



Judicial Appointments Board  
**for Scotland**

# Annual Report **2015–2016**





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**for Scotland**

# Annual Report

## **2015–2016**

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## Our aims are:

To attract applicants of the highest calibre, recognising the need to encourage diversity in the range of those available for selection, and

To recommend applicants for appointment to judicial office on merit through processes that are fair, transparent and command respect.

# Foreword



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

During the year, under its statutory obligations under the Judiciary and Courts (Scotland) Act 2008 (the 2008 Act), the Board conducted one complete appointment round, for the Office of Summary Sheriff, concluded one appointment round for Office of Sheriff in the sheriffdom of Grampian Highland and Islands and commenced one appointment round for the Office of Senator of the College of Justice.

Details of the appointment round for the Office of Summary Sheriff are given in the Appointments Chapter. This was the first appointment round for the new Office. It attracted 169 applications, 96 (57%) males and 73 (43%) females and was the largest number of applications received by the Board for a single appointment round since becoming a statutory body. The workload for Board Members involved in the processes of sifting and interviewing was heavy, and has stimulated the Board to address how it would cope with future appointment rounds of similar size, including those likely to result from the Board's new responsibilities for Tribunal appointments.

I step down as Chairing Member in September 2016, having been appointed 8 years ago, in 2008. At that time, the Board was on the verge of its transition from its original non-statutory existence to becoming a statutory board under the 2008 Act. This was a significant change: in simple terms, the Act provides that the First Minister can only recommend or appoint those applicants who have been recommended by the Board. The Board has taken this responsibility very seriously, and has striven to keep under review and develop its processes to secure the highest standards. I am grateful to colleagues on our Quality Assurance Group who have considered feedback from applicants and those carrying out the selection process; and recognise a particularly important input from Sarah Gane, former Director of Selection at the Judicial Appointments Commission for England and Wales who observed and reviewed one of our Senator competitions.

The Board is now at another point of transition, with the assumption of responsibility for Tribunal appointments in Scotland. This will be a major task, with the number of appointments involved in some cases well in excess of anything we have dealt with hitherto. The additional workload that tribunal appointments would bring was addressed in the Courts Reform (Scotland) Act 2015, that provided new powers to the Board to recruit and appoint legal and lay assistants. We have made three lay appointments so far, and the requirement will be kept under review. Our initial expectation was that the first Tribunal appointment round would take place in 2016, but this was put back following a spending review, so it is too soon to be certain of the resources we will need to discharge our responsibilities.

I would like to thank our Board Members for their commitment to the Board over the past year. In January 2016 Ms Jeane Freeman stood down after 5 years on the Board and I pay tribute to her contribution to the work of the Board. I am delighted to welcome her successor Ms Neelam Bakshi. The Tribunals (Scotland) Act 2014 amended the Judiciary and Courts (Scotland) Act 2008 to increase the membership of JABS from 10 to 12 members and I welcome Professor Stephen Tierney and Lord Minginish as Board members. In February 2016 the Board welcomed three lay assistants; Mrs Elizabeth Burnley, Mr John Cummings and Mr David Robinson. I would also like to welcome Mr Michael Johns-Perring who joined the Board in July 2015 as an Appointments Team Leader. Dr Alessandra Asteriti, Administrator, departed in June 2015 and I would like to record my thanks for her service to the Board over the past 5½ years. She is succeeded by Miss Rachel Craig to whom I extend a warm welcome.

Looking to the future, the key challenges facing the Board will be to continue to secure high quality fields of applicants and, within that objective, to aim to attract a diverse range of candidates for appointment.

We have sought to secure the former through our outreach events, and through fair and open processes.

We have worked on the latter through our Diversity Steering Group, with important inputs from the Judiciary, the Law Society of Scotland and the Faculty of Advocates. There have been some successes in terms of the gender balance of appointments, see table below. But more remains to be done in relation to gender and other diversity groups including ethnicity and disability.

As I near the end of my tenure, September 2016, I wish to reflect on my time as chairing member of the Board since 2009. In that time, the Board has run 16 appointment rounds and made 80 recommendations. The table below shows the appointments made by the statutory board, with a significant increase in female senators but there is some way to go on the Shrieval benches, albeit the first Summary Sheriff exercise resulted in an all most even gender split.

**Judicial Complement at 31 March 2016 for those offices under the Board's remit**

Office Holders	Judicial complement		Appointments/ Recommendations made since 2009	
	Male	Female	Male*	Female*
Senators	21 (70%)	9 (30%)	7 (33%)	4 (44%)
Sheriffs Principal	4 (67%)	2 (33%)	4 (100%)	2 (100%)
Sheriffs	101(78%)	29(22%)	25 (25%)	9 (31%)
Summary Sheriff	0	0	6 (46%)**	7 (54%)**
Part-time Sheriffs	35 (78%)	10 (22%)	11(28%)	4(36%)
Chair of the Scottish Land Court	1 (100%)	0 (0%)	1 (100%)	0 (0%)

\*The % of the complement for each office holder category, that were appointed/recommended by JABS since 2009

\*\* First Summary Sheriffs recommended in December 2015 appointments made in April 2016



On a personal note, it has been a privilege to be the Chairing Member of the Judicial Appointments Board for Scotland since 2008. Highspots for me have included the range of successful appointment rounds conducted by the Board, and above all the opportunity to develop processes of selection that command increasing confidence and promote diversity. As a consequence of my role I have had the privilege of participating in the processes that have led to the appointments of the top tier of Scottish judges – the Lord President, the Lord Justice Clerk (twice each) – and of most of the Justices of the Supreme Court of the United Kingdom.

With strong and committed colleagues, I am confident that I leave the work of the Board in good hands.

A handwritten signature in black ink, appearing to read 'Muir Russell', with a long horizontal flourish extending to the right.

**Sir Muir Russell KCB FRSE**  
**Chairing Member**

# Introduction and Membership

This is the seventh Annual Report of the Judicial Appointments Board for Scotland as a statutory body and covers the period 1st April 2015 to 31st March 2016.

## Membership

There are twelve Board members, six judicial and legal members (an Inner House Senator of the College of Justice, Chair of the Scottish Land Court, a Sheriff Principal, a Sheriff, a member of the Faculty of Advocates and a Solicitor) and six lay members, one of whom is the Chairing Member. The Board membership during the period covered by this Annual Report was as follows:

### Lay Members

Sir Muir Russell KCB FRSE (Chairing Member)  
 Mrs Alison Mitchell  
 Dr Michael Ewart  
 Ms Jeane Freeman to 31 January 2016  
 Mrs Deirdre Fulton  
 Ms Neelam Bakshi from 1 February 2016  
 Professor Stephen Tierney from 18 May 2015

### Judicial Members

The Right Honourable Lady Dorrian  
 The Honourable Lord Minginish from 18 May 2015  
 Sheriff Principal Derek Pyle  
 Sheriff David Mackie

### Legal Members

Mr James McNeill QC  
 Mr Alistair Morris

## Judiciary and Courts (Scotland) Act 2008

Following the implementation of the Judiciary and Courts (Scotland) Act 2008 (the '2008 Act'), the Board became an advisory Non-Departmental Public Body on 1 June 2009. The Board's functions, as set out in Section 9 of the 2008 Act, are:

- To recommend to members of the Scottish Government individuals for appointment to judicial offices within the Board's remit, and
- To provide advice to members of the Scottish Government in connection with such appointments.

