

progressive

Judicial Appointments Board for Scotland

Applicant and stakeholder research

March 2019



Contents



Project background



Research objectives



Method



Sample profile



Research findings

- Motivations and barriers to applying
- The competency based approach
- Information and guidance
- The application process
- Transparency: requirements and assessment
- The interview process
- Perceptions of JABS as an organisation
- Encouraging diversity
- Areas of good practice and potential improvements



Research conclusions and potential improvements suggested by respondents

Project background



The Judicial Appointments Board for Scotland (JABS)

- JABS was established on an administrative basis by the Scottish Ministers in 2002 and became an advisory Non-Departmental Public Body in 2009 under the provisions of the Judiciary and Courts (Scotland) Act 2008.
- Its remit is to provide recommendations for appointment to judicial office (for a range of judicial offices, including Court appointments e.g. Sheriff Principals, Sheriffs and Summary Sheriffs, and Scottish Tribunals) based on merit.
- Internal consultation suggested that there are some negative perceptions among the legal profession about how JABS operates, e.g. criticisms of the process being excessively bureaucratic, complicated and failing to give sufficient weight to applicants' legal expertise, to the detriment of the quality of appointments.
- Evidence from the JABS application website also indicates that a high number of potential applicants begin the application process but do not complete it, suggesting that something about the roles or the process is putting them off applying for judicial appointment.

Research objectives

The overarching aim of the research was to **consult with stakeholders, applicants and potential applicants** to understand their perceptions of JABS and how it operates.

The focus was on understanding what works well, identifying perceived or actual barriers to application, and gathering views about how the recruitment process could be improved.

This will help inform conclusions about if and how changes could be made to the way the recruitment process works and improve perceptions of the quality of appointments.

Action taken to remove perceived barriers to application should also ensure the recruitment process achieves its aim of recommending the most meritorious applicants for appointment from the widest possible pool.

Research methods

1) Qualitative in-depth interviews

- Sample identified by JABS – applicants (successful, unsuccessful and potential – those who had started but not completed an application) and stakeholders.
- Very good response to request for volunteers: people were keen to take part and share their views, and were very generous with their time.
- **45 in-depth interviews** conducted:
 - 17 face-to-face, 28 by telephone.
- Fieldwork took place between 15th May and 2nd July 2018.

2) Quantitative online survey

- Survey link sent to applicants to the recent Summary Sheriff recruitment round, and respondents who had volunteered for the qualitative research but not interviewed.
- **70 responses received:**
 - 30 from recent round (17% response rate)
 - 40 from opt-ins (41% response rate).
- **Small base size – findings are indicative only. Sample of 70 provides a dataset with a margin of error of between $\pm 2.01\%$ and $\pm 10.11\%$.**
- Fieldwork took place between 2nd and 25th July 2018.

Sample profile

Qualitative



Audience	No.
Stakeholders	5
Successful applicants	10
Unsuccessful applicants	20
Potential applicants	10
Total	45

Stakeholders	
Lord Carloway, Lord President	
Gordon Jackson QC, Dean of the Faculty of Advocates	
Lady Smith, President of Scottish Tribunals	
Lorna Jack, Chief Executive of the Law Society of Scotland	
Sheriff Principal Lewis, Sheriff Principal of Tayside, Central and Fife	
Total	5

Role applied for / interested in*	No.
Senator	4
Sheriff Principal	1
Sheriff	12
Summary Sheriff	7
H&E chamber – legal member	12
H&E chamber – ordinary member	4
Total	40

- There was considerable **overlap between applicant groups**. E.g.:
 - Most successful applicants had previously made unsuccessful applications.
 - Potential applicants included those who had applied before.
 - Unsuccessful applicants included those who had been successful before.
 - Stakeholders included two previous applicants.

*based on sample information about most recent application

- There was a good spread of roles applied for among the sample.
- Respondents had often applied for more than one role, and/or applied several times.

Sample profile

Quantitative



Role applied for	Total
Senator	2
Sheriff Principal	1
Sheriff (full time)	6
Sheriff (part time)	3
Summary Sheriff (full time)	48
Summary Sheriff (part time)	2
Tribunal – Legal Member	-
Tribunal – Ordinary Member	5
Tribunal – Chamber President	-
Other	3
Total	70

- Survey findings are presented for the whole sample base in this report to provide a slightly larger sample size in total (n=70).
- Results for the most recent Summary Sheriff recruitment round (n=30) have also been provided separately to JABS, to feed into the review of this specific recruitment exercise.
- Quantitative survey data is presented alongside the qualitative findings in this report, by topic area.
- Where the sum of two figures in a chart does not equal the figure quoted in the commentary, this is due to rounding.



Research findings



Motivations and barriers

Motivations for applying

Many respondents had applied on several occasions and were very focused on achieving a judicial appointment. Key motivations to apply were:

- Seeing it as a natural career progression, the obvious next step:
 - Especially for Summary Sheriffs applying for Sheriff role
- A desire for intellectual challenge; interest in the law
 - And for tribunal roles particularly, a specific interest or experience in the relevant area
- The notion of public service and the importance of administering justice
- A feeling that they have valuable experience to bring to the role, and the right temperament/personal qualities
- A perceived improvement in work/life balance
- Pensions and security of employment.

It would almost be the pinnacle of someone's career, having a judicial appointment, the privilege of serving.

Successful Sheriff applicant

It seemed to me to be a natural progression from the work I have done for many years, I have also worked as a Prosecutor Fiscal, so I have prosecuted cases, I have defended cases... I have the expertise in doing this for so long that I felt that I had all the experience needed to do this role.

Unsuccessful Summary Sheriff applicant

It was my experience more than anything else – I've got 30 years' experience in criminal law, I'm used to courts, I'm used to the environment.

Unsuccessful Summary Sheriff applicant

My skills base and my temperament, I think I would have useful things to bring in terms of character and personality. Exercising judgement on what evidence is to be believed... Having the insight to say 'I believe this is the right decision based on everything I have seen in heard'.

Unsuccessful Summary Sheriff applicant

Using my judgement that I've formed over the decades to help administer justice... but the fact that it was a bit more money and a pension, well that is pretty crucial because if you're self-employed, you don't have a pension... so it means I can actually retire.

Successful Summary Sheriff applicant

Barriers to applying

Aspects of roles

Several barriers to applying were identified, some related to the roles themselves and others specifically about the application process. Aspects of the roles themselves included:

- Geography/requirement to relocate – particularly for those with family – this applied to roles linked to Sherifffdoms, but also for Senator roles where newly appointed / junior judges have to do more travelling e.g. sit in Aberdeen full time for cases
- Lack of flexible working (e.g. part time, term-time) – this was also reported to have an impact on the diversity of the pool of applicants, since the burden of caring responsibilities tends to fall on women
- The commitment of giving up private work or existing job
- Salary of certain positions meaning taking a pay cut
- Some perceived it to be very hard work and ‘not everyone’s bag’.

