

ANNUAL REPORT 2007|08

SELECTING ON MERIT AND
ENCOURAGING DIVERSITY



ANNUAL REPORT AND ACCOUNTS 2007|08

SELECTING ON MERIT AND
ENCOURAGING DIVERSITY

Laid before Parliament by the Lord Chancellor and Secretary of State for Justice pursuant to paragraph 32(4), and in respect of the financial statements on behalf of the Comptroller and Auditor General under paragraph 31(7) of Schedule 12 of the Constitutional Reform Act 2005.

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FOREWORD

In his foreword to the consultation paper *The Governance of Britain: Judicial Appointments*, published in October 2007, the Lord Chancellor said: 'The judiciary are a cornerstone of our constitution, playing a vital role in upholding the rule of law. Government must be conducted in accordance with the law and, for there to be confidence that this happens in practice, the law must be administered by a judiciary that is independent of Government. The process by which judges are appointed is therefore key to both the reality and the perception of independence.'

“ The process by which judges are appointed is therefore key to both the reality and the perception of independence. ”

The establishment of the Judicial Appointments Commission (JAC) in 2006 was an historic achievement. In the words of Lord Woolf, former Lord Chief Justice, it was 'a gigantic step forward in our constitutional arrangements'. We are being watched with a great deal of interest not only in the UK, but also worldwide.

Over the last two years, the JAC has been working to implement the changes contained in the Constitutional Reform Act 2005. In so doing, we have been grappling with some of the unintended consequences of the legislation, developing strategies to bring about the cultural changes that the legislation demands and building an organisation that can cope with the scale and complexity of our statutory responsibilities.

The JAC is a selecting rather than an appointing body and we are responsible for the middle segment of the process, that is, making selections once a vacancy request has been received. There is, therefore, work to be done by others before and after we make our



selections. The first part is for Her Majesty's Courts Service and the Tribunals Service to identify vacancies. Thus, improvements in forecasting and planning are crucial for us to keep to our timetable and make effective use of our resources. Once our selections have been sent to the Lord Chancellor, medical checks must be carried out (for salaried posts). The successful candidates must then be formally appointed and appropriate training organised. Successful candidates may then need to relinquish their current professional commitments before they can take up their appointments.

In 2007/08 we handled 2,535 applications, managed 41 selection exercises and made 458 selections. The Lord Chancellor accepted all our recommendations for appointment.

For past exercises, the JAC was often asked to recommend a list of people suitable for appointment. Those placed on a list might then be offered an appointment as and when vacancies arose. This created professional and personal uncertainty for candidates because those on a list would not know when, or if, they would be offered an appointment. We are delighted therefore that, during the year, it was agreed that for the 2007/08 High Court and Circuit Bench selection exercises we would not be asked to draw up lists of people who are suitable but have no certainty of appointment. We are now running selection exercises that will result in a number of selections equal to the number of known vacancies. This was a significant achievement, as remaining on a list without any certainty of appointment is a major disincentive for applicants. We would like to see all selection exercises run on this basis.

“ There is still much for the JAC to do in our important duty to widen the pool of applicants. We shall not succeed in this if we work in isolation. ”

The JAC has a statutory duty to 'have regard to the need to encourage diversity in the range of persons available for selection for appointments'. The work we are doing to widen the pool is beginning to show results. There has been an overall increase in applications for judicial appointment compared with similar exercises in previous years. The diversity of those recommended for part-time (fee paid) office is particularly encouraging.

There is still much for the JAC to do in our important duty to widen the pool of applicants. We shall not succeed in this if we work in isolation. We are, therefore, pleased that the draft Constitutional Renewal Bill contains a clause that would extend the current duty for the JAC to 'have regard to the need to encourage diversity in the range of persons available for selection for appointments' to also include the Lord Chancellor and the Lord Chief Justice, thus recognising that they too have an important role in ensuring there is a wide pool of people available for selection.

Most of the candidates for judicial posts come from the legal profession. We can, therefore, only make selections from a wide pool if the profession from which we make selections is itself diverse. The profession's own statistics for last year demonstrate the extent of the problem. The Law Society reported that 63 per cent of admissions last year were women, yet they made up only 23 per cent of partners

in law firms; and the Bar Council reported that over 11 per cent of the practising Bar were from black and ethnic minorities, but under four per cent of QCs were from non-white groups. So, the 'eligible pool' is limited. Also, of course, we cannot assume that everyone who meets the minimum entry requirements to apply wants to be a judicial office-holder. There are disincentives, for example the nature of some of the posts, including a requirement to work away from home in some cases, and the limited availability of part-time working.

We are working with the Bar Council and the Law Society to establish detailed information about those of their number who are currently eligible to apply for judicial posts and why those who are qualified to apply do not always do so.

The minimum entry requirements ('eligibility criteria') for each judicial post also have a bearing on our efforts to widen the pool of candidates. Parliament has stipulated eligibility criteria in legislation. We believe that the imposition of further non-statutory entry restrictions for judicial posts can sometimes be over-prescriptive and frustrate our efforts to encourage diversity in the range of persons available for selection for appointments that is the intention of the Constitutional Reform Act.

We recognise that the promotion of diversity is a joint effort. We, therefore, took the initiative to establish the JAC Diversity Forum, which comprises those organisations that are in a position to change policies and processes that inhibit progress in this area.

The JAC's independence is crucial to its success. That independence underpins the independence of the judiciary. The draft Constitutional Renewal Bill and White Paper *The Governance of Britain – Constitutional Renewal*, published in March 2008, proposes a number of changes to the existing arrangements for appointing judges and provides an opportunity in the coming year to discuss the issues of independence, responsibility and accountability – values that are at the heart of the JAC. The JAC was

established just over two years ago and we are of the view that there is not yet sufficient evidence to support significant change. While we are in favour of measures that will lead to a better service for candidates and the justice system, we believe that any changes should not compromise the independence of selection processes or the quality of selections made.

This annual report shows that we have achieved a great deal in the year 2007/08. These achievements would not have been possible without the commitment, wisdom and dedicated hard work of the Commissioners, the Chief Executive and the staff. I am most grateful to them.

I would like to take this opportunity to thank Sir Robin Auld, who retired in September 2007, for all his work as our inaugural Vice-Chairman. Heather Hallett succeeded him as Vice-Chairman and I am grateful to her for the support she has given me during the year.

I would also like to thank the Law Society, the Bar Council, the Institute of Legal Executives, the judiciary and the Ministry of Justice for their cooperation, and the Lord Chief Justice, the Senior President of Tribunals and the Lord Chancellor for their support.



Baroness Prashar

Chairman

Judicial Appointments Commission

PART 1: INTRODUCTION



WHO WE ARE

The Judicial Appointments Commission (JAC) was set up in April 2006. We are 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.

The JAC is an executive non-departmental public body, sponsored by the Ministry of Justice (MoJ), previously the Department for Constitutional Affairs (DCA). Our aims and objectives are agreed with the Lord Chancellor and set out in our Business Plan, together with the services provided to the JAC by the MoJ.

The Commission comprises 15 Commissioners including the Chairman. The Commission has corporate responsibility for ensuring that the JAC fulfils its role under the Constitutional Reform Act 2005, for achieving its aims and objectives and for promoting the efficient and effective use of staff and

other resources available to the JAC. The Commissioners work closely with the JAC's staff, who are led by a Chief Executive and four Directors.

The Commission is required by statute to consist of a lay Chairman and 14 Commissioners. The latter are made up of five judicial members, one barrister, one solicitor, five lay members, one tribunal member and one lay justice. Each Commissioner was appointed in his or her own right, not as a delegate or representative of their profession. Twelve, including the Chairman, were selected through open competition and three by the Judges' Council.

The Commissioners



Baroness Prashar CBE, Chairman

Usha Prashar has sat in the House of Lords as a crossbencher since 1999. The Baroness has a distinguished record of public service. She was the First Civil Service Commissioner between 2000 and 2005 and Executive Chairman of the Parole Board for England and Wales from 1997 to 2000.



Lady Justice Hallett DBE (judicial), Vice-Chairman

Heather Hallett was called to the Bar in 1972 and has been a Lady Justice of Appeal since 2005. She became Vice-Chairman of the JAC in October 2007.



Dame Lorna Boreland-Kelly DBE JP FRSA (lay justice)

Lorna Boreland-Kelly has been a presiding magistrate at the City of Westminster Magistrates' Court since 1991. She is employed by the London Borough of Croydon as Manager of Mayday and Permanency Planning (Children, Young People and Learners) based at Mayday Healthcare NHS Trust.



Professor Dame Hazel Genn DBE (lay)

Hazel Genn is Professor of Socio-Legal Studies at University College London and a former member of the Committee on Standards in Public Life.



Mr Justice Goldring (judicial)

John Goldring was called to the Bar in 1969 and appointed a QC in 1987. He is a Judge of the High Court, assigned to the Queen's Bench Division.



Sir Geoffrey Inkin OBE (lay)

Geoffrey Inkin was Chairman of the Cardiff Bay Development Corporation and the Land Authority for Wales from 1987 until 2000. He is a former member of Gwent County Council and Gwent Police Authority and commanded The Royal Welsh Fusiliers from 1972 to 1974.



Judge Frances Kirkham (judicial)

Frances Kirkham became a Senior Circuit Judge in October 2000 and is the designated Technology and Construction Court Judge in Birmingham. She founded the West Midlands Association of Women Solicitors and is a founder member of the United Kingdom Association of Women Judges.



Mr Edward Nally (professional)

Edward Nally is a partner in Fieldings Porter Solicitors of Bolton and was President of the Law Society between 2004 and 2005. He is Governor of the College of Law and Chair of Governors at Pendleton Sixth Form College, Salford.



Ms Sara Nathan (lay)

Sara Nathan is a journalist. She has held several public appointments and is currently Chair of the Animal Procedures Committee and a member of the PhonepayPlus Board.



District Judge Charles Newman (judicial)

Charles Newman was admitted as a solicitor in 1972 and appointed a County Court Registrar in 1987. He has served as chair of the District Judges IT Working Group. He is currently a member of the Judicial Advisory Group for IT.



Judge David Pearl (tribunal)

David Pearl was called to the Bar in 1968 and lectured in law at Cambridge and the University of East Anglia. He has been President of the Care Standards Tribunal since 2002.



Mr Francis Plowden (lay)

Francis Plowden is Chairman of the Greenwich Foundation for the Old Royal Naval College and was Chairman of the National Council for Palliative Care until 2008. He was a partner at PriceWaterhouseCoopers, where he was responsible for public policy and management work worldwide.



Ms Harriet Spicer (lay)

Harriet Spicer co-runs Working Edge groups, is a governor of the London School of Economics and was a member and Chair of the National Lottery Commission and Chair of the Friendly Almshouses, Brixton. She was a founder member and Chief Executive of Virago Press.



Mr Jonathan Sumption OBE QC (professional)

Jonathan Sumption is joint head of Brick Court Chambers. He is a Judge of the Courts of Appeal of Jersey and Guernsey and a deputy High Court Judge. He is also a governor of the Royal Academy of Music.



Lord Justice Toulson (judicial)

Roger Toulson has been a Commissioner since October 2007. In January 2007 he was appointed a Lord Justice of Appeal. He was Chairman of the Law Commission from 2002 to 2006.



Lord Justice Auld, the JAC's former Vice-Chairman, retired in September 2007.

WHAT WE DO

The JAC is a selecting commission responsible for recommending candidates to all judicial offices listed in Schedule 14 of the Constitutional Reform Act 2005 (CRA), as well as to the offices of the Lord Chief Justice, Master of the Rolls, President of the Queen's Bench Division, President of the Family Division, Chancellor of the High Court, Lords Justices of Appeal and High Court Judges.

The Commission may be required to select a candidate for immediate appointment under section 87 of the CRA or to identify candidates for vacancies which will arise in the future, from lists created under section 94. Magistrates are included in the judicial offices listed under Schedule 14 but no timetable has been set for bringing that provision into force. The selection exercises undertaken by the JAC in 2007/08 are set out in Part 2 of this report.

The JAC selects one candidate for each appointment and recommends that candidate to the Lord Chancellor. The CRA provides for the Lord Chancellor to accept or reject the recommendation, or ask the Commission to reconsider the recommendation. The Lord Chancellor cannot select an alternative candidate.

In fulfilling its role, the JAC has three statutory obligations: to select candidates solely on merit; to select only people of good character; and to have regard to the need to encourage diversity in the range of persons available for selection for appointments.

“ The JAC selects candidates solely on merit ”



Our strategic objectives for 2007/08 were:

- to select high quality candidates based on the selection exercise programme agreed with our business partners (Her Majesty's Courts Service, the Tribunals Service and the Ministry of Justice)
- to develop further fair, open and effective selection processes and to keep them under continuous review
- to encourage a wider range of eligible applicants
- to ensure that the JAC is fully equipped to carry out its statutory objectives and achieve continuous improvement.

Appendix 2: 2007/08 Business Plan reports on our performance against these objectives.

JAC VALUES

The following values underpin all of the JAC's work:

Fairness

We are objective in promoting equality of opportunity and we treat people with respect.

Professionalism

We are committed to achieving excellence by working in accordance with the highest possible standards.

Clarity and openness

We communicate in a clear and direct way.

Learning

We strive for continuous improvement and welcome and encourage feedback.

Sensitivity

We are considerate and responsive in dealing with people.



PART 2:
OUR WORK – PROGRESS
AND IMPROVEMENTS
IN 2007/08



THE MOMENTUM OF IMPROVEMENT

In our second year, we have consolidated and refined the policies, organisational structure and selection process that we developed in the first year after the JAC's launch on 3 April 2006.

We have maintained the momentum of improvement by systematically and closely monitoring the JAC's operations and by paying attention to what others are saying about them. For example, we seek feedback from candidates; Commissioners meet after each selection exercise to discuss lessons learned; we conduct formal reviews of policies; and we are in dialogue with a wide array of organisations and individuals.

“ This combination of self-scrutiny, listening and learning has confirmed the solid foundations laid in the first year. ”

This combination of self-scrutiny, listening and learning has confirmed the solid foundations laid in the first year. It has also pointed the way to the improvements we have made in the past year.

In particular, we have strengthened our quality assurance measures to ensure that all stages of selections are fair and equality proofed so that everyone can participate equally; we have recruited and trained 32 new panel chairs; we have updated our guidance on the 'good character' requirement; we have assigned a Commissioner to each selection exercise to provide further assurance that high standards are maintained; and we have set up the JAC Diversity Forum, where we engage with partners from governmental, judicial and professional bodies.

This chapter of our annual report is a detailed review of the JAC's selection work and of the advances over the past year in the way we carry it out.

OVERVIEW OF THE SELECTION PROCESS

The JAC has developed a selection process that has fairness and merit at its core. All selection exercises launched after 31 October 2006, up to and including High Court level, have used this process. We keep it under review to ensure that it is fit for purpose.

The JAC is required by law to select candidates of good character on the basis of merit. In 2006/07 we produced a simplified definition of merit and published guidance on how we determine good character. In 2007/08 we introduced qualifying tests as an alternative assessment method for shortlisting for most selection exercises and we extended the use of role-play. We developed a more targeted approach to references and robust and effective quality assurance systems.

What is the process?

The JAC selects candidates on merit using a fair and open process.

We define merit using five qualities and related abilities:

- intellectual capacity
- personal qualities
- an ability to understand and deal fairly
- authority and communication skills
- efficiency.

The selection process starts when the JAC receives from Her Majesty's Courts Service, the Tribunals Service or the MoJ a vacancy request that gives details of the post and the number of vacancies. The vacancy request includes a job description and the eligibility requirements for the post. Some requirements are prescribed by statute, others (non-statutory criteria) are applied by the Lord Chancellor.

The JAC tailors the application form for each selection exercise and prepares an information pack and guidance on the selection process. On receiving the completed application form, we check that the candidate meets the entry requirements. We also have a statutory duty to make an assessment of their good character.



Shortlisting

There are two methods of shortlisting:

1. **paper sift** – undertaken by the panel and based on written evidence, including the candidate's self-assessment and references
2. **qualifying test** – written technical papers and/or case studies.

“Candidates are invited to a selection day, which may consist of an interview only or of an interview and role-play.”

References

We normally ask candidates to nominate three referees, and in some cases up to six. The JAC may also approach referees it nominates itself. These will be either judicial or professional and are drawn from a generic list of possible referees, tailored for each selection exercise. For example, if existing tribunal members apply, the JAC will ask the Chair or President of the relevant tribunal for a reference for those candidates. The tailored list is included with the information pack which, along with the application form, is available from the JAC or can be downloaded from our website.

If a paper sift is used, references are normally taken up before the sift and are used in reaching the shortlisting decision.

If qualifying tests are used, references are normally taken up after the test and before the selection day.

Selection day

Candidates are invited to a selection day, which may consist of an interview only or of an interview and role-play. If there is only an interview, it is typically conducted by a panel consisting of a panel chair, a judicial member and an independent member. When role-play is part of the selection day, the interview is normally with the panel chair and judicial member and the role-play is typically assessed by the judicial member and the independent member.

The role-play usually simulates a court or tribunal environment. The candidates are asked to take on the role of judicial office-holder and respond to a simulated situation. These exercises assess how the candidate would deal with situations they might face and decisions they would be asked to make if they were appointed. They enable the candidate to demonstrate whether they have the required qualities and abilities in a realistic situation and whether they maintain performance under challenge and pressure.

Panel decision

Panel members assess all the information about each candidate and agree which candidate(s) best meets the required qualities. The panel chair then completes a report providing an overall panel assessment. This forms part of the information presented to the Commission.

Statutory consultation

As required under sections 88(3) and 94(3) of the Constitutional Reform Act 2005 (CRA), summary reports on candidates likely to be considered for selection by the Commission are sent to the Lord Chief Justice and to another person who has held the post or has relevant experience.

