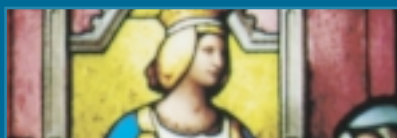


The Judicial Appointments Board for Scotland
Annual Report 2003 - 2004





The Judicial Appointments Board for Scotland
Annual Report 2003-2004

Laid before the Scottish Parliament by the Scottish Ministers November 2004
SE/2004/238

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ISBN 0 7559 4403 8

Scottish Executive
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Judicial Appointments Board by Astron B36702 10/04

Published by the Scottish Executive, October, 2004

Further copies are available from
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Edinburgh
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FOREWORD

Welcome to this, the second Annual Report of the Judicial Appointments Board for Scotland. In our second year of operation we have been able to make recommendations to fill several shrieval vacancies and I am pleased to report that the First Minister has accepted all our recommendations. The Board has received generally positive feedback about those appointments made on our recommendations and we hope that we will continue to be able to identify and recommend people of calibre for appointment to the Scottish judiciary.



There are still things we need to do in policy development and refining our procedures, but in the last year much of our time has been taken up with recruitment exercises. Board members give generously of their time in considering applications and referees assessments, sifting and interviewing. We see it as a strength that all members participate in the selection process but it is fair to say that this level of commitment exceeds that which was expected when the Board was set up in June 2002.

Throughout the year we have been fortunate to have had meetings and discussions with a number of different bodies and groups with shared interests in judicial as well as general appointments systems. We invited members of the judiciary and people from the private sector to our general meetings to give presentations on their particular experience or areas of expertise. We also met with various bodies to share with them our own experience of the judicial appointments system.

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I hope this Report gives you an insight into the work done by the Board and the issues which we have identified in developing best practice. The resolution of some of these issues lies elsewhere but have an impact on how we carry out our remit.



Sir Neil McIntosh CBE
Chair

BACKGROUND AND MEMBERSHIP

1. The Judicial Appointments Board for Scotland was set up in 2002 following a public consultation exercise carried out under the auspices of the Scottish Executive consultation paper, *Judicial Appointments: An Inclusive Approach*.

2. The Board comprises of ten members, with an even balance of lay and legal members and a lay Chair. Membership is as follows:

Sir Neil McIntosh CBE (Chair)

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

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

3. 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;

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- to undertake the recruitment and assessment process in an efficient and effective way.
4. At the outset the Scottish Ministers gave the Board general guidance, but it has a free hand in developing its own policies and procedures. In doing so we have established links with other bodies having a general or specific interest in appointments, such as the Commissioners for Judicial Appointments in England and Wales and in Northern Ireland and the Office of the Commissioner for Public Appointments.
 5. We were interested to see what is happening in the Department for Constitutional Affairs where officials are consulting on a proposal to set up an independent Judicial Appointments Commission similar to our own model. We are happy to share our experience with those having a common interest in judicial appointments and look forward to seeing how matters develop in other jurisdictions as well as in the south.

MEETINGS AND VISITS

Board meetings

6. The Board normally meet once a month to discuss general business. However, from time to time these meetings include a sift of applications and some of the scheduled dates have been of necessity used for interviewing candidates.
7. All members take part in each appointment exercise. Members individually assess each application against the published criteria *before* sift meetings when the list of those who will progress to the next stage of the process is drawn up. For the offices of Senator, Sheriff Principal and full-time Sheriff, interview panels comprise six members while four members interview candidates for part-time shrieval appointments. Each panel comprises equal numbers of lay and legal members, with a lay Chair.

Meetings with Others

8. During the year we invited a number of guests to give presentations on their own areas of expertise and/or experience of appointments systems. These visits are summarised in the following paragraphs.
9. Dr Charles Woodruffe is a consultant with the firm Human Assets which was used by the Lord Chancellor's Department, as it was then known, to set up and run a pilot assessment centre for those interested in appointment to the office of Deputy District Judge. Dr Woodruffe shared with us his experience of this system and how it was utilised by the Lord Chancellor's Department. Two of the Board members had been able to observe part of the pilot and this added to the general discussion after the presentation.
10. District Judge Ian Ewing was involved in developing a pilot appraisal and mentoring scheme for Deputy District Judges in England and Wales. We have been considering ways of ensuring that we obtain the best objective evidence of an applicant's skills and abilities and were interested to hear how this initiative was being developed in the south.