Geography was tricky... there's a requirement to live in the Sherifffdom, so you might have to move house – that can be off-putting, especially if you have family ties.
Unsuccessful Sheriff applicant

I mean the other aspect of it is income. If you were to look at generally what a partner in a major law firm is earning... taking certainly a Summary Sheriff would not be a viable option for me because the pay's too low.
Potential Sheriff applicant

If I had chosen to stay in [London], working in the city as a partner in a firm, I'd have made piles more money than I ever will being a judge, so it depends on your priorities.
Unsuccessful Senator applicant

I enjoyed private practice and did a number of big high profile cases... There's a sense it's a one-way door and when you leave, that's it, you leave this immense personal satisfaction behind.
Successful Sheriff applicant

It's an absolute slog... [people are] placed under huge pressure. The number of cases they are expected to get through is great... It's well paid and well respected [but] it's hard work.
Unsuccessful Summary Sheriff applicant

Barriers to applying

Aspects of the process

Some aspects of the application process, which are addressed in greater detail later in this report, were identified by respondents as being a barrier, e.g.:

- The daunting nature of the process and the length of time it takes
 - Particularly for tribunal roles, which offer a relatively small number of days' work
- The competency based approach (this was mentioned by a small number spontaneously as a barrier)
- Negative experiences of applying previously
- A perception that the process is 'a lottery'
- Seeing who is successful leading to doubts about the process.

There are some surprising appointments... That all has an impact radiating over the profession as to whether you should apply for this.

Unsuccessful Sheriff applicant

The whole process is off-putting! It's a daunting, time consuming and lengthy process... It would have meant moving the family and uprooting – I was anxious about the length of time there was uncertainty in my family life.

Unsuccessful Sheriff applicant

The competency based questions – it's not something we ever have to do at any other time. It takes a lot of time to get into the mindset, and think of specific examples when you demonstrated the competence... It's quite off-putting.

Unsuccessful Sheriff applicant

There was nothing else about the role that was off-putting – it was purely the application process. I've wanted to do this for years and years, but always thought well I'll just keep applying, eventually I'll get there, but to be honest I don't think I'd bother now.

Unsuccessful Summary Sheriff applicant

The reason I only partially completed the application was because I'd spent hours and hours on this and been through the process twice before and it was just a bit demoralising. The overwhelming sense I have... is that it's about how you fill in the form and not about your own experience, qualifications and qualities. I just got to the point where I thought I cannot be bothered spending more hours... It's very time consuming, but it also doesn't give you any scope for the expansive stuff, the opportunity to explain what your direct experience is and why you think it would be relevant to the job you are applying for.

Potential Sheriff applicant

Barriers to applying Stakeholder views

progressive

Stakeholders' views were very similar to those of applicants in relation to the barriers to application. They emphasised that there are **multiple factors** that could put people off applying, including aspects of the roles such as salaries and practical issues like geography/location. Stakeholders also highlighted the daunting nature of the application process as being a potential barrier, as well as seeing who is and isn't successful in getting through the JABS process.

If people see that good people are not being appointed, then good people will be discouraged from applying. But also, if people are seeing that not such good people are being appointed, that will encourage people of that quality to apply as well. So it affects the thing... in these two ways.

Stakeholder

I don't know that judicial salaries are keeping pace with... other options that solicitors have.

Stakeholder

If you're placed somewhere... that's requiring you to uproot and go somewhere physically distant, I think that's quite a barrier to people organising their lives.

Stakeholder

There's two problems there... One is what they're going to get paid... because judicial salaries have fallen so far behind what good lawyers can earn in practice at the senior bar... The other is having to fill out this long form and be put through the nightmare of being interviewed when you're talking about people, particularly at the senior end of the bar, who have not been interviewed for anything in the whole of their professional life... It's hard to say to somebody after twenty, thirty years in practice, right you've now got to put yourself through a painful experience and it may not work, you may be rejected...

Stakeholder

I think that's very multi-factorial... It used to be the be all and end all; every QC and lawyer, the pinnacle of achievement was becoming a judge... It doesn't appeal to people the way it once did, and I don't think there's a single reason for that, and I don't think one could put that down to the JABS process particularly... You used to be your own boss as a judge... now it's civil servants, every minute of your day is accounted for and ticked off, so it's a much more bureaucratic job than it used to be. Also, now people can continue in practice much longer... It's maybe money, it's the status is not the same as it once was... the job's much more demanding than it was, you've got clerks who keep your timesheet all the time, it's a totally different world. Just the job has lost the cache that it once had.

Stakeholder

Barriers to applying

Would they apply again?

People who were unsuccessful were asked if they would apply through JABS again – and if not, what would need to improve in order to change their mind. Responses to this were quite mixed:

- Most said they would consider applying again, because:
 - They have a strong desire to be successful / judicial appointment is a serious ambition for them
 - There is a general perception that you have to apply several times in order to be successful, or wait 'until it's your turn' (certainly most of the successful applicants interviewed had applied several times before being appointed).
- However, respondents also said they would have doubts about applying or would need to think carefully about it – and eight people said they definitely would not. This was because:
 - It is so time consuming and arduous to apply, and the process is lengthy
 - A lack of feedback means they do not know how to improve their application
 - Seeing who is appointed makes them doubt they are 'what JABS is looking for'.
- **This feedback from unsuccessful applicants suggests that aspects of the application process are indeed acting as a barrier for some. These issues are addressed in greater detail in the following sections.**

Lots of people try 7 or 8 times, people don't tend to give it just one go. It's seen as a learning process.
Unsuccessful Summary Sheriff applicant

A swifter process would be a big factor, the pressure of it all hanging over you is very difficult. A streamlined process would be an attraction – maybe three months from start to finish rather than six?
Unsuccessful Sheriff applicant

I am never going to apply again. It's time consuming, demeaning and a lottery.
Unsuccessful Summary Sheriff applicant

I guess the question is 'do I feel deterred', and the answer is not yet... I just wish I could get some feedback. As least I would know why I am not getting to the interview stage.
Unsuccessful Summary Sheriff applicant

I didn't feel I wanted to apply again as I was dismissed so readily the first time, the next time the role was allocated again, they were again people without relevant court experience... The people who are being appointed are able, the problem though is that if I feel the way I do, people with the same experience as me have been frightened off applying again.
Unsuccessful Summary Sheriff applicant



The competency based approach

The competency based approach

Positive feedback

Overall, this is the aspect of the whole process that attracted the most criticism – from all types of respondent (successful and unsuccessful; applicant and stakeholder). This was mentioned frequently, and unprompted, by all types of respondent.

There was some positive feedback about this approach, mainly from those who had been successful:

- A minority feel that this is a good way to assess suitability, saying it is clear what is expected, it helped them to think about their experience and whether they had the key skills required, and focused the mind in terms of how to present their experience.
- It was also viewed by a small number as ensuring the system was fair and that all applications would be judged in the same way.
- Others felt that, while it may not be perfect, it was as good a way of assessing applicants as any.
- Respondents who were most positive about answering competency based questions were those with previous experience of doing this – for example they have had to use this format in annual performance appraisals, for promotion boards etc.

I quite like to be able to answer the questions. I think if you can't answer them, or are put off by answering them, then you aren't really committed to the application. It's putting the time in, and it was really good at making me reflect as to whether I was a suitable person. I didn't find it particularly difficult.

Successful Tribunal applicant

It makes you think about why you applied for the role and what experience you have from the past that demonstrated you were a good fit.

