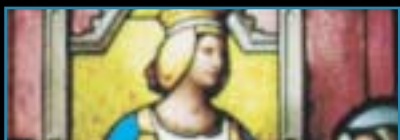


The Judicial Appointments Board for Scotland
Annual Report 2002 - 2003



The Judicial Appointments Board for Scotland
Annual Report 2002-2003



Judicial Appointments Board for Scotland Annual Report 2002-03

Laid before the Scottish Parliament by the Scottish Ministers August 2003

© copyright Judicial Appointments Board for Scotland 2003

ISBN 0 7559 0877 5

Published by
Scottish Executive
St Andrew's House
Edinburgh

Produced for the Judicial Appointments Board by Astron B31274

Further copies are available from
The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
Tel: 0870 606 55 66

The text pages of this document are produced from 100% elemental chlorine-free, environmentally-preferred material and are 100% recyclable.

SE/2003/202

Annual Report 2002-2003



Contents

FOREWORD	1
BACKGROUND AND MEMBERSHIP	3
MEETINGS AND VISITS	5
ESTABLISHED PRINCIPLES AND POLICIES	6
ACHIEVEMENTS	8
SHAPING THE FUTURE	12
ANNEX A	19

Annual Report 2002-2003

FOREWORD

I am pleased to present the first annual report of the independent Judicial Appointments Board for Scotland. The creation of this independent body is a landmark in the Scottish judicial appointments system and the Board is the first of its kind in the United Kingdom.



This first year has been a very busy one and I think we have achieved a great deal in a short space of time. Since its first meeting in June 2002, the Board has advertised vacancies for the offices of Senator, Sheriff Principal and Sheriff (including part-time Sheriff) in Scotland and, following the conclusion of these exercises, Ministers have fully accepted its recommendations for appointment to those offices.

The first exercises carried out were to identify candidates for the office of Senator of the College of Justice and for Sheriff Principal of Lothian and Borders. In each case recommendations were submitted to Ministers in September. Shortly thereafter the Board was asked to advertise vacancies for All-Scotland Floating Sheriffs and for Part-time Sheriffs. This was a big undertaking and, as expected, there was a huge response to the advertisements, which appeared in the national and legal press in November. In March 2003, following a series of interviews, the Board submitted its recommendations to Ministers and, subsequently, nine all-Scotland Floating Sheriffs and 32 part-time Sheriffs were appointed.

Much of what the Board has accomplished was achieved by drawing on and developing some of the practices and procedures used by the Scottish Executive shortly before the Board began its work. Our first priority was to address the vacancies in the court system that had arisen beforehand and this has now been achieved. With the benefit of this experience and time now to reflect on those processes, we will develop our own policies and procedures for administering the judicial appointments process and these will be made public. We will continue to draw on the experience of other jurisdictions and look at the work being done in the equal opportunities field in an effort to achieve a robust system and develop best practice in the recruitment of those seeking appointment to judicial office in Scotland.

The Board has been given a remit from the Scottish Ministers to consider ways of encouraging applications from minority and under represented groups. The underlying principle of the system is that appointment should be on merit and the Board welcomes applications from individuals who meet the statutory qualification for judicial office from all branches of the legal profession, whatever their age, gender, ethnic background or religious beliefs. It is hoped

The Judicial Appointments Board for Scotland

that eligible practitioners will have confidence in the appointments system set up by the Board and will apply for judicial office. As well as possessing the skills and abilities required of a good advocate or solicitor, individuals should have the ability to meet the demands of case management and have the necessary skills to conduct business in the courts effectively, fairly and courteously. These are the qualities and skills the public expects of the judiciary, and rightly so.

The main criticism of the old appointments system was the lack of transparency in the appointment process. I hope that the introduction of the Board has been seen to bring transparency to the system and that its procedures have been seen to be open and fair.

At the time of writing the Lord Chancellor has issued a consultation paper upon the establishment of a Judicial Appointments Commission for England and Wales. We will follow this process with interest and be happy to make our own early experience available.

In conclusion I wish to record my appreciation for the major personal contribution made by each and every one of the Board Members and also for the high standard of support and assistance which we have received from the staff of the Board.