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11. In January this year Andy Rogerson, Chris Morrell and Paul Ballard, recruitment consultants from the firm Melville Craig, provided the Board with a presentation on the various recruitment methods currently used by private sector companies for assessing individuals' skills and abilities. There were many interesting points arising from this session and we will examine them more closely as our thinking develops.
12. At our annual members' seminar in April, Lord Wheatley gave a talk on the work being done by the Judicial Studies Committee. This gave us a most interesting insight into the variety of courses and training opportunities provided for both new and established full-time and part-time members of the judiciary.
13. We would wish to record here our thanks to all those who have delivered presentations or provided information to the Board, all of which informs our thinking on how best to carry out our remit.
14. In addition to these presentations, we have had meetings with individuals from a range of interested groups within the justice system both here and in other parts of the UK. In July 2003, the Commons Select Committee on the Lord Chancellor's Department met with the Chair and some of the Board members. This meeting was part of the Committee's programme of visits in Edinburgh in advance of the UK Government's consultation on an appointments system for England and Wales.
15. Later in the year the Chair and some members met with the Attorney General and the High Commissioner for New Zealand during their visit to Scotland. They too are consulting on setting up a Judicial Appointments Commission and were interested to hear about our appointments procedure and our experience of operating such a system.

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16. During the year various members of the Board gave presentations to seminars north and south of the border on the operation of the Judicial Appointments Board and one member met with members of the judicial appointment committees in Ontario and in the Netherlands to discuss comparative insights. As part of an information gathering exercise the Board wrote to a wide range of jurisdictions with equivalents to our Board to elicit details as to their remit, composition and method of operation. We plan to arrange further visits and meetings in the year ahead.

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ESTABLISHED PRINCIPLES AND POLICIES

Equal Opportunities

17. 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. We have considered and continue to consider how merit can be defined and more is said about that later.
18. As an aid to monitoring diversity through the appointments system, all applicants are asked (but not required) to complete an equal opportunities questionnaire focussing on gender, nationality, ethnicity and disability. Statistical information gathered during each recruitment exercise undertaken during the year is provided at Annex A.

Sharing Knowledge

19. In our last Annual Report we set out our established policy on conflict of interest. Any member who considers that there is a potential conflict of interest in relation to any applicant declares that to the Board and does not take part in any discussion of that candidate or sit on the interview panel on the day on which he or she is interviewed. Since then we have given further thought as to whether or how a member who has some knowledge of or information about a particular applicant could or should share that with the rest of the Board.
20. In a small jurisdiction such as Scotland it would be surprising if members of the Board (and the legal members in particular) were not acquainted with a significant proportion of the candidates applying for judicial appointment. The Board, after reflecting on the issue has re-affirmed its policy that it would not be

appropriate for those of its members who are acquainted with candidates to share their knowledge with other members of the Board. This approach preserves the autonomy of each member of the Board as well as supporting openness, transparency and equality of opportunity for every candidate. That being said, a situation could arise where an applicant has failed to disclose something, whether a disciplinary or other matter, of which a member has knowledge or information. Where that information would, if substantiated, give rise to serious concern about the applicant's suitability for judicial office, it would be incumbent on the member to share this information with the Chair.

21. Each applicant is required to sign authorisations allowing either the Board or the Scottish Executive to make inquiry of their medical practitioner about health issues and any professional or other body concerning matters of conduct or discipline. They must also sign a declaration that the information contained in their application is true and complete. However, if during the course of the appointment process, it was discovered that an applicant had failed to disclose something which would impact on their suitability for judicial office, their application would be disqualified.

Confidentiality

22. All applications are handled in strictest confidence and only the names of those appointed are made public. Once appointed, the application forms of those individuals are made available to the Scottish Executive Justice Department for administration purposes.
23. Referees can be assured that their assessments are confidential and are not shown to anyone other than Board members. Neither are the contents of their assessments divulged to applicants. However, should the Board consider that something contained in an assessment is of a sufficiently serious nature as to give the Board grave cause for concern about the individual's suitability for appointment, it reserves the right to approach the referee concerned for further information or

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clarification. Depending on the outcome of that discussion, the Chair may bring the matter to the attention of the applicant in order to provide him or her with an opportunity to refute or comment on it. In submitting its recommendations the Board would bring to the attention of the First Minister the issue and the outcome of any such discussion with the applicant.