The judicial offices within the Board's remit are:

- Senator of the College of Justice
- Chair of the Scottish Land Court
- Temporary Judge (with a number of statutory exemptions)
- Sheriff Principal
- Sheriff
- Part-time Sheriff
- Summary Sheriff

The office of Summary Sheriff was created and placed under the remit of the Board by the Courts Reform (Scotland) Act 2014.

The Judiciary and Courts (Scotland) Act 2008 (as amended by the Tribunals (Scotland) Act 2014) gives JABS responsibility for making new appointments to specified posts in the Scottish Tribunals.

The **Judiciary and Courts (Scotland) Act 2008** also places the following responsibilities on the Board:

- a) Selection must be solely on merit;
- b) The Board may select an individual only if it is satisfied that the individual is of good character; and
- c) In carrying out its functions, the Board must have regard to the need to encourage diversity in the range of individuals available for selection to be recommended for appointment to a judicial office.

The Board has adopted the following corporate documents in fulfilment of its responsibility as a public body:

- Framework Document (this sets out the relationship between the Board and the Scottish Government)
- Publication Scheme under the Freedom of Information (Scotland) Act 2002
- Complaint Procedures
- Code of Conduct for Board Members
- Code of Conduct for Secretariat Staff
- Data Protection Policy
- Policy on Confidentiality
- Statement of Principles on Criminal Convictions
- Business Continuity Plan
- Records Management Plan

These documents are available on the Board's website at [www.judicialappointments.scot](http://www.judicialappointments.scot)

# Committees and Groups

To assist in its work the Board has established one Committee and two Working/Steering Groups.

## Audit and Risk Management Committee

The Committee is responsible to the Board for the:

- Adequacy of governance and risk management arrangements (including Business Plan and Risk Register, Business Continuity Plan, Information Security, and Annual Report);
- Arrangements for the review, monitoring and delivery of the Business Plan;
- Findings from any Scottish Government internal audit reports and proposed responses;
- Governance implications of major policy issues;
- Corporate governance compliance;
- Arrangements for securing best value, regularity and propriety;
- Arrangements for delivering efficiency savings;
- Arrangements for delivery of anti-fraud policies and whistle-blowing processes;
- Draft Annual Report prior to submission to the Board; and
- Reviewing the Board's Records Management Plan.

**Committee Membership:** Dr Michael Ewart (Chair)  
Mr James McNeill QC  
Mr Alistair Morris from May 2015

**Officials in attendance:** Chief Executive  
Secretary to the Board  
Policy Officer

During the period covered by this Annual Report the Committee has met three times. At the meetings the Committee, in addition to providing general oversight of corporate governance, received reports on the Board's actual and projected expenditure, reviewed the Business Plan and Risk Register, and considered the Board's Annual Report before submission for approval by the full Board.

## Quality Assurance Group

Following the Sheriff 2010 appointment round, the Process Working Group was established to review all aspects of the Board's appointment processes and procedures. It was agreed in June 2013 that the Group be renamed as the Quality Assurance Group (QAG) to reflect its primary role of quality assurance.

### Role and Purpose

The Board strives for consistent improvement and best practice. It has a statutory duty to have regard to issues of equality and diversity. As a sub-committee of the Judicial Appointments Board for Scotland, the QAG was established to:

- Ensure that systems employed by the Board are sound, appropriate and kept up to date;
- Carry out a regular review of systems; and
- Ensure through quality assurance that there is reasonable consistency and best practice.

### Remit

- Monitor implementation of new legislation published by the Scottish Government insofar as it affects or could affect the statutory remit of the Board;
- Regular monitoring of appointment rounds;
- Ensure that the Board has robust systems in place for monitoring the quality of its processes;
- Monitor areas for improvement;
- Monitor candidate experience;
- Make recommendations to the Board on the development of any relevant processes; and
- Review the effectiveness of the Board in ensuring that members receive the appropriate support and training to undertake their roles as members of the Board.

The QAG met on three occasions during the period of this report.

In May 2015, the Group made recommendations to the Board on the process for recruiting the first tranche of Summary Sheriffs. This was the first large scale competition the Board had undertaken where the locations of the vacancies were known in advance. The Board considered a number of potential scenarios from the QAG, that may arise when matching applicants to known locations, and agreed a set of principles for the selection panel to follow when agreeing which applicants should progress at sift and interview stage, whilst honouring the Board's commitment to recommend on merit.

The Group also updated the Board on progress it had made on the process to recruit the first Lay Board Assistants. The Group had discussed and agreed the appointment pack and considered options for an aptitude test. The Board had previously agreed to trial the use of the Watson-Glaser test "Critical Thinking" to assist with the sift process, should a large number of applications be received. The aptitude test would be followed by a paper sift of applications.

In September 2015, the Group reviewed the Grampian, Highland and Islands Sheriff 2015 exercise to recruit two sheriffs to specific courts locations. It was the first time the statutory Board had interviewed outwith the Board's offices in Edinburgh, interviewing instead in the Sheriffdom. The recommendations were accepted by the Board and included:

- A step would be added to the Board's Quality Assurance Checklist to invite future selection panels to consider if interviews should take place outwith Edinburgh.

- Tabloid advertising would not be used for future location specific appointments, as it did not encourage local practitioners to apply. All of those who applied saw the advert via the free advertising routes.
- The QAG will further review the recent changes made to the career history and self- assessment section of the application form, and the referee form at the end of the Summary Sheriff exercise. It agreed the rewording of the personal statement section for location specific exercises.
- If a split selection and interview panel is required for future exercises, the additional interview panel members should attend the selection panel decision meeting to avoid two separate discussions taking place.
- In exercises with a small number of applicants, an additional step will be added to the Board's Quality Assurance Checklist inviting the selection panel to consider offering feedback to successful applicants as well as unsuccessful applicants.

In January 2016, the Group completed a review of the Board Lay Assistant 2015 and Summary Sheriff 2015 appointment round. It noted that these were the first Assistant and Summary Sheriff exercises that the Board had undertaken since the roles were created in the Courts Reform (Scotland) Act 2014. It made recommendations to the Board to refine its processes. The recommendations were accepted by the Board and included:

## **Board Lay Assistant Appointment Round 2015**

- Future application packs should be clear on the likely time commitment, and the job title should be amended to Selection Panel Member rather than 'Assistant'. The eligibility requirement relating to residency in Scotland should also be made clear in future appointment packs.
- Future selection and interview panels should be made up of three people, a lay/legal balance is not necessary.
- The Board agreed some changes to the criteria.
- Following a successful trial in this exercise, the Board will trial the use of an online aptitude test in a large court/tribunal appointment round. The results would not be shared with the selection panel in advance of the sift meeting, and it would not be used to sift people out. The QAG would review its success at the end of the appointment round and present its findings to the Board.
- The Board will ensure that there is an induction and feedback process in place for those who are appointed as Assistants. Therefore, for future exercises the Board will not offer feedback to successful applicants.