Sir Neil McIntosh CBE

Chair

BACKGROUND AND MEMBERSHIP

1. In September 1999, the Scottish Ministers set out their commitment to consulting on the system of judicial appointments in *A Programme for Government*. In the summer of 2000, a public consultation exercise was carried out under the auspices of the Scottish Executive consultation paper, *Judicial Appointments: An Inclusive Approach*.
2. Responses received demonstrated substantial support for the creation of an independent Judicial Appointments Board and, in a speech to law students and staff at Strathclyde University in March 2001, the Justice Minister, Jim Wallace, announced the setting up of such a Board to create more open and accessible arrangements for judicial appointments in Scotland. In the autumn of 2001 the Scottish Executive published notices inviting applications from both legal and lay applicants to serve on the Board.
3. The Board comprises 10 Members with an even balance of lay and legal Members and a lay Chair. Membership is as follows:

Sir Neil McIntosh CBE (Chair), former Chief Executive of Strathclyde Region

The Rt Hon Lord MacLean, Senator of the College of Justice

Sheriff J Douglas Allan, Sheriff of Lothian and Borders at Edinburgh

Mr Colin Campbell QC, Dean of the Faculty of Advocates

Mrs Barbara Duffner OBE, Head of Personnel North, Royal Mail

Sheriff Principal Bruce A Kerr QC, Sheriff Principal of North Strathclyde

Professor Alan A Paterson, Professor of Law at Strathclyde University

Mr Michael Scanlan, Solicitor, Glasgow

Sir Robert Smith, Chair of the Weir Group plc

Professor Joan K Stringer CBE, Principal and Vice Chancellor of Napier University

4. The broad remit of the Board is:
 - ★ to provide the First Minister with a list of candidates recommended for appointment to the offices of Senator of the College of Justice, Sheriff Principal, Sheriff and Part-time Sheriff;
 - ★ to make such recommendations on merit, but in addition to consider ways of recruiting a Judiciary which is as representative as possible of the communities which they serve;
 - ★ to undertake the recruitment and assessment process in an efficient and effective way.

The Judicial Appointments Board for Scotland



5. Although the Scottish Ministers gave it general guidance it is for the Board to develop its own processes and procedures. That we intend to do by looking at recruitment practice in other jurisdictions and by working with bodies such as the Equal Opportunities Commission, the Commission for Racial Equality, the Disability Rights Commission and the Office of the Commissioner for Public Appointments.

MEETINGS AND VISITS

6. The Board held its first meeting on 12 June 2002. At the outset we agreed to meet on a monthly basis to discuss general business and did so during 2002. However, the scheduled meeting dates in January, February and March this year were utilised to carry out a sift of applications for the office of Full-time and Part-time Sheriff (January) and to interview candidates for these posts as part of a rolling programme of interview dates. In addition, the Board held a seminar when guest speakers from the Commission for Judicial Appointments in Northern Ireland and the Equal Opportunities Commission gave presentations following which the Board discussed a number of policy issues.
7. Interview panels comprising six Members (for the offices of Senator, Sheriff Principal and Full-time Sheriff) and four Members (for Part-time Sheriffs) sat on a total of 14 days during the year. All Members took part in the interview process at one time or another.
8. Shortly after appointment, lay Members visited both the supreme and sheriff courts and met with serving members of the Judiciary. Visits to other outside bodies by the Chair and Members included:
 - ★ the Lord Chancellor's Department (including observing the pilot Assessment Centre for prospective applicants for judicial appointment);
 - ★ the Office of the Commissioner for Judicial Appointments in England Wales;
 - ★ the Office of the Commissioner for Judicial Appointments in Northern Ireland;
 - ★ the Office of the Commissioner for Public Appointments;
 - ★ the Equal Opportunities Commission.
9. Further visits and training opportunities will be arranged during the coming year.

The Judicial Appointments Board for Scotland

ESTABLISHED PRINCIPLES AND POLICIES

Equal Opportunities

10. The overarching principle of the judicial appointments system is that appointment should be on merit, irrespective of age, gender, marital status, ethnic background, sexual orientation, political affiliation, religious beliefs or disability, except where the disability prevents the fulfilment of the physical requirements of the office and reasonable adjustments cannot be made. Successful candidates will be those who appear to be best qualified and who have demonstrated through their abilities, experience and qualities that they meet the requirements of the post.
11. The Board maintains statistical data on applications received with particular reference to age, gender, ethnic background and disability, to assist in the monitoring of diversity in the judicial appointments system. A statistical analysis of the appointments made during the period of this report is at Annex A.