ACHIEVEMENTS AND POLICY DEVELOPMENT

Recommendations for Appointment

24. We are pleased to report that during our second year in operation we completed two recruitment exercises and embarked on a third. Insofar as the two completed exercises are concerned, our recommendations have been accepted by the First Minister.
25. In November 2003 we made recommendations to fill a shrieval vacancy at Lerwick and Kirkwall. This is a unique post in that the sheriff there serves two distinctly different Island communities, involving a considerable “home to office journey” every other week. We were pleased by the number of applications received for this particular post – twenty-six – and the successful applicant took up office in March.
26. In January 2004 we advertised shrieval vacancies in Perth and Dundee and again we had a good response from all branches of the legal profession. Of the sixty-one applicants, ten were interviewed and we submitted our recommendations to the First Minister in April. Four new sheriffs were subsequently appointed – one at Perth and three at Dundee.
27. In February we invited applications from individuals seeking appointment to the office of all-Scotland floating sheriff, when ninety-one applications were received. By the time this report is published we will have completed that exercise and made our recommendations to the First Minister. For this particular round we have adopted a “slate” approach and will recommend that any all-Scotland floating posts arising in the period to September 2005, be filled from a list of recommended candidates. More is said about the slate approach later in this report.

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28. In the light of experience gained in our first year, we reviewed our processes and as a result revised both the application and referee assessment forms. These are now competency based and framed in such a way that applicants and referees are asked to provide examples which demonstrate how the applicant meets the published criteria.
29. Another change we implemented was to introduce a two-sift process where the Board consider applications without first calling for referees' reports. We found the previous practice of calling for referees assessments before looking at the application forms meant that referees were providing assessments for individuals who, on the face of their application form, might not be carried forward to the short-listing stage. These recruitment exercises are essentially open competitions with the onus on the applicant to present a considered and convincing application to persuade the Board that they should be shortlisted for interview. Applicants must therefore provide sufficient relevant information and evidence to convince the Board of their suitability for judicial appointment *before* referees are asked for their assessment of that applicant.
30. Members of the Board individually assess all the application forms received before the preliminary sift meeting, at the outset of which they declare their individual provisional markings, then discuss initial assessments and draw up a long list of candidates for whom referees' assessments are requested. Importance is placed on the self-assessment section of the application form as well as the statement setting out the applicant's reasons for applying for judicial office and the skills and abilities he or she would bring to the post.
31. The second sift is carried out in the same way – with all members individually assessing the application forms and referees' reports for the long-listed applicants. The Board then meet to discuss these markings and agree upon the short-list of candidates who are invited for interview.

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32. It is worth mentioning here the important role referees play in the appointments process. We have resisted the practice (used in other jurisdictions but frowned upon by the Commissioner for Judicial Appointments) of taking “soundings” from individuals or groups. It has been suggested that the Board might take soundings from, say, the sheriffs principal when considering applications for shrieval appointments. However, the sheriffs principal may not have any direct or recent knowledge of the applicants known to them and it is highly likely that some applicants will not be known to them at all. The question is – how can we obtain the best objective and relevant information about each and every applicant’s skills and abilities? This is something we will have to consider in more detail; however, we are not persuaded that any consultation of this nature is consistent with the principles of openness and transparency and accordingly have set our face against it.
33. This perhaps underlines the importance the Board places on the information provided by referees. The assessments which are most helpful to us address and give pertinent examples of the skills and abilities we seek to identify in applicants. We have moved away from the “tick box” type of form to encourage referees to say more about applicants and to identify any areas where they might require more experience or to develop expertise. Even if someone has potential, there may be areas where they require more experience and it is helpful to us if referees are able to provide this kind of detailed information. It also assists in providing feedback to those who are not recommended for appointment. The high quality of the training provision available from the Judicial Studies Committee can address a range of developmental needs which need not necessarily be seen as detrimental to an applicant’s suitability.
34. At interview, candidates are asked to address the panel of members for up to ten minutes on a given subject and we have now extended the duration of interviews to allow time for questions which may arise from these presentations. Candidates are then subjected to questioning by panel

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members to elicit evidence of their legal knowledge, skills and abilities to assess them against the published criteria, which are as follows:

“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;
- 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.

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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.

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.”

Following the interview those on the panel will review the candidate, with the lay members speaking first, and a discussion as to the comparative merits of the candidate ensues. At the

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conclusion of each day of interviews a further discussion takes place to arrive at a consensus view of the panel. Upon the completion of the full interview process the Board reaches its final conclusions as to the ranking of all candidates.