Successful Tribunal applicant

[I thought] it's a bunch of poshos who've been to private school... but with it being a competency based interview, that gave me faith that I would have a chance of getting through the tap on the shoulder type of things... That's why I thought the JABS process was quite fair and that I would stand a good chance.

Successful Summary Sheriff applicant

It seemed like sensible things to be asking about, it took a while to do it but I thought it was OK. If the application form takes a bit of time and effort, that's one way of weeding people out who are not seriously interested.

Unsuccessful Tribunal applicant

That doesn't bother me at all, we do it in the Procurator Fiscal's office all the time – our annual assessments use this.

Successful Summary Sheriff applicant

The competency based approach

Negative feedback

progressive

However, the majority felt there were problems with the competency based approach:

- Some said it lacks transparency and it is very unclear what JABS is really looking for. There was a feeling that there are ‘magic buzzwords’ that are required in order to succeed, but not everybody knows what they are – one applicant described it as ‘a linguistic labyrinth’.
- Respondents stressed that some people are trained to answer this kind of question, or are more used to doing it (e.g. those with public sector experience), while others are not – which can lead to the ‘wrong’ people being successful, e.g. people with no court experience but who are good at filling in competency based forms. The view is that this values form-filling over actual legal experience.
- There was therefore a feeling that using a competency based approach simply results in people who are good at answering competency based questions being successful, rather than people who would necessarily be good at the job.

The distinct impression I leave both interviews with is that there is a formula that they look for in terms of answers, and if you don't provide the correct language and express the responses in the way that allows them to tick certain approaches, then you're going to fail.
Unsuccessful Sheriff applicant

Once you get the technique of filling in the form, you're going to get through to interview. They do TED talks on it, the faculty have seminars on it – it's all totally contrived. I was pretty honest, I'm sure people are not though.
Unsuccessful Tribunal applicant

People can learn how to pass competency based interviews without actually being competent in the job itself... I've experienced it from both sides, and you can definitely learn how to work that system.
Unsuccessful Summary Sheriff applicant

If you look at the people who are appointed... you think 'they've ticked the boxes, clearly', whether they're going to be a good Sheriff is something different... They might have a really good CV and be good at filling in forms, but being a Sheriff is also about having patience and being able to deal with members of the public.
Unsuccessful Tribunal applicant

The competency based approach

progressive

Negative feedback

- It was common for respondents either to report paying for **consultancy support or training** in completing competency based applications, or to say that they knew others who had done so.
- This undermines the idea that the process is meritocratic or effective:
 - If some can afford and/or have the time available to do training and others can't, then the process is not fair. (This could also disadvantage those with caring responsibilities who have less time available to travel to attend training etc).
 - If people can be trained to be successful, doubts were expressed that the process measures what it should be measuring.
 - If more people are going for training over time, this will make the screening process even harder as all applications will be of the same standard.

I paid something like £1,500 by the time I'd done it, which was money well spent... If I sat down and tried to do it myself I would get nowhere... The people who are getting through it are paying somebody to do it.

Unsuccessful Senator applicant

A lot of people are applying to agencies down south, going for training, and you've either got the funds to be able to do that – but more importantly, you've got to have the time to be able to do that – and I don't have that time because frankly, in the job that I do, if I'm not in trial, every evening I've got other work to do to get on top of it.

Unsuccessful Tribunal applicant

The process should not be so susceptible to being trained up in the process... [That is] a measurement problem. You're measuring how good people are at adapting to your particular process, rather than actually how distinguished has their career been, [which] must be the best pointer as to how good they're going to be at the job.

Successful Summary Sheriff applicant

If I apply again, I will spend the money getting this woman to revise my application, but I mean, I'm the same person with the same qualifications as I was last time and the time before, and it just doesn't seem very clever.

Unsuccessful Senator applicant

There is more and more training out there, and therefore... If everybody just learns how to fill it in properly, is it then is it a proper screening process?

Successful Summary Sheriff applicant

The competency based approach

progressive

Negative feedback

- It was felt that focusing on competency based questions at the application stage **doesn't give a full picture of the person and their suitability** as a member of judiciary:
 - It doesn't take account of the length/type of experience people have, or their track record of dealing with different legal issues – only that they can provide one example that 'ticks the boxes'.
 - Some felt this approach rewards those who have 'good' examples to mention (e.g. speaking at conferences, high profile cases at the High Court), but is less good for those who are working away at the coal face of (for example) family law at a high street law firm – they may have all the right qualities but have just been busy doing their day job rather than doing 'impressive' things.
 - In any case, it relies on self-assessment and there is no scrutiny of the examples given – there is no way to prove these are applicants' own experiences (one respondent reported seeing a colleague's application form which presented **her** case as their experience).
 - For this reason, some feel that the scenario type questions are better, as these allow you to judge how you would deal with specific situations, rather than relying on having specific experiences to present as examples. This was thought to be particularly important because personality / temperament is crucial when dealing with the public / vulnerable people etc.

Suggested alternatives to this approach are included later in this report.

I think that the focus on it is too pointed maybe. They should look a wee bit more at experience, as well as 'can you actually articulate it in the way that we want you to'.

Potential Tribunal applicant

I wasn't able to express myself enough I don't feel... [It is] a highly artificial procedure that doesn't get from me what I am about. It's a very blinkered view... trying to make a science out of it.

Unsuccessful Summary Sheriff applicant

People might have spoken at a conference or done this and that but does that prepare them for the hurly burly of life as a Sheriff, often not.

Unsuccessful Tribunal applicant

You could create examples that fit the criteria that have no basis on your practical experience... what's lacking is some scrutiny with your actual skills and your actual experience... I've seen an application form coming off the computer in here where someone's using an experience, and I thought, 'that's my trial!'

Unsuccessful Tribunal applicant

People can come across well on paper but still not be fitted for the role. The challenge in a judicial role is commanding respect, being someone who has the ear of the parties involved in court. That's hard to assess from written answers – it's very subjective and needs to be assessed face to face.

Unsuccessful Summary Sheriff applicant

The competency based approach

Stakeholder views

progressive

Stakeholder views on the competency based approach reflected the balance of opinion among applicants – all stakeholders expressed some level of concern that the focus on competency based applications:

- Does not pay sufficient attention to legal experience or professional record
- Gives an advantage to those more used to filling in this kind of form, and therefore leads to a balance in favour of public sector applicants
- Is not fair or useful if training/consultancy can be used to improve performance.

[If you] imagine appointment of say a surgeon or an engineer or anything like that... the first thing you want to know about is their record. You want to know what have you done and how well have you done it... I don't think we've got to the bottom of that, you must get into people's backgrounds... You have to know what these people have actually achieved in life in a professional sense, in order to know whether they are suited to this position.

Stakeholder

But once somebody has got over the issue of competence hurdle... Then their actual ability as a lawyer is not as I understand it, really something which is given much weight... and that I think is a problem.

Stakeholder

People will say 'if you can't fill a form in, you shouldn't be getting these jobs' but the majority of people this time came from the Crown Office, they know the right buzz words to use – those at the Bar don't, they don't have continuous appraisals that use this approach.

Stakeholder

There are, I know, firms out there now who will assist and coach and what not. But, really? It should be a form that anybody is capable of filling in and filling in well without having to seek and pay for advice like that.

