



The Judicial Appointments Board for Scotland  
**Annual Report 2004 – 2005**





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**Annual Report 2004-2005**

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# Annual Report 2004-2005



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## FOREWORD

I am pleased to present the third Annual Report of the Judicial Appointments Board for Scotland. Once again we have had a busy year in terms of recruitment exercises and have submitted recommendations for the appointment of five new senators and a number of sheriffs.

Looking back over the first three years of the Board's work, it is worth noting that around one third of the current complement of the Scottish judiciary has been appointed to office following our recommendations. This puts into sharp focus the number of recruitment exercises carried out and recommendations made under the new arrangements. Including the latest exercise to identify those suitable for appointment to the office of part-time sheriff, in the three years to the end of May 2005 we carried out two competitions for senator, one for sheriff principal (with a further exercise now underway), two to identify all-Scotland floating sheriffs as well as competitions for resident sheriffs at Lerwick/Kirkwall, Perth, Dundee and Hamilton and an earlier round for part-time sheriffs.

While there is considerable interest in shrieval appointment, both full-time and part-time, we are somewhat disappointed that the number of candidates for the more senior offices of sheriff principal and senator has been relatively small. In the latter case it might be argued that under the previous system practitioners felt that there were few opportunities for such an appointment but with the Board now firmly in place they may choose when to put themselves forward for consideration. Whether or not that is one of the reasons for low levels of interest in appointment to the supreme courts is something we would wish to consider when looking at ways of maximising opportunity.

The Board secretariat has now been enhanced by the addition of a Policy Director and she will assist us in developing a programme of research and development which we have been unable to initiate thus far - principally because of the number of vacancies we have been asked to fill. We welcome this additional resource and look forward to making progress on policy development and taking a critical look at issues which we have highlighted in earlier reports.



# The Judicial Appointments Board for Scotland

All Board members were initially appointed for three years and, at the end of May, Lord MacLean and Colin Campbell QC stood down. I would like to record here my personal appreciation to them for their commitment to putting the Board's processes into operation and for sharing their insight and understanding of the Scottish legal system. I am pleased that they have now been succeeded by the Hon Lord Wheatley and Mrs Valerie Stacey QC respectively and I look forward to working with them and with the continuing members who have contributed so fully to the work of the Board.



Sir Neil McIntosh CBE  
Chair

## BACKGROUND AND MEMBERSHIP

1. Prior to the Board being set up, the system for judicial appointments was regarded as lacking openness and transparency and so the Scottish Executive published a public consultation paper, *Judicial Appointments: An Inclusive Approach* which drew responses from all branches of the legal profession and other interested parties. This led to Scottish Ministers setting up an independent Judicial Appointments Board, giving it a fairly broad remit.

2. The Board comprises ten members, with an even balance of lay and legal members and a lay Chair. Membership for the first three years was 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 M Campbell QC

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 and Scottish & Southern Energy plc

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

3. Two members, the Rt Hon Lord MacLean and Mr Colin Campbell QC did not seek re-appointment after their first term of office and we wish to record here our thanks to them for their valuable contribution in establishing the Board's procedures and practices over the last three years. The Chair and other members have been appointed to serve a further term of office and have been joined by the Hon Lord Wheatley and Mrs Valerie E Stacey QC.

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4. The broad remit of the Board is:
  - to provide the First Minister with a list of candidates recommended for appointment to vacancies for Judge of the Court of Session, 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; and
  - to undertake the recruitment and assessment process in an efficient and effective way.
5. The Scottish Ministers gave the Board general guidance but it is responsible for developing its own policies and procedures. We continue to review and refine the appointments process and are pleased that the Scottish Executive has now provided some additional support to assist in policy development. Much needs to be done in terms of research and outreach and this is discussed in more detail later in the report.
6. At the outset Scottish Ministers gave a commitment that the Board would be put onto a statutory footing after it had been in operation for a little time and we understand that the Scottish Executive will shortly issue a consultation paper on this and other matters concerning the Scottish judiciary.



