JAC will ensure the comments made by the Advisory Panel, are reflected in all training and briefing events provided for Panel members.

The JAC is also considering the training and support needed for any new cadre of panellists.

Forecast completion date: In place and ongoing

Recommendation 33

All JAC selection panel chairs and members should be regularly appraised and membership periodically refreshed. Poorly performing panel members should be removed.

Contextual paragraph from Advisory Panel report:

(Para. 123) - The selection, training and appraisal of members of selection panels should be directed toward achieving these objectives.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

An analysis of the likely options was produced to identify the best approach for delivering this recommendation. A new appraisal process for JAC Panel Chairs and Independent Members was implemented in 2010. All panellists are appraised yearly, training is given where necessary, and poor performers do not have their annual contract renewed.

Future actions planned:

The new appraisal system will be evaluated and refined as necessary.

Forecast completion date: April 2012 - Evaluation

Recommendation 34

There should be a stable pool of high quality, appropriately trained judges available, who have the clear responsibility for sitting on selection panels. This pool should be regularly refreshed.

Contextual paragraph from Advisory Panel report:

(Para. 124) - It is extremely important that the judicial members of selection panels are appropriately trained... Few are used more than once because of the pressure of sitting requirements and it has not been the practice for judicial members to receive thorough or timely training for selection processes.

Organisation taking forward: Judiciary

Action completed to date:

Judges are trained in their duties as Panel members by JAC, as are all Selection Panel members. The participating judges regularly change.

All judicial members receive training alongside panel members on the selection process including the opportunity to practise an interview and receive feedback ahead of starting the formal selection days.

Future actions planned:

Discussions with the JAC are taking place, aiming to achieve a stable pool of judges with responsibility for sitting on selection panels. This must be balanced with the competing demands on judicial time – particularly in the current climate.

The JAC provides training for all judicial (and non-judicial) panel members on each selection exercise. The make up of JAC panels is being reviewed, including the use of judicial members. The JAC will work with the Judicial Office on any changes.

Forecast completion date: Ongoing

Recommendation 35

Fee paid judges should not normally be appointed for more than 3 renewable terms.

Contextual paragraph from Advisory Panel report:

(Para. 129) - To ensure that such fee paid opportunities are made more widely available, and that the pool of fee paid judiciary is regularly refreshed, we recommend that fee paid judges should not be able to stay in post until the statutory retirement age, but should ordinarily be appointable for a maximum of three renewable terms.

Organisation taking forward: Ministry of Justice

Action completed to date:

This issue has previously been explored in some detail, and was ultimately rejected following consultation²², but we are now looking at the issue afresh.

Future actions planned:

The Ministry of Justice will be considering any change to this policy in the context of wider judicial policy.

The Ministry of Justice is committed to consult on any of the recommendations which will require legislation to enable implementation, once a suitable legislative vehicle has been identified.

Forecast completion date: (Subject to available legislation, if required) Review December 2011

²² The result from the most recent consultation, issued in 2005 by the Department for Constitutional Affairs, can be found at Focusing Judicial Resources Appropriately http://webarchive.nationalarchives.gov.uk/+http://www.dca.gov.uk/consult/focus/focus_cp2505.htm

Recommendation 36

There should be a staged period of induction where the appointed person has little or no experience of sitting judicially or of the relevant jurisdiction.

Contextual paragraph from Advisory Panel report:

(Para. 130) - Where talented appointees have demonstrated judicial potential but are unfamiliar with the relevant jurisdiction or have had little or no experience of sitting in a judicial capacity we believe that a strengthened induction programme would provide the training and support necessary.

Organisation taking forward: Judiciary

Action completed to date:

Induction training is provided for newly appointed fee paid judges and if they are to sit in a jurisdiction in which they have little or no experience (as a lawyer), they will receive additional training.

Where appointments are made direct to salaried posts and the individuals have no experience of sitting at all, the Judicial College (formerly the JSB) has to date provided tailored training following such appointments and those involved are supported through mentoring.

