



The Judicial Appointments Board for Scotland **Annual Report 2007 – 2009**





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FOREWORD

I am pleased to present the sixth, and final, Annual Report of the Judicial Appointments Board for Scotland as a non-statutory body. It is customary for the Board's report to be presented to the Scottish Ministers who then lay it before the Scottish Parliament.

This was a particularly busy period for the Board and its staff with the terms of appointment of a number of Board members coming to an end and new members joining. These personnel changes coincided with other major developments including the Board's transition from administrative to statutory body on the 1 June 2009, as provided for in the Judiciary and Courts (Scotland) Act 2008, together with a move to new office premises in Drumsheugh Gardens and changes in the Secretariat team. All of this placed considerable additional demands on Board members and staff and I am grateful to all for their support.

I would like to acknowledge the outstanding contribution of my predecessor, Sir Neil McIntosh, who did so much to establish the Board from its inception in 2002 until October 2008. I would also like to pay tribute to former and current Board members, whose commitment to the work of the Board should not go unrecorded. I must also thank the Secretariat staff, past and present, for their dedicated support to the Board.

The Board normally reports annually on its work. However, due to staffing pressures and the operational priorities that I have mentioned, we have decided to present a single Annual Report covering the period from 1 April 2007 to 31 May 2009. This report provides statistical and financial information about the work of the Board during that time.

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The Board became an Advisory Non-Departmental Public Body on the 1 June 2009. The Judiciary and Courts (Scotland) Act 2008 requires the Judicial Appointments Board for Scotland to prepare and publish, as soon as practicable after the end of each year, a report on the carrying out of its functions during that year, and to send a copy of the report to the Scottish Ministers who, in turn, must lay the report before the Scottish Parliament. The new statutory Board's first Annual Report will be published in 2010 and will cover the period from its inception on 1 June 2009 to 31 March 2010, and will be published annually thereafter.

Sir Muir Russell KCB FRSE

MEMBERSHIP

1. The Board comprises 10 members with an equal number of lay and judicial/legal members, including a lay Chairing Member. The Board membership during the period covered by this Annual Report was as follows (current members are in bold):

Lay Members

Sir Neil McIntosh CBE DL (Chairman) (until October 2008)

Sir Muir Russell KCB FRSE (Chairing Member) (from October 2008)

Mrs Barbara Duffner OBE (until December 2008)

Professor Alan Paterson OBE, Professor of Law at Strathclyde University (until December 2008)

Sir Robert Smith (now Lord Smith of Kelvin), Chair of the Weir Group plc and Scottish and Southern Energy plc (until May 2007)

Ms Elspeth MacArthur (from June 2007)

Professor Dame Joan Stringer CBE, Principal and Vice Chancellor of Napier University (until December 2007)

Mr Sandy Mowat CA (from January 2008)

Professor Andrew Coyle CMG (from January 2009)

Reverend John Miller (from March 2009)

Judicial and Legal Members

The Right Honourable Lord Wheatley, Senator of the College of Justice (until June 2008)

The Honourable Lady Smith, Senator of the College of Justice (from July 2008)

Sheriff Principal Bruce A Kerr QC, Sheriff Principal of North Strathclyde (until June 2007)

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Sheriff Principal Sir Stephen Young QC Bt, Sheriff Principal of Grampian, Highlands and Islands (from July 2007)

Sheriff J Douglas Allan OBE, Sheriff of Lothian and Borders at Edinburgh (until October 2008)

Sheriff Kenneth Ross, Sheriff of South Strathclyde, Dumfries and Galloway at Dumfries (from October 2008)

Mrs Valerie E Stacey QC (now The Honourable Lady Stacey), former Vice Dean of the Faculty of Advocates (until May 2007)

Mr Roy Martin QC, Advocate (from July 2007)

Mr Michael Scanlan, Solicitor (until October 2008)

Mr Martin McAllister, Solicitor (from October 2008)

Secretariat

Mr Trevor Lodge, Chief Executive (from June 2009)

Ms Christine Dora, Policy Director (until February 2008)