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## MEETINGS AND VISITS

### ***Board Meetings***

7. The Board normally meet once a month to discuss general business but, from time to time, some of the scheduled dates have been used for interviewing candidates.
8. All members take part in each appointment exercise. Members individually assess all applications received against the published criteria *before* the sift meetings when the list of those who will progress to the next stage of the process is drawn up. Those unable to attend sift meetings submit their assessments in advance so that their views are taken into account.

### ***Meetings with Others***

9. The Board was the first of its kind to be established in the United Kingdom and we were interested to see the development of arrangements for setting up similar bodies in England and Wales and in Northern Ireland. In September we met with Mr Neil Ward, Director of Judicial Appointments from the Department for Constitutional Affairs, who was involved in project managing the transfer of responsibilities for the judicial appointments system in the south. We were happy to share with him our experience and he offered to send a member of his team to Edinburgh, not only to gather information about our processes and procedures, but to undertake an exercise to assist the Board in determining the resources it required to be able to carry out its remit. Ms Hannah Davenport spent a week meeting with the Chair and members as well as with the secretariat and Scottish Executive officials. She later provided us with a comprehensive report which provided a basis for further discussion on procedures and resource issues.
10. We are keen to establish channels of communication with the new Commissions once they are in operation so that we may discuss matters of mutual interest. It is important to look at what is being done elsewhere to avoid becoming too insular and it will be beneficial to debate some of the issues that are of concern to us with those in other jurisdictions.
11. During the year we also invited a number of guests to meet the Board and discuss aspects of our appointments system. These visits are summarised in the following paragraphs.

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12. In October we met two of the Commissioners for Judicial Appointment in England and Wales, Professor Frances Heidensohn and Mr John Simpson (who is also the Commissioner for Northern Ireland). Their functions will come to an end when the new Commissions are set up but with their experience of auditing appointment processes and handling complaints arising from decisions made under the previous system, there was much to be gained from our discussions with them.
13. The Justice Minister, Cathy Jamieson, joined us at our general business meeting in November when we outlined progress to date and discussed with her some of the key issues we consider important in an open and transparent appointments system. We had already raised with her the issue of temporary judge appointments, which we consider should be included within our remit, and took the opportunity to express our thoughts with regard to judicial appraisal. We were pleased to have this opportunity to discuss these issues with her.
14. We also invited the Lord President to meet us in January when we were able to discuss our procedures and policies as well as our remit. Later in the year the Chair and some of the members met with representatives of the Sheriffs' Association to discuss matters of mutual interest.
15. We would wish to record here our thanks to all those who have joined us at our meetings or were willing to share with us their experience of appointments systems. We are particularly grateful to Hannah Davenport for her valuable assistance in providing an objective view of our resource requirements and her helpful observations on our procedures.

## ***Keeping In Touch***

16. The Board maintained contact with individuals and commissions involved in judicial appointments overseas. We also liaised with the Department for Constitutional Affairs in relation to its consultation exercise on "Increasing Diversity in the Judiciary". Towards the end of the Board's year, two members were invited to attend a Chatham House seminar at Glasgow University entitled "Sustaining the Independence of the Judiciary" at which members of the judiciary, policymakers and stakeholders were present. Members of the Board were also invited to join with distinguished experts on judicial appointment from England in a plenary session on Reforming Judicial Appointment, at the Annual Conference of the Society of Legal Scholars, which is to be held at Strathclyde University.

## ESTABLISHED PRINCIPLES AND POLICIES

### Equal Opportunities

17. The overarching principle of our 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. One of the biggest challenges facing the Board is how to find a way of obtaining the best objective evidence of an individual's skills and abilities without disadvantaging others or undermining the principles of equal opportunity.
18. As an aid to monitoring diversity through the appointments system, all applicants are asked (but not required) to complete an equal opportunities questionnaire focusing on gender, nationality, ethnicity and disability. Statistical information gathered during each recruitment exercise undertaken during the year is provided at Annex A.
19. We recognise that detailed research is required to help us understand why some people might not contemplate putting themselves forward for consideration. We have taken a few tentative steps towards this but will build on them over the coming year as a matter of priority. It is important that potential applicants should have sufficient confidence in the appointments system to submit themselves to the process and it will be interesting to discover whether there are any perceived barriers to this.