In making final selections, the Commission considers these responses, together with other information about a candidate, and may decide not to follow the views expressed by the consultees. When reporting its final selections to the Lord Chancellor, the Commission must say what the consultees' comments were and whether it followed them or not, and give reasons.

Selections

The Commission considers all the information gathered about candidates to select those who will be recommended to the Lord Chancellor for appointment.

Checks

The JAC requests financial, criminal and professional background checks on candidates recommended for appointment.

The Lord Chancellor may request medical checks and the JAC facilitates this.

“ The Commission considers all the information gathered about candidates. ”

Quality assurance

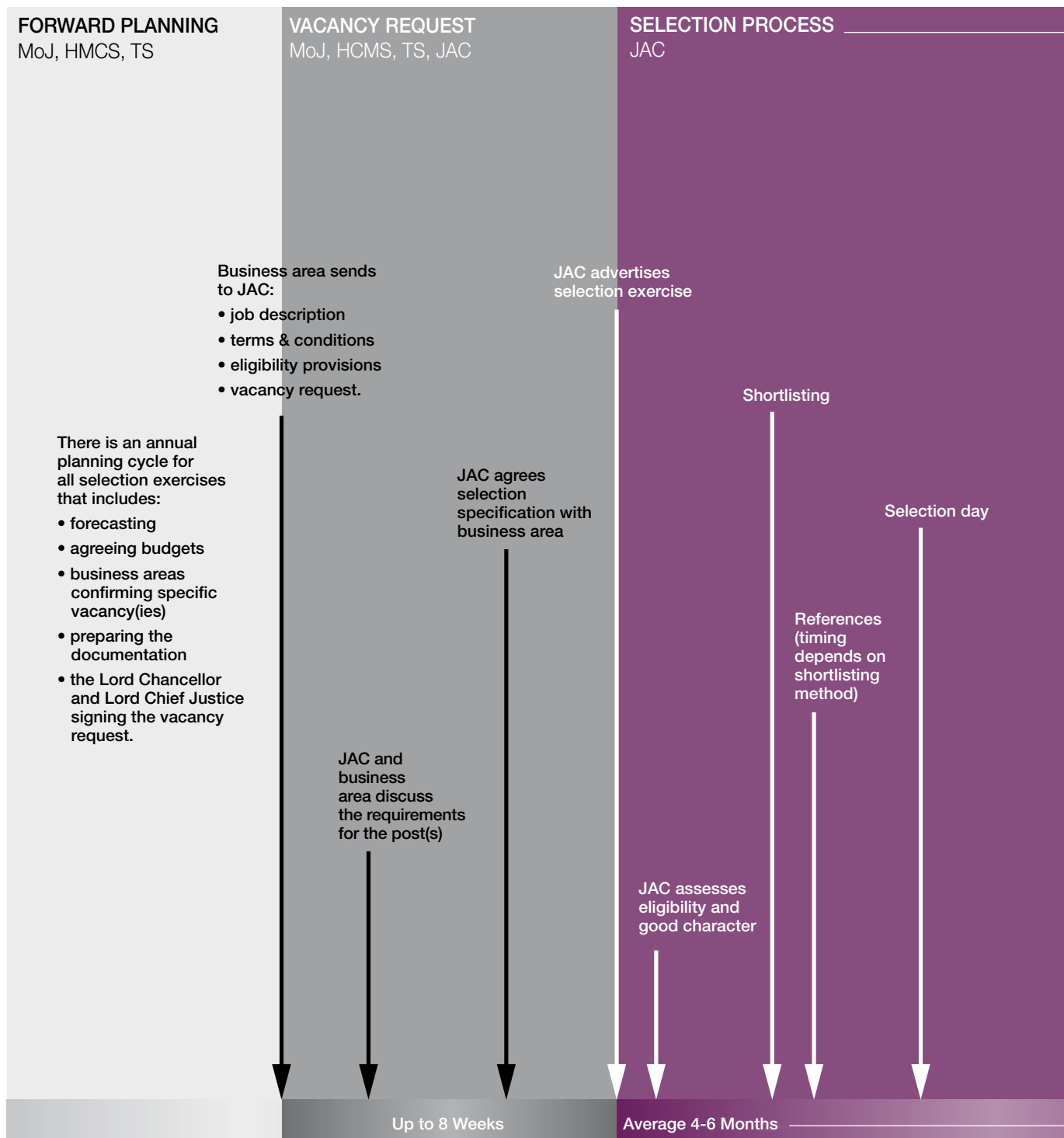
The JAC has implemented quality assurance measures throughout the process to ensure that the appropriate systems are being adhered to and standards maintained. Quality checks include:

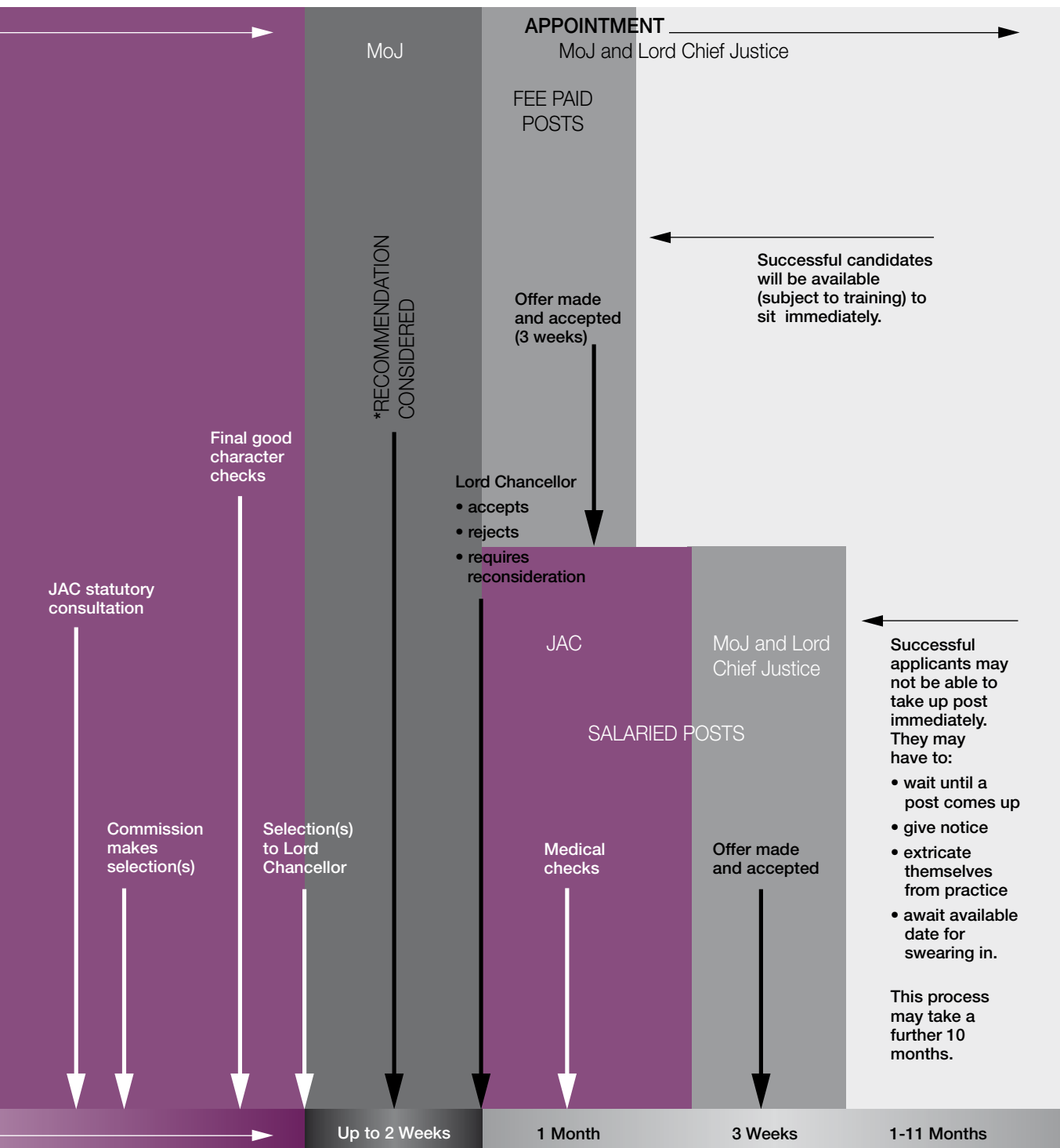
- sampling test papers and panel assessments
- briefing panels
- observing interviews
- reviewing the progression of candidates through each stage of the process for any possible unfairness.



TIMELINE OF THE JUDICIAL APPOINTMENTS PROCESS

General guide to current processes with indicative timeframes





* For some jurisdictions consultation with other Ministers will be required

THE SELECTION EXERCISE PROGRAMME

The selection exercise programme is agreed with the Ministry of Justice (MoJ) every year and comprises selection exercises needed to fill judicial vacancies forecast by Her Majesty's Courts Service (HMCS), the Tribunals Service (TS) and other tribunals.

The initial MoJ requirement in 2007/08 was for a total of 66 selection exercises – 21 that were already under way at the start of the year and 45 new ones. The MoJ also asked us to reserve enough capacity to run a further 10 exercises for vacancies which might arise during the course of the year, but could not be foreseen at the start of it. In the end, more than half of the 45 new exercises predicted were not required, while seven which had not originally been forecast were added to the programme. The complexity of some of the exercises forecast also changed considerably – for example, because of a very significant increase in the number of vacancies to be filled.

We recognise that the science of forecasting vacancies cannot always be an exact one and that some changes to requirements in-year are inevitable. We always do our best to respond flexibly to such changes, and we worked closely with the MoJ, HMCS and the TS to manage changes this year. However, changes of this magnitude inevitably had unwelcome consequences. These included:

- disruption and delay to some exercises in the original programme because of the request to give higher priority to vacancies not forecast

- wasted work in some cases on exercises which were withdrawn in-year
- difficulty in planning ahead to ensure the best use of our resources, and maximise value for money.

In responding to the Government's consultation paper *The Governance of Britain: Judicial Appointments* in January 2008 (see *Appendix 1*), we made clear our view that more accurate forecasting of vacancies will be an essential component of any programme to improve the overall efficiency of the judicial appointments process. We have made progress since then with the MoJ, HMCS and the TS on the development of a rolling programme of selection exercises, and hope to be able to finalise these arrangements during 2008/09. This should make it considerably easier in future for us to plan and deploy our resources with confidence at the start of each year.

In 2007/08, we completed 27 selection exercises and a further 14 were in progress at the end of the year. We received a total of 2,535 valid applications and 458 selections were sent to the Lord Chancellor. All of our recommendations were accepted.

SELECTION EXERCISES IN 2007/08

This table lists all the selection exercises that were completed during 2007/08 or were in progress at the end of the year.

In progress on 1 April 2007	Completed in 2007/08	In progress on 31 March 2008
High Court 2007	High Court 2007	
District Judge	District Judge	
Deputy District Judge	Deputy District Judge	
Deputy Bankruptcy Registrar	Deputy Bankruptcy Registrar	
Deputy Chancery Masters	Deputy Chancery Masters	
Circuit Judge	Circuit Judge	
Senior Circuit Judge Designated Family Judge	Senior Circuit Judge Designated Family Judge	
Senior Circuit Judge Crime	Senior Circuit Judge Crime	
Senior Master Queen's Bench Division	Senior Master Queen's Bench Division	
Employment Tribunal Legal Chairman	Employment Tribunal Legal Chairman	
Employment Tribunal Regional Chairman	Employment Tribunal Regional Chairman	
Social Security and Child Support Appeals Tribunal District Chairman	Social Security and Child Support Appeals Tribunal District Chairman	
Social Security and Child Support Appeals Tribunal Fee Paid Medical Members	Social Security and Child Support Appeals Tribunal Fee Paid Medical Members	
Social Security and Child Support Appeals Tribunal Fee Paid Legal Member	Social Security and Child Support Appeals Tribunal Fee Paid Legal Member	
Criminal Injuries Compensation Appeals Panel Fee Paid Legal	Criminal Injuries Compensation Appeals Panel Fee Paid Legal	
Care Standards Deputy President	Care Standards Deputy President	
Gambling Appeal Tribunal Fee Paid Legal Member	Gambling Appeal Tribunal Fee Paid Legal Member	
President Social Security and Child Support Appeals Tribunal	President Social Security and Child Support Appeals Tribunal	
Copyright Tribunal Deputy Chairman	Copyright Tribunal Deputy Chairman	
Residential Property Tribunals Chairman (Wales)		Residential Property Tribunal Chairman (Wales)
Competition Appeal Tribunal President (withdrawn)		

● Selection exercises in 2007/08

In progress on 1 April 2007	Started and completed in 2007/08	Started in 2007/08
	Senior Circuit Judge Resident Judge Manchester	
	Senior Circuit Judge Chancery	
	Social Security and Child Support Appeals Tribunal Fee Paid Disability Member	
	Charity Tribunal President	
	Mental Health Review Tribunal Fee Paid Medical Member	
	District Judge Magistrates	
	Senior Circuit Judge Designated Civil Judge Wales	
	Senior Circuit Judge Manchester Technology and Construction Court	
		Charity Tribunal Fee Paid Legal Member
		Pensions Appeal Tribunal
		Charity Tribunal Fee Paid Ordinary Member
		Asylum and Immigration Tribunal Designated Immigration Judge
		Asylum and Immigration Tribunal Senior Immigration Judge
		Social Security and Child Support Commissioners
		District Judge Rhyl
		Recorder Northern, North Eastern and Wales
		Mental Health Review Tribunal England Legal Member
		High Court 2008
		Chamber President
		Senior Circuit Judge Birmingham Chancery, Designated Civil Judge and Technology and Construction Court
		Social Security and Child Support Appeals Tribunal Regional Chairman
Total: 21	Total: 27	Total: 14

EXAMPLES OF SELECTION EXERCISES COMPLETED IN 2007/08

The posts we are seeking to fill are varied, ranging from tribunal members with specialist legal and other professional skills to judges who deal with the most complex cases in England and Wales.

We craft each exercise to reflect the specific need. The following examples illustrate some of the requirements and the range of exercises we manage. It is not widely understood that each year more judicial office holders are appointed to tribunals than to sit in courts.

Disability-qualified member of the Social Security and Child Support Appeals Tribunal

a tribunal post in Scotland for someone (not a lawyer) with an appreciation of living with a disability

The Social Security and Child Support Appeals Tribunal deals with disputes about various benefits and allowances, including Disability Living Allowance (DLA) and Attendance Allowance (AA). The disability-qualified member will generally have experience of living with a disability themselves or of working in a voluntary or professional capacity with those who do. The position is fee paid and the role is to help in deciding relevant appeals, in particular by helping to ensure that parties (who are not always represented) are able to present their evidence and have it considered fully and fairly.

There were 12 immediate vacancies: nine in Scotland and three in South East England. The posts were advertised in April in *The Guardian*, *The Herald*, *Community Care*, *Black Lawyers' Directory*, the Scottish Council for Voluntary Organisations' newspaper *Third Force News* and its email bulletin, and the JAC's own *Judging Your Future* newsletter. The advertisement also appeared on the JAC website and the judicial intranet.

Shortlisting was by means of a qualifying test. The first part was a multiple-choice paper based on situations that might arise in the tribunal. The second was a case study using papers – which a tribunal member would receive – relating to claims for allowances. The test was tailored for candidates with a background in disability rather than a legal background and it was designed to assess their performance against the required qualities and abilities.

On the selection days, candidates took part in a mock tribunal hearing, attended an interview and participated in role-play in the form of a hearing (plus preliminary session and deliberations) requiring analysis of papers relating to claims for DLA and AA.

There were 104 applicants: 56 women and 48 men. 61 described themselves as having a disability and 14 as black and minority ethnic.

Many candidates requested adjustments to the practical arrangements for taking the qualifying test, and arrangements were made to meet these needs. The tests and selection days were held at a tribunal centre in Glasgow as well as at the JAC headquarters in London. This was to reflect the location of the posts and to make it easier for candidates to attend.

The Commission's recommendations for appointment were sent to the Lord Chancellor on 22 November 2007. Approval was received for the English posts on 30 November and for the Scottish posts on 7 December.

Rhona Imrie

a successful candidate comments...



Being disabled, I believe I had a unique perspective on the claims process having been on all sides of it and having a true appreciation of the day to day difficulties faced by having health problems.

My initial motivation for applying for the post of Disability Qualified Panel Member (DQPM) was as a natural progression from my degree in chiropody, to working in the Department for Work and Pensions as a Decision Maker for Disability Living Allowance and Attendance Allowance claims, to my current post of Welfare Rights Officer where I represent clients appealing for both those benefits.

The JAC application process was very thorough and I feel they really do focus on all qualities involved in making the right choice for a DQPM. The initial application materials were clear and what I would expect of an application form. However I did not anticipate the qualifying test and the selection day.

I found the qualifying test to be akin to sitting an exam and refreshing for a position that does require knowledge and the ability to explain how a decision was reached. It's not always simple at an interview to determine someone's thought process, whereas the qualifying test allowed the candidate to consider their opinions, motives and ethics in an answer. An interview doesn't allow for this sort of detail.

The selection day was unlike any interview process I had encountered. The interview stage was similar to that for a typical job but the role-play took me very much out of my comfort zone and gave a true account of how a tribunal should work. To those who hadn't encountered tribunals first hand I expect this must be quite daunting. Thankfully for me I had. It initially felt staged but once into the role-play it felt very much like a normal tribunal situation albeit you were observed by a panel at the side.

I found the selection process to be very convenient in that it was held in my home town and in surroundings I was familiar with. Had the interviews been held in London I may have been far more nervous about the process.

The best advice I would give to anyone wishing to apply for a post in the future would be that it may be a lot of work initially but the thorough process only makes it fairer. Not everyone does well at interviews and this process allows the person as a whole to be seen and not just a snapshot.

President of the Charity Tribunal

a selection exercise for the legally qualified President of a new tribunal

The Charity Tribunal, covering England and Wales, was established under section 8 of the Charities Act 2006 and became operational on 18 March 2008. It hears appeals against decisions of the Charity Commission. The tribunal administration is in Leicester.