Conflict of Interest

12. One of the first issues considered by the Board was that of conflict of interest. The legal profession is a close-knit community and it would be practically impossible to have legal Members on the Board who did not potentially have some knowledge of individuals applying for appointment to judicial office.
13. Before undertaking any recruitment exercises the Board established that any Member who had real and genuine grounds for doing so would declare any potential conflict of interest and would not take part in any discussion about that particular applicant. Nor would they take part in the interview process on any day on which that person was invited to attend.
14. As a further safeguard, it was established that the lay Members would give their views first during the assessment stages involved in the shortlisting, interviewing and Board review of candidates.
15. Personal acquaintance alone would not constitute a conflict of interest but where there existed a close personal relationship, for example, a long standing family or business connection, that would disqualify the Member from taking part in the discussion of the applicant. This would also apply to membership of an interview panel on the day on which that particular candidate was being considered.

Annual Report 2002-2003



16. The Board also considered past associations between its judicial and legal Members and potential applicants for office. In this context one example is “devilling” where, as part of their training and education, members of the Faculty of Advocates are required to spend several months with a devil master, ie a more senior member of the Faculty. The devil master may then go on to become a member of the judiciary and may serve as a Member of the Board itself. This past association in itself is not considered to constitute a conflict of interest and would not require withdrawal of the Member from the assessment process.

Confidentiality

17. Although the appointments system must be seen to be open and fair to all applicants, individuals should be assured that their applications are considered in strictest confidence. We are aware that there are a number of reasons why individuals may not wish it to be known that they have applied for judicial office and only the Board has access to application forms and referees’ reports. When arranging interviews we endeavour to use locations and times in a way to minimise the likelihood of candidates meeting each other. Board Members are precluded from divulging the identity of applicants or confidential information in connection with their applications.
18. Only the names of those appointed to judicial office are made public. Once appointed, the application forms for these individuals are made available to the Scottish Executive Justice Department for administration purposes.

The Judicial Appointments Board for Scotland

ACHIEVEMENTS

Recommendations for appointment

19. We are pleased to report that in the space of nine months the Board completed exercises to identify suitable individuals for appointment to the whole range of posts falling within its remit.
20. The first exercises were to fill vacancies at the most senior level – ie Senator of the College of Justice and Sheriff Principal. Although more than 30 people in all registered an interest the Board was disappointed that a relatively small number of applications were received, particularly for the office of Senator (eight). Should such a pattern continue we would be anxious to explore any underlying reasons for this.
21. After the closing date, the Board carried out a sift of applications and, the Members having individually assessed the application forms and referees' assessments, met to draw up a short list of candidates for interview. As part of the interview process, candidates were asked to address the selection panel for up to 10 minutes on a given subject before being subjected to questioning by panel Members to elicit evidence of the individual's legal knowledge, skills and competencies in relation to the criteria adopted by the Board. The criteria, which were based upon those used by the Lord Chancellor's Department and a paper by the Rt Hon Lord Ross, were set out in the information pack issued to all applicants in advance and are replicated here.

“The Board will rank and prefer those candidates who are considered suitable for appointment and make its recommendation to the First Minister.

Successful candidates will have:

- ★ attained a high level of legal knowledge and experience;
- ★ the ability to apply knowledge and experience to make sustainable decisions;
- ★ intellectual and analytical ability;
- ★ sound judgement and the ability to exercise discretion effectively;
- ★ the ability to marshal facts and competing arguments and reason logically to a correct and balanced conclusion;
- ★ the ability to reach firm conclusions, to think, decide and act independently of others and rely on their own judgement;

Annual Report 2002-2003

- ★ good communication and listening skills;
- ★ the ability to communicate with all types of court user, including lay people, giving instructions, explaining complex issues and giving decisions clearly, concisely and promptly, either orally or in writing;
- ★ the ability to command the respect of court users and to maintain fair-minded discipline in court and in chambers without appearing pompous, arrogant or overbearing;
- ★ the ability to manage cases effectively and promote the expeditious despatch of business.