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## **Confidentiality**

20. All applications are considered in strictest confidence and only the names of those appointed are made public. Only on appointment will the application forms of those individuals be made available to the Scottish Executive Justice Department for administration purposes.
21. The Board is particularly anxious to ensure that confidentiality is maintained throughout the process. Members are precluded from divulging the identity of applicants or confidential information in connection with their applications and the secretariat takes pains to ensure that no one other than Board members has access to such information.
22. In any organisation or profession, particularly where the field of applicants is restricted to a certain group or requires specific professional qualification, it is probably inevitable that there will be some speculation about who might have applied for a particular vacancy or who may have been recommended. Some applicants may be open about their intention to apply for judicial appointment but this does not mean that the Board will relax its rule on confidentiality.
23. Referees can be assured that their assessments are considered to be confidential and are not shown to anyone other than Board members. Neither are the contents of their assessments divulged to applicants. We ask referees that they treat requests for these assessments in strictest confidence.

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## ACHIEVEMENTS AND POLICY DEVELOPMENT

### Recommendations for Appointment

24. We are pleased to report that during the year June 2004 to May 2005 we completed three recruitment exercises, a fourth was nearing submission of our report to the First Minister and a fifth had reached the preliminary sift stage of the process. All recommendations made have been accepted by the First Minister.
25. In our last Annual Report we mentioned that we had begun a competition to make recommendations for the office of all-Scotland floating sheriff. The Board reported to Ministers in September 2004. We decided that this exercise should be advertised on the basis of a “slate” approach so that the outcome would be to recommend that any all-Scotland floating posts arising in the period to September 2005 should be filled from the list of recommended candidates. This was the first time we had adopted this approach and, following our recommendations, nine individuals were appointed from the slate by the end of May 2005. Being able to recommend a list of candidates has meant that vacancies arising for all-Scotland floating sheriff may be filled straight away without the need for further advertisement. We understand that further appointments will have been made from that slate by the time this report is published.
26. In August we undertook two recruitment exercises, one to fill vacancies in the office of senator, the other for a sheriff at Hamilton. Both reports were submitted to the First Minister before Christmas 2004.
27. In January we invited applications from individuals seeking appointment to the office of part-time sheriff and two hundred and thirty-eight applications were received. As with the all-Scotland floating sheriffs, we advertised this as a slate exercise and seventy-two individuals were subsequently interviewed. By the time this report is published we will have reported our recommendations to the First Minister and the first tranche of appointments will have been made.
28. The last of the five rounds advertised was for sheriffs principal and we are due to report our recommendations in September 2005. There are two vacancies to be filled - one in the sheriffdom of Glasgow and Strathkelvin, the other in South Strathclyde Dumfries and Galloway.

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## ***Completing the Process***