## **Summary Sheriff Appointment Rounds**

- If part-time salaried appointments are to be included in the next appointment round, then the selection panel should consider further advertising routes to target the right people. It should also consider advertising on the COPFS website.
- The role description should be run past the Judicial Office for Scotland in advance of the next exercise.
- The Board agreed to trial a new sifting process during the next large scale appointment round, to lighten the load on individual selection panel members, provide more consistency between members' assessments, and introduce further quality assurance into the process. It also discussed how it might involve Assistants in future exercises.

- The Board agreed changes to the criteria for the post and reduced the number of criteria from eight to five.
- The Board agreed some changes to the mock interview to increase further the value of the exercise in preparing for the interview round.
- A separate meeting will take place between legal and judicial members of the selection panel, to discuss and agree an approach to the case studies in advance of the interview planning meeting and mock interview.
- The Board agreed a timetable to enable a selection panel to interview four applicants per day during large scale exercises.
- If more than one interview panel is running, both panels, rather than only the panel chairs, will meet at the end of the first day to consider the consistency between panels.
- An additional paragraph will be added to the declarations page of the application form seeking applicant's permission for the Board to approach the statutory consultees and for the consultees to share information with the Board.

Also, during this reporting period the Board made three visits to the Judicial Appointments Commission (JAC), who are responsible for selecting candidates for judicial office in courts and tribunals in England and Wales. Following the introduction of the Tribunals (Scotland) Act 2014, JABS now has responsibility for recommending applicants for appointment to devolved tribunals in addition to court appointments. Therefore the Board agreed it would be helpful to visit the JAC, to gather intelligence about their appointment processes and how they use their Assistants.

In July 2015 Dr Ewart and Mr Morris observed a Selection and Character Committee meeting and had the opportunity to meet with Commissioners and Assistants. In September 2015, Sheriff Mackie and Professor Tierney observed a Selection and Character Committee meeting for a large scale appointment round and observed an interview. Finally in March 2016, Mrs Fulton and Mrs Mitchell observed an appointment Briefing Meeting.

A huge amount of information was gathered from the visits, and a paper will be discussed by the QAG in the early part of the 2016 reporting period. The Board is very grateful to the JAC for accommodating its request to observe parts of their process. The information gathered will be extremely helpful to the Board when agreeing its process for tribunal appointments.

**Quality Assurance Group Membership:** The Right Honourable Lady Dorrian(Chair)  
Dr Michael Ewart  
Mrs Alison Mitchell  
Mr James McNeill QC  
Mr Alistair Morris from January 2016

**Officials in attendance:** Chief Executive  
Secretary to the Board  
Appointments Team Leader from July 2015  
Policy Officer

## Diversity Steering Group

The Diversity Steering Group emerged from the recommendations of the Diversity Working Group which was established in 2007 by the previous non-statutory Board. Membership of the Steering Group includes representatives of the Faculty of Advocates, the Judiciary and the Law Society of Scotland.

### Role and Purpose

- The Diversity Steering Group is a voluntary collaborative group formed by the Judicial Appointments Board for Scotland, the Lord President, the Faculty of Advocates and the Law Society of Scotland. The Scottish Government is present as an observer. Its function is to support the Judicial Appointments Board for Scotland in the fulfilment of its statutory responsibility under section 14 of the Judiciary and Courts (Scotland) Act 2008. This includes:
  - identification of ways in which increased diversity of applicants applying for judicial office can be achieved;
  - advice on removal of perceived obstacles to diversity;
  - consideration of best practice in other jurisdictions; and
  - discussion of areas in which there could be a common programme of action.
- The members of the Group will be individuals nominated by the Faculty of Advocates, the Judicial Appointments Board for Scotland, the Law Society of Scotland, the Lord President (who will nominate a Senator of the College of Justice and a member of the Judicial Office) and the Scottish Government.
- The Chair will rotate amongst the members.
- The Group will operate by agreement amongst its members.
- The Group will report regularly to all of the nominating bodies.
- The Group will explore the scope for consensus, within the context of a shared commitment to selection of judges solely on merit, on approaches to encouraging diversity in the range of individuals available for selection to be recommended for appointment to judicial office.
- The Group will fulfil its function by providing a framework within which its members may:-
  - Consider the findings from Conferences, reports and surveys affecting judicial diversity;
  - Exchange information and data;
  - Share experience and expertise;
  - Identify areas where collaboration between some or all of the member organisations might be useful;
  - Review available data on the composition of the judiciary, of applicants for judicial appointment, and the feeder professions;
  - Provide information to its member organisations; and
  - Promote knowledge and understanding of, and debate about, merit, diversity and other appointment issues.



During the period covered by this report the Steering Group met on two occasions. In this reporting year the Diversity Steering Group followed up actions resulting from the publication of the Diversity conference report in March 2015, see the chapter on Diversity.

**Steering Group Membership:** Sheriff David Mackie(Chair)

Mrs Deirdre Fulton from May 2015

Prof Stephen Tierney from May 2015

The Honourable Lady Stacey, Senator of the College of Justice

Mr Stephen Humphreys, Judicial Office for Scotland

Mr Brian Napier QC, Faculty of Advocates

Mr Neil Stevenson, Law Society of Scotland to September 2015

Mr Rob Marrs, Law Society of Scotland from September 2015

Mrs Kay McCorquodale, Scottish Government (Observer)

**Officials in attendance:**

Chief Executive

Policy Officer

# Diversity

The Board has a statutory duty to encourage diversity in the range of individuals available for selection to be recommended for appointment to a judicial office.

Following the publication, in March 2015, of the outcome report from the Diversity conference held in March 2014 the Diversity Steering Group met to consider progress so far on diversity and the steps it might take to advance the agenda. The Group considered:

- Undertaking research and benchmarking against other professions.
- Flexible working to be encouraged as this could be a perceived barrier for those thinking of applying for judicial office.
- Salaried part-time working to be explored with the Judicial Office.
- Widening the membership of the Diversity Steering Group.

The Group has undertaken some research on benchmarking and is considering comparisons with other jurisdictions and looking beyond gender. The Group acknowledged that it was difficult to make comparisons with other non-legally qualified professions as the applicant pools are so different. To that end, the Group has undertaken steps to establish the make-up of the potential applicant pool.

The Group has representation from the Judicial Office for Scotland and has discussed the opportunity for salaried part-time working. The Judicial Office are hopeful the next round of summary sheriffs should have opportunities for part-time salaried work. The Judicial Office are looking at the fee paid part-time sheriffs. It is anticipated that in future there will be a number of part-time summary sheriffs in each sheriffdom.