Successful candidates will also possess the following personal qualities:

- ★ integrity and independence – they will have a history of honesty, discretion and straightforward dealing with professional colleagues, clients and the courts;
- ★ independence of mind and moral courage – prepared to take and maintain unpopular decisions when necessary;
- ★ fairness and impartiality – they will be open-minded and objective, with the ability to recognise and discount any personal prejudices. They will seek to ensure that all who come before them have the opportunity to put their case clearly and have it considered as fully and as objectively as possible;
- ★ understanding of people and society – respect those of different backgrounds and be sensitive to the influence of different ethnic and cultural backgrounds on the attitudes and behaviour of people whom they encounter in the course of their work;
- ★ maturity and sound temperament – they will display a maturity of attitude and approach and be firm and decisive while remaining patient, tolerant, good-humoured and even-tempered;
- ★ courtesy – they will be courteous and considerate to all court users and court staff;
- ★ commitment, conscientiousness and diligence – committed to public service and to the proper and efficient administration of justice, which they will pursue conscientiously, with energy and diligence and a due sense of responsibility.

The Judicial Appointments Board for Scotland

In assessing these qualities the Board will have regard to the information provided by candidates in their applications, the reports from referees and the performance of individuals at interview.”

22. Six Members of the Board sat on the Interview Panels as follows:

Senator of the College of Justice

- Sir Neil McIntosh (Chair)
- Professor Alan Paterson
- Mrs Barbara Duffner
- The Rt Hon Lord MacLean
- Colin Campbell QC
- Michael Scanlan

Sheriff Principal of Lothian & Borders

- Sir Neil McIntosh (Chair)
- Professor Alan Paterson
- Sir Robert Smith
- The Rt Hon Lord MacLean
- Sheriff Principal Bruce Kerr QC
- Sheriff J Douglas Allan

23. The findings of the interview panels were submitted to the full Board for consideration prior to the final report being submitted to the First Minister. The Board was pleased that the First Minister accepted its recommendations.

24. The second and most onerous task for Board Members and staff was the recruitment of All-Scotland Floating Sheriffs and Part-time Sheriffs, which was embarked upon in October last year. Again, vacancies were advertised in the national and legal press and over three hundred individuals asked for information packs and application forms. At the end of the day we received 214 applications from individuals seeking either or both full-time and part-time shrieval appointment.

25. Each Member of the Board received a copy of each application form and referee’s report submitted and, having assessed each candidate against the published criteria, met to carry out a sift and draw up a short list of interviewees. In all, 72 individuals were interviewed during the months of February and March. A six-Member panel (four of whom sat in all interviews to provide consistency) assessed those interviewed for the full-time posts. An established marking system was also put in place.

Annual Report 2002-2003

26. The process for part-time appointments was the same except that only four Members sat on the interview panels. Because of the volume of applicants and the number of days required, it was not possible to have the same four individuals sit on each day. However, all Members participated in the interview process for the shrieval posts, a common assessment system was applied across the panels and each panel Chair prepared a report at the conclusion of the day's assessment. The panel Chairs met at the end of the interview cycle to finalise the assessments. All Board Members were given copies of the individual assessments before meeting to discuss the report and determine the final ranking of candidates. The final report was then submitted to the First Minister.
27. Nine new full-time and 32 part-time Sheriffs were subsequently appointed. In the period between November, when the vacancies were advertised, and March when the Board's report was submitted to the First Minister, other vacancies for all-Scotland floating Sheriffs had arisen because of retirements and transfers within the ranks of full-time Sheriffs. Ministers considered the list of recommended candidates put forward by the Board and, as well as filling the advertised posts, recommended a further six appointees to Her Majesty, The Queen. All vacancies filled were all-Scotland floating posts and, with the exception of those allocated to the Sheriffdoms of Grampian Highland and Islands and South Strathclyde Dumfries and Galloway, the appointees are assigned by the Scottish Executive to courts throughout Scotland where resources are required.
28. These additional appointments were within the scope of the advertisements placed by the Board. However, where a vacancy arises in a different category or area from that advertised the Board would expect to conduct a separate open recruitment for that post.

Website

29. In the autumn the Board set up its own website and this contains information on the Board as well as providing information about judicial posts, vacancies and recruitment exercises.