Future actions planned:

No further action is planned.

Forecast completion date: Completed

Recommendation 37

The Judicial Diversity Taskforce should lead an immediate review of the current forecasting mechanism.

Contextual paragraph from Advisory Panel report:

(Para. 136) - Consultees among the judiciary, the JAC, HMCS and the Tribunal Service all expressed dissatisfaction with the current process for forecasting and planning for competitions to fill expected vacancies.

Organisation taking forward: Ministry of Justice

Action completed to date:

A Ministry of Justice review of the current forecasting mechanism has been completed following forecasting reviews held by Her Majesty's Court Service (HMCS) and the Tribunals Service (TS) earlier in 2010.

Future actions planned:

A review of the forecasting mechanism needed to support the business will be undertaken in early 2012, following the creation of HM Courts & Tribunals Service in April 2011.

Forecast completion date: April 2012 - Evaluation

Recommendation 38

Judges should be required to give notice of their anticipated retirement date.

Contextual paragraph from Advisory Panel report:

(Para. 136) - The planning issue could also be assisted by more certainty over when judges planned to retire.

Organisation taking forward: Ministry of Justice

Action completed to date:

The majority of judges provide notice of their retirement date (as requested in their Terms and Conditions).

Future actions planned:

No immediate action planned, but this issue is to be considered in connection with recommendation 37 (review of current forecasting mechanism).

Forecast completion date: September 2011 - Review

Recommendation 39

The JAC should operate smaller, more regular selection exercises to aid career planning, with an annual competition for the main tiers of the judiciary wherever possible.

Contextual paragraph from Advisory Panel report:

(Para. 136) - In particular it was felt that smaller, more regular competitions would aid career planning. This would reduce the need for people to make applications for vacancies far from home or when they were not yet ready.

Organisation taking forward: Ministry of Justice

Action completed to date:

There remains a need to ensure any selection exercises run by the Judicial Appointments Commission reflect business need.

Revised forecasting mechanisms now allow the JAC to publicise expected recruitment campaigns up to 12 weeks in advance.

Initial discussions on this issue have begun as part of the Delivery Team process (described in Recommendation 22).

Future actions planned:

The recommendation will be re-visited once the appointment forecast in 2011 has been received.

Forecast completion date: July 2011 - Review

Recommendation 40

The JAC should review the moderation process to ensure that the methods used during large selection exercises can identify effectively and value properly the diversity of talent available.

Contextual paragraph from Advisory Panel report:

(Para. 137) - It is important that the conduct of moderation supports the objective of effectively identifying judicial potential and valuing talent and experience from diverse backgrounds.

Organisation taking forward: Judicial Appointments Commission

Action completed to date:

The JAC undertakes regular analysis of the moderation process, for example in Closedown Reports after each exercise and the Commission's Quarterly Review. This ensures that lessons learnt from all exercises are incorporated on a regular basis into the guidance. This is reflected in all Panel training and briefing events.

Future actions planned:

Full quality assurance will continue to be applied and refinements made on an ongoing basis.

Forecast completion date: In place and ongoing

Recommendation 41

The selection process for vacancies in the most senior courts should be open and transparent, with decisions made on an evidence base provided by the applicant and their referees in response to published criteria. No judge should be directly involved in the selection of his/her successor and there should always be a gender and, wherever possible, an ethnic mix on the selection panel.

Contextual paragraph from Advisory Panel report:

(Para. 138) - Appointments at the highest level of the court system are of particular importance in signalling that a judicial career is truly open to all. It is therefore essential that processes are not only fair but are seen to be open and fair.

(Para. 139) –The current processes for both the Court of Appeal and the Supreme Court require the significant involvement of the serving judiciary. Given the concern expressed to the Panel that selection panels may subconsciously recruit in their own image, this involvement runs the risk that the process is perceived, rightly or wrongly, as unfair. In particular we believe it is unacceptable for a judge to be directly involved in the selection of his or her successor.