35. All members took part in interviewing candidates during the course of the year.

Annual Seminar

36. At our annual seminar we reviewed the various procedures and practices utilised in our recruitment exercises and discussed a number of policy issues. Some of these issues are summarised in the following paragraphs.

Statutory Framework

37. Last year the Scottish Executive asked us to consider what might be included in the legislation which will put the Board on a statutory footing. The Board was initially set up on an administrative basis but the Scottish Ministers gave a clear commitment to move it on to a statutory one once it had been in operation for a little time.

The Slate Approach

38. We also discussed the slate approach currently being piloted in the exercise to identify suitable candidates for the office of all-Scotland floating sheriff. The way in which we carry out our selection process means that there is some time between a vacancy being notified to us by the Scottish Executive and the submission of our report to the First Minister. We decided that it would be sensible to adopt a slate system for certain posts such as all-Scotland floating sheriffs and part-time shrieval vacancies.

39. We embarked on the first such exercise in February. The advertisement made clear our intention that the list of recommended candidates should be used to fill any floating shrieval vacancy arising in the period to September 2005. In effect this will mean that the list will be current for a period of twelve months from the time we submit our report to the First Minister. After that time our intention would be to embark on another exercise to draw up another list. The recruitment timetable is likely to

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mean that this slate might be operative until the year end of 2005.

40. As with all our reports, the 'slate' of candidates will be established in ranked order. The identity of those on the slate will remain confidential and only on appointment will an individual's name be made public. The appointment of any person on the slate depends on the number of vacancies to be filled and the individual candidate's position in the rankings. Being recommended by the Board does not guarantee an appointment and any individual still on the list when it expires will be free to apply again should they so wish when the next round is advertised.
41. One difference from non-slate exercises is that those who are recommended in the previous slate, but not subsequently appointed, will automatically have their new application carried forward to the second sift stage of the process. However, they will then be in competition with all other long-listed candidates and may or may not be shortlisted for interview. This automatic progression to the long-list will apply to the first consecutive exercise only.

Appointing the Best Candidate

42. One issue which gives rise to debate is how to identify those who are best suited to the office of Judge, Sheriff Principal or Sheriff and how can we ensure that we recommend the best candidates for appointment.
43. We have discussed the definition of appointment on merit. By inviting applications from those interested in judicial appointment we are able only to recommend names from amongst those who have submitted an application form. Of course to uphold the principles of openness and transparency, it would be quite wrong if the Board were to approach selected individuals to encourage them to apply – but how can we ensure that there is a strong field from which to select recommended candidates? We will return to this subject to consider ways of maximising the potential candidate base, but it is clear we need a more systematic approach to this difficult area and may require to commission research to identify if there are any

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perceived barriers discouraging some individuals or specific groups from coming forward.

44. As we are aware from the presentation given by the professional recruitment consultants, there are various ways in which candidates can be tested in addition to formal interview procedures. Some of these include:
- assessment centres – we know this has been piloted in England and Wales;
 - case studies/role play – this formed part of the work done in the assessment centre pilot;
 - psychometric testing;
 - in-tray exercises – where applicants are given a variety of paperwork which members of the judiciary may have to deal with daily and are assessed on how they approach the task.

We would expect to consider these issues in greater depth in the coming year.

Appraisal and Mentoring

45. Under the present arrangements there is no judicial appraisal system in place along the lines of what is developing in England and Wales which might aid the Board in coming to a decision on an applicant's suitability for office. For example, we have no information about the performance of someone who, on the recommendation of the Board, has been appointed and served as a part-time sheriff and then applies for a full time post. While it is not for the Board to introduce or develop such a system, we believe that obtaining reliable and objective information is a key element in making recommendations for appointment to the judicial offices within our remit. An appraisal system for part-time sheriffs developed and administered from within the judiciary (eg by the Sheriffs Principal, appropriately resourced) might make a significant contribution to the available knowledge base while contributing to the personal development of those involved.

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46. We also gave some consideration to how the wealth of experience of those sheriffs who choose to retire early might be available to benefit the shrieval bench in an appraisal and mentoring role. We heard from District Judge Ian Ewing how the system was developed in the south and, by applying the principles of that model to our own thinking, we could see potential in retaining a small number of retired sheriffs to assist in this way. Again, this matter is not within our remit and the introduction of any such role would require legislation. We have written to the Justice Minister to share with her our thoughts on this issue and will be happy to discuss it further if that would be helpful.