The 2015 Summary Sheriff appointment round was launched with the precise locations of the base courts and the number of vacancies known for each. The numbers and quality of applicants was such that all vacancies were filled. Preceding the launch of the exercise outreach events were held around Scotland providing applicants with information on the new judicial role and helpful tips on competency based assessment, the Board received positive feedback on the events. In terms of gender both the applicant pool and the subsequent group of recommendations was the most diverse since the statutory Board was established.

# Appointment Rounds

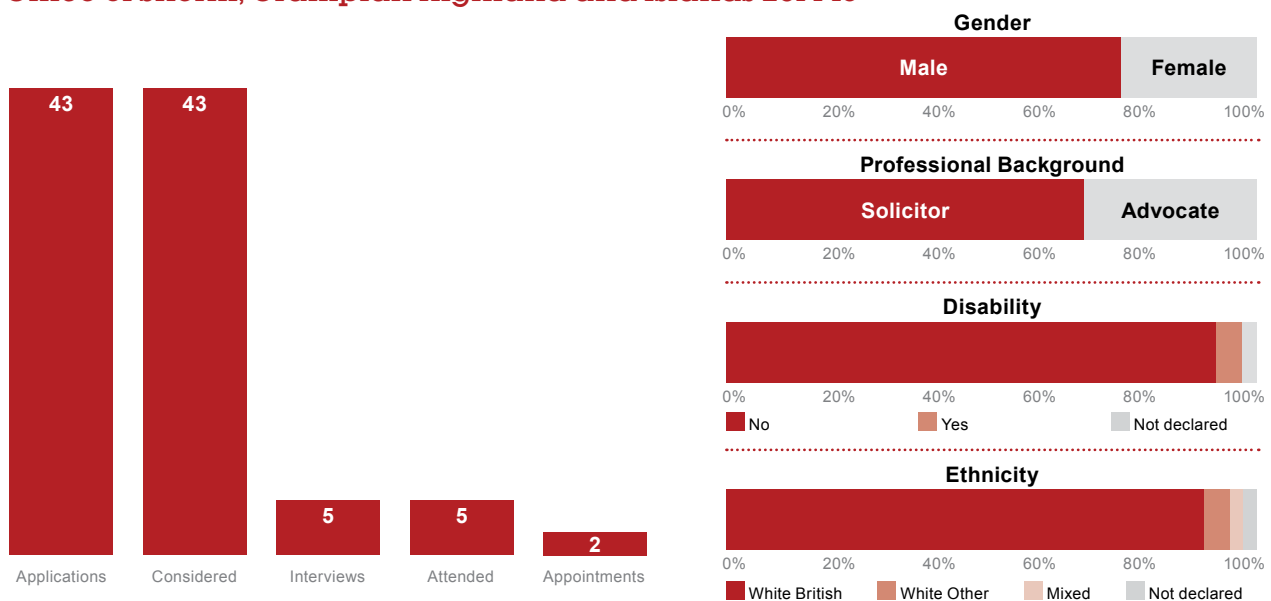
The Board is responsible for recommending individuals for judicial offices within its remit. During the year the Board conducted and completed one appointment round, concluded one appointment round and launched one appointment round that was in progress at the end of March 2016.

	Appointment rounds	Applications received	Recommendations made
Office of Sheriff Grampian, Highland and Islands	1	43	2
Office of Summary Sheriff	1	169	13
Office of Senator of the College of Justice	1	15	Appointment round in progress
<b>Total</b>	<b>3</b>	<b>227</b>	<b>15</b>

## Office of Sheriff, Grampian, Highland and Islands

In March 2015, the Board invited applications from those eligible for appointment to the office of Sheriff for two vacancies in the Sheriffdom of Grampian Highland and Islands, based at Inverness and Elgin Sheriff courts. The vacancies had been trawled to the 2014-15 Sheriff group in January 2015 but none of the remaining appointable candidates were willing to consider a recommendation to these vacancies. The Board received 43 applications. Five applicants were invited to interview. The following table provides statistical information on these applications<sup>1</sup>.

### Office of Sheriff, Grampian Highland and Islands 2014-15



The following appointments were made:

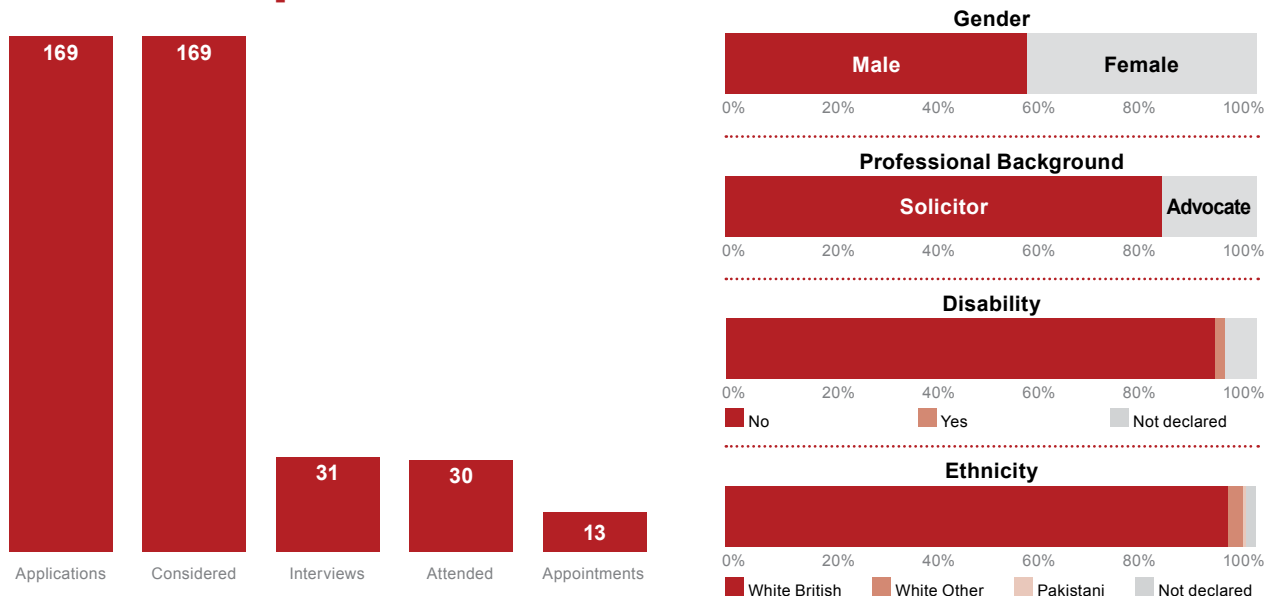
- Mrs Olga Paspornikov, based at Elgin Sheriff Court.
- Mr Chris Dickson, based at Inverness Sheriff Court.

<sup>1</sup> All applicants for judicial office are invited to complete a Diversity Monitoring Questionnaire. The purpose of the questionnaire is to assist the Board in identifying trends in those applying and changes in the nature of the eligible pool of applicants. Completion is voluntary – applicants may complete all, some or none of it. The questionnaire is separated from the application form upon receipt and is not seen by the Board.