Stakeholder



Information and guidance

Information and guidance

The JABS website

Information on the website was generally judged to be helpful and informative, although few people had strong opinions either way. Several respondents noted that they had gone back to the guidance during the application process. There was no obvious information missing.

However, there were some criticisms of the guidance in relation to completing the application form. Several people thought that the example answers provided were quite basic and there is not enough information about why one answer is good and another is not – people therefore felt this wasn't very helpful and it isn't clear how applicants can distinguish themselves from others who have similar experience.

Some respondents also reported that they had followed the advice on the website but were unsuccessful at the sift, so were not sure what they had done wrong.

progressive

I looked at all of that. It was useful, I certainly looked at the process... and I found it useful to find the information online on the organisation itself. I don't think there is anything missing... It's all there if you are willing to read it.

Successful Tribunal applicant

I thought the website was excellent... It clearly explained what they were looking for.

Unsuccessful Tribunal applicant

It's very helpful, when you take your time to access it and read it. It's non-repetitive, it's wholly appropriate... I found myself going back to it as a point of reference, each time I was working on the application form.

Unsuccessful Sheriff applicant

It's well intentioned but they need to give better examples. Perhaps anonymise real examples from successful applications.

Unsuccessful Summary Sheriff applicant

The examples on the website of successful and unsuccessful answers are far too basic. It would be nice to have more feedback from JABS on why I didn't get through the sift despite answering in the required way.

Unsuccessful Summary Sheriff applicant

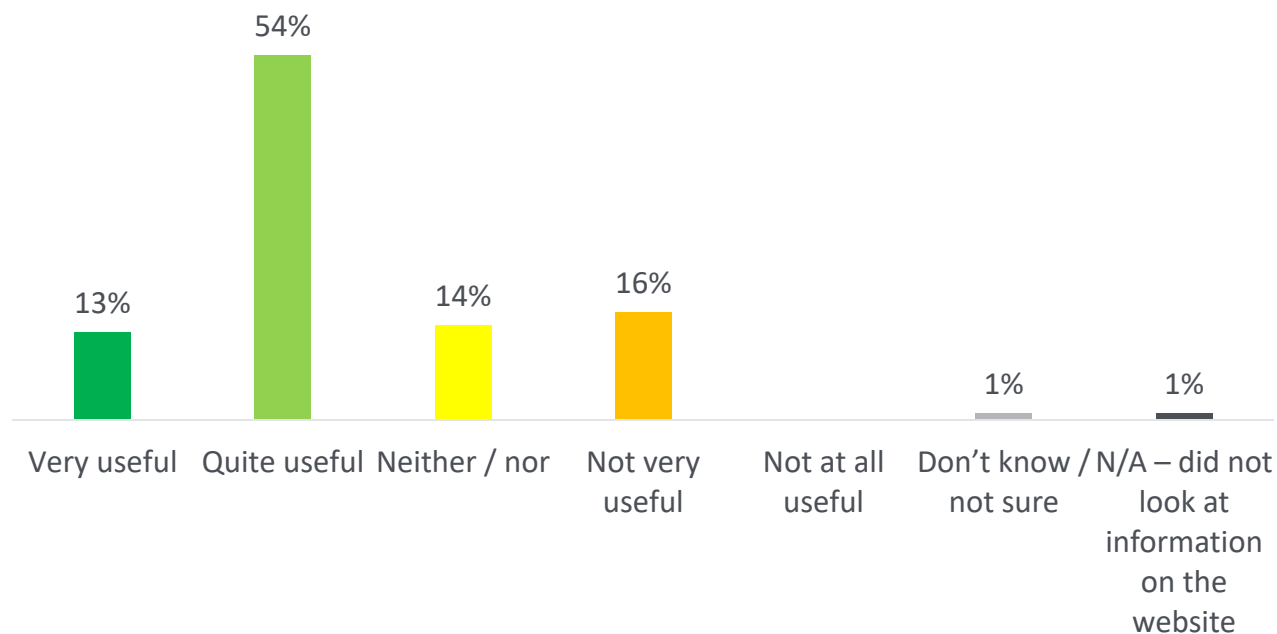
Information and guidance

The JABS website

- Ratings of the website among survey respondents were also generally positive.
- 68% said it was quite or very useful – although the balance was towards ‘quite’ rather than ‘very’ useful.
- 16% (11 respondents) said they found it ‘not very useful’.

Where the sum of two figures in a chart does not equal the figure quoted in the commentary, this is due to rounding.

Rating of the website



Q6: How useful did you find the JABS website?

Base (all): 70

Information and guidance

The JABS website



- When survey respondents were asked what was particularly helpful on the website, they were most likely to mention the example answers provided/advice about completing the application form, and case studies/pen portraits of successful applicants.
- Suggestions for additional information included more detail about what exactly JABS is looking for in terms of skills, attributes and experience, more guidance/examples of competency based questions and more information about how applications are assessed/sifted.
- Full verbatim responses will be provided separately.

Most helpful info*	No.
Example answers/advice re completing form	16
Info/case studies of those appointed	8
Guide to application/appointments process	7
Guidance in general (non specific)	7
Guidance notes about post/criteria	6
General negative comment	4
General positive comment	4
Info on timelines/process	3
Website has improved	2
Examples/guidance on interview questions	2
Base (all who commented)	48

* Mentioned by more than 1 person

Additional info required*	No.
More detail re what skills/attributes/experience JABS is looking for	9
More info on/examples of competency based answers	7
More info on sift/how applications are assessed/scored	7
More guidance on info required/how best to present experience in the form	5
More info on/examples of written work required	3
More info/examples (non-specific)	2
More detail on format of interview	2
Provide feedback/more detailed feedback	2
More info/emphasis on diversity	2
Up to date information	2
Base (all who commented)	37

* Mentioned by more than 1 person



Information and guidance

JABS events

The majority of qualitative respondents had **not** attended information events or seminars (13 respondents overall had been to an event).

Most of those who had attended events reported that they were fairly helpful, although some commented it did not really provide much more information than was already available on the website. Few were able to give detailed feedback about the events – several mentioned these were quite a long time ago. However, useful aspects noted included:

- Information about the criteria required
- Pointers on how to complete the application
- The importance of providing specific examples of experience
- Hearing from successful applicants about their experience of the process/interview etc.

Several people commented that they had **not** attended events because they did not want anyone to know they were considering applying. For this reason, running more events via webinar was suggested.

It was really useful though to hear what they wanted... I took from [the event] that they were very serious in their approach to it, that it was very thorough, and that they were probably fair.

Unsuccessful Summary Sheriff applicant

They really were driving home how important the written application is and made the point that job titles, for example, mean nothing. 'We need to know what it is you do and what skills you employ'... I felt it was beneficial and I applied the advice I got from it.

Unsuccessful Sheriff applicant

I've not been to any... I didn't want anyone to know I was thinking of applying.

Unsuccessful Sheriff applicant

I went along praying that I wouldn't meet anybody... I don't think anybody really wants to admit that they're applying for these things... in case word gets out, and I think also because you don't want your employer to know that you want to leave maybe... so there wasn't a great attendance which is a shame.