The appointment of the President was the first judicial appointment to the tribunal. As its judicial head, the President will hear appeals across England and Wales. Other duties of the salaried post include ensuring the judicial quality and efficiency of the tribunal, supporting the implementation of organisational change and ensuring close dialogue with user interests.

The exercise was launched in July 2007, jointly with one to select legally qualified members of the tribunal. Knowledge of charity law was an essential requirement for the President's post as well as previous judicial experience. We advertised in *The Times*, the Law Society's *Law Gazette*, *Black Lawyers'*

Directory and the JAC's own *Judging Your Future* newsletter. The advertisement also appeared on the JAC and Charity Commission websites and on the judicial intranet.

We received 16 applications. Shortlisting was by paper sift as this was a very small exercise for a new tribunal.

Shortlisted candidates were asked to give a short presentation at the start of their interview on the leadership demands and organisational priorities of the new tribunal and their approach to the role.

The Commission's recommendation for appointment was sent to the Lord Chancellor on 27 November 2007 and was approved on 7 December.



Alison McKenna

the successful candidate comments...



I originally trained as a barrister, but my conversion to solicitor and my area of specialism in charity law meant that I hardly ever went to court and did not know many judges. I sat as a part-time, legal member of the Mental Health Review Tribunal (MHRT) for six years and found I enjoyed tribunal work. So I thought I'd apply for the full-time role as President of the Charity Tribunal.

As part of my preparation for applying for the post, I attended a useful JAC roadshow and undertook judicial work-shadowing in a county court. I also ensured that I was appraised at the MHRT so that up-to-date information about my tribunal experience would be available to the JAC.

It was clear to me from the outset that the JAC recruitment exercise had been carefully considered, although as it was for a new

tribunal many of my questions (Where would I be located? What would be my working pattern? When did they expect me to take up the post?) could not be answered straight away. At times I found this frustrating, however the JAC staff encouraged me to 'stick with it', explaining that many of these issues could only be resolved later.

I attended two interviews in the end: one for President and one for Legal Member of the new tribunal. The JAC had brought in people with relevant expertise to assess the candidates: a High Court Judge for one interview and a leading Charity Law academic for the other. The interviews were tough but fair, and I felt that, if I did not get the appointment, I had learnt much from the process and given it my best shot. I have since gained experience from the other side of the table, sitting on a JAC recruitment panel to select Ordinary Members of the Tribunal and found this both a challenging and fascinating experience. I was particularly impressed by the setting of aptitude tests for those without previous judicial experience and the inclusion of an independent person at each interview, giving the process a perspective from someone outside the legal system.

I was of course delighted to be offered the position of President.

High Court selection exercise, 2006

the first exercise launched under the selection process devised by the JAC

The High Court of England and Wales deals with high-profile and important cases and has a supervisory jurisdiction over all subordinate courts and tribunals. It is based at the Royal Courts of Justice in London. High Court Judges also sit on circuit throughout England

and Wales. The court is split into three main divisions: the Queen's Bench Division, the Chancery Division and the Family Division.

Under the provisions in section 94 of the Constitutional Reform Act 2005, the Lord Chancellor asked the JAC to identify a total of 25 candidates suitable for appointment to expected vacancies in the three divisions: 14 in Queen's Bench, seven in Chancery and four in Family.

Mr Justice Coulson

a successful candidate comments...



I was appointed as a senior circuit judge in 2004, doing Technology Construction Court work. I did it largely full-time and I thoroughly enjoyed the work. However, I also enjoyed the other work that I did as a judge (4/5 weeks criminal sitting in the Crown Court and occasional sitting as a Judge of the Queen's Bench Division) and, because it was outside my 'comfort zone', it served to keep me alert and generally on my toes. So I decided to apply for the High Court Bench, where I knew I would get a wide variety of civil and criminal work.

I was part of the first High Court Judge competition run by the JAC. I considered numerous aspects of the process to be extremely positive: the application form was not a box-ticking exercise, but instead relied on the candidate's judgement and

commonsense to demonstrate suitability in their own way; the results of the first sift were notified quickly; and the structured discussion was detailed, a little scary but at the same time exhilarating. I left the discussion thinking that, for better or worse, I had been entirely myself, and that, if I was not appointed, I could not complain that the discussion had not brought out my personality and attitudes. It was not, I think, the type of 'interview' for which one could prepare in detail or in which one could be trained to do well: it was too comprehensive and thought-through for that.

I would advise anyone thinking about applying for the Bench to do so, on the basis that the JAC procedures are more transparent, and much fairer, than any previous system for appointing judges. Even the principal criticism that I had - namely the uncertainty of being in the pool of successful candidates, without knowing if appointment would actually happen - has, as I understand it, now been rectified, because in future all successful candidates for the High Court Bench will be offered appointment, with the only uncertainty being the timing of its commencement.

I wish the JAC well in the forthcoming years; I consider that the JAC has made a very good start.

The selection exercise, launched in October 2006, was the first using our new selection process and the newly defined qualities and abilities required for selection.

We advertised in *The Times*, the Law Society's *Law Gazette*, *Counsel* magazine, *The Western Mail*, *Legal Week*, *The Lawyer* and *Solicitors Journal*, as well as on the JAC's website and in our *Judging your Future* newsletter. We also approached a number of legal representative groups. As a result, we received 144 applications – an increase of 11 per cent over the previous comparable exercise in 2005. Twenty-one of the applicants were female, eight described themselves as having a disability and three as black and minority ethnic.

Shortlisting was by paper sift and the shortlisted candidates then attended a structured discussion. This was the first time that candidates for High Court posts had met a selection panel.

Although the original request had been to provide 25 candidates suitable for appointment, the Chairman wrote to the then Lord Chancellor on 30 April with a list of 21 candidates. The Commission considered that only these candidates had met the testing standard of outstanding ability. The Lord Chancellor replied on 12 May accepting the list of suitable candidates from which appointments may later be made.

Deputy President of the Care Standards Tribunal

a new post, in an existing tribunal, for a legally qualified leader

The Care Standards Tribunal's remit includes handling appeals against decisions relating to children, education and healthcare. Among those affected are people who have been barred from working with children or with vulnerable adults, or who have had

their childminding or care home registration cancelled. The Deputy President chairs appeal panels and supports the President by providing leadership and guidance to the tribunal and by undertaking administrative functions.

There are both statutory and non-statutory eligibility requirements for these posts. The statutory requirements, set out in legislation, require candidates to have been a solicitor or barrister for seven years. The non-statutory requirements, which are applied by the Lord Chancellor, require candidates to have judicial experience in either a fee paid or a salaried capacity.

The post was advertised in December 2006 in the Law Society's *Law Gazette*, *Community Care* and *The Times Law supplement*. Nineteen applications were received.

This was the first JAC selection exercise where candidates were shortlisted for interview using a qualifying test, rather than a paper sift. Before the test, a sample case study was made available on the JAC website and candidates were also given related background reading material.

The qualifying test involved questions on two jurisdiction-based case studies designed to assess whether the candidates had the qualities and abilities needed for the post. The qualities tested were their ability to absorb and analyse information (intellectual capacity), work at speed and under pressure (efficiency), and exercise sound judgement (personal qualities), as well as the ability to deal fairly and communication skills. To complete the test, candidates were required to draft a number of directions, decisions and other written material.

Five applicants were interviewed. The Commission's recommendation was sent to the Lord Chancellor on 25 May 2007 and was agreed on 11 July.

Simon Oliver

the successful candidate comments...



I was already sitting as a chairman in the Care Standards Tribunal so I had some knowledge of the jurisdiction. I am also a chairman of the Special Educational Needs and Disability Tribunal and a Recorder. I applied for the appointment because I enjoy sitting in my various jurisdictions. I was also aware that the Tribunals Service was about to undergo a major transformation and wanted to be involved in shaping its future.

The central part of the application process was a two-stage self-assessment – an opportunity to write about why one is suitable for the appointment. There were certain criteria to address but it is very difficult to ‘sell’ oneself on paper without seeming big-headed.

The qualifying test was a shock. There was an example on the JAC website, so candidates had some idea what to expect. However, sitting in a room with seven other

applicants and being told that there were two questions to answer in one and a half hours brought back memories of Bar Final exams, the last time I had sat a timed test. The test was detailed but all the information needed was contained in the file. It was simply a question of applying one’s general knowledge to the information provided. There was insufficient time to complete both questions without frantic writing and exhaustion at the end.

The interview was more familiar territory. Having been interviewed to become a Recorder, I was aware of the structure of the interview, although the JAC interviewers were more focused on what I could do, using my self-assessment form as the basis for questions. The questions gave me plenty opportunity to amplify points I had covered in the form.

I found the wait between the interview (in March) and the letter of appointment (in July) terrible, I know from the contact I had with the JAC that they and the MoJ were working through the process that I understand has to happen. However, the strain of not knowing for so long cannot be underestimated.

My advice to any applicant for any appointment would be threefold. First, spend time on the self-assessment form, as it is very important. Secondly, do not treat the written test lightly. Think about what the appointment entails on a day-to-day basis and try to prepare as well as possible. Finally, try to remain relaxed and focused on the day-job while you await the outcome.

Recorder selection exercise for Northern, North Eastern and Wales Circuits, 2008

an exercise in three locations launched after initial uncertainties about the number of recommendations required for each location

The JAC launched its first Recorder selection exercise in January 2008. Demand was high as it had been some time since the last exercise, and it took time for HMCS to establish the number of recommendations it required.

The exercise was for three Circuits: Northern, North Eastern and Wales. There was a total of 76 vacancies in various jurisdictions: Crime, Civil, Family and Chancery. We received 436 applications. Nine applicants were not eligible or were rejected on character grounds, and five withdrew their applications. Shortlisting was by means of a qualifying test and 422 people took the test in March, the vast majority in Leeds, Cardiff or Manchester. This was the first time we had used a qualifying test for shortlisting applicants for the post of Recorder and the Advisory Group made a valuable contribution. The test, which was designed to be accessible to lawyers from all backgrounds, was developed and marked by judges.

Two hundred and twenty-four applicants were invited to attend a selection day comprising two role-plays and an interview. The selection days started in April.

The second exercise will be for the selection of Recorders for the Midland Circuit. The third exercise, for the South Eastern Circuit, will follow in early 2009.

The Advisory Group

When we started planning for the current Recorder selection exercise in autumn 2007, we convened an Advisory Group bringing together interested parties to help develop key aspects of the exercise. The group, which was chaired by a Commissioner, Professor Dame Hazel Genn DBE, included representatives of the Law Society and the Bar Council, and the Honorary Secretary of the Council of Circuit Judges, and the Chairman and Chief Executive of the JAC. It proved its worth in helping to find solutions to some of the challenges we faced in the run up to the launch of the exercise.

Our experience of the group has demonstrated the value of a forum in which interested parties can discuss practical issues associated with the judicial appointments process. We therefore decided to build on what the group has achieved so far by giving it a broader remit and its membership now includes a representative of the Institute of Legal Executives (ILEX), the President of the Employment Tribunals (nominated by the Senior President of Tribunals) and a Presiding Judge (nominated by the Senior Presiding Judge). The group will consider a range of practical and other issues where a shared understanding and a shared approach would be useful.

Other selections provided for by the Constitutional Reform Act

The CRA sets out the processes that must be followed for appointments above High Court level and these vary from those used for the other selection exercises run by the JAC.

Court of Appeal

Recommendations for appointments to the Court of Appeal are made by a specially constituted selection panel that is a committee of the JAC. The panel's membership is specified in section 80 of the CRA. The CRA also provides that the panel must determine the selection process to be applied for these appointments. A panel – comprising the Lord Chief Justice as chairman, a second senior judicial member designated by the Lord Chief Justice, the JAC Chairman and a Commissioner of the JAC – has met on several occasions. One appointment was made during the year: Mr Justice Burnton was appointed a Lord Justice of Appeal.

Senior Lord of Appeal in Ordinary (President of the Supreme Court from October 2009)

The Lord Chancellor decided that the provisions in the CRA relating to the appointment of Justices of the Supreme Court should be applied on a voluntary basis between June 2007 and the opening of the Supreme Court in 2009. Therefore, under the same processes as set out in sections

25 to 31 and Schedule 8 of the CRA, an ad hoc commission was formed to select the Senior Law Lord to replace Lord Bingham of Cornhill on his retirement. The commission comprised the current Senior Law Lord (instead of the President of the Supreme Court) as chair, the next most senior Law Lord, the JAC's Chairman and one member each from the Judicial Appointments Board for Scotland and the Northern Ireland Judicial Appointments Commission.

As with the Court of Appeal appointments, it was for that commission to determine the selection process. Part of that process included a requirement set out in section 27(1) of the CRA to consult the following: senior judges who were not members of the commission and not willing to be considered for selection; the Lord Chancellor; the First Minister in Scotland; the Assembly First Secretary in Wales; and the Secretary of State for Northern Ireland. Following the completion of the selection process, the appointment of Lord Phillips of Worth Matravers was announced on 1 April 2008. He will become the Senior Lord of Appeal in Ordinary and subsequently the first President of the Supreme Court when it is formed in October 2009.



IMPROVING THE SELECTION PROCESS

An efficient selection process is critical to the success of the JAC.

In 2006/07, we improved the process by defining merit, publishing good character guidance, revising the application form and extending the use of role-play. This year we have implemented new processes and, to maintain the momentum of improvement, we have:

- continued to keep the selection exercise process under review and monitor its effectiveness
- recruited and trained 32 new panel chairs to replace those we inherited from the DCA
- used qualifying tests as a method of shortlisting candidates
- enhanced our quality assurance systems.

These four areas of improvement are described in the next sections.

Reviewing key elements of the process

Building on the solid foundation of last year's improvements, we have been closely monitoring the operation of those new processes and reviewing their effectiveness. The focus has been on the following four elements.

● **Equality proofing**

This is a systematic process of appraising policies and how they are to be applied in terms of their impact on identified social groups. The JAC has an ongoing commitment to the promotion of equality. Equality proofing plays an important role in ensuring that our policies and processes reflect that commitment. People who have confidence that our processes are fair are more likely to apply for appointment. This in turn supports our objective of encouraging a wider range of eligible applicants.



We have taken measures to ensure that all stages of recruitment are free of bias and that everyone can participate equally. We ensure that the format and readability of test material is taken into account as well as its content. The equality proofing of all of the JAC's selection exercises is carried out by external equality and diversity consultants, and diversity advisers at the Bar Council and Law Society, and is a key part of the JAC's overall quality assurance framework.

- **Written explanations to candidates**

In response to concerns that the commentary we were providing to candidates on the outcome of their applications was not always consistent, we have refined and standardised the format to ensure that candidates now receive clear and consistent feedback.

- **Good character guidance**

We updated the good character guidance following a year of operation and in response to feedback from candidates. The updated guidance reflects the Commission's cumulative experience and is available to applicants and any enquirer.

- **Consultation on selections**

As required under sections 88(3) and 94(3) of the CRA, summary reports on candidates likely to be considered for selection by the Commission are sent to the Lord Chief Justice and to another person who has held the post or has relevant experience. We reviewed the operation of this consultation this year and confirmed our understanding that it is intended as a final safeguard to ensure that only appropriate and suitable candidates are selected. In making final selections, the Commission considers all responses, along with the rest of the information available to them.

While under the CRA the views of consultees do not decide an appointment, our review has confirmed their value in the selection process.

Panel chair recruitment, induction and training

Selection panels have a vital role in upholding the integrity of the selection process. The panel chair leads the panel, taking responsibility for ensuring that it conducts its business fairly, efficiently and to a very high standard.

The recruitment of new panel chairs in 2007/08 was an important step in developing our independence and improving our performance. To ensure independence, the positions were not available to the following: applicants with a current affiliation to the MoJ or its sponsored bodies; past or present judicial office-holders; and past or present practising lawyers. Requirements included experience of chairing at senior levels, leadership responsibility, demonstrable integrity and commitment to ensuring a fair and equitable process, and awareness of issues related to assessment on merit and how they must be considered in the selection process.

The recruitment campaign attracted a large number of experienced and high-calibre applicants from different backgrounds. Thirty-two new panel chairs were appointed. They bring the depth of their highly relevant professional experience to the delivery of our new processes and contribute to the ways in which they will evolve.

The new panel chairs have undertaken a comprehensive training programme. In parallel, the JAC is developing the training for both independent and judicial members of our panels. We have introduced a system of formal appraisal for both panel chairs and independent members.

Our existing independent panel members were recruited in September 2004 by the then DCA, and will serve until February 2010. They

have varied backgrounds and experience and were required to meet the criteria of holding a human resources qualification and having experience in assessing people for senior and/or high-profile appointments.

Qualifying tests

In 2006/07, the JAC adopted qualifying tests as an alternative and more objective method for taking shortlisting decisions. This year, we have used the tests for a number of selection exercises, building significantly on our earlier experiences. However, we tailor our processes appropriately and might not always use qualifying tests when there is a small number of vacancies and in other limited circumstances.

Tests are developed in consultation with the judiciary and Her Majesty's Courts Service or the Tribunals Service. Judges often write them. The tests are tailored to the requirement of the post and might contain case studies and technical questions. They are piloted before use. Both the preparation and the marking of tests are quality assured.

The JAC intends to continue investigating and considering ways in which testing can be developed further.

Quality assurance systems

JAC staff apply quality assurance measures in all selection exercises to ensure fairness, consistency and accuracy. We have strengthened this quality assurance by introducing 'Assigned Commissioners'.

Under this arrangement, a Commissioner is assigned to each selection exercise from its start and reviews all aspects of the process. At the same time, JAC staff closely manage the conduct of each exercise. This includes sampling test papers and panel assessments, briefing panels and attending meetings. The JAC Director must personally authorise all documents that go into the public domain and attend key stages of the process.