## Summary Sheriff 2015

In June 2015, the Board invited applications from those eligible for appointments to the office of Summary Sheriff. At the time of advert the Board were able to give the precise court locations and the number of vacancies for each court. The Board received 169 applications, this was the largest number of applications received by the Board for a single appointment round since becoming a statutory body. The following table provides the statistical information on these applications<sup>2</sup>.

### Office of Summary Sheriff 2015



Thirty-one applicants were clearly of the standard that merited invitation to interview. One applicant withdrew before the interviews commenced taking the number interviewed to 30.

The following appointments were made:

To the Sheriffdom of Grampian, Highland and Islands based in Aberdeen Sheriff Court :

- Ms Margaret Hodge
- Ms Christine McCrossan; and
- Ms Morag McLaughlin.

To the Sheriffdom of North Strathclyde based in Airdrie Sheriff Court:

- Ms Sara Matheson

<sup>2</sup> All applicants for judicial office are invited to complete a Diversity Monitoring Questionnaire. The purpose of the questionnaire is to assist the Board in identifying trends in those applying and changes in the nature of the eligible pool of applicants. Completion is voluntary – applicants may complete all, some or none of it. The questionnaire is separated from the application form upon receipt and is not seen by the Board.

To the Sheriffdom of South Strathclyde Dumfries and Galloway based in:

Ayr Sheriff Court :

- Ms Mhari Mactaggart

Hamilton Sheriff Court:

- Mr Andrew McIntyre; and
- Mr Allan McKay.

To the Sheriffdom of Tayside Central and Fife based in Falkirk Sheriff Court

- Mr Derek Livingston

To the Sheriffdom of Glasgow and Strathkelvin based in Glasgow sheriff court:

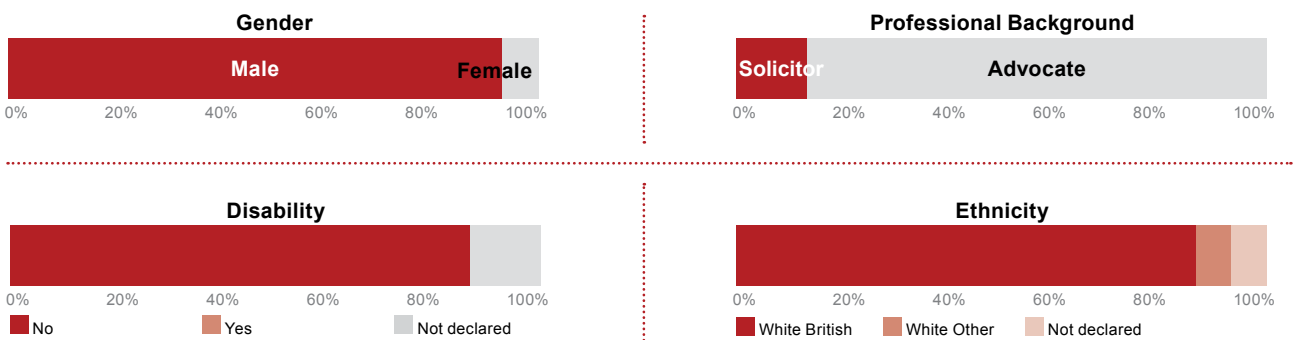
- Mr Brian Cameron;
- Mr Tony Kelly;
- Ms Frances McCartney;
- Ms Mary McCrory; and
- Mr Walter Mercer.

### Office of Senator of the College of Justice 2016

In December 2015, the Board invited applications from those eligible for appointment to the Office of Senator of the College of justice. We received 15 applications and the following table provides the statistical information on these applications.<sup>3</sup>

During the period of this Annual Report the appointment round was still in progress. We will report any subsequent appointments in our next Annual Report.

### Office of Senator of the College of Justice 2016



<sup>3</sup> All applicants for judicial office are invited to complete a Diversity Monitoring Questionnaire. The purpose of the questionnaire is to assist the Board in identifying trends in those applying and changes in the nature of the eligible pool of applicants. Completion is voluntary – applicants may complete all, some or none of it. The questionnaire is separated from the application form upon receipt and is not seen by the Board.

# Meetings and Outreach

## Board meetings

The Board normally meets on the third Monday of each month. The minutes of meetings are published on our website. The Board also held a workshop in May 2015 and discussed the following topics:

- Diversity Agenda Progress
- Tribunal Appointments Process
- Summary Sheriff Interview Assessment Methods
- Strategic Plan

## Meetings with interested parties

The Board continues to maintain close and effective relationships with a range of interested parties. Over the past year, the Board and its senior officials have held meetings with the following individuals and organisations to promote the work of the Board and to discuss matters of common interest:

- Lord President of the Court of Session
- Judicial Office for Scotland
- Faculty of Advocates
- Law Society of Scotland
- The Scottish Legal Complaints Commission
- Judicial Appointments Commission (for England and Wales)
- Northern Ireland Judicial Appointments Commission
- Scottish Government officials
- The Crown Agent
- The Lord Advocate
- The President of the Scottish Tribunals

## Outreach

In May/June 2015 the Board undertook a series of outreach events; four around Scotland aimed at the legal profession as well as bespoke events for the Crown Office Procurator Fiscals Service(COPFS), Law Society for Scotland(LSS) and Faculty of Advocates. The events were planned to coincide with the launch of the 2015 Summary Sheriff appointment round.

The outreach events were well attended with 210 people in total; 100 (Aberdeen 17, Inverness 10, Dumfries 15 and Stirling 58 ) at the four outreach events around Scotland, 25 at the COPFS, 50 at the LSS and 35 at the Faculty event.

Delegates were asked to comment on the most useful elements of the events. The consensus on what was useful was:

- Hearing how the selection process works in practice, the factors which are taken into account, and explanation of competency based selection.
- Insight into the application of the criteria for selection and appointment.
- The speakers insight into the process of selection.
- Helpful to hear more about the role of summary sheriff.

# Tribunals

The Judiciary and Courts (Scotland) Act 2008 (as amended by the Tribunals (Scotland) Act 2014) gives JABS responsibility for recommending individuals for appointment to specified posts in the Scottish Tribunals.

As previously reported, the provisions were commenced in April 2015 although it will be some time until any appointments are made given the proposed phasing of tribunals transferring-in to the new structure. Housing is the first jurisdiction to transfer and as indicated in last year's annual report it was anticipated that the first recruitment exercise involving the Board would begin in February 2016, for appointments to the Private Rented Sector (PRS) and Lettings Agents jurisdictions. Due to budget pressures, the Scottish Government decided to delay the launch of the tribunals recruitment to January 2017.

In the meantime, the Board has been working closely with Lady Smith, President of the Scottish Tribunals and Scottish Government policy colleagues to agree the process and procedural framework to be adopted for tribunal appointments.