Unsuccessful Summary Sheriff applicant

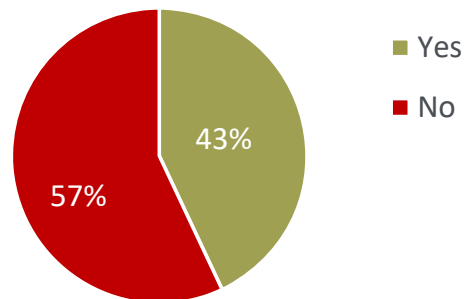
Information and guidance

JABS events



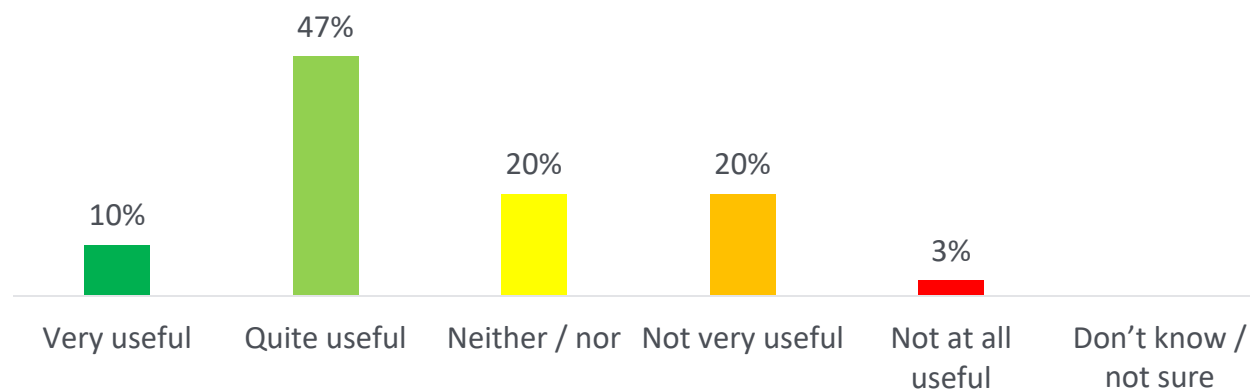
- Four in ten survey respondents (43%) had attended a JABS event.
- Those who had attended an event tended to find them useful: 57% said it was very or quite useful, although again the balance was towards 'quite' rather than 'very' useful.
- A minority said the events were not useful: 23% (7 respondents) said the event they attended was not very or not at all useful.

Attendance at / ratings of JABS events



Q2: Before applying, did you attend a JABS information or outreach event?

Base (all): 70



Q3: How useful did you find the JABS event that you attended? If you have been to more than one event, please think about the most recent one you attended

Base (all who attended an event): 30



The application process

The online application process

Most applicants reported that the application form was very **time consuming** to fill in, and some felt that it was **too onerous** – although some people did comment that this had improved in recent recruitment rounds as the length of the form had been reduced.

Respondents used words such as ‘disproportionate’ in relation to the application process, highlighting that those most successful in their careers were likely to have least time available for form-filling – and a busy successful legal practitioner is exactly the kind of person that JABS should want to appoint.

One stakeholder specifically emphasised the complexity of the application process particularly in relation to tribunal positions, where the amount of time spent on the application was felt to be out of proportion to the benefit of being appointed in terms of the number of days’ work and payment for these.

It’s an awful process to fill in. It takes a huge amount of time and effort, maybe that’s fair enough... Even as people who are meant to be quite brainy, it’s intellectually actually very demanding to work out what on earth they are looking for.

Unsuccessful Summary Sheriff applicant

[My job is] so time consuming and people will say, ‘Well, if you really want a tribunal job you will be prepared to set the time aside to complete the form’, but frankly, if you’re a really busy practitioner, then you don’t have that opportunity, and... are you not wanting the people who are busiest and most experienced, who have less time to be able to fill in the forms?

Unsuccessful Tribunal applicant

The other thing that I wanted to get across to you is the disproportionality of the application process... What I think [JABS] haven’t fully appreciated is that if you are good enough to be applying for these jobs, you’ve got to practice the job and you can’t take weeks and weeks to do a job application.

Unsuccessful Senator applicant

The appointments system looked a bit complex... I would like us to find a leaner way of doing it... [Applicants have said] ‘I haven’t got the time or inclination to go through that paper work to get an appointment that was going to give me maybe twenty days a year if I’m lucky, maybe less than that, at barely three hundred pounds a day’.

Stakeholder

The online application process

There were mixed views about the use of **word counts** – a few people said it helped to focus their responses, but people were more likely to argue it limited what they could say about themselves.

Respondents who were required to submit **legal written work** with their application agreed that this was important, because anyone suitable for appointment should be able to do this. The only query raised about this was for those from less ‘traditional’ backgrounds who might not be producing written legal work in their day to day jobs. Some felt this put such applicants at a slight disadvantage.

Very few comments were made about the technical aspects of the online application. A couple of respondents mentioned technical issues submitting applications, but these related to recruitment rounds from several years ago and had not been experienced recently.

Most applicants reported that they had completed their answers in Word and then copied and pasted the content into the online form, to enable them to calculate the word counts for each question. It would perhaps be easier if the form had a word count function.

Restricting the words is very important because it focuses your mind to make sure that what you put in is all relevant. You really have to think about it... [and] focus on what you think the Board needs to know about your capacity to perform those particular criteria and competences.

Successful Sheriff applicant

You are given very short spaces... to answer very long, very complex questions and you really have very little opportunity of explaining yourself as clearly as you can before the 300 words is up.

Unsuccessful Sheriff applicant

[Written work is] essential. I think that's actually better than getting a reference... You can't hide in relation to examples of your legal work, it's objective, it gives people a much better idea about your abilities... that will certainly tell the legal members a lot more about your legal skills than a reference from somebody who might be your pal.

Successful Sheriff Principal applicant

Depending on your role, you don't always have the opportunity to have done something they want to see. They don't guide you about what sort of written work they want... I'm not writing advice or submitting things to the High Court, so I can't prepare this. I'm giving verbal advice to my staff, very rarely I'd do a written narrative.