Organisation taking forward: Judiciary

Action completed to date:

The selection and recommendation of candidates for appointment to the High Court are made by the JAC and subject to the relevant safeguards and processes. One such competition has been held since the publication of the Advisory Panel on Judicial Diversity report: the process was in line with this recommendation in all respects.

Future actions planned:

No action is planned at this stage for the High Court. (See Recommendation 42 & 43 for UKSC and Court of Appeal)

Forecast completion date: Completed

Recommendation 42

The selection process for Court of Appeal appointments should be reviewed, with the implementation of a five person panel so there is no need for a casting vote provision.

Contextual paragraph from Advisory Panel report:

(Para. 140) - In Court of Appeal appointments the Lord Chief Justice has the casting vote if a selection panel comes to a tied result. Although the casting vote provision has never been used, we doubt this is a sustainable position and think an alternative approach with a five person panel should be considered.

Organisation taking forward: Ministry of Justice

Action completed to date:

The review of the end-to-end process for judicial appointments has looked at the composition of selection panels for senior judiciary appointments, including Court of Appeal appointments. The Lord Chancellor has written to the Lords Constitution Committee, suggesting that the principles governing the composition of selection panels should be reconsidered and consulted on when a suitable legislative vehicle becomes available.

Future actions planned:

Appointments to the Court of Appeal are covered by the Constitutional Reform Act 2005 and therefore any amendments to this process, if taken forward, would require a suitable legislative vehicle in order to enact these changes.

The Ministry of Justice is committed to consult on any of the recommendations which will require legislation to enable implementation, once a suitable legislative vehicle has been identified.

Forecast completion date: (Subject to available legislation) December 2011 - Review

Recommendation 43

The selection process to the Supreme Court for the United Kingdom should be reviewed to reduce the number of serving Justices involved and to ensure there is always a gender and, wherever possible, an ethnic mix on the selection panel. This review process should include consultation with the Lord Chief Justices of England & Wales and Northern Ireland and the Lord President of the Court of Session.

Contextual paragraph from Advisory Panel report:

(Para. 141) - In the Supreme Court, two members of the Court are involved in the selection process. Again we (The Advisory Panel) think this runs the risk of appointments being perceived to have been made on the basis of whether candidates will fit in rather than on whether they best meet the merit criteria.

Organisation taking forward: a) Ministry of Justice, b) UK Supreme Court

Action completed to date:

- a) The review of the end-to-end process for judicial appointments has looked at the composition of selection panels for senior judiciary appointments, including Supreme Court Justices. The Lord Chancellor has written to the Lords Constitution Committee, suggesting that the principles governing the composition of selection panels should be reconsidered and consulted on, when a suitable legislative vehicle becomes available.
 - b) The UK Supreme Court undertook its own review of the appointments procedures, upon completion of their most recent selection competitions and made a number of recommendations, which it will factor into future exercises where possible.
-

Future actions planned:

- a) The Ministry of Justice is committed to consult on any of the recommendations which will require legislation to enable implementation, once a suitable legislative vehicle has been identified.
 - b) As part of their approach, the UK Supreme Court will review their processes for appointments on a regular basis, in order to identify lessons that can be learnt for future exercises.
-

Forecast completion date: (Subject to available legislation) December 2011 - Review

Developing a judicial career

Recommendation 44

Clear career paths should be identified and published so that people understand the range of opportunities available within the judiciary. Such career paths should look across the courts and tribunals.

Contextual paragraph from Advisory Panel report:

(Para. 143 & 145) - The concept of a judicial career is key to achieving progress on a more diverse judiciary...This means identifying clearer career paths so that those considering joining the judiciary understand their options and know how they can develop the skills and experience required to progress from one section of the judiciary to another.