The report of the Smith Commission, for further devolution of powers to the Scottish Parliament recommended that all powers over the management and operation of 19 reserved tribunals (which includes administrative, judicial and legislative powers) be devolved to the Scottish Parliament. It is envisaged that the first jurisdictions to transfer will be the Employment Tribunals. The Scottish Government has recently consulted on a Draft Order in Council that paves the way for the transfer of specified functions of the Employment Tribunal to the First-tier Tribunal for Scotland. Equivalent provisions will be made for the Employment Appeal Tribunal so Scottish cases can be heard in Scotland's Upper Tribunal. The reserved jurisdictions will be devolved on a phased basis over a number of years.

The Tribunals (Scotland) Act 2014 also amended the Judiciary and Courts (Scotland) Act 2008 to increase the membership of JABS from 10 to 12. The increased membership was to add a Tribunal Judge and a balancing lay member. To that end, the appointments of Lord Minginish, Chairman of the Scottish Land Court and President of the Lands Tribunal for Scotland and Professor Stephen Tierney, Professor of Constitutional Theory and Director of the Edinburgh Centre for Constitutional Law were announced in May 2015. The amendments also required the Board to include at least one member of the Scottish Tribunals in any proceedings relating to tribunal appointments. It is ordinarily for the President of the Scottish Tribunals to select a member(s) to participate, in consultation with the JABS Chairing Member.

During the drafting of the Tribunals (Scotland) Act 2014 the Board raised the issue of its capacity to manage the increased workload that the tribunal appointments would bring. The Scottish Government felt that this would be best addressed by the Courts Reform (Scotland) Act 2014. In consequence of its new responsibilities JABS was provided with new powers to recruit and appoint legal and lay 'Assistants' for both Court and Tribunal appointments. The Board had agreed that it would initially use 'Assistants' for tribunal appointments and recruit lay assistants only first time round. In January 2016 the Board appointed, Elizabeth Burnley, John Cummings and David Robinson as lay assistants for the period 1 January 2016 to 31 December 2018. The appointments may be extended by mutual agreement for up to a further three years.



# Complaints

The Board's complaints procedure is set out in full on the Board's website. The information explains to candidates how they can make a complaint, the timescales and how to proceed if they wish to take matters further.

For complaints which appear to fall within the scope of this procedure, the Chairing Member of the Board will establish a Complaints Committee of three Board members who have had no previous direct involvement in the matter complained of to consider and reach a determination on the complaint. The Committee will endeavour to reach a determination within 20 working days of the commencement of the investigation. A complainant has a right to request the Chairing Member to review the decision of the Complaints Committee.

A complainant not satisfied with the result of the review has the right to ask the Scottish Public Services Ombudsman to consider the matter.

During the period of this report, no complaints were received.

# Freedom of Information

During the period 1 April 2015 to 31 March 2016 the Board received nine requests for information under the Freedom of Information (Scotland) Act 2002 (FOISA). All responses were provided within the statutory 20 working days.

# Secretariat

Our members of staff are civil servants, assigned to the Board by the Scottish Government. For the period of the assignment the staff members report only to the Chairing Member and the Board.

Chief Executive

Appointments Manager and Secretary to the Board

Policy Officer

Appointments Team Leader

Administrator

Administrator

Michael Garden

Kerry Love

Dorothy Smith

Michael Johns-Perring (from July 2015)

Alessandra Asteriti (until June 2015)

Rachel Craig (from September 2015)

# Website

The Judicial Appointments Board for Scotland's website is the primary source of information on the Board, judicial vacancies, news items, and forthcoming and recent appointments. We know from the data gathered that many of the applications we receive for judicial appointments are from applicants who first saw the advert on the Board's website.

## Online application

Following further development of an online application form the Board piloted an online application form for the Senator of the College of Justice 2016 appointment round. Some applicants experienced some minor issues with the application, these have now been resolved. The Board is confident that it has in place an online application process that is robust and will be used for all future recruitment exercises. Applications for appointment will usually be made online. The Board will consider requests from applicants for a *Word* version of the application form. We will always make reasonable adjustments where required. If you require any of the application pack documentation in an alternative format please contact us.

Our address for correspondence is:

Judicial Appointments Board for Scotland  
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91 Haymarket Terrace  
Edinburgh  
EH12 5HD

Telephone: 0131 528 5101

Email: [mailbox@jabs.gsi.gov.uk](mailto:mailbox@jabs.gsi.gov.uk)

## Website Hosting and Support

During 2015 the Board reviewed its contract for the support and hosting of its website and took the decision not to renew its contract with Civic Computing. The Board opted to have the website hosted by the Scottish Government IT team; Information Systems Information Services (ISIS). As well as taking on the hosting and support ISIS have redesigned the website and it was launched in its new format on 1 April 2016. The new website has improved content administration, news, publications and contact sections, the website is also now fully responsive on all devices – [www.judicialappointments.scot](http://www.judicialappointments.scot)

# Financial Statement

The Board is funded by the Scottish Government. The Board's expenditure during the financial year 2015 - 2016 is set out below:

Please note that the figures are taken from the Board's own records and may not reflect any figures subsequently published by the Scottish Government.

<b>Expenditure</b>	<b>Year to 31<sup>st</sup> March 2016 (£)</b>
Secretariat staff salaries (including ERNIC)	189,790.60
Chairing Member's salary, Members' fees and ERNIC	97,644.06
Travel and Subsistence – Board Members	8,200.31
Travel and Subsistence – Secretariat Staff	1,111.51
Training	483.80
Accommodation (including rent, maintenance and utilities)	59,114.17
Catering – Board and Interview Panels	2,565.50
Office running costs	50,973.79
Appointment Advertising Costs	1,296.70
Annual Report 2014–2015 – publishing costs	486.00
Professional services	1,381.60
<b>Total</b>	<b>413,048.04</b>

# Annex 1: Board Members and Lay Assistants

During the period of this report the Board comprised twelve members at any one time with an equal number of lay and judicial/legal members, including the lay Chairing Member. The Board appointed three Lay Assistants in this reporting year. The Board membership during the period covered by this Annual Report was as follows:

## Lay Members



### **Sir Muir Russell KCB FRSE (Chairing Member)**

Sir Muir was Principal of the University of Glasgow from 2003 to 2009. Prior to his appointment at the University of Glasgow he was Permanent Secretary to the Scottish Executive. He was born in 1949 and was educated at The High School of Glasgow and Glasgow University, where he took a first class honours degree in Natural Philosophy. He is Chairman of Trustees of the Royal Botanic Garden Edinburgh. He is a non-executive Director of NHBC (the National house-building Council) and chairs its Scottish Committee and its Audit Committee. He is a Deputy Chairman of the Governors of the Glasgow School of Art, a Member of the Board of the Moredun Research Institute, and is Chairman of the Dunedin Concert Trust. He was elected as a Fellow of the Royal Society of Edinburgh in 2000 and holds honorary degrees from the Universities of Strathclyde, Glasgow and Edinburgh. Sir Muir was appointed in October 2008. He has been reappointed until September 2016.