The Judicial Appointments Board for Scotland

SHAPING THE FUTURE

30. There are a number of issues which now fall to be considered in the light of experience gained during this first year. The Board's first priority was to move towards making recommendations to fill posts which had been vacant prior to it beginning its work. However, now that this has been achieved, it is time to reflect on issues we have identified and further develop the appointments process.
31. One matter for consideration is the employment culture within the legal profession itself. Unlike organisations in the private and public sectors, advocates and solicitors are generally unaccustomed to submitting job application forms and attending interviews for vacant posts. To properly assess candidates and their suitability for judicial office, it is important that the Board has all the relevant information before it so that it may consider whether they meet the published criteria for judicial appointment.

Diversity

32. A key aspect of the Board's remit is to consider ways of recruiting a Judiciary which is as reflective as possible of the communities which they serve. In relation to the age distribution of applicants, details are provided in the Annex to this report. So too is information in relation to the number of those declaring whether they suffered from a disability.

Gender

33. The number of women in the Judiciary has increased since 1998 when there was only one female judge and twelve female sheriffs within the ranks of the full-time Judiciary. Although these numbers have almost doubled since then there is still only a small percentage of females on the Court of Session and Sheriff Court Benches. The actual numbers (including those recently appointed) are as follows:

Office Holders	Total Number	Male	Female
Senators	32	29 (91%)	3 (9%)
Sheriffs Principal	6	6 (100%)	0 (0%)
Sheriffs	136	114 (83%)	23 (17%)
Part-time Sheriffs	58	48 (83%)	10 (17%)

Annual Report 2002-2003

34. One quarter of applicants who responded to the advertisements for all-Scotland floating Sheriffs and part-time Sheriffs were female. The last exercise carried out by the Scottish Executive in 2001 to recruit resident Sheriffs drew 106 applications, of which only twelve (11%) were from women. It is encouraging to see more women submitting applications for judicial office and we hope that our efforts to reach out to wider sections of the community will ensure that the numbers will continue to rise.

Ethnicity

35. Currently only one Member of the full-time Judiciary comes from an ethnic minority background.
36. Of those who completed the questionnaire that accompanied application forms, no one claimed to be from an ethnic minority background. It may be that the field from which applicants for judicial office are drawn does not at present have people of ethnically diverse backgrounds. We have identified this as one of the main areas of research for the Board to address this issue.

Research

37. In order to develop best practice the Board will look at the work being done in other jurisdictions and in the field of equal opportunities. Two internal working groups have been established and are already beginning to gather information on judicial appointment systems in other parts of the world and on recruitment practices used in the public and private sector.

Best Practice

38. Careful consideration will be given to developing our practices and procedures. Some of the main issues that will impact on this are:
- ★ how relevant and best information can be obtained from applicants for judicial office;
 - ★ how to structure the system for obtaining relevant and best information about candidates;
 - ★ how evidence of information contained in application forms and referees' assessments can be drawn out at interview;
 - ★ how, and when, feedback should be given to applicants, and how this should be structured;
 - ★ whether a complaints system should be put in place and how this would impact on the appointment process;

The Judicial Appointments Board for Scotland

- ★ whether a slate approach should be adopted for some appointments;
- ★ whether a time frame for refreshing application forms, etc. should be developed.

Obtaining information

39. The important question is how to obtain adequate, reliable and verifiable information on every candidate. This information should be objective and preferably come from more than one source. The application form is the prime source of information available to the Board when considering applications from those seeking judicial appointment. It is therefore important for applicants to give as much information on their experience, skills and abilities in that document to assist the Board in assessing whether they match the criteria for judicial appointment. We will look at the detail in the application form to assess whether we can get better information from candidates with which to evaluate their skills and abilities against the competencies.
40. Applicants are asked to nominate three referees whom they should contact in advance to confirm their willingness to provide an assessment. Thus far the Board has not prescribed who should act as a referee save for the proviso that two of them should have recent and direct experience of the applicant's work and be able to comment on their professional skills and abilities. The most important factor in the choice of referees is whether that individual has direct and recent knowledge of the applicant so that they may properly assess them against the published criteria. In our experience applicants have chosen a diverse range of referees, some of whom could not comment on the applicants work or could give little evidence in support of their overall assessment. The Board will look at the practice elsewhere to determine whether this is the best way of obtaining evidence from third parties and, if so, how this should be structured.

How evidence of experience, skills and abilities can be drawn out

41. It is recognised that members of the legal profession may be unused to facing an interview panel and being questioned about their professional experience, skills and abilities. At interview candidates were asked to address the panel on a given subject, which was notified to them in advance. We found these presentations to be very valuable but we will review other approaches to consider whether there is more we can do to assess the competencies of individuals against the appointment criteria.