Organisation taking forward: Judiciary

Action completed to date:

Since the publication of the Advisory Panel on Judicial Diversity recommendations, the judicial internet site has been rebuilt, with new material on career paths and on becoming a judge. The material emphasises the importance of diversity. The Judicial Office was involved in the production of "Step up to a Judicial Career", a MoJ publication designed to provide similar information to prospective candidates. The judiciary works with colleges, schools, professional organisations and others to ensure that the widest possible audience is made aware of the breadth of opportunities within the judiciary.

In April 2011 HM Courts Service combined with the Tribunals Service. This will provide a foundation upon which the development of a unified approach to judicial training and career development can be developed and progressed.

Future actions planned:

The Judicial Office, JAC and MoJ will continue to work together to make use of suitable opportunities to publicise the opportunities available.

The suitability of material available is kept under review and is subject to updating.

Forecast completion date: Ongoing

Recommendation 45

There should be comprehensive mentoring for all new entrants to the judiciary. This should also be available to established judges who want it.

Contextual paragraph from Advisory Panel report:

(Para. 147) - Some judges new to fee-paid or salaried judicial office may also have access to a mentor to support them through their early period in office, although this is not as consistent as we would wish...An established mentoring scheme available for all would make asking for help and support, and receiving it, more "normal".

Organisation taking forward: Judiciary

Action completed to date:

Mentoring programmes are in place for deputy district judges (in both county and magistrates' courts)²³, recorders and district judges who have been appointed without previous fee-paid experience. There is also an informal mentoring scheme for new entrants in the High Court. The focus is on building confidence in handling judicial responsibilities through confidential advice, support and guidance.

Judges may retain mentors for up to two years after appointment. A pilot scheme was attempted in which district judges were mentored by circuit judges, to see whether this encouraged applications for promotion to the circuit bench, but this did not appear to offer the desired result.

Future actions planned:

No immediate further action is planned. Mentoring is now in place for new entrants, and the effectiveness of arrangements for mentoring are kept under review.

Forecast completion date: Completed

²³ <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-in-detail/judicial+roles>

Recommendation 46

An appraisal system owned and run by the judiciary should be implemented to cover all levels within the judiciary.

Contextual paragraph from Advisory Panel report:

(Para. 148) - Judicially led appraisal is key to enabling talented judges from diverse backgrounds to progress in their careers more effectively. Appraisal needs to address diversity specifically so that those with unusual career paths can access the development opportunities and advice they need to progress.

Organisation taking forward: Judiciary

Action completed to date:

Appraisal schemes already exist for all fee paid judges up to the level of District Judge²⁴ and in Tribunals. The schemes are intended to improve the judges' abilities, to give guidance as to training requirements, and to inform the selection process. The judiciary is currently considering how to design a scheme for the appraisal of recorders.

Future actions planned:

The arrangements for deputy district judges' appraisals are currently being reviewed to reduce paperwork and make documents easier to use and helpful in supporting selection for further judicial roles.

While previous pilot schemes for recorder appraisal were too expensive to implement without additional resources, consideration is being given to alternative approaches.

Forecast completion date: April 2012 - Recorder scheme options analysis

²⁴ <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-in-detail/judicial+roles>

Recommendation 47

Selection processes for opportunities for career advancement should be open and transparent and based on assessment of suitability against published criteria.

Contextual paragraph from Advisory Panel report:

(Para. 152) - For those in the judiciary who are interested not just in an initial appointment but in further advancement, there is a range of options available that might help them to develop their career.

- promotion – this will usually be by open competition;
- deployment under section 9(1) of the Senior Courts Act 1981;
- appointment to a particular representative/leadership role, and/or
- the award of a “ticket” to deal with specific types of work such as murder, attempted murder or serious sex offences.

Organisation taking forward: Judiciary

Action completed to date:

Processes used when considering granting or refusing authorisations for Criminal²⁵ or Family²⁶ jurisdictions are being reviewed.