### **Mrs Alison Mitchell**

Alison Mitchell is a Non-executive Member of Lothian NHS Board and a Trustee of Edinburgh and Lothians Health Foundation. She is an experienced management consultant, specialising in change management, strategy planning and executive coaching. She is an Advisory, Conciliation and Arbitration Service (ACAS) arbitrator and a member of the ACAS Central Arbitration Panel. Previously, Mrs Mitchell worked for many years at board level in the field of Human Resources and has extensive UK and international experience across a range of sectors, including Oil and Gas, Technology and Public sectors. She is a former Director, Human Resources of the Scottish Prison Service. She sits on the Audit and Risk Committee for the Judicial Appointments Commission for England and Wales as their independent member. Mrs Mitchell is a graduate of the University of Edinburgh and has a Postgraduate Diploma in Human Resource Management. She is a Chartered Fellow of the Chartered Institute of Personnel and Development (CFCIPD). Mrs Mitchell was appointed in August 2013 for four years.



### **Professor Stephen Tierney from May 2015**

Stephen Tierney is Professor of Constitutional Theory in the School of Law, University of Edinburgh and Director of the Edinburgh Centre for Constitutional Law. At Edinburgh he has also served as Associate Dean for Learning and Teaching and as complaints appeals investigator. He is a graduate of the universities of Glasgow, Edinburgh and Toronto and has held visiting professorial positions in New Jersey and Barcelona.

He teaches and researches in constitutional law, addressing the changing constitutional arrangements of the UK and Scotland and the position of judges within the constitution. He was British Academy Senior Research Fellow 2008-2009 and Economic and Social Research Centre Senior Research Fellow 2013-2014, the latter position dedicated to studying the law and practice of referendums. He served as constitutional adviser to the Scottish Parliament's Referendum (Scotland) Bill Committee in 2013 and as constitutional adviser to the House of Lords Constitution Committee in 2015. He is also editor of the UK Constitutional Law blog. Professor Tierney was appointed in May 2015 for four years.



### **Dr Michael Ewart**

Dr Ewart joined the then Scottish Office in 1977, where his career began in the Education Department. In 1991 he became Deputy Director of the Scottish Courts Administration and guided the Scottish Court Service to agency status, becoming its first Chief Executive in 1994. In 1999 he returned to the Education Department, first as Head of Schools Group, and from 2002, as Head of Education Department. From April

2007 until November 2009, he was Chief Executive of the Scottish Prison Service. Dr Ewart is Director of the Scottish International Education Trust, a non-executive member of the Education Scotland Management Board, a Board member of Phoenix Futures UK and chair of its Scottish Board. Dr Ewart was appointed in August 2010 for four years. He was then reappointed in August 2014 for four years until August 2018.



### **Ms Jeane Freeman to January 2016**

Jeane Freeman is a consultant in public affairs. She was founder and Chief Executive of Apex Scotland between 1987 and 2000 when she joined the senior civil service in Scotland, working in education. She was a member of both the McLean and Cosgrove expert committees considering effective sentences and work with violent and sexual offenders. In 2002 she was appointed as senior political policy adviser to the First Minister

and in 2005, she left government to start her own company. Ms Freeman was a member of the Parole Board for Scotland from 1995 to 2000 and again from 2006 to 2011. She was appointed as a non-executive member of the Board of the Scottish Police Authority in 2012 and as Chair of the Board of the Golden Jubilee National Hospital in January 2011. Ms Freeman was appointed in November 2011 for four years.



**Mrs Deirdre Fulton**

Deirdre Fulton has a commercial and international background. She runs her own consultancy business with a focus on providing meaningful insight and analysis, mainly to clients in the aviation sector. Typical assignments include strategic planning, due diligence, market research, marketing and communications. Prior to setting up her own company in 2008, Deirdre worked at a senior level in the Scottish aviation industry and gained extensive experience of corporate strategy and operations as well as people and resource management. Deirdre is a graduate of Strathclyde University and has a Master’s Degree in Business Administration. She is also a Vice Chair and Trustee of her local Samaritans branch with specific responsibility for recruitment and selection. Mrs Fulton was appointed in February 2015 for four years.



**Ms Neelam Bakshi from February 2016**

Neelam Bakshi brings over 30 years of experience in the public sector, including wide ranging governance experience as non-executive Board member of various bodies including the Scottish Ambulance Service (where she chairs the Staff Governance Committee) and Scottish Government Audit and Risk Committees (2010-2015). She is a freelance trainer, coach and consultant specialising in equality and diversity, public sector equality duties, and personal development. She was appointed in 2015 as a Public Appointments Adviser, working with the Commissioner for Ethical Standards in Public Life in Scotland and has been a lay member of Employment Tribunals since 1992. Neelam was a councillor and committee chair in the former Strathclyde Regional Council (1990-1996) and during 2016, will conclude her roles as a member of the Equality and Human Rights Commission Scotland Committee and the BBC Scotland Audience Council. Ms Bakshi was appointed in February 2016 for four years.

**Judicial Members**

**The Right Honourable Lady Dorrian**



Lady Dorrian was appointed a Judge of the Supreme Courts in 2005, having served as a Temporary Judge since 2002. She was appointed to the Inner House in November 2012. She is a graduate of the University of Aberdeen (LLB). She was admitted to the Faculty of Advocates in 1981 and was Standing Junior Counsel to the Health and Safety Executive and Commission between 1987 and 1994. Lady Dorrian served as Advocate Depute between 1988 and 1991 and as Standing Junior to the Department of Energy between 1991 and 1994. Lady Dorrian was appointed Queen’s Counsel in 1994. Between 1997 and 2001 she was a member of the Criminal Injuries Compensation Board. Lady Dorrian was appointed in July 2011 for four years. Lady Dorrian’s appointment to the Board was extended to June 2019. She stood down from the Board on her appointment as Lord Justice Clerk in April 2016.<sup>4</sup>

<sup>4</sup> Lady Dorrian was replaced on the Board by Lady Wise





### **Lord Minginish from May 2015**

Lord Minginish (Roderick John MacLeod QC) is Chairman of the Scottish Land Court and President of the Lands Tribunal for Scotland. He was born and brought up in the Isle of Skye and obtained an honours law degree at the University of Edinburgh. He has practised both as a solicitor and an advocate. In October 2000 he was appointed an all-Scotland floating sheriff before becoming a resident sheriff at Kirkcaldy in 2005. He was seconded to the Scottish Land Court as Deputy Chair on a part-time basis in January 2006. From then until October 2014, when he was appointed to his present positions, he divided his time between the Land Court and sitting as a sheriff at Edinburgh. He is a trustee of the St Andrew's Children Society and Chair of the James Gillespie's High School Trust and of the Board of Directors of Sabhal Mòr Ostaig, the Gaelic College in Skye which is an Academic Partner of the University of the Highlands and Islands. Always active in Gaelic and Highland affairs, at an earlier stage in his career he left the law to work in Gaelic broadcasting with BBC Scotland and, having returned to the law, continued as a part-time broadcaster for many years thereafter. He served for nine years as a member of the BBC's Broadcasting Council for Scotland. Lord Minginish was appointed in May 2015 for four years.