Unsuccessful Summary Sheriff applicant

The online application process



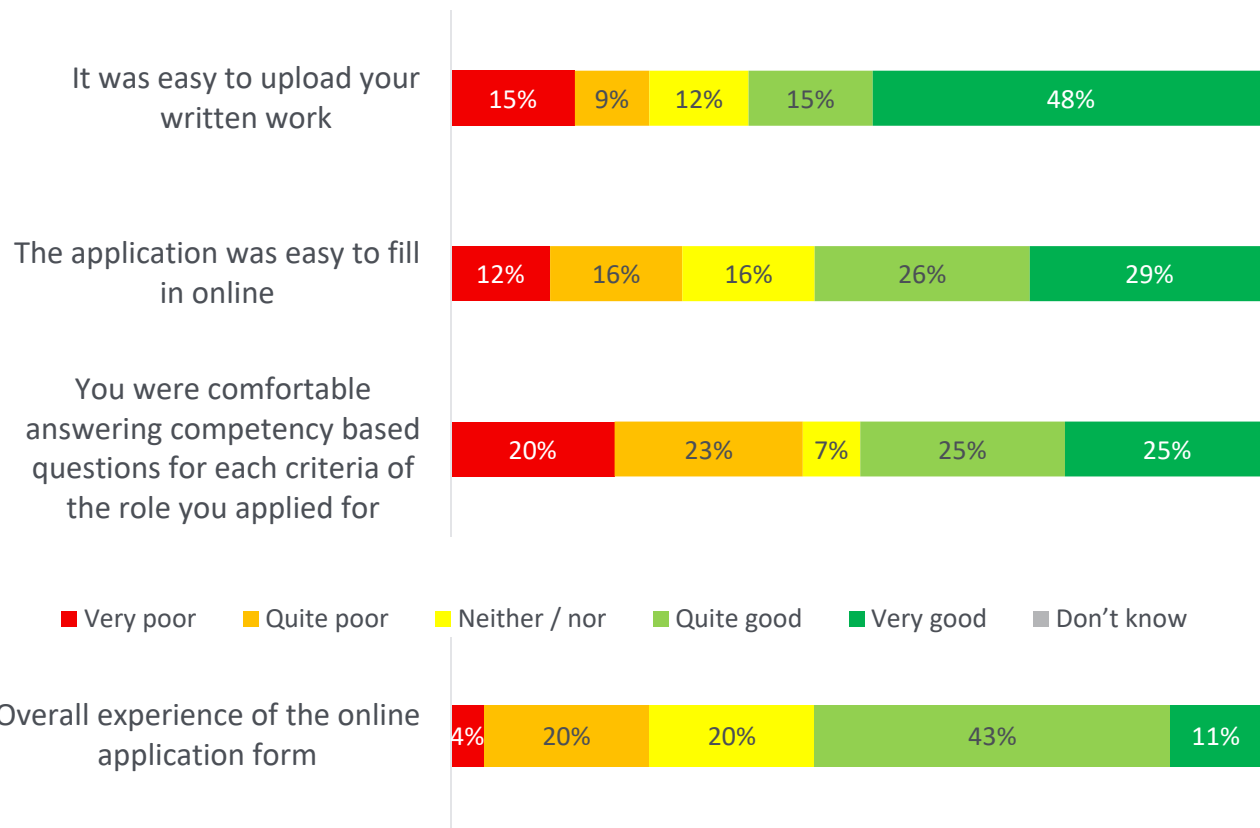
- Survey respondents generally agreed that:
 - It was easy to upload written work (64% agreed)
 - The application was easy to fill in online (56% agreed).
- Applicants were slightly less likely to agree that they were comfortable answering competency based questions for the criteria (49% agreed).
- Overall, 54% rated their experience of the online application form as being very or quite good. However, 24% (17 respondents) rated it as being very or quite poor.

Where the sum of two figures in a chart does not equal the figure quoted in the commentary, this is due to rounding.

Ratings of online application process



■ Strongly disagree
 ■ Slightly disagree
 ■ Neither / nor
 ■ Slightly agree
 ■ Strongly agree
 ■ Don't know



Q9: Thinking about when you filled in the application form online, to what extent do you agree that...

Base (all excl N/A): 66~69

Q10: Overall, how would you rate your experience of the online application form?

Base (all): 70 30

Suggested changes from respondents

Application form

When asked about changes to the application form, the major focus among qualitative respondents was on the competency based questions. Respondents generally felt the focus should be reduced / rebalanced to take other aspects into account in addition to these questions, for example:

- Allow applicants to provide more information about their experience and details of their job roles/career history and performance – particularly for those with less ‘traditional’ roles.
- Make the examples asked about more relevant / less artificial.
- Include scenario based questions at this stage, to help explore applicants’ suitability for the role.
- A couple of tribunal applicants felt questions should be more tailored to the role and less generic.

However, most suggested changes related to other aspects of the appointments process rather than the form itself...

To provide examples that actually fit the situation and job they are imagining. Also... all I can get across is a job title, which I expect half of the legal sift don't really understand... I think you need to add a box at the end of the CV part... that allows you to describe the nature of your role, allows you to explain what you do as a lawyer, just the opportunity to explain my job in context, so when I go on to fill in the competency questions I don't need to preface my answers with what I do.

Unsuccessful Sheriff applicant

Focus at an earlier stage on scenarios rather than competencies. Include scenarios in the application form and how applicants would respond in those scenarios. That would bring out the real person and their personal suitability for the role, e.g. if you were the Sheriff on the day and this was the representation that was made, what would your judgement be and why?

Unsuccessful Tribunal applicant

More attention to the questions.... they're obviously very generic because they use the same process for every job. But if they're going to ask someone to spend a fortnight of their paid time filling in the application, then somebody ought to tailor the questions to the particular job more specifically.

Unsuccessful Tribunal applicant

Suggested changes from respondents

Application process

Respondents also suggested other changes to the process (not just the forms). Quite a common suggestion was to include an **element of external input** in the process:

- Some people commented that the removal of references was a positive change:
 - It does not add value to the process, since applicants will only provide details of people they know will be positive about them
 - It was very time consuming for referees
 - Not everyone has the right contacts or feels comfortable approaching judges for a reference.
- However, there was a general feeling that there **should** be external feedback included, from people with direct experience of working with applicants. This would help to provide a view of whether someone will be good in the role applied for.
- This was particularly mentioned in relation to speaking to Sheriffs Principal when Part Time Sheriffs or Summary Sheriffs apply for Full Time/Sheriff roles.
- Asking for published papers or other objective evidence of performance was suggested as an alternative to providing unscrutinised examples on the application form.

It can be quite hard to get a judicial reference from somebody unless you're quite chummy, and again, it tends to be the older male advocates or solicitors who are quite chummy with the judges or whatever, or who are confident enough to ask them for a reference.

Successful Summary Sheriff applicant

I don't see that getting rid of referees helps... it just loses one more potential quality control.

Successful Summary Sheriff applicant

There needs to be some sort of assessment. They've done away with the references... but that at least I think is a measure of someone's competence in a practical context, you know, you've been in front of that judge, you've been in front of that senior counsel, they know a bit what you're like in a professional context.

Unsuccessful Tribunal applicant

I certainly think in relation to any Summary Sheriff applying for a Sheriff's job, they should take up a reference from the Sheriff Principal... That's [a] serving judicial office holder, essentially the line manager... would you maybe mind asking the people they served under, if they're good, bad or indifferent.

Successful Sheriff Principal applicant

Suggested changes from respondents

progressive

Application process

Respondents frequently suggested adding **additional stages** to the process, e.g. an online exam to test legal knowledge as part of the initial sift, and/or using several stages to filter out respondents rather than one sift exercise which reduces the numbers so dramatically.

Suggestions included:

- An online test
- Role-playing exercises
- Psychometric testing
- An assessment centre.

Comparisons were made with the Judicial Appointments Commission's approach, which has more stages to the application process and includes an exam to test legal knowledge. This was felt to be a fairer test and a better way to sift applicants before the interviews, as it directly assesses legal knowledge at an early stage.

Suggestions were also made in relation to streamlining the process and providing feedback – these are covered in later sections of this report.