Future actions planned:

Proposed implementation of single point of contact, together with criteria, for Criminal or Family jurisdictions.

Forecast completion date: Ongoing

²⁵ <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-in-detail/jurisdictions/criminal-jurisdiction>

²⁶ <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-in-detail/jurisdictions/family-jurisdiction>

Recommendation 48

The Judicial Studies Board should evolve into a Judicial College.

Contextual paragraph from Advisory Panel report:

(Para. 160) - The JSB's role is currently rightly focused on supporting the salaried judiciary in terms of their primary responsibilities in court. It could have a role in supporting wider judicial career development or supporting potential applicants for the judiciary, by helping them develop judicial skills. This would see the evolution of the JSB into a Judicial College, a role that the JSB has already started to shape.

Organisation taking forward: Judiciary

Action completed to date:

Training arrangements for judicial office holders who come under the leadership of the Lord Chief Justice and the Senior President Tribunals are being unified from April 2011. This means that the JSB will no longer exist. The new unified judicial training organisation will be called the Judicial College.

Future actions planned:

Options appraisal for further evolution of the Judicial College in the course of 2011/12.

Forecast completion date: December 2011 - Options Analysis

Judicial culture, terms and conditions

Recommendation 49

A pro-active and coherent campaign of mythbusting should be undertaken, led by the Judicial Diversity Taskforce. It should be persistent, targeted on talent and started early.

Contextual paragraph from Advisory Panel report:

(Para. 164) - One of the most striking factors to emerge from our consultation was the mismatch between how some groups perceive the judicial culture and the reality that applies in many areas. As identified earlier in this report, some talented individuals think that the judiciary is not for them, on the basis of some well established misconceptions.

Organisation taking forward: Ministry of Justice

Action completed to date:

The 'Step Up to a Judicial Career' information booklet was re-launched, offering information and case studies of the judiciary.

The Judicial Appointments Commission, the legal professions, Judicial Office and the Tribunals Service met to co-ordinate outreach activities.

Meetings have also taken place with the Legal Services Board to consider common aims arising from their 'Developing a workforce for a changing market'²⁷ initiative.

New ways of tackling myths by working with different organisations were identified.

Future actions planned:

Ongoing analysis to be undertaken to identify existing forums and media available, which would allow information to be disseminated to a wider audience.

Work with Skills for Justice to place information about judicial careers on their online career resource.

Ongoing work with Taskforce representatives to identify opportunities to pool resources in order to increase awareness through shared Outreach events. (See also Recommendations 9 and 13).

Forecast completion date: Ongoing

²⁷ http://www.legalservicesboard.org.uk/Projects/workforce_development/index.htm

Recommendation 50

All official material should be reviewed to ensure it does not assume a particular previous experience or background.

Contextual paragraph from Advisory Panel report:

(Para. 164) – One of the most striking factors to emerge from our consultation was the mismatch between how some groups perceive the judicial culture and the reality that applies in many areas...some talented individuals' think that the judiciary is not for them, on the basis of some well established misconceptions. These include:

- You need to be part of the "club"

(Para.167) – Some simple changes could help in this regard. In particular the language used can seem to assume a certain previous experience.

Organisation taking forward: Ministry of Justice

Action completed to date:

An audit was undertaken to identify the official material covered by this recommendation. Content has been reviewed, and where appropriate, has been re-phrased to ensure no previous experience or background knowledge is required.

Future actions planned:

Ongoing monitoring of all official material to ensure that the clarification is maintained.

Forecast completion date: Ongoing

Recommendation 51

It should be assumed that all posts are capable of being delivered through some form of flexible working arrangement, with exceptions needing to be justified.

Contextual paragraph from Advisory Panel report:

(Para. 176) - As in any profession, some posts will need to be filled by those working fulltime. However, the current restrictions on flexible working in the most senior courts should be tested. More flexible working could require an increase in the judicial establishment in terms of actual numbers, if not full time equivalents, which is set by statute.