We take formal stock of progress during each selection exercise at the following key stages: after applications have been received; after shortlisting; and after the selection day. At each stage, the Director and Assigned Commissioner review the progression of candidates, from one stage of the process to another, for any possible unfairness and must be satisfied that the exercise is being run in accordance with the agreed policies and process, to a high standard and on time. Following each selection exercise, Commissioners meet to discuss lessons learned.



Complaints

Under sections 99 and 100 of the CRA, we are required to investigate complaints about our handling of applications for judicial appointment.

Candidates are advised to wait until receiving a written explanation regarding their application before lodging a complaint.

On receipt of a written complaint, we write to the complainant within two working days to confirm that we have received their letter. The Director of Tribunals Appointments or the Director of Courts Appointments will arrange to have the complaint investigated by an officer who was not involved in the matter.

We aim to respond to a complaint within 20 working days of receiving it. If this deadline cannot be met, we tell the complainant why and when they can expect a full reply. All responses include the nature, background and facts of the complaint, and the results of the JAC's investigation. They specifically set out the JAC's conclusions and reasons for those conclusions.

In 2007/08, the JAC received 39 complaints for exercises started after 3 April 2006. All were for exercises run by the JAC although only 21 were for exercises run under JAC process, the remaining 18 being for exercises run under DCA processes. Forty-three per cent were completed within 20 days, others required more detailed investigation. We wholly or partially upheld eight complaints.

The investigation of complaints is a very important part of our processes. Where issues are identified through an investigation, there is an opportunity to learn and adapt our policy and practice.

If a complainant is not satisfied with the JAC's response, they can pursue the matter by asking the Judicial Appointments and Conduct Ombudsman, Sir John Brigstocke, to investigate further.

The JAC takes investigations by the Ombudsman seriously. Candidates referred 15 complaints relating to exercises run by the JAC to him in 2007/08. We are delighted that, to date, no such complaint has been upheld. We review our procedures or policies in the light of any recommendations for improvement in the Ombudsman's report.

Future developments

In October 2007, the MoJ published its consultation paper, *The Governance of Britain: Judicial Appointments*. The JAC very carefully considered the options for change in the paper and responded to it in January 2008.

As the CRA had been in force for less than two years, the JAC took the view that there was at present insufficient evidence to support any significant change to the careful balance the CRA strikes between the responsibilities of the Lord Chancellor, the judiciary and the JAC in the selection and appointment of judges.

The JAC proposed that the focus should be on improving the current arrangements to provide a better service to both candidates and the justice system. Our view is that the management of the existing system could be improved in several ways, for example by better forecasting of the requirement for new judges; by the abolition of lists prepared under section 94 of the CRA (of suitable candidates from which appointments may later be made), so that all successful candidates can be sure of an appointment; and by those responsible for management of each segment of the end-to-end appointments process considering how best they could reduce delay without diminishing the robustness of their processes.

Our response to the Government's consultation paper *The Governance of Britain: Judicial Appointments* can be found at Appendix 1 and Annexe.

WIDENING THE POOL

The JAC has a statutory duty to have regard to the need to encourage diversity in the range of persons available for selection for appointments.

Research

At the end of 2007, the JAC set up a Research Sub-Group – chaired by a Commissioner, Professor Dame Hazel Genn – to establish what its research priorities should be and how they should be taken forward. Because of our commitment to partnership, the group includes representatives from professional bodies such as the Bar Council and the Law Society. A priority research area is to establish why some able candidates from groups currently under-represented in the judiciary choose not to apply for judicial posts. The results of this project will enable us to shape our strategies to reach out on the basis of a real and up-to-date understanding of the challenge we face.

A wider pool

As well as statutory eligibility criteria, the Lord Chancellor may also apply non-statutory eligibility criteria. For some time the JAC has challenged overly restrictive non-statutory requirements for individual selection exercises and sought provision for part-time working in salaried posts.

We encourage HMCS, the Tribunals Service and the MoJ to consider alternative patterns of working for all posts. Each vacancy notice for all salaried posts now specifies whether part-time working is available and, if not, the reason. The JAC challenges those reasons that do not appear to be necessary. The Lord Chancellor's policy is that part-time working should be available for all salaried posts below the High Court.

The Tribunals, Courts and Enforcement Act (TCE) will have a significant impact on the eligibility landscape. It makes several new classes of candidate eligible for many posts and reduces the period for which a legal qualification has to be held before a person becomes eligible for appointment.

The JAC has been working with the Institute of Legal Executives and the other relevant professional bodies to make sure their members are aware that they will shortly be able to apply for many judicial offices.

The JAC welcomes the TCE provisions and wants to ensure that the overall effect of the changes is to increase the diversity of the eligible pool for all appointments. It is therefore concerned that eligibility requirements should be framed as widely as possible.

Outreach

The JAC holds events aimed at potential candidates to raise awareness about judicial appointments and to encourage a wider range of applicants.

Candidate roadshows provide an opportunity for the JAC to raise its profile, inform potential applicants and encourage them to apply for judicial positions. During 2007/08, the JAC ran 20 roadshows in major cities across England and Wales for over 700 delegates.

Roadshows help to address doubts and misconceptions that people might have about the selection process. They are also designed to give potential applicants the opportunity to ask questions about a specific selection exercise and the accompanying application form.

The JAC also ran events in 2007/08 to encourage interest in particular areas. These included meetings with key interested parties and other events with specific groups, such as government lawyers.

The Chairman and Commissioners undertake many other outreach activities, including speaking at seminars, conferences and meetings, and making presentations to key interested parties, individuals and groups.

The JAC attends an extensive range of other organisations' events with exhibition stands and materials, and makes visits to circuits.

The trilateral strategy

In May 2006, the JAC adopted a trilateral diversity strategy in partnership with the then DCA (now MoJ) and the judiciary. The strategy was agreed between the Lord Chancellor, the Lord Chief Justice and the Chairman of the JAC.

The strategy has four strands:

- to promote judicial service and widen the range of people eligible to apply for judicial office
- to encourage a wider range of applicants, so as to ensure the widest possible choice of candidates for selection
- to promote diversity through fair and open processes for selection to judicial office solely on merit
- to ensure that the culture and working environment for judicial office holders encourage and support a diverse judiciary and increase understanding of the communities served.

The trilateral strategy provides a high level framework through which members can target and co-ordinate their diversity activities.



The JAC Diversity Forum

The Chairman, delivering the Bar Council's Annual Race Relations' Lecture in November 2007, argued that wider collaboration was needed to speed up progress towards a more diverse judiciary. She suggested that this should involve not only the partners in the trilateral strategy, but importantly also the legal profession's key representative bodies.

Her proposal resulted in the JAC Diversity Forum. It brings together representatives of the JAC, the MoJ, the judiciary, the Attorney General's Office, the Law Society, the Bar Council, the Institute of Legal Executives, a representative from the academic world and others in a joint effort to reinforce their existing initiatives, prevent duplication and overlaps and ensure resources are devoted where they can best affect change.

The Diversity Forum was widely welcomed and its members agreed that it would have a practical focus. It met for the first time in April 2008 and has embarked on a programme of work to identify the diversity activities carried out by members, to focus efforts to ensure those activities achieve maximum effectiveness and to identify opportunities for collaboration.

2007/08 selection exercise statistics

On 30 April 2008, the JAC published data on the 27 selection exercises it had completed in 2007/08.

The overall number of applications received is encouraging. So is the fact that, in the JAC's first full year, using its own processes, many women and black and minority ethnic (BME) candidates successfully applied for vacancies.

The data shows that of all applicants:

- 35 per cent were female and 34 per cent of the total selected were female
- 13 per cent were of black and minority ethnic origin and so were eight per cent of the total selected
- eight per cent had a disability and seven per cent of the total selected did so.

The diversity of those recommended for part-time office is particularly encouraging. The JAC made 115 selections for fee paid positions in 2007/08, selecting 62 men and 53 women. This included 10 people from a black or minority ethnic background and five people who identified themselves as having a disability.

Working in partnership with the Law Society and the Bar Council, the JAC has gathered preliminary data on the size and composition of the eligible pool that could apply for selection exercises. This key information, which has not previously been available, makes it possible to measure the overall progression of black and minority ethnic candidates through the application process as well as the selection process.

The results show encouraging signs, including the following:

- For non-legal posts, BME candidates were 12 per cent of the eligible pool, but accounted for 21 per cent of all applications in this area and 17 per cent of the final selections.
- For fee paid legal posts, BME lawyers were only seven per cent of the eligible pool, but accounted for 17 per cent of all applications in this area, and nine per cent of the final selections.
- For salaried legal posts, BME lawyers were only four per cent of the eligible pool, but accounted for seven per cent of the applications and four per cent of the final selections.

OUR ORGANISATION

The JAC has continued to develop under the strategic oversight of the Commission and the management of the Leadership Team. New staff have been recruited and trained, the structure has been refined into four directorates and governance has been strengthened.

Our staff

JAC staff work in partnership with the Commission – that is, the Chairman and Commissioners, who are the board of the JAC. The Commission, for its part, is committed to ensuring that staff are supported and have the appropriate skills, knowledge and experience to deliver the administration of all selection exercises, corporate services, policy and communication activities.

The JAC was staffed initially with seconded civil servants from the then DCA (now MoJ), to facilitate start-up and as a consequence of uncertainty about future location. Agreement that the JAC should remain in London, at least until 2011, has meant that we have moved into a new phase in staffing the organisation.

Twenty-three staff came to the end of their secondment periods during 2007/08, and most have returned to the MoJ. We managed around 30 recruitment campaigns to replace these staff and to fill other vacancies.

It was not possible to advertise externally and for the JAC to employ staff itself until JAC terms and conditions were in place. We did, however, exceptionally advertise three Director vacancies externally as well as across the Civil Service.

JAC terms and conditions were agreed by the Lord Chancellor in November 2007. We started advertising for our own staff externally in the open market as well as in the Civil Service from January 2008. By 31 March 2008, we had launched 10 external recruitment campaigns. The JAC had eight employees at 31 March 2008.

In total, the JAC had an average of 101 full-time equivalent staff during 2007/08.



Staff structure

During 2007/08, the JAC organised into four directorates. The Courts Appointments Directorate and Tribunals Appointments Directorate manage selection exercises; the Strategy and Outreach Directorate develops selection processes and promotes diversity; and the Corporate Resources Directorate ensures the provision of business services, such as HR, finance and facilities.

The JAC is managed by its Leadership Team, which works closely with Commissioners through the board, working groups and committees.

Leadership Team

Chief Executive



Clare Pelham was appointed in February 2006. She previously worked in the public sector at the Home Office, Cabinet Office, HM

Treasury and was on the board of HM Prison Service. She has also worked in the private sector at IBM and on the board of Coca-Cola GB & Ireland.

Director of Courts Appointments



Jane Andrews joined the JAC in September 2007. She worked with HM Revenue & Customs, to move the department from

a tax-by-tax approach towards starting from the point of view of the business customer. She previously worked with the NHS Ombudsman.

Director of Tribunals Appointments



David Truscott was appointed in September 2006. Previously, he worked for the Home Office, most recently handling

policy on local delivery of Home Office business, and prior to that overseeing a successful IT project in HM Prison Service.

Director of Strategy and Outreach



Nigel Reeder joined the JAC in March 2008 from the MoJ, where he developed the Government's policy on legal services reform and

led the subsequent Bill team. Previously he worked for the Ministry of Defence.

Director of Corporate Resources



Sue Martin joined the JAC in August 2007 from the Government Office for the East of England, where she was Head of

Corporate Development. She had previously worked in specialist accountancy and audit roles in the Home Office and the Department for Education and Skills.

An interim Director, Susan Bush, was appointed in March 2008, to provide additional leadership to our Candidate Services Team and cover for the temporary absence of a director.

Developing our staff

New staff need to be inducted into the JAC and trained in our processes. *The JAC Induction Manual* is a key resource to inform them about how we work and new staff also complete an induction plan.

We provide a training programme for staff, covering all aspects of the JAC's role in selecting judges. The programme is being developed into an e-learning version, enabling instant access for staff to training and reference materials, and is supported by detailed instructions.

For new staff working in areas where the focus is on the delivery of judicial selection exercises, the training programme includes court and tribunal visits and shadowing judicial office holders. This is to reflect the importance we place on staff understanding the impact and context of their work.

Towards the end of 2007/08, we developed our intranet. This will be a vital communication and information tool for all staff, enabling them to access the latest information on a wide range of issues from the selection process to HR information.

The JAC Human Resources Strategy continues to be developed. Its focus is on attracting, retaining, developing, supporting and motivating staff who are experts in delivering our business and whose behaviours support the values of the JAC.

Governance

The JAC Framework Document sets out the relationship with our sponsor ministry and the framework within which the JAC operates.

The Commission and the Leadership Team provide strategic oversight and approve and monitor the implementation of JAC policies and procedures to ensure good governance.

The Leadership Team reports to the Commission every quarter on progress in delivering Business Plan objectives; on risks and their management; and on the financial position. The JAC then makes a quarterly report to the MoJ.

The JAC Audit and Risk Committee scrutinises the governance arrangements applied by management and advises the Chief Executive and the Commission.



The Internal Audit programme focuses on areas of risk and provides assurance to the Commission and the Chief Executive about the extent to which risks are controlled.

During the year, we have improved governance by further embedding risk management; by training our staff in risk identification; by establishing an assurance reporting process to support the Statement on Internal Control; and by issuing the *JAC Financial Management Guide* for staff, which helps us achieve value for money.

Shared services

The JAC uses some of the MoJ's services, in accordance with government good practice. Each service should be agreed and managed through a Memorandum of Understanding between the JAC and the MoJ service delivery team. The services used in 2007/08 were:

- **finance:** the provision of payroll, payments, accounts and reporting packages and services

- **IT products and services:** the provision and maintenance of IT desktop and security services, telephony and records management infrastructure
- **legal:** a range of services from lawyers in the MoJ Legal and Judicial Services Group
- **commercial:** the provision of our accommodation and management of other facilities, safety and security services and expert advice on procurement and contracts
- **HR:** the provision of specialist advice and services and the use of the MoJ's recruitment service centre
- **internal audit:** professional internal audits and advice.

Towards the end of 2007/08, the JAC worked with the MoJ to define more clearly the services provided, the standards expected and the charges. This will help us work together to improve the services provided to the JAC in 2008/09 and the value for money.



PART 3:
ANNUAL ACCOUNTS
2007/08



DIRECTORS' REPORT

Introduction

The Judicial Appointments Commission (JAC) was launched on 3 April 2006, as part of the changes brought about by the Constitutional Reform Act 2005. (See *Part 1: Introduction for more details.*) For the purposes of this report, directors are defined as those who influence the decisions of the JAC as a whole, including Commissioners and the Leadership Team. Commissioners and members of the Leadership Team who served during 2007/08 are set out in the remuneration report.

Statement of the accounts

The financial statements for the period 1 April 2007 to 31 March 2008 have been prepared in a form directed by the Lord Chancellor with the approval of the Treasury in accordance with paragraph 31(2) of Schedule 12 to the Act.

Equal opportunities and diversity

The JAC promotes equal opportunities, both in the selection of candidates for judicial office and in the recruitment, development, training and promotion of staff.

At 31 March 2008, the majority of JAC staff were on secondment, mainly from the MoJ. The diversity statistics for seconded staff are included in the annual report and accounts of their department.

The JAC Single Equality Scheme was published on 13 June 2008. Its purpose is to set out our commitment to the promotion of equality of opportunity and to the elimination of discrimination both as an employer and in relation to our function in selecting judges. The scheme also details how we currently meet our statutory duties in relation to disability, gender and race, and it states our priorities for action over a three year period.

Employee involvement

As noted earlier, many of the JAC staff are seconded from the MoJ. All communications on issues such as terms and conditions are relayed to those staff by the MoJ.

The JAC works directly with staff through regular team meetings between directors and team leaders, and between team leaders and staff. In addition, each directorate holds a meeting for all their staff, where information from Commission meetings and Leadership Team meetings is discussed. All staff are encouraged to ask about organisational issues and how these relate to themselves and their work.

In May 2007, the JAC participated in the MoJ's Staff Opinion Survey. All staff working in the JAC were asked for their views on a number of topics. Results for the JAC were communicated to staff, and an action plan is in place to address the issues raised.

Timeliness in paying bills

The JAC aims to pay all properly authorised and undisputed invoices in accordance with contractual conditions or, where no such conditions exist, within 30 days of the presentation of a valid invoice. For the financial year 2007/08 96% (2006/07: 99%) of invoices were paid within this timescale, based on the start of processing at our accounting services provider. No interest was paid under the Late Payment of Commercial Debts (Interest) Act 1998.

Pension liabilities

Details regarding the treatment of pension liabilities are set out in note 2 to the financial statements, page 59.

Significant outside interests

In accordance with the Code of Conduct for the Judicial Appointments Commissioners, a register of financial and other interests was maintained and updated throughout the year by the Commissioners' Secretariat, who can be contacted at the offices of the JAC, Steel House, 11 Tothill Street, London SW1H 9LH.

Auditors

Under paragraph 31(7) Schedule 12 of the Constitutional Reform Act 2005, the Commission's external auditor is the Comptroller and Auditor General. The cost of the audit is disclosed in note 3 to the financial statements, page 60, and relates solely to statutory audit work.

So far as the Accounting Officer is aware, there is no relevant audit information of which the external auditors are unaware.

The Accounting Officer has taken all steps that she ought to have taken to make herself aware of any relevant audit information, and to establish that the JAC's auditors are aware of that information.

The JAC Framework Document requires that internal audit arrangements should be maintained in accordance with the Treasury's Government Internal Audit Standards. The MoJ Internal Audit (IA) service provides an independent and objective opinion to the Accounting Officer on the adequacy and effectiveness of the organisation's risk management, control and governance arrangements through a dedicated internal audit service to JAC. IA is also represented on the JAC Audit and Risk Committee, which provides oversight on governance and risk management.

Significant post-year-end events

Post-balance-sheet events are set out in note 16 to the financial statements, page 63.