Mr Chris Orman, Secretary to the Board

Ms Avril Coats, Lay Justice Recruitment Manager (until January 2008)

Mrs Susan McColl, Administrator (until November 2009)

APPOINTMENT EXERCISES

2. During the period covered by this report the Board operated on an administrative basis, its function being to recommend to the First Minister individuals whom it considered suitable to be appointed to judicial office. Providing that the First Minister accepted the Board's recommendation, he would then either appoint the individual himself (in the case of part-time Sheriffs), or recommend the individual to Her Majesty The Queen for appointment (in the case of full-time members of the judiciary).
3. The Board's normal process was to advertise vacancies for judicial office in the national press, legal journals and on the Board's website. Relevant organisations and individuals including the Lord President, the Faculty of Advocates and the Law Society of Scotland were also notified.
4. The selection of individuals for recommendation was made solely on merit and on the basis of good character. All applicants for judicial office were required to complete a competency based application form in which they were required to give examples of how they had demonstrated in their professional and personal lives the skills and abilities set out in the published criteria for judicial appointment. They were also required to nominate three referees. Those successful in the sifting process were called for interview. The decision as to an applicant's suitability for appointment were taken by the full Board.
5. Equal Opportunities Questionnaires seeking information on gender, ethnic background, disability and other characteristics were issued with the application form. Returned forms were separated from the applications on receipt and were not shown to the Board.

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6. During the period covered by this report the Board completed six appointment exercises:

Senator of the College of Justice

7. In 2007, the Scottish Government invited the Board to make recommendations to fill a vacancy for a Senator of the College of Justice arising from the retirement of The Right Honourable Lord Philip.
8. The Board received 16 applications, 13 (81%) from men and three (19%) from women. These numbers can be broken down into the branches of the judiciary or legal profession as follows:
- Sheriff – eight males and two females; and
 - Queen’s Counsel – five males and one female.
9. The following table shows the gender balance throughout the process.

	Total	Male		Female	
Applicants	16	13	81%	3	19%
Interviewed	8	6	75%	2	25%
Recommended	1	1	100%	0	0%

10. All candidates declared themselves to be from a “white” background. None of the candidates considered themselves to be disabled.
11. **Stephen Woolman QC** (now Lord Woolman) was appointed to the office of Senator of the College of Justice.
12. In 2008, vacancies in the office of Senator of the College of Justice arose from the deaths of Lord Macfadyen and Lord Johnston and the planned retirement of Lord McEwan.

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13. The Board received 15 applications, 12 (80%) from men and 3 (20%) from women. These applications were from people in the following branches of the judiciary or legal profession:

- Sheriff Principal and Sheriff – seven males and one female; and
- Queen’s Counsel – four males and one female
- Advocate – one male and one female

14. The following table shows the gender balance throughout the process.

	Total	Male		Female	
Applicants	15	12	80%	3	20%
Interviewed	6	5	83%	1	17%
Recommended	3	2	67%	1	33%

15. Thirteen candidates declared themselves to be from a “white” background, with one declaring a Scottish/Italian background. One candidate declared a disability. One applicant omitted to submit the Equal Opportunities Questionnaire.

16. **Paul Cullen QC** (now Lord Cullen), **Valerie Stacey QC** (now Lady Stacey) and **Sheriff Ian Peebles QC** (now Lord Bannatyne) were appointed to the office of Senator of the College of Justice.

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Resident Sheriffs

17. In 2008, a vacancy in the office of resident sheriff arose from the planned retirement of Sheriff James Smith as a Sheriff at Stranraer with Kirkcudbright. This is a single sheriff post, with the successful candidate serving in both courts.
18. The Board received 22 applications, 17 (77%) from men and 5 (23%) from women in the following branches of the legal profession:
- Queen's Counsel – one male;
 - Advocate – five males;
 - Solicitor Advocate – two males; and
 - Solicitor – nine males and five females.
19. The following table shows the gender balance throughout the process.