Organisation taking forward: Ministry of Justice

Action completed to date:

This reflects the current position on posts below High Court Judge level. Changes for the High Court and above would require legislation, as the numbers of senior judiciary are defined in statute.

Future actions planned:

The Ministry of Justice is committed to consult on any of the recommendations which will require legislation to enable implementation, once a suitable legislative vehicle has been identified.

Forecast completion date: (Subject to available legislation) December 2011 - Review

Recommendation 52

Judicial terms and conditions should reflect the needs of a modern diverse judiciary.

Contextual paragraph from Advisory Panel report:

(Para. 177) – A key way of embedding diversity is to ensure that judicial terms and conditions of appointment reflect the needs of a modern diverse organisation.

Organisation taking forward: Ministry of Justice

Action completed to date:

Legislation, and 'best practice', is reflected in current terms and conditions.

The terms and conditions are regularly reviewed to ensure that they reflect current advice on flexible working and reasonable adjustments, etc, together with providing information on where judicial office holders can obtain additional information.

The current core terms and conditions of the judiciary have been reviewed and are fit for purpose. The Judicial Office is reviewing the way advice and guidance is provided to the judiciary e.g. the development of a handbook and dedicated points of contact.

Future actions planned:

Regular reviews of terms and conditions are undertaken and are evaluated in the context of business needs and wider judicial policy.

Evaluation will be undertaken to assess the awareness of what is contained within the Terms and Conditions, as well as their ability to support judicial office holders.

Forecast completion date: December 2011 - Evaluation

Recommendation 53

There should be no change to the current policy on return to practice but there should be more information made available to individuals about what the restriction on return to practice means.

Contextual paragraph from Advisory Panel report:

(Para. 182 & 183) - We have not identified any substantive evidence that such a change would increase diversity... Those applying for judicial office should, however, be aware that judicial office is a long-term commitment and of the options open to them if they decided to leave their judicial career in the future.

Organisation taking forward: Ministry of Justice

Action completed to date:

Information on the restriction on return to practice is already set out in judicial terms and conditions, and individual advice is provided as necessary. Specific outline terms and conditions are already provided to the JAC for use in each selection competition.

Work is ongoing with stakeholders and partners to identify the optimum method of communicating/publishing this information.

Future actions planned:

In looking for new ways to promote knowledge in this area, a factsheet will be produced on judicial appointments and terms and conditions (see recommendation 17). This factsheet will be promoted at outreach events, and its effectiveness will be assessed six months after its launch.

The factsheet will supplement the information already provided at outreach events (see recommendation 49).

Forecast completion date: December 2011 - Review current position

Diversity statistics

The following provides background information relating to the current gender and ethnicity make-up of the Legal Professions and the Judiciary.

Population of England & Wales

The statistical breakdown on gender and ethnicity for the population of England and Wales based upon the 2001 Census, are detailed below.

Totals ²⁸	Percentage of population	BAME %
Men	48.7%	8.7%
Women	51.3%	8.6%

Table 1: Statistical breakdown on gender and ethnicity for the population of England and Wales

Based upon data taken from the 2008/09 Family Resources Survey, the Office for Disability Issues²⁹ estimated that there were 10.8 million disabled people in Great Britain, which was approximately 17.5% of the estimated population of 61.8 million³⁰ in 2008/09.

Bar Council³¹

Overall, as at 23 December 2010:

Self-Employed Bar

- 32% were women, and
- 20% were BAME.