Likely future business developments

Likely future developments and how they will affect our business are set out in the management commentary, page 44.

MANAGEMENT COMMENTARY

Financial review

Accounting standards

The financial statements for the JAC are prepared in accordance with the Treasury's *Financial Reporting Manual* and applicable accounting standards.

Commentary on the accounts

In the second year of operation, the JAC was asked to deliver more selection exercises and we established ourselves further as an organisation and moved towards stabilising staffing. The Income and Expenditure Account shows that total operating costs for the year were £8.94 million, compared with £8.03 million the previous year, an 11.4 per cent increase for this stage of our development. Employment costs increased by £0.33 million (6.4 per cent) and we spent more on outreach, roadshows and advertising, both for selection exercises and staff vacancies. In 2007/08 the JAC also incurred costs for the training of the new panel chairs.

Employment costs include the irrecoverable VAT that has to be paid on the employer's salary costs of those staff seconded from other government departments. Costs for interim staff of £1.08 million (2006/07: £0.90 million) reflect the requirement to manage increased turnover as secondments end, and recruitment and skill needs during 2007/08. The credit balance due to the MoJ at the year-end mainly represents the cost of seconded staff supplied to the JAC by the MoJ.

Total expenditure, with 'soft' charges and non-cash charges excluded, was £6.97 million compared with grant-in-aid of £7.13 million, an underspend of £0.16 million (2.3 per cent). In year changes to the initial programme of selection exercises MoJ asked us to run meant that some expected selection exercise costs did not arise in 2007/08.

The JAC continues to make extensive use of shared services for central functions, offered by the MoJ, to benefit from economies of scale. These costs are generally 'soft' charged, with no funds exchanged, although there has been more 'hard' charging during this year. Further details of the 'soft' charges may be found in note 4 to the financial statements.

The closing bank balance relates to grant-in-aid drawn down by the JAC in readiness to pay its liabilities.

Development and performance

Overview of the year

As described in Part 2 of the annual report, the JAC managed 41 selection exercises in 2007/08. We continue to review our processes to ensure that they remain clear, objective and accessible to the full range of eligible candidates.

The JAC has key relationships with the MoJ, as sponsoring department, the Lord Chancellor, the Lord Chief Justice, the Tribunals Service and Her Majesty's Courts Service. Members of the judiciary participate in each element of the selection exercise process, such as setting test exercises and participating as interview panel members. As disclosed in the remuneration report, the services of judicial Commission members, as well as the judiciary, are provided without charge.

Progress in relation to corporate objectives

For further details of the progress made by the JAC against the strategic objectives set out in the 2007/08 Business Plan, see Appendix 2: *2007/08 Business Plan*.

Forward look and future developments

The JAC plans to deliver a similar number of selection exercises in 2008/09 compared with 2007/08. There are, however, several very large exercises contained in the plan. The level of grant-in-aid provided by MoJ will increase from £7.13 million in 2007/08 to £8.15 million in 2008/09. The Business Plan for 2008/09 gives further details of the exercises that will be run in 2008/09 and the priorities that the Commission has set for policy and process development. This document is available on the JAC website, www.judicialappointments.gov.uk.

In March 2008, as part of its Governance of Britain programme, the Government published a series of documents [CM 7342] on Constitutional Renewal. Those documents included a White Paper and draft Constitutional Renewal Bill. The draft Bill and White Paper included a number of proposals, which seek to alter the existing arrangements for selecting and appointing judges. The proposals are of particular interest to the JAC given their potential to alter the way in which the Commission is constituted, the way in which it operates and the degree of independence from the Executive (Government) which it currently enjoys.

The JAC is contributing to the process of pre-legislative scrutiny by a Joint Select Committee. We will also contribute to the passage of any legislation dealing with judicial appointments that may be introduced by the Government.

Principal risks

The JAC's business and reputation could be affected by various risks, not all of which are within our control. We may also be adversely affected by other risks besides those listed below. Actions taken to mitigate these risks are identified in the JAC's corporate risk register.

The principal risks for the JAC, set out in the corporate risk register and agreed by directors, are:

- **Delay in agreeing the Business Plan** We rely on being given timely and comprehensive information from our business partners on their planned requirements for selection exercises. We plan staffing levels according to the annual programme, so delay in agreeing the forthcoming programme leaves insufficient time to develop a robust selection exercise programme, and may lead to sub-optimal deployment of received resources.
- **Insufficient resources to deliver our objectives** We match the planned programme of selection exercises with the funds received. If funding received is below our minimum cost requirements, we will not be able to deliver the programme, and so we need to discuss with our business partners what can be realistically achieved within those resource constraints.
- **Delay in completing selection exercises** We rely on being provided with an accurate, timely and comprehensive vacancy notice from business partners before we can commence each selection exercise. Late receipt of required information can result in delay and a possible failure to deliver the selection exercise programme agreed at the beginning of the year with those business partners.
- **Failure to reach a wider pool of eligible applicants** The pool of eligible people from which we select is finite. Our success in increasing the proportion of applications from talented people, from more diverse backgrounds, depends on the diversity of the people in the pool. This risk relates to our ability to encourage applications from those people already in the pool and, longer term, our influence to increase the proportion entering the pool. This is a key area which could result in a failure to meet statutory duties and weaken stakeholder confidence.
- **Insufficient numbers of trained staff** We need well trained and highly motivated staff, in order to achieve our business objectives. This risk relates to turnover and sickness issues, affecting the quality of work and customer service and ultimately impacting on all corporate objectives.

The Leadership Team constantly monitors these risks, takes action and reports to the Commission. The statement on internal control provides a description of the key elements of the risk and control framework.

Going concern

The income and expenditure account shows a deficit in 2007/08. Due to grant-in-aid funding the balance sheet at 31 March 2008 shows an excess of assets over liabilities of £0.20 million.

Furthermore, we know of no intention to suspend the JAC's activities. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these financial statements. Grant-in-aid for 2008/09, taking into account the amounts required to meet the JAC's liabilities, has already been included in the departmental estimate.

Environmental, social and community matters

The JAC recycles paper and has recycling bins in all offices. Staff discuss workplace-related environmental issues at team meetings and put forward suggestions to reduce energy consumption and increase recycling.

JAC staff had a ballot to decide which local charity they would support during 2007/08 and beyond. During 2007/08 staff raised around £3,000 for this local charity. We will continue to undertake fundraising events and participate in events organised by the charity.

REMUNERATION REPORT

This remuneration report has been prepared in accordance with the Companies Act 1985 section 243B and Schedule 7A as interpreted by the Government's *Financial Reporting Manual*. It summarises JAC policy on remuneration as it relates to Commissioners and members of the Leadership Team.

The two principal features of this report are:

- a summary and explanation of the JAC's remuneration and employment policies and the methods used to assess performance
- details of salaries, benefits in kind and accrued pension entitlement (details of remuneration and benefits are set out in the tables within this report and have been subject to audit by the Comptroller and Auditor General under the Constitutional Reform Act 2005).

Remuneration policy

The Lord Chancellor, under the provisions of the Constitutional Reform Act 2005, approves the appointment of the Chief Executive of the JAC and the terms and conditions for staff and Commissioners. Independent panels select the Chairman and 11 Commissioners following full and open competitions. The Judges' Council selects three Commissioners, all of whom are either a judge of the Court of Appeal or a High Court judge, but there shall be at least one of each.

Leadership Team

Members of the Leadership Team are currently seconded to the JAC from the MoJ, the Home Office and Her Majesty's Revenue & Customs. The terms and conditions of their appointments, including termination payments, are governed by the contracts with the departments from which they are seconded.

The remuneration of senior civil servants is set by the Prime Minister following independent advice from the Review Body on Senior Salaries. The Review Body also advises the Prime Minister from time to time on the pay and pensions of Members of Parliament and their allowances; on peers' allowances; and on the pay and pensions and allowances of ministers and others whose pay is determined by the Ministerial and Other Salaries Act 1975. In reaching its recommendations, the Review Body is to have regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people to exercise their different responsibilities
- regional/local variations in labour markets and their effects on the recruitment and retention of staff

- government policies for improving public services, including the requirement on departments to meet the output targets for the delivery of departmental services
- the Government's inflation target.

The Review Body takes account of the evidence it receives about wider economic considerations and the affordability of its recommendations. Further information about the work of the Review Body can be found at www.ome.uk.com.

Service contracts

Civil Service appointments are made in accordance with the Civil Service Commissioners' Recruitment Code. This requires appointment to be on merit on the basis of fair and open competition, but also includes the circumstances when appointments may otherwise be made.

Unless otherwise stated below, the Leadership Team members covered by this report hold appointments, which are governed by their secondment agreements. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners can be found at www.civilservicecommissioners.gov.uk.

Appointments

The Leadership Team during 2007/08 and details of their periods of secondment are set out below. (On 28 August 2007, the Strategy and Corporate Resources Directorate was divided into the Strategy and Outreach Directorate and the Corporate Resources Directorate.)

Commissioners are public appointees, and the JAC has appointed panel chairs and independent panellists. The Commissioners provide strategic direction to the JAC and select candidates for recommendation to the Lord Chancellor. Panel chairs and panellists are used when required to assess candidates and, through the panel chairs, provide a summary report on candidates' suitability for selection, for Commissioners.

In 2007/08, the JAC appointed 32 new panel chairs and had contracts with all independent panellists. These appointees are paid a fee for each day worked and are entitled to reimbursement for travel and subsistence. The taxation on such expenses is borne by the JAC. They do not have further pension entitlements.

Commissioners

Commissioners are appointed for fixed terms, which vary in length. In accordance with guidance issued by the Office of the Commissioner for Public Appointments, Commissioners are appointed to serve for not longer than five years at a time. Re-appointment is subject, in the case of senior judicial Commissioners, to a selection by the Judges' Council and for the Commissioners, to a selection panel appointed by the Lord Chancellor. No Commissioner may serve for periods (whether or not consecutive) for longer than 10 years.

Commissioners, excluding the Chairman and those who are members of the judiciary, are paid an annual fee of £12,000 in respect of three days service a month. The fee is neither performance-related nor pensionable. If Commissioners work additional days, these are paid at £400 per day. Any increase in the level of fees is at the discretion of the Lord Chancellor. Commissioners who are in full-time state employment, including judges, receive no additional pay for their work for the JAC.

Appointments

The members of the Commission during 2007/08 and details of their appointments are set out below.

	Date of appointment	Length of term
Chairman Baroness Prashar CBE	12/09/2005	5 years
Commissioners		
Lord Justice Auld (Vice-Chairman, retired 30/09/2007)	01/02/2006	4 years 6 months
Dame Lorna Boreland-Kelly DBE JP FRSA	01/02/2006	5 years
Professor Dame Hazel Genn DBE	01/02/2006	4 years
Mr Justice Goldring	01/02/2006	5 years
Lady Justice Hallett DBE	01/02/2006	5 years
Sir Geoffrey Inkin OBE	01/02/2006	4 years
Judge Frances Kirkham	01/02/2006	4 years
Mr Edward Nally	01/02/2006	4 years
Ms Sara Nathan	01/02/2006	4 years
District Judge Charles Newman	01/02/2006	5 years
Judge David Pearl	01/02/2006	5 years
Mr Francis Plowden	01/02/2006	5 years
Ms Harriet Spicer	01/02/2006	5 years
Mr Jonathan Sumption OBE QC	01/02/2006	5 years
Lord Justice Toulson	01/10/2007	5 years

Commissioners' remuneration

The Commissioners' remuneration for the year is as shown below (2006/07 figure is for a 14-month period):

	2007/08			2006/07
	Remuneration £000	Expenses £000	Total £000	Total £000
Lord Justice Auld (Vice-Chairman, retired 30/09/2007)	-	-	-	-
Dame Lorna Boreland-Kelly DBE JP FRSA	25	1	26	16
Professor Dame Hazel Genn DBE	16	-	16	14
Mr Justice Goldring	-	-	-	-
Lady Justice Hallett DBE	-	-	-	-
Sir Geoffrey Inkin OBE	12	4	16	17
Judge Frances Kirkham	-	-	-	-
Mr Edward Nally	12	6	18	20
Ms Sara Nathan	18	-	18	22
District Judge Charles Newman	-	-	-	-
Judge David Pearl	-	-	-	-
Mr Francis Plowden	13	-	13	15
Ms Harriet Spicer	14	-	14	15
Mr Jonathan Sumption OBE QC	12	-	12	14
Lord Justice Toulson	-	-	-	-
Total	122	11	133	133

Benefits in kind

All Commissioners are reimbursed for their travel and subsistence costs incurred in attending Commission business at Steel House and elsewhere. Since non-judicial Commissioners are deemed to be employees of the JAC, the amounts of these reimbursements are treated as benefits in kind and are disclosed in the table above. The taxation on such expenses is borne by the JAC.

Staff

The majority of staff are on secondment, from the MoJ and other government departments. At the end of 2007/08, the JAC employed eight staff on its own terms and conditions. For a further breakdown see note 2 to the accounts.

Appointments

The members of the Leadership Team during 2007/08 and details of their appointments are set out below.

		Date of appointment	Length of secondment	Leaving date
Chief Executive	Clare Pelham	07/02/2006	5 years 9 months	
Directors				
Courts Appointments	Lee Hughes	01/04/2006	1 year 3 months	31/08/2007
	Jane Andrews	17/09/2007	3 years	
Tribunals Appointments	David Truscott	29/08/2006	4 years	
	Susan Bush	06/03/2008	N/A (appointed on a temporary basis, as an interim member of staff)	
Strategy and Outreach	Jonathan Duke-Evans	09/07/2007	1 year	31/03/2008
	Nigel Reeder	31/03/2008	4 years	
Corporate Resources	Sarah Tyerman	01/04/2006	1 year 7 months	16/09/2007
	Sue Martin	20/08/2007	4 years	

Remuneration of Leadership Team, including the Chairman

The salary and bonuses of the Leadership Team at the JAC, including the Chairman, were as follows:

	2007/08		2006/07	
	Salary £000	Benefits in kind £000	Salary £000	Benefits in kind £000
Baroness Prashar	90-95	-	100-105	-
Clare Pelham	110-115	-	105-110	-
Jane Andrews	45-50 ¹	-	-	-
David Truscott	75-80	-	40-45 ⁸	-
Sue Martin	45-50 ²	-	-	-
Nigel Reeder	0-5 ³	-	-	-
Susan Bush	- ⁴	-	-	-
Jonathan Duke-Evans	65-70 ⁵	-	-	-
Lee Hughes	20-25 ⁶	-	85-90	-
Sarah Tyerman	30-35 ⁷	-	65-70	-

Notes:

- Figure quoted is for 17 September 2007 to 31 March 2008. The full year equivalent is in the range £80-85k.
- Figure quoted is for 20 August 2007 to 31 March 2008. The full year equivalent is in the range £70-75k.
- Figure quoted is for 31 March 2008 only. The full year equivalent is in the range £55-60k.
- Susan Bush is an interim member of staff and did not receive a salary or pension benefits during the year. The cost to the JAC in the period to 31 March 2008 for her services was £13k.
- Figure quoted is for 9 July 2007 to 31 March 2008. The full year equivalent is in the range £85-90k.
- Figure quoted is for 1 April 2007 to 31 August 2007. The full year equivalent is in the range £80-85k.
- Figure quoted is for 1 April 2007 to 16 September 2007. The full year equivalent is in the range £65-70k.
- Figure quoted is for 29 August 2006 to 31 March 2007. The full year equivalent is in the range £75-80k.

Salary includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances; and any other allowance to the extent that it is subject to UK taxation. This presentation is based on payments made by the JAC and thus recorded in these accounts.

Benefits in kind

Leadership Team members have no entitlement to benefits in kind. In 2007/08 no member of the Leadership Team received any benefit in kind.

Pension entitlements

The following sections provide details of the pension interests of the Leadership Team and Chairman of the JAC.

Pension benefits

The pension entitlements of the Leadership Team, including the Chairman, were as follows:

	Total accrued pension at pension age as at 31/03/2008 £000	Real increase in pension and related lump sum at pension age £000	*CETV at 31/03/08 £000	*CETV at 31/03/07 £000	Real increase in CETV £000	Employer Contribution to partnership pension account £000
Baroness Prashar	10-15 plus 30-35 lump sum	0-2.5 plus 2.5-5 lump sum	282	231	20	-
Clare Pelham	30-35 plus 100-105 lump sum	0-2.5 plus 2.5-5 lump sum	603	501	18	-
Jane Andrews	25-30 plus 80-85 lump sum	0-2.5 plus 2.5-5 lump sum	478	405	15	-
David Truscott	25-30 plus 85-90 lump sum	0-2.5 plus 0-2.5 lump sum	545	464	9	-
Sue Martin	20-25 plus 65-70 lump sum	0-2.5 plus 5-7.5 lump sum	399	312	30	-
Nigel Reeder	20-25 plus 60-65 lump sum	0-2.5 plus 0-2.5 lump sum	418	356	9	-
Jonathan Duke-Evans	25-30 plus 80-85 lump sum	0-2.5 plus 0-2.5 lump sum	545	445	8	-
Lee Hughes	30-35 plus 90-95 lump sum	0-2.5 plus 0-2.5 lump sum	645	564	8	-
Sarah Tyerman	20-25 plus 70-75 lump sum	0-2.5 plus 0-2.5 lump sum	488	461	13	-

*A cash equivalent transfer value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time.

Due to certain factors being incorrect in last year's CETV calculator, there may be a slight difference between the final period CETV for 2006/07 and the start of period CETV for 2007/08. In addition, there was an error relating to the calculation of David Truscott's CETV in last year's accounts.

The CETV figures are provided by approved pensions administration centres, who have assured the JAC that they have been correctly calculated following guidance provided by the Government Actuary's Department.

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes: either a 'final salary' scheme (classic, premium or classic plus) or a 'whole career' scheme

(nuvos). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under classic, premium, classic plus and nuvos are increased annually in line with the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (partnership pension accounts).