Resources

47. Reflecting on our experience since the Board began operating in June 2002, it is clear that the expected commitment for members of 1½ days per month and that for the Chair of 2 days per month has been greatly exceeded given the number of vacancies notified and the issues which have arisen in the process of making recommendations to fill them.
48. At present the Board secretariat is provided by a small number of staff in the Scottish Executive Justice Department. In terms of actual workload, much of the Secretary's time is taken up with preparing papers and managing recruitment exercises and, while she is able to call upon the assistance of others in the Executive to help with paper handling and receiving applications and referees reports, we recognise that there is a need for a review of the way in which the Board is resourced. The current arrangements are not appropriate. The staff resources are inadequate for the Board's needs and are severely limiting our ability to develop the wider important elements of our remit. We are addressing this issue in our own capacity and a small working group of members has been set up to identify the Board's requirements and assist consideration by the Scottish Executive.

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ISSUES FOR FUTURE DEVELOPMENT

49. Much of the Board's time has been taken up with recruitment exercises but these have thrown up some issues which we have raised with the Scottish Executive.

Shrieval transfer arrangements

50. In last year's Annual Report, we mentioned that the Justice Minister was consulting with interested parties on the way in which the system might operate now that the Board has a role in the appointments system. The Scottish Ministers have power under the provisions of the Sheriff Courts (Scotland) Act 1971 to transfer serving sheriffs and they will retain that function. Further discussions are in train. In the year from 1 June 2003 to 31 May 2004 Ministers exercised the power to transfer sheriffs on seven occasions.

Temporary Judge Appointments

51. We also reported that we had written to the Justice Minister indicating our view that appointments to the office of temporary judge in the supreme courts should fall within our general remit. While the Minister could see the case in principle, she indicated an intention to consider the matter further and discuss the current arrangements with the Lord President.

Research and Consultation

52. As a result of the volume of vacancies notified to us and the time devoted to each recruitment round, we have not been able to take forward some of the issues we consider important in relation to the recruitment issues relevant to the legal profession, particularly in relation to diversity issues and how to encourage applications from under-represented groups.

Gender balance

53. Since the Board began its work we have noticed that the proportion of females applying for judicial posts has grown slightly. In percentage terms, by far the best response from female applicants was for the Perth/Dundee vacancies, where 34% of those applying were women. Prior to this we could expect between 20-25% of applications to come from females.

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54. From the outset we have been monitoring the gender balance of applications throughout the process. Last year we noted that the balance remained the same at each stage. For this year that does not seem to have been the case (we comment in more detail in Annex A about a recent exercise) although the analysis which we have been able to do – and the numbers are small – suggests that female applicants were not disadvantaged when compared to their peer group. The majority of applications come from solicitors and the great majority of female applicants were from that branch of the profession. For the all-Scotland floating sheriff slate which is nearing completion the applicant gender balance seems to be being maintained.
55. As our last report made clear, we do not have targets for gender and are not seeking to maintain the balance of applicants throughout the process; however we believe it is important that we seek to understand the reasons why the balance changes at any stage in the process to ensure that we are making recommendations on merit. We will continue to review each exercise individually, although the numbers may be too small to draw any statistically valid conclusions. It will be more important that we review trends over a longer period and reflect upon this in the wider context.

Ethnicity

56. With each application form we issue an equal opportunities questionnaire. Some of those returned are incomplete but those applicants who completed the section on ethnicity are predominantly white.

Feedback

57. We now offer feedback to all unsuccessful applicants. For those who do not progress beyond the first or second sift, feedback can be fairly limited as it relates mainly to the content of their own application form. Applicants must meet the statutory requirement of eligibility before applying, so the Board's task is to assess each application on its own merits and measure that against the published

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criteria for judicial appointment. That is one reason why we have moved to a self-assessment application form so that applicants may provide evidence of how they meet the published criteria. This also assists the Board in providing feedback.

58. Those who have been interviewed but not recommended for appointment are offered the opportunity to discuss their performance at interview with a member of the interview panel.
59. Our practice has been for the Chair or a member of the Board to speak by telephone to individuals seeking feedback but it is often difficult to arrange a suitable time for this to take place given the diary commitments of both those giving and those receiving feedback and the number of applicants applying for judicial appointment. We will give further thought to how these arrangements can be developed.