	Total	Male		Female	
Applicants	22	17	77%	5	23%
Interviewed	8	8	100%	0	0%
Recommended	1	1	100%	0	0%

20. All candidates declared themselves to be from a “white” background. None of the candidates considered themselves to be disabled.
21. **Kenneth Robb** was appointed to the office of Sheriff of South Strathclyde, Dumfries and Galloway at Stranraer with Kirkcudbright.
22. Later in 2008, the Board undertook an appointment exercise to fill the vacancy arising from the retirement of Sheriff Kenneth Barr from the sheriff court district of Dumfries. The Board received 26 applications, 22 (85%)

from men and 4 (15%) from women in the following branches of the legal profession:

- Queen's Counsel – two males;
- Advocate – five males and one female;
- Solicitor Advocate – five males;
- Solicitor – ten males and three females.

23. The following table shows the gender balance throughout the process.

	Total	Male		Female	
Applicants	26	22	85%	4	15%
Interviewed	7	7	100%	0	0%
Recommended	1	1	100%	0	0%

24. Twenty-four candidates declared themselves to be from a "white" background, two candidates chose the 'Prefer not to say' option. One of the candidates declared a disability identifying 'Mobility' and 'Physical Capacity' as the nature of the disability.

25. **George Jamieson** was appointed to the office of Sheriff of South Strathclyde, Dumfries and Galloway at Dumfries.

"All-Scotland Floating" Sheriffs

26. "All-Scotland Floating" Sheriffs are full-time posts and the duties are the same as for a "resident" sheriff who sits mainly in one sheriff court district. "All-Scotland Floating" Sheriffs may be assigned to a particular Sheriffdom and spend all or much of their time in the courts located in that jurisdiction but they may also be expected to sit in another Sheriffdom from time to time, if required. Successful applicants must therefore be prepared to travel to other mainland or island courts as and when required.

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27. In January 2008, the Board invited applications to fill vacancies arising within the ranks of “All-Scotland Floating” Sheriff. As before, the Board decided to adopt a “slate” approach.¹ The advertisement indicated the Board’s intention to recommend that any “All-Scotland Floating” Sheriff vacancies arising in the period to 30 June 2009 be filled from the list of those individuals recommended by the Board.
28. The Board received 103 applications from individuals in the following branches of legal profession:
- Queen’s Counsel (5%) – 4 male, 1 female;
 - Advocate (20%) – 18 male, 3 female;
 - Solicitor Advocate (including those in Crown employment) (17%) – 16 male, 1 female;
 - Solicitor (including those in Crown employment) (58%) – 39 male, 21 female;
29. The following table shows the gender balance throughout the process:

	Total	Male		Female	
Applicants	103	77	75%	26	25%
Long-listed	45	36	80%	9	20%
Interviewed	35	28	80%	7	20%
Recommended	19	15	79%	4	21%

¹ The term ‘slate’ refers to the practice of advertising, selecting and recommending (in a ranked order) a group of candidates from which appointments are then made over a stipulated period. It has been used chiefly where it is anticipated that there will be a number of vacancies occurring for the same role during a year for the office of sheriff or part-time sheriff.

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30. Fourteen of the applications received were from those employed in the Crown Office and Procurator Fiscal Service (COPFS). The following table shows the breakdown of those applications:

	COPFS	COPFS Male		COPFS Female	
Applicants	14	9	64%	5	36%
Long-listed	3	2	67%	1	33%
Interviewed	3	2	67%	1	33%
Recommended	1	1	100%	0	0%

31. Of the 19 applicants recommended by the Board as suitable for appointment, 14 were currently part-time sheriffs. Thirteen, of whom 11 were part-time sheriffs, had tribunal experience.
32. Ninety-five applicants returned their Equal Opportunity Questionnaires. Of these, 83 declared themselves to be of white British origin, and two from Other Ethnic Groups. None of these applicants considered themselves to have a disability.
33. The following appointments have been made to date:

Ian Abercrombie QC
John Beckett QC
Donald Corke
Johanna Johnston QC
Marysia Lewis
Andrew Mackie
Thomas McCartney
John McCormick
Margaret Neilson
George Way
James Williamson

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34. Since the Board submitted its recommendations, the Scottish Government has extended the life of the 'slate' until 31 December 2009 and a competition to identify individuals considered suitable for appointments expected to be made in 2010 commenced on 17 July 2009.