Annual Report 2002-2003

42. The Board has already begun to consider how this process may be enhanced. In the public sector the use of assessment centres is becoming more common. Last year in England and Wales the Lord Chancellor's Department piloted an assessment centre approach where prospective candidates spent two days participating in written and oral tests (interviews) as well as role plays, where they acted as judge in civil litigation cases. Candidates therefore had the opportunity to demonstrate their skills and abilities rather than rely on the quality of their application form and referees assessments and their performance at interview. Two Board Members were able to observe how these were conducted and we will look more closely at that model to consider whether such an approach might be relevant to the Scottish system as an alternative to that which relies mainly on interview.

Feedback

43. Candidates who were interviewed but were unsuccessful were invited to request feedback on their application and those who asked were able to speak to the Chair of their interview panel to get feedback on their performance. A small number of those who did not progress to the interview stage also asked for feedback and were able to speak to the Chair about their application.

44. All those interviewed were invited to write to the Secretary to comment on the process itself as the Board wished to have their views to inform the development of best practice. Some individuals took the trouble to write and the Board is grateful to them for their comments.

We will be considering how best to develop the arrangements for feedback building upon the experience gained to date.

Appeals procedure

45. In the rest of the United Kingdom, Government departments currently administer the judicial appointments system, although in England and Wales the Lord Chancellor has recently issued a consultation paper on the appointment system there. Commissioners for Judicial Appointments have been appointed to oversee the appointments process in England and Wales and in Northern Ireland and to investigate complaints by individuals who have applied for judicial office.

46. The Judicial Appointments Board is independent but has no established appeals or complaints procedure in place. Once the Board has made its recommendations to Ministers it has fulfilled its function for that particular vacancy and it is the First Minister, after consulting with the Lord

The Judicial Appointments Board for Scotland

President, who makes the formal recommendation to Her Majesty, The Queen in the case of full-time appointments, or appoints individuals to part-time posts.

47. Complaints about the operation of the Board or its procedures are matters for the Scottish Ministers. Nevertheless we will consider whether we would wish to submit considered views to the First Minister in relation to future arrangements.

Statutory Basis

48. At the outset the Scottish Ministers gave an undertaking that the Board would be put on a statutory footing once it had been set up and had been in operation for a time. We believe that this will provide the Board with a clear framework and that an early decision upon this issue would be of significance in establishing the Board upon a sound and clearly independent basis for its future operations.

Remit

49. The Board was given responsibility for recommending individuals for appointment to the office of Senator, Sheriff Principal and Sheriff (including Part-time Sheriff). However, it became clear to us that to develop an open and accessible system based on the principles of equal opportunities there were important issues to be teased out.

Shrieval transfer arrangements

50. The First Minister has power under the provisions of the Sheriff Courts (Scotland) Act 1971 to designate the Sheriff court district in which Sheriffs perform their duties. Under these provisions the First Minister may grant a request from a serving Sheriff to transfer to a vacancy in another court. The recent practice has been for shrieval vacancies to be circulated to serving Sheriffs and, only when no transfer request is received or granted for a particular vacancy, is that notified to the Board for advertisement.
51. We believe that this may raise issues in relation to equal opportunities and that there is a need to clarify the scope and role of the Board in relation to such appointments. This is a matter which we have raised with the Scottish Executive and have approached the Justice Minister who is consulting with interested parties on this issue.

Annual Report 2002-2003

Temporary judge appointments

52. Earlier in the year the then Justice Minister, Jim Wallace, indicated that there might be a case for extending the role of the Board to include the recommendation of individuals for appointment to the office of temporary judge in the supreme courts. We have written to his successor, Cathy Jamieson, indicating that we consider that these appointments do appear, at face value, to fall within our general remit.