Employee contributions are set at the rate of 1.5 per cent of pensionable earnings for classic and 3.5 per cent for premium, classic plus and nuvos. Benefits in the classic scheme accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For premium, benefits accrue at the rate of 1/60th of final pensionable salary for each year of service. Unlike classic, there is no automatic lump sum. Classic plus is essentially a hybrid with benefits in respect of service before 1 October 2002

calculated broadly as per classic and benefits for service from October 2002 calculated as in premium. In nuvos a member builds up a pension based on their pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3 per cent of their pensionable earnings in that scheme year and the accrued pension is uprated in line with the RPI. In all cases, members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The partnership pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3 per cent and 12.5 per cent (depending on age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute, but where they do make contributions the employer will match these up to a limit of 3 per cent of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8 per cent of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for classic, premium and classic plus and 65 for members of nuvos.

Further details about the Civil Service pension arrangements can be found at the website www.civilservice-pensions.gov.uk.

Cash equivalent transfer values

A cash equivalent transfer value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due to when pension benefits are drawn.

Real increase in CETV

This reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension due to inflation or contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

Signed on behalf of the Judicial Appointments Commission



Clare Pelham
Chief Executive
Judicial Appointments Commission

26 June 2008



Baroness Prashar
Chairman
Judicial Appointments Commission

26 June 2008

STATEMENT OF ACCOUNTING OFFICER'S RESPONSIBILITIES

Under the Constitutional Reform Act 2005, the Lord Chancellor with the consent of HM Treasury has directed the Judicial Appointments Commission (JAC) to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the JAC and of its income and expenditure, recognised gains and losses, and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government *Financial Reporting Manual* and in particular to:

- observe the Accounts Direction issued by the Lord Chancellor including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government *Financial Reporting Manual* have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Ministry of Justice has designated the Chief Executive as Accounting Officer of the JAC. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the JAC's assets, are set out in *Managing Public Money* published by HM Treasury.

STATEMENT ON INTERNAL CONTROL

Scope of responsibility

As Accounting Officer and Chairman of the JAC, we have joint responsibility for maintaining a sound system of internal control that supports the achievement of the JAC's policies, aims and objectives, while safeguarding the public funds and JAC assets for which we are responsible, in accordance with the responsibilities assigned to us in *Managing Public Money*.

The JAC is a non-departmental public body established by the Constitutional Reform Act 2005. Our responsibility to ensure compliance with the requirements of the JAC's Funding Agreement with the MoJ is supported by regular meetings we have with the Lord Chancellor. These meetings include discussion on the progress we have made in meeting our strategic objectives; help formulate our future business direction; and highlight the inherent risks and opportunities in implementing our policies. The meetings are supplemented by a regular dialogue with MoJ officials.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the JAC's policies, aims and objectives; to evaluate the likelihood of those risks being realised and the impact should they be realised; and to manage the risks efficiently, effectively and economically. The system of internal control has been in place in the JAC for the year ended 31 March 2008 and up to the date of the approval of the annual report and accounts, and accords with HM Treasury guidance.

Capacity to handle risk

As Accounting Officer and Chairman of the JAC, we have overall responsibility for ensuring the JAC is committed to high standards of corporate governance – including the need for an effective risk management system and internal control environment – which is fundamental to our success. We are accountable for the overall operational management of the risk management and internal control systems, and have responsibility to delegate specific corporate risks to individual members of the Leadership team as appropriate. All managers have responsibility for the effective management of operational risks that may impact on the efficient and effective delivery of objectives.

The Board of Commissioners is supported by the Audit and Risk Committee in monitoring the key risks to achieving our strategic objectives through quarterly updates of the corporate risk register from the Leadership team. Commissioners have delegated to the Audit and Risk Committee responsibility for advising on the adequacy and effectiveness of risk management and internal control, including the risk management process. The Audit and Risk Committee reviews progress on risk management at each of their quarterly meetings.

All staff have been informed of their responsibility for managing risk and new staff receive a copy of the Risk Management Policy and Risk Framework in their induction pack. During the year, most members of staff (at all grades) within the JAC attended half day Risk Identification Workshops run separately for each team. The workshops were facilitated by the Risk Improvement Manager (RIM) and commenced with an interactive session on the principles of risk management. The aim was to start to embed risk management at all levels within the organisation, not just for more senior grades. Each team has subsequently produced its own risk register or has specific risks identified for them in their directorate risk register. Selection exercise risk registers have also been produced. These registers are being used and regularly updated.

The risk and control framework

JAC's Risk Policy and Framework defines what is meant by risk and risk management, outlines the key principles underpinning the JAC's approach to risk management and explains the risk management processes and the roles and responsibilities of staff. The Framework aims to achieve best value for money in delivering services, by balancing the costs and benefits of either reducing or accepting those risks that have been highlighted. Key to this is the need to identify those strategic risks that threaten to impact on the successful delivery of the JAC's corporate objectives. These may be risks to the JAC's reputation, business operations, programmes or activity associated with business innovation or development.

The JAC has a hierarchy of risk registers: the corporate risk register identifies strategic risks and the directorate and team and selection exercise risk registers identify risks to the achievement of our business objectives at operational level. These lower-level registers were established during the year, along with simplification of the corporate risk register and the setting of the risk appetite.

New or emerging risks are identified throughout the year. The Leadership Team assesses risks monthly (or as the risk environment changes) and the Commission and Audit and Risk Committee review these quarterly.

We follow the guidance in HM Treasury's *Orange Book*, with risks evaluated in terms of their impact on corporate objectives and likelihood of occurrence. The most appropriate response to that risk is then identified. Risks that have high impact and high likelihood are given the highest priority.

The JAC assurance process is an integral part of our risk and control processes. It was set up in April 2007 and was immediately used to obtain year-end reports from directors to support the 2006/07 Statement on Internal Control. The process was then established in full for 2007/08. Directors were required to sign start-of-year assurance statements where they signed up to their responsibilities for risk management and internal control. Those directors who were subsequently appointed signed similar start-of-appointment statements. This was followed in October by the completion of mid-year assurance statements, the results of which were reported at the December Audit and Risk Committee meeting. Directors have now completed their end-year statements covering the latter half of the year.

A key element of the mid and end-year statements is the requirement for directors to (a) state the actions that have been taken to manage risk and (b) identify control exceptions, i.e. where controls have not operated as intended or have not been followed, and state the remedial action that has been taken or is proposed to prevent recurrence of those exceptions. Directors are required to involve their teams in this process so that a full picture emerges across the organisation. Identifying all control exceptions is key to this process, so that the Accounting Officer and Chairman have clear sight of any issues before they sign this statement.

Another key element of the assurance process is the part played by the Director of Corporate Resources who, as key control owner, is responsible for systems which support operational directorates. Consequently, this director is required to complete an additional statement to make assurances relating to the central support given for areas such as financial management and HR. An additional report is completed to show the action taken during the period, and to be taken in the coming period, to ensure the key controls are operating as intended.

Review of effectiveness

As Accounting Officer and Chairman of the Commission, we have joint responsibility for reviewing the effectiveness of the system of internal control. Our review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the JAC who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. We have been advised on the implications of the result of our review of the effectiveness of the system of internal control by the Audit and Risk Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.

The key elements of the system of internal control are set out above and contribute to the system's effectiveness. The following also inform our view:

- The Commission meets regularly with the Chief Executive and Leadership Team to review the JAC's priorities; to oversee their delivery and the strategic framework within which detailed business planning takes place; and to review the strategic risks and the effectiveness of the risk management process.
- Audit and Risk Committee: The Committee comprises of a Chairman (a Commissioner) and three other Commissioners. It meets four times a year and advises us on the adequacy and effectiveness of risk management and internal control, including the strategic risk register processes. The Committee also assesses the internal and external audit activity plans and the results of that activity.
- Internal audit: The JAC uses the MoJ's Internal Audit service under a shared service agreement. The service operates to Government Internal Audit Standards and submits regular reports, which include the Head of Internal Audit's independent opinion on the adequacy and effectiveness of the arrangements for risk management, control and governance, together with recommendations for improvement.

We are able to confirm that there have been no significant internal control problems in the JAC up to 31st March 2008 and up to the date of this report.

Signed on behalf of the Judicial Appointments Commission



Clare Pelham
Chief Executive
Judicial Appointments Commission

26 June 2008



Baroness Prashar
Chairman
Judicial Appointments Commission

26 June 2008

CERTIFICATE AND REPORT OF THE COMPTROLLER AND AUDITOR GENERAL TO THE HOUSES OF PARLIAMENT

I certify that I have audited the financial statements of the Judicial Appointments Commission (JAC) for the year ended 31 March 2008 under the Constitutional Reform Act 2005. These comprise the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

The Chief Executive as Accounting Officer is responsible for preparing the Annual Report, the Remuneration Report and the financial statements in accordance with the Constitutional Reform Act 2005 and directions made thereunder by the Lord Chancellor with the approval of Treasury, and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Constitutional Reform Act 2005 and directions made thereunder by the Lord Chancellor with the approval of Treasury. I report to you whether, in my opinion, the information, which comprises the management commentary and directors' report, included in the Annual Report, is consistent with the financial statements. I also report whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the JAC has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the JAC's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the JAC's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgements made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the JAC's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Constitutional Reform Act 2005 and directions made thereunder by the Lord Chancellor with the approval of Treasury, of the state of the JAC's affairs as at 31 March 2008, and of its deficit for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with the Constitutional Reform Act 2005 and directions made thereunder by the Lord Chancellor with the approval of Treasury; and
- information, which comprises the management commentary and directors' report, included within the Annual Report, is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

T.J Burr

Comptroller and Auditor General

02 July 2008

National Audit Office
151 Buckingham Palace Road
Victoria
London
SW1W 9SS

FINANCIAL STATEMENTS

Income and expenditure account

for the year ended 31 March 2008

	Note	2007/08 £000	2006/07 £000
Operating expenditure			
Employment costs	2	5,440	5,114
Other operating charges	3	1,544	957
Services and facilities provided by sponsoring department	4	1,959	1,955
Operating deficit		8,943	8,026
Cost of capital credit		(121)	(92)
Deficit for the year		8,822	7,934
Reversal of notional costs			
Services and facilities provided by sponsoring department	4	(1,959)	(1,955)
Cost of capital credit		121	92
Retained deficit for the year		6,984	6,071

There are no gains and losses other than the net deficit for the year, and a separate statement of recognised gains and losses is therefore not included.

Balance sheet

at 31 March 2008

	Note	2007/08 £000	2006/07 £000
Fixed Assets	5	-	15
Current Assets			
Debtors	6	16	5
Cash at bank and in hand	7	1,884	5,291
		1,900	5,296
Creditors: Amounts falling due within one year	8	(1,699)	(5,256)
Net Current Assets		201	40
Total Assets less Current Liabilities		201	55
Capital and Reserves			
Income and Expenditure Reserve	9	201	40
Revaluation Reserve	10	-	15
		201	55

The notes on pages 58 to 63 form part of these financial statements. All income and expenditure is derived from continuing operations.

Signed on behalf of the Judicial Appointments Commission



Clare Pelham
Chief Executive
Judicial Appointments Commission

26 June 2008



Baroness Prashar
Chairman
Judicial Appointments Commission

26 June 2008

Cash flow statement

for the year ended 31 March 2008

	Note	2007/08 £000	2006/07 £000
Net cash (outflow) from operating activities	11	(10,537)	(813)
Financing from Grant-in-Aid	9	7,130	6,104
(Decrease)/Increase in cash	7	(3,407)	5,291

The notes on pages 58 to 63 form part of these financial statements.

Notes to the financial statements

for the year ended 31 March 2008

Note 1 Statement of accounting policies

These financial statements are prepared on a going concern basis in accordance with the Constitutional Reform Act 2005 and with the Treasury's *Financial Reporting Manual* and applicable accounting standards. They are in a form as directed by the Lord Chancellor with the approval of the Treasury.

a) Accounting convention

The accounts are prepared under the historical cost convention, as modified by the revaluation of fixed assets, in accordance with Treasury guidance. Without limiting the information given, the accounts meet the accounting and disclosure requirements of the Companies Act and accounting standards as issued by the Accounting Standards Board so far as those requirements are relevant. The accounts are also consistent, where appropriate, with generally accepted accounting practice in the United Kingdom.

b) Income and expenditure

Government grant-in-aid for revenue expenditure is accounted for through the income and expenditure reserve.

c) Cost of capital credit

As required by the Treasury, a charge is made to the income and expenditure account for the notional cost of capital. The notional capital charge, which reflects the cost of financing capital employed, is calculated at 3.5 per cent (2006/07: 3.5 per cent) of average net assets, excluding cash held at the Office of the Paymaster General, employed during the year. This results in the JAC having a cost of capital credit, as the JAC has a negative balance sheet for cost of capital purposes. In accordance with Treasury guidance, the notional credit is reversed out of the income and expenditure account before determining the retained surplus or deficit for the period.

d) Accounting for value added tax

JAC is not permitted to recover any VAT on expenditure incurred. All VAT is therefore charged to the relevant expenditure category.

e) Tangible fixed assets

All classes of tangible fixed assets are carried at their original cost or valuation less accumulated depreciation. This basis is used as a proxy for current value due to the low value of assets involved. Assets costing more than the prescribed capitalisation level of £5,000 are treated as capital assets. Where an item costs less than the prescribed limit but forms part of an asset or grouped asset whose total value is greater than £50,000, the items are treated as a capital asset.

f) Depreciation

Depreciation is calculated on a straight-line basis to write off fixed assets over their expected useful life, as follows: Computer systems - 4 years.

g) Pensions policy

Past and present employees are covered by the provisions of the PCSPS schemes. The defined benefit schemes are unfunded except in respect of dependants' benefits. The JAC recognises the expected cost of these elements on a systematic and rational basis over the period during which it benefits from the employees' services, by payments to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS.

h) Services and facilities provided by sponsoring department

In accordance with the Framework Document, the JAC does not meet the costs of certain services as these are provided by the MoJ and soft charged, with the costs reversed out of the income and expenditure account, before determining the retained deficit for the period. An analysis of these changes can be found in note 4, and further details are available in the *Shared services* section in part 2 of this annual report.

Note 2 Staff numbers and related costs

Staff costs comprise:

	2007/08					2006/07	
	Commissioners	Panel chairs and lay panel members	Permanent staff	Seconded staff	Other contracted staff	Total	Total
	£000	£000	£000	£000	£000	£000	£000
Wages and Salaries	215	112	19	3,185	1,084	4,615	4,416
Social Security Costs	23	32	2	223	-	280	226
Other Pension Costs	24	-	3	518	-	545	472
	262	144	24	3,926	1,084	5,440	5,114

From 2007/08, staff reward and recognition has been accounted for as part of wages and salaries, instead of administration, under other operating charges, in note 3. However, the 2006/07 reward and recognition expenditure of £6k is retained in note 3 to maintain consistency with prior year accounts.

In 2007/08, JAC employed staff seconded from the MoJ and other government departments. Other contracted staff are supplied by agencies. All irrecoverable value added tax is included within wages and salaries.

No VAT is included in social security or other pension costs.

The Principal Civil Service Pension Scheme (PCSPS) is an unfunded multi-employer defined benefit scheme, but the JAC is unable to identify its share of the underlying assets and liabilities. The scheme actuary valued the scheme as at 31 March 2007. Details can be found in the Resource Accounts of the Cabinet Office: Civil Superannuation at www.civilservice-pensions.gov.uk.

As JAC employed staff are seconded from the MoJ and other government departments, employers' contributions, payable to the PCSPS, are made from the sponsor departments. The JAC is recharged the full cost of employing its staff, including other pension costs. For 2007/08, pension costs of £544,818 were payable to the PCSPS (2006/07: £472,199), and are at one of four rates in the range 17.1 to 25.5 per cent (2006/07: 17.1 to 25.5 per cent) of pensionable pay, based on salary bands. The Scheme's Actuary reviews employer contributions every four years following a full scheme valuation. From 2008/09, the salary bands will be revised, but the rates will remain the same. The contribution rates are set to meet the cost of the benefits accruing during 2007/08 to be paid when the member retires, and not the benefits paid during this period to existing pensioners.

Employees can opt to open a partnership pension account, a stakeholder pension with an employer contribution. These are handled through the employee's sponsor department, and are paid to one or more of a panel of three appointed stakeholder pension providers. Employer contributions are age-related and range from 3 to 12.5 per cent (2006/07: 3 to 12.5 per cent) of pensionable pay. Employers also match employee contributions up to 3 per cent of pensionable pay.

The average numbers of full-time equivalent persons employed during the year were as follows:

	2007/08					2006/07	
	Commissioners	Panel chairs and lay panel members	Permanent staff	Seconded staff	Other contracted staff	Total	Total
Total	3	2	1	80	20	106	105

The 2006/07 comparative for staff numbers has been restated to reflect a more accurate number of full-time equivalent panel chairs and panellists.

Note 3 Other Operating charges		
	2007/08 £000	2006/07 £000
Selection exercise programme		
Panel members' expenses	49	214
Advertising	328	169
Health screening	6	1
Catering	9	27
Outsourced accommodation and IT	70	-
Actors' costs	43	69
Other	40	-
	545	480
Administration costs		
Building improvements	33	39
Staff travel and subsistence	42	32
Commissioners' travel and subsistence	24	26
Equipment maintenance	2	2
Consultancy	82	103
Commissioners' and other events	20	15
Staff training	18	7
Panellist training	101	-
Office expenses	41	17
Recruitment	231	22
External audit	38	30
Staff reward and recognition	-	6
	632	299
Communications		
Printing and reprographic services	48	49
Translation services	5	10
Publications and library services	7	5
Publicity and advertising	96	16
Telecommunications	17	1
Outreach and conferences	54	19
	227	100
Non-cash items		
Loss on disposal of fixed asset	15	-
Depreciation	-	7
	15	7
Shared Services		
Internal audit	22	41
E-delivery/IT services	36	20
Financial services	67	10
	125	71
Total	1,544	957
The auditors received no remuneration for non-audit work. From 2007/08, staff reward and recognition has been accounted for as part of wages and salaries in note 2. However, the 2006/07 reward and recognition amount of £6k is retained within this note to maintain consistency with the prior year accounts. The 2006/07 comparative has been restated to reflect the re-categorisation of selection exercise advertising costs; recruitment costs that were previously provided as part of Communications: Publicity and advertising; and outreach costs have been re-categorised from Commissioners' and other events. In addition, the IT services category has been split to show financial services separately.		