### **Sheriff Principal Derek Pyle**

Sheriff Principal Pyle has been Sheriff Principal of Grampian, Highland and Islands since 2013. He was previously a Sheriff from 2000 in the Sheriffdoms of Tayside, Central and Fife and Grampian, Highland and Islands. Prior to that he was senior litigation partner in the firm of solicitors Henderson Boyd Jackson, Edinburgh. He was appointed Solicitor Advocate in 1994. He has been a member of the Scottish Court Service Board. He is a visiting lecturer to the Siberian Federal University in Krasnojarsk, Russia. Sheriff Principal Pyle was appointed in May 2013 for three years.



### **Sheriff David Mackie**

David Mackie was appointed a Sheriff in 2002 and has been the resident Sheriff in Alloa since 2004. He is a graduate of Edinburgh University and from 1976 was in private practice as a solicitor. Called to the Scottish Bar in 1991 he practiced as an Advocate until his appointment to the Shrieval bench. He was Standing Junior Counsel to the Ministry of Defence (Procurement) from 1996 until 2002. He is Chairman of the Edinburgh branch of the Scottish Association for the Study of Offending (SASO) and sits on the National Competition Appeal Panel of the Scottish Rugby Union. A director and latterly chairman of Venture Trust from 2001 until 2011 he is now a director of Chance 4 Change. Sheriff Mackie was appointed in January 2013 for four years.

## Legal Members



### **Mr James McNeill QC**

James McNeill is a practising Advocate and was educated at Dunoon Grammar School, Cambridge and Edinburgh Universities. He was admitted as an Advocate in 1978 and held the appointment of Standing Junior Counsel to the Inland Revenue in Scotland between 1988 and 1991, when he was appointed Queen's Counsel. He sits as one of the Judges of the Courts of Appeal of Guernsey and Jersey and as Chair of the Disciplinary Appointments Committee of the Institute and Faculty of Actuaries. His principal outside interest is in music and between 2004 and 2010 he chaired the Music Committee of the Board of the Scottish International Piano Competition. Mr McNeill was appointed in September 2012 for four years.



### **Mr Alistair Morris**

Mr Morris' career with Pagan Osborne spans three decades, with him establishing an industry wide reputation as an expert in Private Client services before becoming CEO in 2005. Outside of Pagan Osborne, Alistair shows his commitment to the Scottish legal sector with over 20 years of representing the Sheriffdom of Cupar on the Council of the Law Society of Scotland. Following this significant contribution, he was elected President of the Law Society for one year from June 2014. Representing the interests of all Scottish solicitors, Alistair is responsible for the creation and delivery of the Society's policies and strategies and regularly addresses politicians, leading civil servants and industry wide leaders. Mr Morris was appointed in February 2015 for four years.

## Lay Assistants



### **Mrs Elizabeth Burnley from February 2016**

Elizabeth Burnley has a background in Occupational Psychology, HR and general management. Her career started within manufacturing industry, within railway and chemical engineering. After leading a company manufacturing industrial locomotives, she moved into consultancy in team development and assessment and selection methods, an area she then undertook for the Boots Company plc. After experience as a non-executive director within the NHS, Elizabeth now chairs fitness to practise hearings for the Nursing & Midwifery Council and sits as a Lay Member for hearings at the General Pharmaceutical Council. She has a BSc and MSc from the University of Nottingham, an MBA from the Open University and has an honorary doctorate from the University of Derby. As a volunteer, Elizabeth was Chief Guide for the UK for 5 years and continues as an active volunteer. Mrs Burnley has been appointed in January 2016 for three years.



### **Mr John Cummings from February 2016**

John Cummings is an experienced public service leader who operated at local, national and international levels in his 30 years in the Scottish Police Service, over 24 years of which were in a diverse range of leadership roles and disciplines. An experienced senior partnership practitioner, John undertook both supporting and leadership roles within the community planning environment, including 4 years as Vice Chair and Chair of the Aberdeenshire Alcohol and Drugs Partnership. John is a graduate of the University of Aberdeen (LLB) and also holds a Postgraduate Diploma in Applied and Professional Ethics from the University of Leeds. John has been a Lay Representative with NHS Education Scotland since December 2014 delivering a lay perspective on Quality Management processes mandated by the General Medical Council in relation to post graduate medical education. Mr Cummings was appointed in January 2016 for three years.



### **Mr David Robinson from February 2016**

David is an Emeritus Professor at the University of Aberdeen where he held a personal chair in Plant and Soil Science for fifteen years (2000-2015). He was Deputy Head of the School of Biological Sciences for nine years and Keeper of the Cruickshank Botanic Garden for five. Previously he was a research scientist at the Macaulay Institute in Aberdeen (1984-7) and the Scottish Crop Research Institute in Dundee (1987-2000), including a Visiting Research Fellowship in Australia in 1996. A native of St Helens in Lancashire, David studied biology at the University of Manchester and completed his PhD at the University of Sheffield. His main scientific interests are the interactions between plants and their environment, and on their importance to ecology and agriculture. During his career he has published about 100 research papers. For six years he was senior editor of the scientific journal *Functional*. In recent years David has served on external review panels at universities in England, South Africa and Ireland. He is currently a Trustee of the Macaulay Development Trust and a member of the Kirriemuir Landward West Community Council. Mr Robinson was appointed in January 2016 for three years.

## Annex 2: Board Member Attendance

Board Member attendance at the Board and Committee meetings during the year was as follows:

Details	Board	QAG	ARMC	DSG
Total Meetings in the Year	10	3	3	2
Professor Stephen Tierney	8/8	-	-	1/1
The Rt Hon Lady Dorrian	8/10	3/3	-	-
Dr Michael Ewart	8/10	2/2	3/3	-
Ms Jeane Freeman	4/8	-	-	-
Mrs Deirdre Fulton	10/10	-	-	0/1
Sheriff David Mackie	9/10	-	-	1/2
Lord Minginish	7/8	-	-	-
Mr James McNeill QC	9/10	3/3	2/3	-
Mrs Alison Mitchell	9/10	3/3	-	-
Mr Alistair Morris	10/10	1/1	1/1	-
Sheriff Principal Pyle	8/10	-	-	-
Sir Muir Russell	10/10	1/1	-	-
Ms Neelam Bakshi	2/2	-	-	-

/= possible attendance depending on when members joined or left the board/committee

Note 1: There was no Board meeting in August and November 2015. Prof Tierney and Lord Minginish joined the Board on 18 May 2015. Ms Jeane Freeman's last meeting was 14 December 2015 and she stood down from the Board on 31 January 2016. Ms Bakshi joined the Board on 1 February 2016 and her first meeting was 15 February 2016.

Note 2: Board members also attended meetings on behalf of the Board outwith the meetings detailed above.





Judicial Appointments Board  
**for Scotland**

**For further information on the work of the Board, please visit  
our website at [www.judicialappointments.scot](http://www.judicialappointments.scot)**

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