Outreach and Contact with Other Bodies

53. The Board is anxious to ensure it plays its part in securing a judiciary that is reflective of the communities it serves. Given the dearth of applications from members of ethnic minorities and the number of applications received from female candidates, a particular priority for the Board will be to inquire whether there are any institutional or procedural barriers to the recruitment of a judiciary which reflects the make-up of our communities. We envisage this being the subject of appropriate research coupled with consultation with relevant bodies.
54. As part of this process the Board hopes to work to raise awareness about the system and opportunities for judicial appointments in Scotland. We also consider it important to engage, inform and consult the legal profession. To these ends we intend to meet with representatives of all branches of the judiciary and the legal profession, as well as other bodies with a general interest in judicial appointments.
55. In our view, it is important that it is understood that unless and until more members of under-represented groups have the necessary legal training and experience, the goal of recruiting a judiciary which is more reflective of the communities in Scotland will not be achieved by the efforts of the Board alone. The Board understands that both branches of the profession and also the Scottish Executive recognise a need to educate our young people from an early age about the courts, the legal profession and the justice system as a whole. We welcome and encourage all such initiatives. Hopefully, greater awareness of these matters and of the importance of the rule of law as administered by independent judges and lawyers will prompt more people from under-represented groups to study and then practise law in Scotland.

The Judicial Studies Committee

56. We recognise the significance of the work of this Committee in developing the potential of those candidates who have been appointed on the

The Judicial Appointments Board for Scotland

recommendation of the Board. We would hope to share experience with the Committee to our mutual benefit.

Professional Advice

57. We intend to consult with those national bodies having a special role in recruitment and appointment processes to inform our development of best practice and would hope to benefit from discussions with relevant professional organisations such as the Equal Opportunities Commission, the Commission for Racial Equality, the Disability Rights Commission and the Office of the Commissioner for Public Appointments. We are conscious that there are other organisations or individuals with an interest in the work of the Board and we will welcome and seek out their views and contributions to our thinking.

Training for Board Members

58. As a Board we recognise the importance of keeping in touch with developments in other areas and familiarising ourselves with the day-to-day operation of the Scottish legal system and the mechanisms for appointment in other environments. The lay Members have already visited courts and met with serving members of the Judiciary and it is hoped that in the coming months there will be more opportunities to develop our knowledge of all aspects of the work of the Judiciary and recruitment professionals.

And finally...

59. We hope this report has given some insight into the work already done by the Board and the task ahead of us. We are conscious that we are at the start rather than the end of this process and that there is considerable scope for development of our practice and procedures in order to deliver the full remit of what we have been given. We hope to do this in a measured way which builds upon progress made to date.

60. General information about the Board and announcements about vacancies is published on our website at www.judicialappointmentsscotland.gov.uk.

Our address for correspondence is:

Judicial Appointments Board for Scotland
Hayweight House
23 Lauriston Street
EDINBURGH
EH3 9DQ

ANNEX A

JUDICIAL APPOINTMENT STATISTICS

JUNE 2002-MAY 2003

Eligibility for Judicial Office

Senator of the College of Justice

The provisions setting out eligibility for appointment to this office are enshrined in statutes of varying antiquity and the qualification for office is that no person can be appointed unless they are:

- ★ Advocates of five years' standing;
- ★ Writers to the Signet of 10 years' standing who have passed the examination in Civil Law two years before taking up their seat on the Bench;
- ★ Sheriffs Principal and Sheriffs who have exercised their respective functions continuously for a period of at least five years;
- ★ Solicitors who have had rights of audience before the Supreme Courts continuously for a period of five years.

Sheriff Principal and Sheriff

Eligibility for these posts is set out in the Sheriff Courts (Scotland) Act 1971. No person may be appointed Sheriff Principal or Sheriff unless they are and have been legally qualified for at least 10 years. A person who is legally qualified is either an Advocate or a Solicitor.

Part-time Sheriff

The Bail, Judicial Appointments etc. (Scotland) Act 2000 created the office of part-time Sheriff. The criteria for appointment are the same as that for a full-time Sheriff.

The Judicial Appointments Board for Scotland

Applicants for Judicial Office

Senator of the College of Justice

The first exercise undertaken by the Board was to identify suitable candidates for appointment to the office of Senator of the College of Justice. In response to the advertisement, eight individuals submitted an application.

Following a sift of applications, four candidates were called for interview and two were subsequently appointed to the office of Senator.

Sheriff Principal of Lothian and Borders

Advertisement of this post was issued at the same time as that for Senator. Ten applications were received and five individuals were interviewed.

All-Scotland Floating Sheriff

Vacancies were advertised in November 2002 for all-Scotland floating Sheriffs, two of which were to serve principally in specified sheriffdoms (Grampian Highland and Islands, and South Strathclyde Dumfries and Galloway) the other to serve throughout Scotland. One-hundred-and-eight people submitted applications for one or more of these posts. Eighteen individuals were interviewed and nine candidates were subsequently appointed.