29. The Board has been criticised in some quarters for the time it takes to complete the process and make its recommendations. Depending on the type of vacancy to be filled, each exercise can take between four and six months from advertisement to final recommendation. That may seem a long time, particularly when compared with the old system which largely operated on the basis of “a tap on the shoulder”, but the requirements of a fair, open and transparent system demand that individuals wishing to be considered must complete an application form, that referees’ reports be obtained and all shortlisted candidates interviewed. These processes are based on the principles adopted by the Office of the Commissioner for Public Appointments and recognised as best practice.
30. Sufficient time must be given to allow applicants to approach their nominated referees and to prepare and submit an application form. Board members require time to consider all applications and carry out a preliminary sift. References must be requested for those on the long list and referees allowed time to consider, prepare and submit their assessments. The Board must then read these assessments and meet to draw up the shortlist. Candidates on the shortlist are allowed time to prepare for interview – particularly as they must address the panel on a given subject for up to 10 minutes. Following interviews, the panel Chair reports are circulated to all members before the Board report is discussed, finalised and submitted to the First Minister.
31. So far as possible within the parameters of the process described, the Board makes every effort to complete each round expeditiously. The timetable for each exercise is notified to prospective applicants and published on our website. In determining the deadlines for each step in the process we take into account the likely response to each advertisement and plan accordingly. Despite the volume of applications received for some posts, we consistently met our published deadlines. This whole process takes considerable effort on the part of the members and the time required to consider applications in detail and assess them against the published criteria should not be underestimated.
32. The Board is unable to influence the time taken between the submission of our reports to Ministers and individuals taking up post. The First Minister is obliged to consult with the Lord President before making recommendations to Her Majesty and, in the case of

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shrieval appointments, some individuals require some time to withdraw from their business commitments before taking up office.

33. It is often the case, particularly in shrieval appointments, that vacancies arise but are not immediately notified to the Board. This can be for a variety of reasons. For example, the Scottish Executive may offer a resident sheriff post to serving sheriffs as a transfer opportunity before deciding whether to seek recommendations from the Board. This means that some time may pass before we are notified that a new competition is required and appears to give some observers the impression that we have failed to respond quickly to the need to fill current vacancies.
34. We recognise that judicial appointment is a long term investment and it is essential that the recruitment process should be thorough. The initiative taken by the Board in introducing a slate system for recommending candidates for floating and part-time shrieval appointments should assist in streamlining the process to a major degree as it permits appointments to be made from the pool whenever such vacancies arise.
35. In the period covered by this report, the Board was engaged in interviewing candidates on twenty-four days when one hundred and eighteen candidates were interviewed. In general, each interview day starts at 8.45 am and finishes at around 6 pm, by which time we have seen five candidates and agreed preliminary ranking of those interviewed. The interview panels comprise four or six members of the Board depending on the type of vacancy advertised and all members took part in interviewing during the year. At the conclusion of the interviews, the panel Chair prepares a short summary for inclusion in the draft report, which is circulated to all members before they meet to discuss and agree the Board's final recommendations for submission to the First Minister.

### ***Routes to Judicial Appointment***

36. In England and Wales the Lord Chancellor has said that, for appointments to the office of district judge, he would expect applicants to have served in a salaried or fee-paid judicial capacity for at least two years or have completed the minimum required sitting days. We have not adopted a similar condition and have indeed recommended individuals who have had no prior judicial experience as well as those who have served in some judicial capacity, whether through tribunal membership or in the role of temporary or part-time sheriff.

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37. Many applicants have had some temporary or part-time judicial experience and this can be helpful to them in providing evidence against the competencies when making an application. However, while this type of experience is taken into account in the wider context of legal knowledge and experience, the Board has no means of obtaining real or objective evidence of how an individual has performed in that role. We have in previous annual reports commented on the lack of a suitable appraisal system for and operated by the Judiciary.
38. Each round of appointments is undertaken in response to a request from the Scottish Executive and applications are invited from those who meet the relevant statutory criteria. Having said that, we intend to advertise slate exercises on a rolling programme and it should be noted that those who were recommended for the all-Scotland floating sheriff slate in September 2004 but have not been offered an appointment within the twelve months of its currency, may apply again when the next round is advertised. For those applicants only, we have said that their application will be automatically taken forward to the long list stage and references sought. However, after that they will be competing with all others on the long list and no guarantee has been given that they will reach the short list in the new competition. This arrangement will only apply to the recruitment exercise for all-Scotland floating sheriffs immediately following the expiry of the current slate.
39. Similar arrangements have been put in place for those recommended for the first slate of candidates for part-time shrieval appointment. When the next recruitment round for part-time sheriffs is advertised (on current plans, likely to be in January 2007) those remaining on the slate may apply again and will automatically be taken through to the long list stage of that competition.
40. **We should emphasise the point that being on a particular slate does not preclude recommended candidates from applying for any other judicial office for which they are eligible to apply under the statutory criteria. However, for those competitions there will be no automatic progression to the long list stage and all applicants will be considered on an equal basis.**
41. To summarise the slate arrangements are as follows:
  - while awaiting appointment, recommended candidates on a slate may apply for any other judicial post advertised for which they are eligible to apply under the statutory criteria;