Note 4 Services and facilities provided by sponsoring department		
	2007/08 £000	2006/07 £000
Legal and Judicial Services Group	330	361
Finance Directorate	14	42
Commercial Group	1,412	1,282
Human Resources Directorate	80	107
E-Delivery Group	113	48
Finance and Administrative Charges (Aramis)	-	107
Private and Crown Office	10	8
	1,959	1,955

Note 5 Fixed assets		
	Computer systems £000	
Cost or valuation		
At 1 April 2007	30	
Additions	-	
Disposals	(30)	
At 31 March 2008	-	
Depreciation		
At 1 April 2007	15	
Disposals	(15)	
At 31 March 2008	-	
Net book value at 31 March 2008	-	
Net book value at 31 March 2007	15	

Note 6 Debtors		
	2007/08 £000	2006/07 £000
Amounts falling due within one year		
Other debtors	6	2
Prepayments	10	3
	16	5
Analysis of balances		
Balances with central government bodies	6	1
Balances with bodies external to central government	10	4
	16	5

Note 7 Cash at bank and in hand		
	2007/08 £000	2006/07 £000
Balance at 1 April	5,291	-
Movement	(3,407)	5,291
Balance at 31 March	1,884	5,291
The following balances at 31 March were held at		
Office of HM Paymaster General	1,884	5,291
Commercial banks and cash in hand	-	-
	1,884	5,291

Note 8 Creditors		
	2007/08 £000	2006/07 £000
Amounts falling due within one year		
Trade creditors	140	41
Other creditors	5	30
Amounts due to MoJ	710	4,826
Other taxation and social security	8	16
Accruals	836	343
	1,699	5,256
Analysis of balances		
Balances with central government bodies	1,107	4,902
Balances with bodies external to central government	592	354
	1,699	5,256
The amount due to the MoJ has reduced significantly since the previous year, as the previous year's balance represented a full year recharge for MoJ staff on secondment to the JAC.		

Note 9 Income and expenditure reserve		
	2007/08 £000	2006/07 £000
At 1 April	40	-
Retained (deficit) for the year	(6,984)	(6,071)
Grant-in-Aid	7,130	6,104
Transferred from revaluation reserve	15	7
At 31 March	201	40

Note 10 Revaluation reserve		
	2007/08 £000	2006/07 £000
At 1 April	15	22
Transferred to income and expenditure reserve	(15)	(7)
At 31 March	-	15

Note 11 Reconciliation of operating deficit to net cash flows

	2007/08 £000	2006/07 £000
Operating (deficit)	(8,943)	(8,026)
Adjustments for non-cash transactions		
Services and facilities provided by sponsoring department	1,959	1,955
Loss on disposal of fixed asset	15	-
Depreciation	-	7
(Increase)/decrease in debtors	(11)	(5)
(Decrease)/increase in creditors	(3,557)	5,256
Net cash (outflow) from operating activities	(10,537)	(813)
Grant-in-aid financing	7,130	6,104
(Decrease)/increase in cash	(3,407)	5,291

Note 12 Capital commitments

There are no commitments for capital expenditure at 31 March 2008 (31 March 2007: Nil).

Note 13 Related party transactions

The JAC is a non-departmental public body sponsored by the MoJ. The MoJ is regarded as a related party. During the period, the JAC had various material transactions with the department.

Baroness Prashar is a Trustee of Cumberland Lodge, and Chairman of the Royal Commonwealth Society. During the year the JAC incurred expenditure of £15,151 with Cumberland Lodge and £32,897 with the Royal Commonwealth Society.

Note 14 Contingent Liabilities

There are no contingent liabilities at 31 March 2008 (31 March 2007: nil).

Note 15 Losses and special payments

There were no losses or special payments in the year ended 31 March 2008 (2006/07: nil).

Note 16 Post balance sheet events

There were no significant post balance sheet events after the year-end.

In accordance with the Financial Reporting Standard 21 'Events after the balance sheet date', accounting adjustments and disclosures are considered up to the point where the financial statements are 'authorised for issue'. In the context of the JAC, this is interpreted as the date on the Comptroller and Auditor General's audit certificate.

Note 17 Liquidity, interest rate and currency risks

The JAC has no borrowings and its resource requirements are met from resources voted annually by Parliament to the MoJ. The JAC is not, therefore, exposed to liquidity risks.

All of the JAC's cash balances are held with the Office of the Paymaster General and the JAC does not receive interest on the balances. It is therefore not exposed to interest rate risk.

All material assets and liabilities are denominated in sterling, so it is not exposed to currency risks.

PART 4: APPENDICES



APPENDIX 1: RESPONSE TO THE MOJ CONSULTATION PAPER *THE GOVERNANCE OF BRITAIN: JUDICIAL APPOINTMENTS*

Judicial appointments for the 21st century: independence, responsibility and accountability

January 2008

Introduction

1. This is the response of the Judicial Appointments Commission (JAC) to the Government's Consultation Paper on Judicial Appointments. The Commission welcomes this opportunity to set out its views on the important issues of independence, responsibility and accountability raised by the Consultation Paper and on ways in which both legislative and management changes would enable it to provide a better service without compromising the quality of its selection process. Its response to the specific questions posed in the Consultation Paper is provided in the annexe to this paper.
2. The establishment of the JAC was indeed nothing less than a quiet revolution. Throughout the modern period, judges had been appointed by the Lord Chancellor, a system which resulted in appointments of judges of high quality, but which historically embodied none of the features of openness and accountability which have come to be taken for granted in virtually all other types of public appointment. It is some years since the first moves were made to open up the system of appointments to the tribunals and courts judiciary to fair competition, but the system remained under the day-to-day management of the Lord Chancellor. Radical change came only with the passage of the Constitutional Reform Act 2005 and the establishment of the JAC as an independent Non-Departmental Public Body responsible for making selections for the vast majority of posts in the tribunals and courts judiciary. As Lord Woolf said during the passage of the Bill, these changes marked "a gigantic step forward in our constitutional arrangements... the future independence of the judiciary will be safer than it has ever been".

3. In addition to enshrining the principle of **selection on merit** through open procedures, the JAC is also required by the legislation that establishes it to have regard to the need to encourage **diversity in the range of persons available for selection for appointments**. This is a fundamental part of its remit, which it seeks to fulfil by taking active steps to encourage applications from under-represented groups so that the pool from which candidates of merit can be drawn is widened.

The Commission's Independence, Responsibility and Accountability

4. The JAC is an executive Non-Departmental Public Body sponsored by the Ministry of Justice. Its relationship with the Ministry is defined both in legislation and in the Framework Document produced following its establishment. That relationship reflects the careful balance of responsibilities between the JAC and the Ministry in the judicial appointments process that was set out in the Constitutional Reform Act. A significant change to the present balance of responsibilities between the Lord Chancellor, the judiciary and the JAC itself in the selection and appointment of judges might require reconsideration of the accountability arrangements for the JAC. The Commission is of the view that there should not be a series of small changes whose cumulative effect is to change the balance achieved in the Act without consideration of their accountability implications when taken together.
5. The Constitutional Reform Act came into effect less than 2 years ago and there is not yet sufficient evidence to support significant change. The Commission therefore does not intend at this stage to set out or to support proposals for significant change; but rather to focus its response on improving current arrangements with a view to providing a better service to candidates and to the justice system. The effective implementation of the thinking behind the Constitutional Reform Act will enable a later assessment to be fully informed by a body of evidence on its consequences. In the

constitutional context it is important for every significant change to be carefully weighed and all its implications assessed. The Commission would wish therefore for a full public and Parliamentary assessment to be made of the right accountability arrangements following any decision to make significant changes to its own responsibilities either now or in the future.

6. The Commission notes that there are fundamentally three possible models for its responsibilities. First, that it should be a body that selects judges for appointments but does not have the responsibility for making those appointments – **the selecting model**. This is the model enshrined in the Constitutional Reform Act and the Commission makes below some suggestions for improving its smooth running. Second, that it should become a body responsible for selecting and appointing judges: this could be called the **appointing model**. Third, there is also what might be called a **hybrid model** whereby the Commission would be responsible for appointing some but not all judges.
7. The **appointing model** raises some accountability issues. The status of the JAC itself might need further examination. It might be thought appropriate that the JAC's links with the Ministry of Justice should be reviewed. One alternative model would be to introduce direct Parliamentary funding and accountability along the lines of the Electoral Commission, which reports to a Speaker's Committee rather than to any government Department.
8. In relation to the **hybrid model**, the same issues of accountability might also arise. The Commission considers that there are further concerns about the rationale for a hybrid model. In particular, the Commission is very aware of the importance for members of the public of the decisions made by judicial office-holders at the less senior levels of the judiciary. These include employment and asylum decisions and entitlement to some benefits. The rationale for treating the appointment of these judges differently from those at the more elevated levels is not clear to the Commission. It considers that it might send the wrong signal about the importance of these roles and would not contribute to public understanding of the judicial appointments process.
9. The Commission is currently a **selecting body**. Among the statutory powers enjoyed by the Lord Chancellor in relation to the JAC, in addition to the power to reject or require reconsideration of a person selected by the Commission, are the power to issue guidance to the JAC on the exercise of its functions; the power, in strictly defined circumstances, to remove a Commissioner from office; the power to set the JAC's budget; the power to hold the JAC to account for the efficient expenditure of that budget; the power to determine the remuneration of Commissioners; and the power to appoint members of the panel which is to select Commissioners. The Framework Document supplements these mechanisms with a 40-page statement of requirements and prohibitions relating in large part to financial and accounting matters.
10. The Commission of course recognises the need to be held to the highest standards of financial propriety. At the same time, it also believes that it is important not to undermine the independent role that Parliament intended for it by a control regime which savours of micro-management. Suggestions, for instance, that the Ministry of Justice should have more clearly defined powers to set targets for the Commission would seem to us to go too far in the direction of compromising its independent position.
11. The Commission proposes that five changes to improve the current arrangements should be considered.
 - First, the Commission would be open to a Parliamentary hearing for its Chairman following selection, but if this were to be done it would be important to be clear about its purpose and for the arrangements not to deter suitable candidates from applying for this post.
 - Second, the Commission suggests that the requirement for the JAC to concur with the appointment of Deputy High Court Judges should be replaced by a requirement for the Commission to approve the processes for their appointment.
 - Third, the power under section 65 of the CRA to provide guidance to the Commission on the conduct of its functions has not been used, nor, so far as the Commission is aware, has its use been considered. The JAC has developed, after wide discussion, its own framework of procedures, which command wide acceptance, and it is hard to envisage circumstances under which use of the power under section 65 is likely to be helpful. The JAC therefore suggests that it should be withdrawn.
 - Fourth, the Commission accepts that there may be scope for a review of the arrangements for the selection of Court of Appeal judges and Heads of Division.
 - Fifth, the ability of the JAC to fulfil its statutory functions to widen the pool of those available to become judges and to select solely on merit is dependent on sufficient funding. The public interest requires that the judicial selection process is conducted to the highest standards. It is important that the independence of the JAC should be

safeguarded by an acceptance, possibly even in legislation, by the Government of the obligation to provide the JAC with sufficient resources to enable it to comply with the vacancy requests it receives in a fair, timely, and thorough fashion, and in full compliance with its statutory duties. The general duty on the Lord Chancellor in section 1 of the Courts Act 2003 to ensure that there is an efficient and effective system to support Courts business is relevant and helpful here. The Commission is aware of the pressures on public expenditure and conscious of the need to provide value for money. It is undoubtedly the case that the judicial selection process could be conducted more cheaply, if for instance it were to be done with less regard to the need to widen the pool; but the JAC believes that to cut costs in this way would have damaging long-term consequences.

12. In addition to these changes, the Commission is clear that a number of improvements to the management of the current judicial appointments process would bring significant benefits, and these are discussed below.

Improving the Management of the Appointments Process

13. While the legislation governing judicial appointments is, in our opinion, sound in its essentials, **the management of the system urgently needs to be improved.** Candidates, courts and tribunals, and the public they serve, are still concerned about the length of the process for appointing judges. The JAC fully shares this concern. **In its view, the roots of the problem lie in the need for more effective strategic management of the judicial appointments system as a whole.** The JAC has itself managed to reduce the average time for the stages under its control - from closing date for applications to submission of selections to the Lord Chancellor - from 24 weeks under the former DCA to 19 weeks. But this is merely the middle segment in a long process. Vacancies must be forecast and vacancy notices finalised and sent to the JAC before a competition can begin; and once the JAC selection has been sent to the Lord Chancellor the successful candidates must be formally appointed, medical checks carried out for salaried posts, and training scheduled if necessary. Appointees may then need to relinquish current commitments in order to take up appointments. As detailed in the Commission's first annual report, the process from beginning to end may well take upwards of a year. It is important that those responsible for each segment of the process consider how best they could reduce delay without diminishing the robustness of their procedures.

14. **Improving the system's capability to forecast vacancies will be an essential step in any programme of improvement.** More accurate forecasting will make it possible for selection exercises to be undertaken in a more timely manner, with the Commission allocating its resources more effectively. The Commission is very pleased that agreement has now been reached in principle to work towards a fixed, rolling programme of selection exercises, that will be known to candidates and others a year or more in advance. A further important development is agreement in principle for all the documentation for the exercises for the year ahead to be received by the Commission by the beginning of April. There will of course always be one-off competitions which cannot be predicted in advance, occasioned by promotions, unexpected retirements, or deaths in service, and the Commission would fit these into its forward programme on the basis of clear advice from the Courts and Tribunals Services as to where their priorities lie.
15. At present, most of JAC's larger competitions (though by no means all) are conducted at the request of the Courts and Tribunals Services under the terms of section 94 of the Act. This means that it is not asked to select candidates for immediate or confidently predicted vacancies, but rather to draw up a list of people who are suitable for selection as and when vacancies arise over the coming months. The consequence is that many of those who are selected in a section 94 competition will not in the event be appointed to a judicial post.
16. This situation is disruptive and frustrating for candidates. They are left in a professional limbo, with many months of uncertainty as to where their future career paths will lie, and many suffer disappointment at the end of the process. This is potentially a serious disincentive for people to apply in a section 94 competition. With better forecasting, section 94 lists could be abolished. The JAC could be asked to run competitions which result in a number of selections equal to the number of known or confidently anticipated vacancies. If further vacancies arose during the period between the end of the competition and the next anticipated competition for the same office, further candidates could be selected from the best placed of those who had not initially been successful. Such a change, which could be accomplished either by legislation or simply by refraining from requesting the creation of section 94 lists, would have an enormously positive impact in allowing candidates to plan their careers and to avoid the burden of frustrated expectations.

ANNEXE

Responses to specific questions posed in the consultation paper

Questions 1-4: The balance of responsibilities in making judicial appointments

1. Perhaps the most fundamental changes discussed by the Consultation Paper relate to the balance of functions between the Lord Chancellor and the JAC in the appointments process. The arrangement enshrined in the 2005 Act is that the Commission, despite its name, does not itself make appointments: it provides the Lord Chancellor with “selections” or, in other words, nominations. The Lord Chancellor has the power to reject or require reconsideration of such nominations, but those powers are severely circumscribed - and in practice every selection made by the JAC since its establishment has been approved by the Lord Chancellor.
2. The Consultation Paper offers two alternatives. The first is that the JAC should become, in fact as well as in name, an appointing commission: the second, a hybrid option, is that it should appoint to the more junior judicial posts for which it currently selects, while continuing to make selections for the more senior posts.
3. The present balance of responsibilities in the appointment process was carefully calibrated in the 2005 Act. The existence of the Lord Chancellor’s powers to reject or require reconsideration of names submitted by the JAC, however infrequently used, is part of a balancing mechanism which requires the Lord Chancellor’s explicit concurrence with its selections. The existing arrangements for the JAC’s accountability were put in place on the express basis of this balance of responsibilities. The JAC is of the view that it is too soon to change this balance. If the balance is changed, however, there will be questions with regard to its accountability.
4. There are improvements that can be made to the current arrangements for the Commission’s operation as a selecting body. It expressed its agreement earlier in this paper with the suggestion that there should be a Parliamentary element in the appointment of the JAC Chairman. It also suggests that more information should be made available than at present about the details of the processes by which Commissioners are appointed. These changes would bring more openness and accountability to their selection.
5. Under section 65 of the Constitutional Reform Act the Secretary of State may issue guidance about procedures to the JAC. This power has

not so far been used and the Commission believes that its use could impinge on the Commission’s independent role of deciding on the selection procedures which it is appropriate to use. It would therefore suggest that this power be abolished.

6. The Commission also suggests that the arrangements for funding its work leave too much discretion in the hands of the executive. While the JAC fully recognises its responsibility to manage its resources efficiently, and to deliver savings at times of particular pressure on public expenditure, it believes that it would be proper for the Government to accept a statutory duty to ensure that the JAC is provided with sufficient funds to carry out its work effectively.

Question 5: Role of the judiciary

7. Under the current system the judiciary is involved in the selection of judges in a number of ways: principally in providing members of interview panels, in writing references, and in statutory consultation. Five of the fifteen Commissioners must by statute be judicial members. Some commentators have suggested that the purpose of statutory consultation with the senior judiciary is vague: is it intended as a further opportunity for the judiciary to express an independent view on the person or persons who should be selected, or does it have a narrower, comparative purpose, to ensure that the JAC is aware of any specific information about candidates that it will be considering for selection that might affect their relative merits for a vacancy? The JAC is clear that the latter is the correct view and operates accordingly. It has kept the operation of statutory consultation under review and provided feedback on it to tribunals and courts judges. It is now preparing guidance on how the process of statutory consultation can be made more helpful, and intends to discuss with representatives of the senior judiciary shortly.