Part-time Sheriff

These posts were advertised at the same time as those for all-Scotland floating Sheriffs and drew a large number of applications. Some applicants applied for both the full-time and part-time vacancies. In all, 186 individuals applied for a part-time post.

Sixty people were called for interview following which the Board made its recommendations to the First Minister. Thirty-two individuals were appointed in May 2003.

Equal Opportunities

The Board is committed to the principles of equal opportunity in the appointment system and, in order to monitor diversity of applicants, issued a questionnaire with all application forms.

Completed questionnaires were not shown to the Board but were detached from application forms on receipt.

Annual Report 2002-2003

Gender Balance

The following table shows the male/female balance throughout these four exercises.

	Applicants			Interviewees			Appointees		
	Total	M	F	Total	M	F	Total	M	F
Senator	8	100%	0%	4	100%	0%	2	100%	0%
Sheriff Principal	10	90%	10%	5	100%	0%	1	100%	0%
Sheriff	108	78%	22%	18	83%	16%	9	78%	22%
Part-time Sheriff	186	75%	25%	60	75%	25%	32	75%	25%

Senator of the College of Justice

All applicants for this post were male.

Sheriff Principal of Lothian and Borders

One of the 10 applicants for this vacancy was female.

All-Scotland Floating Sheriffs and Part-time Sheriffs

The exercise to recruit full-time and part-time Sheriffs drew a number of applications from women.

Of the 108 applications received for one or more all-Scotland floating post, 24 (22%) were from female applicants. Eighteen individuals were interviewed, three (17%) of them women and of the nine people subsequently appointed, two (22%) were female. The percentage of women applying for a part-time shrieval post was slightly higher with 47 (25%) of applications being submitted by females. Of the 60 candidates interviewed, a quarter were female and eight (25%) of them were subsequently appointed.

The fact that the gender balance of applicants and those subsequently appointed remained the same throughout the process is purely co-incidental. Recommendations for appointment were made on merit and the Board does not have specific targets for either male or female appointees.

The Judicial Appointments Board for Scotland

Ethnicity

The questionnaire sought to elicit information on the nationality individuals most identified with, and their ethnic background.

Not all questionnaires were returned or completed. The information submitted by applicants during each of the four exercises is summarised here.

Senator of the College of Justice

None of the applicants came from an ethnic background.

Sheriff Principal of Lothian and Borders

None of the applicants for this post came from an ethnic background.

All-Scotland Floating Sheriffs and Part-time Sheriffs

Those who applied for full-time and/or part-time posts submitted a combined application form and were required to complete only one questionnaire. All but two questionnaires were returned but many of those were incomplete. Some people ticked more than one box under the headings “National Groups” and/or “Ethnic Groups”. The most common double entry was “British” and “Scottish”.

Of those who submitted a questionnaire, 55 did not complete the section on “Ethnic Groups”. From the information available, 152 applicants were white and four chose “Other” from the list provided.

Disability

The questionnaire also asked applicants to declare whether they suffered from a physical or mental impairment, which was defined as having a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Senator of the College of Justice

None of the applicants suffered such a disability.

Sheriff Principal of Lothian and Borders

There were no disabled applicants for this post.

Annual Report 2002-2003

All-Scotland Floating Sheriffs and Part-time Sheriffs

One-hundred-and-ninety-eight people ticked the “yes” or “no” boxes under the heading “Disability”. Only one responded in the affirmative.

Age

Applicants for the four judicial posts came from a broad age range. The statutory criteria for appointment to the various judicial offices influence the age at which applicants may apply, simply because they must have been qualified for a certain number of years before they may be considered for appointment.

The following chart shows the broad age ranges of applicants for, and those appointed to, each of the four judicial offices.

	Aged 35-40		Aged 41-50		Aged 51-60		Aged 61-66	
	Applied	Appointed	Applied	Appointed	Applied	Appointed	Applied	Appointed
Senator	0	0	0	0	7	2	1	0
Sheriff Principal	0	0	4	0	3	0	3	1
Sheriff	16	1	73	3	19	5	0	0
Part-time Sheriff	34	3	122	18	53	8	5	3

The Judicial Appointments Board for Scotland



Astron B31274 07/03