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- those candidates who have not been appointed when the slate for which they were recommended expires, may apply for the same type of post when the next round is advertised and their applications will be carried forward to the long list stage for that competition only;
  - if applying for a different type of post, e.g. a resident sheriff post (where slate arrangements do not operate) all applicants will be considered on an equal basis irrespective of whether or not they were or are currently on any slate awaiting appointment.
42. Although it may appear to be the case, there is no requirement for individuals to serve as a floating sheriff before being considered for appointment to a resident post. The fact is that the Board tends to receive fewer requests to advertise resident posts because it is open to Ministers to consider transfer requests from serving sheriffs before deciding whether to notify us of the need for a new competition. Quite often a floating sheriff will be transferred to a resident post and the subsequent floating vacancy filled from the slate of recommended candidates. However, there may be occasions when Ministers will refuse a transfer request or no serving sheriff will apply and, in those circumstances, the Board will be asked to advertise that vacancy.

### **Annual Seminar**

43. At our annual seminar this year we looked at policy development and recruitment practice. We also considered diversity issues and the need for a more structured mechanism for monitoring gender balance and ethnicity.

### ***Research and Development***

44. The Board recognises the need for detailed research to investigate how the potential field of applicants for judicial appointment is made up and whether there are any perceived barriers preventing those from under-represented groups coming forward for consideration. We commissioned a “think piece” on diversity from Dr Fiona Mackay of Edinburgh University and she gave a commentary on her paper at the seminar. This provided a starting point from which we will develop a strategic research programme to look at maximising opportunity. We extend our thanks to Dr Mackay for undertaking this research to help inform our thinking.

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## ***Policy Director***

45. We welcome the addition of a policy director, Ms Christine Dora, who joined the Board secretariat in May. At the seminar she set out a programme of work which included the main issues on which she will assist us in the review and development of our policies.

## ISSUES FOR FUTURE DEVELOPMENT

### *Maximising opportunity*

46. One of the important issues to be taken forward in the year ahead is further research to follow up Dr Fiona Mackay's preliminary study on diversity. This will include an assessment of the career paths and aspirations of people with different backgrounds in the legal profession, and seek to discover the reasons why some potential candidates do not put themselves forward for judicial appointment.

### *Gender Balance*

47. It has been interesting to note that over the last three years the number of women applying for judicial appointment has remained fairly steady, representing around 25% of applicants for any advertised vacancy. Broadly the same percentage of female candidates came through the various stages of the appointment process without any deliberate attempt by the Board to maintain this representation. The proportion of female applicants seems low, particularly given the number of women in the legal profession, and this is one area where we want to devote some time to discover the underlying reasons for this trend.

### *Outreach and raising awareness*

48. In terms of outreach we will develop a framework for communicating with the Scottish Parliament and Ministers, the judiciary, the legal profession, the media and analogous organisations from elsewhere in the UK. We publish information about the Board, its processes and information about appointments on our website but we must also ensure that people are aware of current developments and live issues.
49. Any new system, whether it be an appointments system or otherwise, is unlikely to meet with universal approval. Informed debate is healthy and we are conscious that we must set out the challenges we face in developing arrangements which are fully commensurate with the principles of equal opportunity and to initiate dialogue with those interested in the arrangements for judicial appointments. The establishment of an independent Board has raised expectations among potential candidates and, so far as we are able to determine from feedback received, has given some

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people who might not have considered putting their names forward under the previous system the opportunity to apply and be appointed. It is important that potential candidates and those with a general interest in judicial appointments are aware of the Board's policies as well as the issues which impact on the appointments system.