Question 6: Post-appointment hearings

8. The JAC sees force in the objections which have been made, in the Consultation Paper and elsewhere, to the idea of Parliamentary post-appointment hearings for senior judges. The risk of politicisation is too great. But there may be more merit in the idea of a Parliamentary element in the appointment of the Chairman of the JAC. This could be helpful in terms of increasing public understanding of the Commission's role and the views and concerns of Parliamentarians. If the idea were to be proceeded with it would be important to specify the purpose and scope of the hearings and set out clear ground rules accordingly, so that the process would not deter able candidates from applying. Under the current arrangements the JAC is accountable to Parliament in a number of ways. Its Annual Report is presented to Parliament by the Lord Chancellor. Commissioners and senior staff may be asked to appear before Parliamentary Committees to answer questions. And it is subject to audit on behalf of Parliament by the National Audit Office.

Question 7: Distinguishing between senior and less senior judicial posts

9. As discussed earlier in this paper, the Commission has no difficulty with the current arrangements under which the Lord Chancellor has (limited) powers to dissent from its selections. If, however, the current arrangements were to change it might create a need to reconsider the JAC's mode of accountability.
10. The suggestion that these powers should be abolished only for junior judicial appointments, however, is one with which the Commission disagrees. It believes that the constitutional considerations are the same whether the appointment is at Deputy District Judge or High Court level: either the executive should have a role in the appointment process or it should not. To make a distinction of this kind between tiers of the judiciary would create unnecessary divisions in the judiciary and perhaps reinforce perceptions of a glass ceiling inhibiting promotion to the higher levels. The Commission notes that many decisions of real importance for members of the public are taken by tribunal and court judges at less senior levels.

11. The Constitutional Reform Act creates different arrangements for appointments to the Court of Appeal and to the posts of Head of Division and Lord Chief Justice. These arrangements require the Commission to appoint a Selection Panel, the composition of which is specified in the legislation. The selection is effectively made by one of its own Committees upon which 2 Commissioners sit but without any further role being played by the Commission itself after it has been set up. Formally the selection is by the Commission. This raises questions of the Commission's responsibility and accountability for the decisions of its committee. The Commission accepts there may be a case for review of this system.

Question 8: Checks on recommendations from the JAC

12. Please see the comments under Questions 1-4 above.

Question 9: Decisions on authorisation, nomination, assignment and extensions of service

13. In addition to its responsibility for making selections for judicial appointments, the JAC's concurrence is also required for appointments as Deputy High Court Judges under section 9(1) and 9(4) of the Supreme Court Act 1981. In exercising this responsibility the JAC has been conscious that designation under section 9(1) and 9(4) is often perceived to be a step towards promotion to higher office, and it has worked with the senior judiciary to ensure that before these designations are made expressions of interest will be invited from among all those who might be eligible.
14. The Commission is conscious that there are other forms of designations and deployments which bring with them considerable additional responsibility. These include designations as Presiding Judges.
15. The fact that they are decisions of real significance to the administration of justice suggests that they should be made in an open way according to declared procedures to ensure the appointment of the best possible candidate from the full range of those eligible to apply. The Commission believes that this would bring greater understanding of the requirements of these important roles, as well as how they are filled.

16. The Commission suggests that the judiciary should be invited to propose, for each type of significant designation or nomination, a set of procedures which would satisfy the criteria of openness and accountability. The JAC should then be invited to approve these procedures. When it has done so, they should be put into operation by the judiciary, and the JAC would have no role in concurring with individual decisions made as a result of processes which it had approved. This would include designations as Deputy High Court Judges which currently require its concurrence.

Questions 10-12: Delegation of functions by the Lord Chancellor to his junior ministers or senior officials

17. The JAC does not wish to express a view on these issues

Question 13: Determination of eligibility criteria for specific judicial posts

18. The JAC attaches a great deal of importance to the question of eligibility criteria for judicial posts, recognising that restrictive criteria have the effect of reducing the diversity of the candidate field and could, in extreme cases, lead to concerns that the field is deliberately narrowed in favour of candidates with particular forms of experience. Accordingly, the JAC does challenge proposals by the Ministry of Justice that eligibility for particular posts should be narrowed in specific ways and asks for explanations of the restrictions. It does, for example, request a specific explanation why any salaried vacancy should not be open to part-time working. A strategic perspective is often required to see the benefits of opening up roles to a wider pool. This perspective is not always evident to those at local level seeking to fill a particular post. The JAC is ideally placed, in view of its statutory responsibility for widening the range of candidates, to balance the business needs outlined by the Courts Service or the Tribunal Service against the wider public interest. It therefore believes that it should have the legal responsibility for making the final decision on such issues and agrees that clarification of the legal position on this matter would be helpful.

Question 14: Medical checks

19. The JAC believes that the current arrangements under which it is required to arrange for successful candidates for salaried appointments to undergo medical checks is anomalous. It is the only function of the JAC which is not clearly related to the selection of candidates, being instead an aspect of their appointment. In the JAC's view the body which has responsibility for the appointments process – currently the Ministry of Justice – should take full responsibility for managing the confidential medical checks which are an essential part of it. It believes that it would be possible for these checks to be carried out concurrently by the MoJ with other aspects of their appointments process and therefore accelerate the arrival of judges in courts/tribunals.

Question 15: Should the JAC be allowed to take the preliminary steps in a selection process before a formal vacancy notice is received?

20. In order to manage its selection programme as efficiently as possible, the JAC needs to engage as soon as it can with its business partners, the Court Service and the Tribunals Service, to understand their anticipated requirements for appointments over the coming year. Concerns have been expressed that the drafting of the Constitutional Reform Act, under which the receipt of a vacancy notice triggers action by the JAC, might inhibit these necessary early discussions. These concerns have however now been allayed to a large extent. In consultation with key interested parties, broad agreement has been reached that all parties should ensure that, at the start of each financial year, the JAC is provided with full and accurate documentation on all the vacancies for which appointments will be sought over the coming year. All parties recognise that there will be unpredictable vacancies in the course of the year, arising perhaps from new business needs or from unforeseen retirements or deaths, and these will be incorporated into the programme as necessary and to the extent that resources permit. But the commitment to work together to ensure that the annual programme is itself settled by September (except for unforeseen vacancies) and the essential documentation for the programme has been received before April each year will provide important efficiency dividends, allowing easier scheduling of exercises and more effective use of the staff and other resources available.

Question 16: Additional changes

21. The JAC wishes to argue for one additional change to which it attaches considerable importance. Under the Constitutional Reform Act, it runs two types of exercises: those held under section 87 for specific vacancies, and those held under section 94, under which the Lord Chancellor requests the JAC to draw up a list of people who are potentially selectable for vacancies for a specific type of appointment which may, or may not, arise later. Most of the JAC's larger competitions are of this latter type. This type of exercise has been regarded as convenient in circumstances where the number of vacancies required in a particular competition is difficult to predict. It has, however, very unfortunate consequences for many of the people on the list. Even after they succeed in the competition, they have no guarantee that they will in fact be appointed. This state of uncertainty may last for a year or more until the next exercise, and in the meantime their situation is often described as being in a professional limbo, unable to make firm plans for the future.
22. The JAC argues that it is wrong for candidates to be left in this uncertain position. After discussions with its key interested parties, the JAC believes that it should be possible to abolish the section 94 competition. All competitions would be held based on vacancy notices issued under section 87, which would specify the number of vacancies to which candidates were to be appointed. All successful candidates would therefore be guaranteed appointment. In order to do this, where uncertainty about the number of vacancies existed, it would be necessary for the Court Service and Tribunals Service to specify a conservative figure; but if that figure proved to be inadequate there would be nothing to prevent the Commission, if appropriate, from responding to a further request for appointments by selecting the highest placed among the unsuccessful candidates in the previous exercise, provided that they were of sufficient merit, rather than carrying out a new exercise.
23. Ideally the abolition of the section 94 list would be effected by legislation; but even without legislation it could be achieved if the Courts and Tribunals Services simply decide not to ask the JAC to run such a competition.

APPENDIX 2: 2007/08 BUSINESS PLAN

JAC annual performance report 2007/08

Strategic objectives

The JAC will aim to retain and increase public confidence in the judicial appointment process by achieving the following key objectives within agreed timescales and budget.

- 1 to select high quality candidates based on the selection exercise programme agreed with our business partners
- 2 to further develop fair, open and effective selection processes and to keep them under continuous review
- 3 to encourage a wider range of eligible applicants
- 4 to ensure that the JAC is fully equipped to carry out its statutory objectives and achieve continuous improvement.

JAC strategic objective 1

Activity	Achievements
1.1 ● Establish, agree and complete a programme of selection exercises agreed with our partners. ● Conduct regular programme of bilaterals with our business partners to build on early exchange of forecasting information. ● Initiate the planning of the following year's programme at a sufficiently early stage.	● Agreed programme (as amended in-year) delivered. ● 24 new selection exercises launched and run. ● Received over 2,500 applications. ● 27 selection exercises completed. ● 458 selections sent to the Lord Chancellor. ● Directors have attended meetings with senior HMCS and TS staff during the year to plan and oversee the delivery of the programmes with all our partners. ● Planning for the 2008/09 programme began in the summer. First draft was drawn up, based on last year's three-year forecast, but progress was delayed by late delivery of HMCS and TS forecasts.
1.2 ● Accommodate to the best of our ability within available resources any selection exercises where a business need arises in-year or advise the business area and MoJ of the need to reconfigure the programme or provide further funding. ● Provide early warning to business partners of prioritisation difficulties. ● Seek early resolution by timely liaison with the ministry, judiciary and business partners.	● Seven exercises were added to the programme. ● This process was undertaken systematically throughout the year.
1.3 ● Improve the capability of the organisation to carry out the highest quality selection exercises. ● Implement a selection exercise training programme for all JAC staff. ● Put in place a risk management strategy incrementally for new selection exercises. ● Ensure the accuracy of all printed and website material for each selection exercise.	● Selection exercise process manual in place, supported by training. ● All staff trained by July 2007. ● Structured and comprehensive training days provided quarterly over the year to train new staff. ● Training package developed at the end of the year for delivery by experienced staff from 2008/09. Once this is in place, training for new staff can begin on their first day and be delivered at their own pace over time. ● Training programme for new panel chairs developed and delivered. ● Strategy in place and selection exercise risk registers are used. ● Risks are monitored and either accepted or actions taken. ● Most staff have been trained in risk management. ● All selection exercises quality assured and publication authority signed by Director.

JAC strategic objective 1

Activity	Achievements
Develop a standard records management policy, including guidance on Freedom of Information Act and Data Protection Act, to support new processes and implement policy.	Policy and guidance developed and promulgated through Directors and Information Managers in each team.
1.4 - Build on the relationships developed with our partners. - Ensure regular liaison meetings on all aspects of the selection exercise programme with the sponsorship team in the ministry and our business partners.	Meetings have taken place and key issues raised and resolved (see 1.1 above).

JAC strategic objective 2

Activity	Achievements
2.1 - Further develop equality policies and procedures. - Produce costed plans to further develop the equality proofing of our processes, resulting in best practice in design, training, measurement and documentation, for approval by Commissioners. - Publish in draft JAC Single Equality Scheme, following public consultation. - Publish final JAC Single Equality Scheme.	- Equality proofing embedded in policies and practice. - Two policies verified by external consultant and Law Society and Bar Council: 'Reasonable Adjustment' and 'Written Feedback to Candidates'. - Plans to be reviewed early in 2008/09. - Scheme published in draft, consultation exercise completed. - Impact Assessment document approved, Scheme to be published early in 2008/09.
2.2 - Improve responsiveness to candidates. - Systematise collection of service feedback given to and by candidates at every stage of the process. - Improve on written explanations given to candidates on their performance.	- Policy on written feedback to candidates agreed, equality proofed and implemented consistently by all selection exercise teams. - Feedback comments are prepared by new panel chairs. - A consistent and standard approach for written explanations to candidates was approved in September 2007 and implemented.

JAC strategic objective 2

Activity	Achievements
2.3 ● Enhance the effectiveness of the selection process. ● Contribute to the MoJ review of appointments process according to the timetable set by the ministry. ● Develop terms of reference for the review of the operation of our new policies and processes. ● Ensure that an Assigned Commissioner is allocated to each selection exercise. ● Select the cadre of panel chairs. ● Train and start to deploy the cadre of panel chairs. ● Further training on the new processes for existing panellists.	● Representations made throughout the year and response to Consultation Paper made in January 2008. ● Contribution made to the Nooney review, through discussions with MoJ officials. ● Terms of reference for the review agreed and work began in 2007/08. ● Assigned Commissioner/Commissioner panel arrangements in place and Commissioners are taking an active role. ● 32 panel chairs selected. ● Panel chairs received induction and training in January and March 2008. Manual drafted. Panel chairs deployed. ● Training arranged for June 2008 for existing panel members.

JAC strategic objective 3

Activity	Achievements
3.1 ● Target our outreach to eligible groups effectively. ● Implement a new advertising strategy. ● Review strategy and pilot new approach for candidate outreach.	● Ongoing outreach activity. ● New online advertising strategy implemented. ● Data being compiled to review strategy.
3.2 ● Target our communications strategy effectively ● Ask the Commission to agree our communications strategy – to help deliver the JAC's strategic objectives by a combination of communication and marketing means – at the May 2007 meeting. ● Deliver strategy in accordance with the priorities determined by the Commissioners.	● Advertising and events strategies agreed. ● Strategy delivered, as amended in light of developments to the selection exercise programme during the year.
3.3 ● Further develop our statistical measures of progress. ● Draw up a project plan for designing and implementing eligible pool comparators throughout the selection exercise programme. ● Assess the return rate of the JAC diversity monitoring form to ensure effective collection of data.	● Diversity statistics developed and analysed. Published on JAC website. ● Initial comparators agreed. ● Diversity monitoring forms reviewed. Return rate to be assessed in 2008/09.

JAC strategic objective 4

Activity	Achievements
4.1 ● Maintain and enhance the effectiveness of our staff taking account of the challenges presented by the high level of seconded staff. ● Agree with MoJ our own Terms and Conditions and supporting arrangements for staff. ● Reduce level of agency staff in permanent non-specialist posts (except at Admin Officer/ Personal Secretary level). ● Manage the two further tranches of secondees returning to MoJ effectively. ● Adopt long-term staffing strategy including an increased intake from external recruitment market ● Put management policies in place aiming for sickness levels to Civil Service target levels.	● Induction and training in JAC processes provided to staff. Ongoing provision of information and communications keep staff up to date and involved. Performance management measures effectiveness and development plans are put in place as necessary. ● Terms and Conditions agreed in November 2007. Supporting arrangements provided by MoJ shared services, supplemented by JAC procedures. ● Level of interim staff across all posts increased to full time equivalent average of 20 in 2007/08 (from 16 in 2006/07) due to continuing need for flexible resource and expertise. Expected to reduce in 2008/09 as staffing stabilises. ● Almost all staff redeployed quickly and knowledge loss minimised by processes being documented and training. Secondments due to end in March 2008 were extended to September 2008 while arrangements to recruit on JAC terms and conditions were put in place. ● Staffing strategy agreed and being implemented. External recruitment started in January 2008. ● Policies in place and sickness levels reduced over year. However, average number of days per member of staff over year was just under 13, compared to Civil Service target of 7.5, due to significant long term sickness especially early in the year.
4.2 ● Maintain and enhance customer service. ● Achieve the standards set out in our complaints procedure.	● Over 95% of candidates attending for selection exercises, who expressed an opinion, have indicated high satisfaction with service received from the front of house team. ● Average time to deal with complaints is 27.8 days. 43% of complaints answered within 20 days. No complaint upheld by Ombudsman. ● Thorough investigations and responses made.
4.3 ● Build on existing relationships with our sponsorship ministry and partner organisations. ● Review our partner engagement to date and agree priorities for each key partner. ● Provide early consultation on key policy developments or legislative proposals.	● Developed links with counterparts in key organisations to allow for improved outreach and marketing activity. ● Stakeholder management plan developed. ● Represented on an officials-level board chaired by MoJ that has been working up proposals for implementation of TCE Act. ● Responded to the Consultation Paper on the Constitutional Reform Bill in January 2008.

JAC strategic objective 4

Activity	Achievements
4.4 ● Review and implement key policies and processes required for good governance of the JAC as an NDPB under the Framework Document. ● Embed risk management at all levels of the organisation. ● Each year agree an effective Internal Audit Programme and implement the recommendations. ● Formulate a revised timetable for corporate reporting	● Policies and processes in place. ● Progress continues with embedding risk management. We assess that the JAC is at level 3 of the Risk Management Assessment Framework as at 31 March. ● IA Programme delivered as required in 2007/08. Of the 23 recommendations received during 2007/08, 14 have been completed, 5 partially completed, and four are no longer applicable. ● Timetable in place for month and quarter end processes and for Business Plan and Annual Report preparation.
4.5 ● Develop and implement internal communications strategy across the organisation. ● Write a programme of internal communications activity and commence implementation. ● Redesign, build and oversee the development and maintenance of a new JAC intranet.	● Internal communication activity includes weekly directorate and team meetings to discuss points from Leadership meetings, weekly staff newsletter and regular staff events. ● Intranet designed, built and tested for go live April 2008.
4.6 ● Develop and implement a new management information system.	● Management information requirements identified and package of reports from stated sources developed. ● Guidance for production of Management Information prepared.
4.7 ● Achieve value for money (vfm) across the JAC's activities. ● Embed a value for money culture throughout the organisation.	● Framework of delegation and assurance in place with directors overseeing expenditure. Close monitoring of use of budgets. ● Training undertaken and Financial Management Guide produced and issued.

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