Called to the Bar

- 53% of those called to the Bar in 2010 were women, and
- 46% were BAME

Employed Bar

- 46% of the Employed Bar were women, and
- 34% were BAME

Self-employed Bar QC's

- 11% were women, and
- 9% were BAME

²⁸ Office of National Statistics, Census 2001: National report for England and Wales, Table T13

²⁹ <http://odi.dwp.gov.uk/docs/res/factsheets/disability-prevalence.pdf>

³⁰ <http://www.statistics.gov.uk/cci/nugget.asp?id=6>

³¹ <http://www.barcouncil.org.uk/about/statistics>

Disability

As at November 2007

- 7% of barristers identified themselves as having a disability³²

Law Society

As at 31 July 2010, there were 150,128 solicitors on the Roll³³, of those

- 45.8% were women and
- 11.9% were BAME

Institute of Legal Executives

As at June 2008³⁴, the number of members of ILEX were approximately 22,000, and of those

- 75% were women;
- 13% were BAME
- 14% of ILEX staff considers that they are living with a disability

Tribunals Service (As at 31 March 2010)

In the Tribunals Service,

- 37% of judges were women, and
- 10.5% were BAME.

These figures can vary significantly between different tribunals

Judiciary of England & Wales (As at 31 March 2010)

Overall, as at 31 March 2010³⁵, in the courts based judiciary,

- 20.6% of judges were women, and
- 4.8% were BAME.

In total there were 3,598 members of the Courts based judiciary.

³² <http://www.barcouncil.org.uk/assets/documents/Report%20of%20the%20Analysis%20of%20Demographic%20Data%202007.pdf>

³³ <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=435267>

³⁴ <http://www.ilex.org.uk/pdf/AnnualReportDec2008.pdf>

³⁵ The database of the ethnic origin of the judiciary may be incomplete as (a) candidates are asked to provide the information on a voluntary basis and (b) such details have only been collected since October 1991. <http://www.judiciary.gov.uk/publications-and-reports/statistics/judges>

The following table details the number of judges in post (as at 1 April each year recorded) by women and ethnic background in England and Wales.

Year	Total number of Judges	%Women	%BAME
1998	3174	10.3%	1.6%
1999	3312	11.2%	1.7%
2000	3441	12.7%	2.0%
2001	3535	14.1%	1.9%
2002	3545	14.5%	2.0%
2003	3656	14.9%	2.2%
2004	3675	15.8%	2.5%
2005	3794	16.9%	2.9%
2006	3774	18.0%	3.8%
2007	3544	18.7%	3.5%
2008	3820	19.0%	4.0%
2009	3602	19.4%	4.5%
2010	3598	20.6%	4.8%

Table 2:³⁶ Judges in post (excluding Tribunals) by women and ethnic background, England and Wales, 1998 to 2010, as at 1 April

³⁶ Source – Historical data from Judicial Office website and archived websites of the Department for Constitutional Affairs. The Black, Asian and Minority Ethnic figure is calculated as a percentage of those members of the judiciary who provided ethnicity data. Figures from 2009 onwards are not directly comparable with earlier years as the data has been widened to include four new types of judicial post. <http://www.dca.gov.uk/dept/depstrat.htm>

Glossary of terms & abbreviations

Term	Definition
Advisory Panel on Judicial Diversity	The Advisory Panel was established in April 2009, and it reflected concerns across the legal community that, despite efforts over many years, significant progress on judicial diversity had not been made (http://www.justice.gov.uk/publications/docs/advisory-panel-judicial-diversity-2010.pdf)
Association of Women Solicitors	The Association of Women Solicitors aims to be the essential national network helping to promote the potential and success of each women solicitor at every stage of their career.
Bar Council	The General Council of the Bar (Bar Council) is the Approved Regulator of the Bar of England and Wales. It discharges its regulatory functions through the independent Bar Standards Board.
BSB	The Bar Standards Board is responsible for regulating barristers called to the Bar in England and Wales.
Black Solicitors Network	The Black Solicitors Network is the primary voice of black solicitors in England and Wales; committed to achieving equality of access, retention and promotion of black solicitors.
CPS	Crown Prosecution Service - The Crown Prosecution Service is the Government Department responsible for prosecuting criminal cases investigated by the police in England and Wales
DCRJ	Diversity and Community Relations Judges form links with their local community in order to provide a better understanding of the justice system and the role of a judge within the criminal, civil and family jurisdictions.
DJO	Directorate of Judicial Offices is the former title for the Judicial Office of England & Wales
EHRC	Equality and Human Rights Commission
Employed Barristers Committee	The Employed Barristers' Committee (EBC) represents and promotes the interests of the employed Bar within and beyond the Bar Council.
GEO	Government Equalities Office
GLS	The Government Legal Service employs around 2000 lawyers and trainees, providing legal services to 30 Government organisations across the entire spectrum of their activities.