## ***Reviewing procedure***

50. We will also carry out a root and branch review of our processes and look again at the criteria for judicial appointment to see whether they are fit for the purpose of assessing the competencies of specialist practitioners when compared with the essentially generalist judicial role. It is important to look at the type of information we seek from applicants and their referees and the format of the prescribed forms to see if there is a more effective way of eliciting examples or evidence of an individual's skills and abilities.
51. Our experience is that information provided by referees can vary depending on how well the individual is known to them or how much of their work they have seen. Members of the judiciary may be able to observe on someone who appears before them regularly in the courts but may not have the same knowledge of the skills and abilities of a practitioner whose day to day practice involves little or no court work. Again we come back to the difficulty of obtaining the best objective and relevant information about all candidates who reach the long list stage.
52. It is for individuals to nominate those whom they wish to act as referees and the Board's only direction is that at least two of the three chosen referees should have recent direct experience of the individual's work and all three should be able to comment on their professional skills and abilities. Some applicants have said they find it difficult to nominate referees and some people may seek to put forward senior members of the judiciary in the belief that they will add weight to their application. As mentioned earlier, if a judge or sheriff sees very little of an applicant's work, then they may be unable to comment in detail about their professional skills and abilities.

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## ***Assessing Candidates at Interview***

53. To reach the interview stage candidates must have provided good and compelling evidence in their application form of how they meet the competencies and this will have been supported by the information in the assessments submitted by their referees. The current system requires each interviewee to address the interview panel for up to ten minutes on a given subject. All candidates are given the same subject and from that presentation the panel assesses how well individuals are able to demonstrate their communication skills, intellectual capacity, analytical ability, as well as the ability to marshal facts and reason logically – all of which are included in the criteria for judicial appointment. At the close of that address, panel members may ask questions arising from points raised and general questioning follows thereafter.
54. Whether this process is sufficient to determine an individual's personal characteristics and temperament is something we will consider as part of the review. In England and Wales some work has been done in setting up assessment centres for some types of appointment and, as we have said in earlier reports, we need to look at how this method of identifying potential appointees is being developed.

## **APPOINTMENT STATISTICS**

55. Details of the relevant appointment statistics for the year 2004-2005 are set out in Annex A to the report.

## **FURTHER INFORMATION**

56. General information about the Board and vacancy announcements are published on our website at [www.judicialappointmentsscotland.gov.uk](http://www.judicialappointmentsscotland.gov.uk)

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# The Judicial Appointments Board for Scotland

## **ANNEX A**

### **APPOINTMENT STATISTICS JUNE 2004 – MAY 2005**

#### **APPOINTMENT OF SENATORS OF THE COLLEGE OF JUSTICE**

##### **Eligibility**

Eligibility for appointment as a Judge is set out in statute and provisions were first enshrined in the Courts Act 1672. Article xix of the Union with England Act 1707 conferred power on the United Kingdom Parliament to appoint the Lords Ordinary of Session, but restricted the appointments to Advocates of five years' standing. Writers to the Signet of ten years standing could be appointed as Lords Ordinary if they passed the examination in civil law before the Faculty of Advocates two years before taking up their seat on the Bench.

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 made further provisions regarding the criteria under which Sheriffs Principal, Sheriffs and certain types of solicitors may be appointed as Judge.

Sheriffs Principal and Sheriffs who have continuously exercised their respective functions for a period of at least five years are eligible for appointment, as are solicitors who have continuously had a right of audience in both the Court of Session and High Court of Justiciary for at least five years. Solicitors with such rights of audience are known as Solicitor Advocates. The Act makes clear that temporary Sheriffs Principal and part-time Sheriffs are not eligible for appointment.