Part-time Sheriffs

35. The office of Part-time Sheriff was created with the passing by the Scottish Parliament of the Bail, Judicial Appointments etc. (Scotland) Act 2000 and replaced the office of temporary sheriff which fell foul of ECHR legislation. Part-time sheriffs may sit in any of the sheriff courts in Scotland and carry out the range of business undertaken by full-time sheriffs. The statutory criteria for appointment as a part-time sheriff are the same as those for a full-time sheriff. The legislation limits the number of Part-time Sheriffs who may hold a commission at any one time to 80.
36. In 2008, the Scottish Government invited the Board to make recommendations to fill vacancies arising within the ranks of Part-time Sheriffs. As before, the Board decided to adopt a "slate" approach. The advertisement indicated the Board's intention to recommend that any part-time sheriff posts arising in the period to 30 June 2010 should be filled from the list of those individuals recommended by the Board.
37. The Board received 172 applications, 134 (78%) from men and 38 (22%) from women. There were two applications from serving sheriffs. The applications can be broken down into the branches of the legal profession as follows:
- Queen's Counsel (2%) – 3 male, 1 female;
 - Advocate (33%) – 46 male, 9 female;
 - Solicitor Advocate (including those in Crown employment) (17%) – 26 male, 4 female; and

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- Solicitor (including those in Crown employment) (48%) – 59 male, 24 female.

38. The following table shows the gender balance throughout the process:

	Total	Male		Female	
Applicants	172	134	78%	38	22%
Long-listed	73	58	79%	15	21%
Interviewed	44	34	77%	10	23%
Recommended	32	23	72%	9	28%

39. There were 10 applications (5.8%) from those employed in the Crown Office and Procurator Fiscal Service (COPFS). Forty-two applicants had some tribunal experience.
40. Equal Opportunities Questionnaires were returned by all of the applicants. Of these 159 declared themselves to be of white British origin. Two applicants declared themselves to be of either Pakistani or mixed origins. One of the applicants declared a disability.
41. The following appointments have been made to date:

Mungo Bovey QC

Paul Crozier

Sheriff Brian Donald

Lorna Drummond

Shelagh McCall

Paul Reid

William Summers

Paul Wade

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FINANCIAL STATEMENT

42. The Board is funded by the Scottish Government. Set out below is a breakdown of the Board's budget allocation and expenditure for the financial years 2007 – 2008 and 2008 – 2009². The figures do not include the cost of the Secretariat staff, which was provided for by the Scottish Government. **Please note that the expenditure figures are taken from the Board's records and may not reflect any figures published by the Scottish Government.**

	2007 – 2008		2008 – 2009 ²	
	Allocation	Expenditure	Allocation	Expenditure
	£	£	£	£
Chairman's salary and Members' Fees	80,000	75,500	67,185	69,586
Travel and Subsistence – Board Members	5,500	9,122	8,000	10,237
Travel and Subsistence – Secretariat	2,000	1,779	2,000	1,690
Training (including Annual Awayday)	10,000	7,269	8,500	2,437
Hospitality	200	66	200	45
Consultancy (legal advice and research project)	50,000	27,613	30,000	23,442
Accommodation (including maintenance, rent and utilities)	50,817	53,952	52,000	59,390
Hire of Rooms for Interview Panels	4,400	4,045	6,246	5,690
Catering	2,000	2,196	2,500	2,575
Advertising (for judicial appointment exercises)	48,000	43,086	36,000	23,602
Telephone and postage	5,800	6,235	6,700	7,484
Communications	300	37	100	8
Office services (including stationery, IT photocopying)	7,600	8,170	8,263	17,613
Printing and Publications	5,230	4,803	5,270	4,076
Totals	£271,847	£243,873	£232,964	£227,875

² The figures for 2008-2009 relate to the financial year 1 April 2008 to 31 March 2009 only, although the Board continued to operate in its non-statutory capacity until 31 May 2009.

FURTHER INFORMATION

43. For further information on the work of the Board, please visit our website at www.judicialappointmentsscotland.org.uk.

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