At the Procurator Fiscal's office, you have a competency based application, then a practical part of the interview – you have to do a cross-examination of somebody, or an in-tray exercise. More than just the interview. It doesn't solve the issue of people not getting past the sift though. The only option would be to increase the number of people they interview – if there are quite a lot on a par, increase the number of interviews you give.

Unsuccessful Summary Sheriff applicant

An attrition rate of 88% based on written application means that a lot of extremely able candidates... will simply never get through. I would perhaps let through probably around 50% at the first sift, then there may be scope for some form of examination of legal knowledge before you go further on, and then perhaps it's time to consider how you deal with the public... There could be 2 or 3 stages before you get to the interview... [It would be] much more robust.

Unsuccessful Sheriff applicant

Virtually everybody who applied [to the JAC] and was appointable had to go and sit an exam... [Then] you went through the interviewing stage and had to give examples from your career on specifics about how you would deal with particular points, but... you had already demonstrated a knowledge and understanding of evidence and procedure. I found that a much preferable system because your legal knowledge and legal ability was being tested at a very early stage in the process. The legal knowledge is really not tested in the Scottish process at all.

Unsuccessful Sheriff applicant

Suggested changes

Application process – Stakeholder views

Stakeholders expressed similar views about the need to obtain external information about applicants, particularly via references or a more detailed consultation process. This was thought to be important because:

- It is crucial to obtain feedback on career performance and capability from those who have detailed knowledge of applicants, and/or include objective evidence rather than relying on self-assessment. Taking soundings in relation to new QCs was given as a good example of this.
- The current process does not include information that could alert JABS to people who are not suitable for appointment.
- The current consultation process is felt to be quite limited and comes too late in the process; there was also a feeling that feedback is not always listened to.

The addition of more stages (e.g. qualifying tests to assess legal knowledge, and/or interviewing more people) was also generally supported by stakeholders, to ensure good applicants were not sifted out too early in the process.

If they are appointing on merit, [a qualifying test] would be one way of them demonstrating that.

Stakeholder

You can say 'Give me a list of the cases that you've been involved in that have been important'. And these can be objectively analysed... [And] actually observing how they perform in court by way of producing written argument... and stating things in oral form in the real world when they are under pressure... is a much better way of gauging their performance over time.

Stakeholder

There are [Sheriffs] who are temperamentally unsuited to the job... [They have been successful] because they've learned... how to fill the form in and... how to present at an interview, and because this is competency based and the Board are very careful about not taking soundings from anyone else, the information never gets to them.

Stakeholder

It's a really strange [consultation] question that they pose and it makes it quite difficult to give them an honest answer... It comes too late because they've already got their list of candidates. Even when you say to them 'that one is perhaps not best suited for this job' you guarantee that will be the one who gets through.

Stakeholder

If JABS are feeling... we don't know if we're getting... the best talent... and certainly [people] are saying that we don't think everybody that should get through that sift gets through that sift... something there would be better to be changed, even though... the next stage has become longer to do or harder to, and need more resource.. to work through.

Stakeholder

Suggested changes

Career progression/structure

A small number of applicants also raised the issue of a lack of clear pathways for career progression within the judicial appointments system. These comments focused on:

- A need to have a firm career structure in place, to encourage people to progress and avoid becoming bored.
- A suggestion to have a 'fast track' option whereby people already in a judicial position were given the opportunity to progress, rather than being demoralised if they are overtaken by people with less experience.
- Related to this, a concern was raised that there is a certain amount of deskilling involved, and a lack of opportunity to be able to evidence particular competencies after a certain amount of time in a judicial role.

Honestly, that is something that's a little bit unattractive about a Shrieval appointment is if you're going to end up in 10 years' time listening to another breach of the peace case for the same punter... That's not attractive, because you're going to get bored... So if they could perhaps publicise, or if consideration were given to the career path... If the career profile was, go and spend three to five years soldiering in the trenches in the Sheriff's Court, then tick, you've earned your spurs to have a shot at being a Senator... that might pull more people in.

Unsuccessful Summary Sheriff applicant

There are very few jobs where you wouldn't give a degree of preference to people who have already shown they can do the job.

Unsuccessful Summary Sheriff applicant

I suppose the big question that we're all asking is whether people in Summary Sheriff, were they to progress to full Sheriff, would have to go through the same performance or if there will be a fast tracking... If I were to try and illustrate the competencies, having now done the job... I think the range of responses that I would be able to give would be less than if I were in private practice... I can't think of anything more demotivating than being in an office and applying for something, and someone who hasn't done the job leapfrogs you.

Successful Summary Sheriff applicant



Transparency: requirements and assessment

Transparency

Clarity about requirements

One aspect which adds to doubts about the process is a perceived lack of transparency – either about what JABS is looking for, or about the sift process itself.

Some said there is a **lack of transparency about requirements**/it is not very clear what JABS is looking for – indeed the range of assumptions expressed suggests that people have different ideas about what is required. For example:

- Some feel JABS is looking primarily for family lawyers for Shrieval posts, despite saying both civil and criminal experience is wanted.
- Senator roles are perceived to be given to Advocates only, and those with civil rather than criminal experience.
- A fairly common perception was that there is a bias towards applicants from the Procurator Fiscal's office.
- Some felt more importance should be placed on court experience than appears to be the case.
- Those with slightly less obvious relevant experience think the application process assumes you are a high street lawyer in private practice.

Feedback has also been inconsistent in some cases in relation to what experience JABS is looking for (e.g. when people have applied for the same role on more than one occasion), which adds to this doubt about requirements.

It appears to us that if your experience is purely in criminal law, then you are immediately discounted... They want civil, family, social work and child law experience, not in the court. The odd one was appointed but [they are] the exception to the rule.

Unsuccessful Summary Sheriff applicant

They need to be a bit more transparent about what they are actually looking for. [There are] lots of theories about what they really want. They want solicitors and not advocates is one of them... They are clearly looking for family and crime practitioners. They would be better saying we want specialised background in X and Y, everyone can apply but this is what we want. They should be entirely up front. To be fair I would not have applied had I known that.

Unsuccessful Summary Sheriff applicant

[Feedback has been] completely contradictory year on year which adds to the feeling of 'why bother'... One year they said being a specialist in family law was a really positive thing and it showed a level of commitment and experience for a Sheriff, that I was led to believe was appropriate. The next year the feedback was that it was too specialised and that you need to have experience of lots of different types of law.

Potential Sheriff applicant

Transparency

The sift process

progressive

A common theme to emerge was a lack of transparency about **how applications are scored and weighted** – this was a particular issue in relation to respondents trying to make sense of the outcomes of the process.

Numerous examples were given of people already doing the job (e.g. temporary or Part Time Sheriffs), and doing it well, but failing to get past the sift. This view was expressed by stakeholders as well as applicants.

There was therefore a general feeling that it was ‘a mystery’ what happens at the sift stage because experienced people are not getting through to interview. Even some who had been successful said they were aware of people with greater experience who had not succeeded.

This perception undermines confidence in the whole process.