HMCS	Her Majesty's Courts Service From 1 April 2011, Her Majesty's Courts Service and the Tribunals Service integrated to form Her Majesty's Courts and Tribunals Service.
HMCTS	HM Courts & Tribunals Service - HM Courts & Tribunals Service is responsible for the administration of the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland.
ILEX	The Institute of Legal Executives (ILEX) is the professional body which represents 22,000 trainee and practicing Legal Executives. Their role is to enhance the role and standing of Legal Executives in the legal profession.
The InterLaw Diversity Forum	The Interlaw Diversity Forum for Lesbian, Gay, Bisexual and Transgender ("LGBT") Networks (the "Interlaw Diversity Forum") is an inter-organisational forum for the LGBT networks in law firms and all personnel (lawyers and non-lawyers) in the legal sector, including in-house counsel (the "LGBT Legal Community")
JAC	Judicial Appointments Commission - The Judicial Appointments Commission (JAC) is an independent commission that selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland.
JO	Judicial Office – Judiciary of England & Wales - the Judicial Office supports the judiciary in upholding the rule of law and in delivering justice impartially, speedily and efficiently.
JSB	Judicial Studies Board - now known as the Judicial College
Judicial College	The Judicial College ensures that high quality training is provided to enable judicial office-holders to carry out their duties effectively and in a way which preserves judicial independence and supports public confidence in the justice system.
Judicial Diversity Taskforce	Oversight Group convened to manage the implementation of the Advisory Panel recommendations. Membership includes representation from Ministry of Justice, Judiciary of England and Wales, Judicial Appointments Commission, Tribunals Service, Bar Council, Law Society and ILEX.
Law Society	The Law Society represents, protects and promotes solicitors across England and Wales.

Lawyers with Disabilities Division	The Lawyers with Disabilities Division is committed to promoting equality of opportunity for people with disabilities - whether they are solicitors, would-be solicitors, or clients.
Legal Professions	Collective for the Bar Council, Law Society and the Institute of Legal Executives (ILEX)
Lord Chief Justice	Head of the Judiciary of England and Wales and President of the Courts of England and Wales
LSB	The Legal Services Board is responsible for overseeing the regulation of lawyers in England and Wales.
Moj	Ministry of Justice - The Ministry of Justice works to protect the public and reduce reoffending, and to provide a more effective, transparent and responsive criminal justice system for victims and the public.
Senior Officials Steering Group	Advisory group to the Judicial Diversity Taskforce, created to provide advice to the Taskforce in determining priorities and determine the best way forward for improving the diversity of the judiciary. Its membership reflects that of the Taskforce and is made up of Senior Officials from each of the Taskforce member organisations.
TJO	Tribunals Judicial Office - the Judicial Office supported the Tribunals judiciary in upholding the rule of law and in delivering justice impartially, speedily and efficiently.
TS	Tribunals Service From 1 April 2011, Her Majesty's Courts Service and the Tribunals Service integrated to form Her Majesty's Courts and Tribunals Service.
UK Association of Women Judges	The focus of the UK Association of Women Judges is on matters of particular concern to women, principally the issues that they face in the law and the justice system, as well as issues of particular concern to women judges.
UKSC	United Kingdom Supreme Court - The Supreme Court is the final court of appeal in the UK for civil cases. It hears appeals in criminal cases from England, Wales and Northern Ireland.

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