APPOINTMENT STATISTICS

60. Details of the relevant appointment statistics are set out in Annex A to the report.

FURTHER INFORMATION

61. General information about the Board and vacancy announcements are published on our website at www.judicialappointmentsscotland.gov.uk

Our address for correspondence is:

Judicial Appointments Board for Scotland

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EDINBURGH

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ANNEX A

APPOINTMENT STATISTICS JUNE 2003 – MAY 2004

SHRIEVAL APPOINTMENTS

Eligibility

Eligibility 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.

Applications Received

Sheriff of Grampian Highland and Islands at Lerwick and Kirkwall

This vacancy was advertised on 22 August 2003 and twenty-six applications were received. The normal pattern of work for this post-holder is one week at Lerwick (normally sitting 5 days) and the following week at Kirkwall (normally 3-4 sitting days). Under the terms of the Sheriff Courts (Scotland) Act 1971, the Scottish Ministers may stipulate where a sheriff should be ordinarily resident and such a direction was given in this instance. Since Lerwick has an appreciably larger workload, our advertisement stipulated that the post-holder would be expected to have his or her main residence in Shetland.

Sheriffs of Tayside Central and Fife at Perth and/or Dundee

A composite advertisement for these vacancies was published on 9 January and sixty-four applications were received, the majority of which (55) were from people interested in both posts. Of those, 20 expressed a preference for Perth and six preferred Dundee.

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All-Scotland Floating Sheriff

These vacancies were advertised in February 2004. At that time there was only one known vacancy but the Board advertised its intention to recommend that any further floating vacancy, of whatever nature, arising before September 2005 should be filled from the list of recommended candidates selected from those who responded to the advertisement.

All-Scotland floating sheriffs are required to travel throughout Scotland to provide cover in the courts where that is necessary. However there are also some posts where all-Scotland floating sheriffs are assigned to a particular sheriffdom and spend much of their time covering the courts within that area. They too may also be called on to serve outwith that sheriffdom, should the need arise.

Ninety-one applications were received but, as that exercise has not yet been concluded, the relevant statistical information is not included in the following paragraphs.

Equal Opportunities

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

As a matter of policy, completed questionnaires are not shown to the Board and are detached from the application forms on receipt.

Gender Balance

The following table shows the male/female balance throughout the two completed exercises.

| | Lerwick and Kirkwall | | | Perth and/or Dundee | | |
|----------------------|-----------------------------|------|--------|----------------------------|------|--------|
| | Total | Male | Female | Total | Male | Female |
| Applicants | 26 | 81% | 19% | 64 | 66% | 34% |
| Long-listed | 9 | 78% | 22% | 19 | 79% | 21% |
| Called for Interview | 5 | 100% | 0% | 10 | 80% | 20%* |
| Appointed | 1 | 100% | 0% | 4 | 100% | 0% |

* One female candidate withdrew from the interview process.

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As the table shows, in the Perth/Dundee exercise the proportion of female applicants was higher than in the previous exercise. However, they did less well than male applicants at the long-listing stage of the process. While recognising that the absolute numbers were small and the use of percentages possibly misleading, we decided to look more closely at the make up of the applicants at each stage.

On the basis of the analysis (and we must emphasise the smallness of the numbers) we did not identify any indication of gender bias. However we intend to review this further upon completion of the all-Scotland floating sheriff appointment process which will involve a higher number of applications.

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 the two completed exercises is summarised here.

Lerwick and Kirkwall

Of those who completed the ethnicity section of the questionnaire, none came from an ethnic background.

Perth and/or Dundee

One applicant came from an Asian background.

Disability

The questionnaire also provided an opportunity for 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. None of those applicants who completed this part of the questionnaire for either the Lerwick and Kirkwall or the Perth and/or Dundee posts, were disabled.

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Age

Applicants for these shrieval 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 legally qualified for a certain number of years before they may be considered for such an appointment.

The following table shows the broad age ranges of applicants for and those appointed following each of the two shrieval exercises completed.

| | Aged 35-40 | | Aged 41-50 | | Aged 51-60 | |
|--|------------|-----------|------------|-----------|------------|-----------|
| | Applied | Appointed | Applied | Appointed | Applied | Appointed |
| Lerwick & Kirkwall (age at 1 Nov 2003) | 3 | 0 | 17 | 1 | 6 | 0 |
| Perth and/or Dundee (age at 1 Feb 2004) | 8 | 0 | 40 | 2 | 16 | 2 |

Annual Report 2003-2004



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Astron B36702 10/04

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ISBN 0-7559-4403-8



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