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## **Applications Received**

In August 2004 the Board advertised on the basis that there were two known vacancies at that time. However, further vacancies arose during the currency of the exercise and five individuals were subsequently appointed from the list of recommended candidates which we submitted to the First Minister. Twenty applications were received in response to our advertisement.

## **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**

### ***All-Scotland Floating Sheriff***

These vacancies were advertised in February 2004. At that time there was 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 to courts throughout Scotland to provide cover where that is necessary. However there are 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. Having said that, they too may be called on to serve outwith that sheriffdom, should the need arise.

Ninety-one applications were received in response to the advertisement.

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## ***Sheriff of South Strathclyde Dumfries and Galloway at Hamilton***

A notice seeking applications for a sheriff at Hamilton was published in August 2004 on the basis that one vacancy existed but that any subsequent vacancy arising during the currency of the exercise would not be subject to further advertisement. Twenty-six applications were received and in December the Board submitted a ranked list of recommended candidates to the First Minister. Following submission of our report, a further resident post became available in Hamilton and we were happy to recommend that the position be offered to the second ranked candidate and he was subsequently appointed to that office.

### **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 tables show the male/female balance throughout the various exercises.

	<b>Senator of the College of Justice</b>		
	Total	Male	Female
Applicants	20	17	3
Long-listed	14	12	2
Interviewed	10	8	2
Recommended	5	4	1



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	All-Scotland Floating Sheriff			Sheriff at Hamilton		
	Total	Male	Female	Total	Male	Female
Applicants	91	65	26	26	20	6
Long-listed	40	32	8	17	15	2
Interviewed	25	19	6	11	9	2
Recommended	20	15	5	5	5	0

## 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 three completed exercises is summarised here.

### *Senator of the College of Justice*

The information provided by those returning the questionnaire is shown in the following table:

British/Mixed British	English	Irish	Scottish	Welsh	Other	No response
6*	0	0	16*	0	0	0

\* includes candidates who ticked more than one of the options

On ethnicity the responses received were as follows:

Asian	Black	Chinese	Mixed Ethnic	White	Other	No response
0	0	0	0	12	1	8

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## **All-Scotland Floating Sheriff**

Again a number of these questionnaires were incomplete but, in response to the question on nationality, responses were as follows:

British/Mixed British	English	Irish	Scottish	Welsh	Other	No response
36*	0	1	52*	0	1	2

\* includes candidates who ticked more than one option

On ethnicity the responses received were as follows:

Asian	Black	Chinese	Mixed Ethnic	White	Other	No response
0	0	0	1	53	1	34

## **Sheriff of South Strathclyde Dumfries and Galloway at Hamilton**

British/Mixed British	English	Irish	Scottish	Welsh	Other	No response
5*	0	1	21*	0	1	0

\* includes candidates who chose more than one option

On ethnicity the responses received were as follows:

Asian	Black	Chinese	Mixed Ethnic	White	Other	No response
0	0	0	0	17	1	7

## **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 the applicants who completed this part of the questionnaire during the course of the year made a declaration.

# Annual Report 2004-2005

## Age

Applicants for appointment to judicial office come 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.

### ***Senator of the College of Justice***

Statistics showing the age range of applicants are shown below:

	Aged 35-40	Aged 41-50	Aged 51-60	Aged 61 and over
Applicants	0	5	14	1
Appointees	0	1	3	1

### ***All-Scotland Floating Sheriff Slate***

In this competition applicants came from within a broad range of ages, the youngest being 35 and the eldest 59. The figures are broken down as follows (age at 1 April 2004):

	Aged 35-40	Aged 41-50	Aged 51-60	Aged 61 and over
Applicants	12	54	25	0
Recommended	1	13	6	0

### ***Sheriff at Hamilton***

Applicants for this post fell within two distinct age ranges, the youngest being 42 and the eldest 60. The numbers fall into the following categories (age as at 1 October 2004):

	Aged 35-40	Aged 41-50	Aged 51-60	Aged 61 and over
Applicants	0	19	7	0
Appointees	0	2	0	0

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