I think they try to give the impression of transparency. But there's no transparency there, I think there's a cloak of secrecy around it, if you speak to anyone who's been through the process, nobody knows how they work it out.
Unsuccessful Summary Sheriff applicant

You just wonder at the decision making process... You see... really brilliant temporary Sheriffs who cannot get a Sheriff's job, and people with very little experience walking into the job. It's a mystery to an awful lot of people.
Unsuccessful Tribunal applicant

People can put applications [for Shrieval roles] and be successful one year and the next occasion they're not – there's just no transparency it would seem, as to the selection process, and that creates uncertainty and dissatisfaction with the process. I know I'm not alone in feeling that about JABS.
Unsuccessful Tribunal applicant

If able candidates are not getting through – I don't know how things are scored and weighted, but they should maybe give more weight to professional experience.... I don't know how they balance it now... But there are people with more experience than I, but they don't get through.
Successful Summary Sheriff applicant

The form is not entirely straightforward, but the problem is what do they do with the form afterwards – I've no idea how they judge applications. You can put in the same application to different recruitment rounds, get appointed one year and not even get past the sift the next year – it's a lottery.
Unsuccessful Summary Sheriff applicant

Transparency

Feedback on the sift

Linked to the lack of understanding about how applications are scored, it was very common for people to want feedback on unsuccessful applications, although few reported receiving it.

This is also important in the context of the competency based approach, which people feel they do not really understand – they would like feedback so that they know how to improve their approach to this (the general view was that the information and examples on the website are not sufficient).

Unsuccessful applicants would like to know:

- How close they were (i.e. is it worth applying again)
- If the issue was their experience/background, or how they answered the questions (several noted that if they simply had the wrong type of experience, they would rather know this and not apply again)
- If the issue was with the competency based questions, how could they answer these more successfully?
- If other candidates were simply stronger, in what way?

People recognised that the volume of applications could make this difficult, but still felt it was required and should be part of the Board's role. Some suggested feedback on the **types** of mistakes being made would be useful if individual feedback is not possible.

Stakeholders also felt feedback was important, so that people could understand the decisions made, improve their applications, and to avoid putting people off applying again. It was felt this would build confidence in the JABS process.

[I got no] indication of whether or not I was a wild card, or whether I was actually nearly in... If you ask someone to go through a big process for you... you should respond appropriately and give some kind of feedback – even just for [JABS's] own sake... otherwise perfectly good candidates might not apply again, or people who are absolutely not what they're looking for might apply again!

Unsuccessful Tribunal applicant

You don't ever get any personal feedback... If you're applying more than once and you get knocked back, you need to know why, what could you improve on? I can't put anything different down, so is it pointless applying again? Or is it purely because of the numbers, someone has just a bit more experience than me? What should I do to improve my chances?

Unsuccessful Summary Sheriff applicant

I think feedback would give transparency and allow people to be confident in the process and the sifting. Otherwise the right people might stop applying. They tell you there is a very careful sift... It's not that I don't trust the process at large... [but] they should be doing more feedback so I know am I being taken seriously?

Unsuccessful Summary Sheriff applicant

*They say... there were stronger candidates... The feedback for me at the moment, what I will be asking for is **why** were the other candidates stronger?*

Unsuccessful Summary Sheriff applicant

[Feedback is] really important because... I think that improves people's understanding of all of this and builds confidence in the JABS system.

Stakeholder



The interview process

The interview

Positives

Around half of the qualitative sample had been interviewed by JABS, either in their most recent application or in previous years.

Those who had been interviewed were **generally positive** about their experience of the panel – they were reported to be professional, friendly, fair, made people feel comfortable, and the interview process was well managed.

A couple were less positive about the interview and said no effort was made to put them at ease, but this was very much the minority.

The balance of questioning (between scenarios and competency based questions) was generally thought to be fine. There was a slight preference for scenario questions as it is easier to think about what you might do in a given situation than to answer a competency based question if you genuinely have not experienced a specific type of situation.

It was the most pleasant interview I've ever had for a job! From the outset, I was welcomed in.... All the questions were fair. There was a break during the interview, which allowed you to gather your thoughts. You were given sufficient time to answer... A member of the panel said the idea was to allow you to give your best, they were not trying to trip you up – and that's how I felt.

Successful Summary Sheriff applicant

All very polite and professional. I thought the [interview] process itself... hats off to JABS. It was all very professional. They said what was going to happen and it did all happen. It was all very well done. I have no beef with how it was executed. I think that it was great.

Unsuccessful Senator applicant

It's easier to think, 'the situation is X, what would you do'. Having to think of examples is scary if you can't call one to mind... Like 'tell me a time when you had a moral dilemma' – if you've got a recent example in your career, you have a great answer, but if you genuinely haven't had one, it becomes really difficult... It tests who has the best example, not what they'd be like if faced with a moral dilemma.

Unsuccessful Sheriff applicant

I think there should be a much more natural way of asking people questions about themselves [than competency based questions] and to try and get a flavour of their personality and what they do.

Unsuccessful Tribunal applicant

The interview

Negatives

Comments about the interview process tended to be positive. However, there were also some criticisms, including:

- A perceived **lack of follow-up / probing** – it was felt that it should be more of a two-way process, the panel should engage people more and have more of a discussion if the original answer doesn't provide all the 'magic words' they are looking for.
- More probing was also thought to be needed in order to bring out people's characters and temperament rather than relying on candidates' pre-prepared competency based examples.
- Some candidates who had been interviewed more than once felt that this had changed over time – earlier interviews included more probing / engagement and this approach was preferred.

I really don't understand because I explained what I did and how I did it and why it was so important... If they felt I had not quite fully answered, what is wrong with them saying 'could you expand on that a little?' I don't see that that teases out whether this is a good candidate or not... Given what's at stake that just seems wrong to me.

Unsuccessful Sheriff applicant

I felt that they were restricting themselves to the same questions for each applicant and not really doing follow-ups... If people don't probe and look for the answers to the questions, sometimes you may have inadvertently just not have given them... I felt there needed to be a little more flexibility.

Unsuccessful Senator applicant

Just a bit more engaging with the candidate because... what you're trying to do is find out legal knowledge and skills, temperament, ability to command authority over a court, not be phased by unexpected events.... If you're trying to understand all that... if it's a one-way interview where you're posing these questions about scenarios and then just writing down the answer and then afterwards discussing if that was a good answer, a full answer, whatever, without really engaging... just the impression I have, it's just a bit one-sided.

Unsuccessful Sheriff applicant

I just preferred the questions the first time around, I felt more as though they were designed to get the best out of me and to actually find out about how I would approach the job and there was a bit of a dialogue as well.

Successful Sheriff applicant

The interview

Negatives

- Some interview questions were felt to be artificial / unrealistic, or suggested a lack of understanding of some of the roles.
- Some scenarios were also felt to be lacking in context/detail.
- A small number of respondents reported instances where they did not believe the panel member understood the question they were asking (e.g. on a particular point of law, or court procedures).
- Finally, some criticised the interviews for the same reasons as they criticised the competency based application form:
 - People can learn to answer the questions but this doesn't prove they can do the job
 - Appointable people can be unsuccessful by not using the 'right words'.

Some of the questions seemed to not really appreciate what judges do... We were asked about a decision you made where you had to pull other people along with you. Now... you sit in isolation as a judge, you make decisions and if people are unhappy about it they appeal, you don't really have to persuade people... I thought these seemed to be generic questions that weren't really aligned to the career experience.

Unsuccessful Sheriff Principal applicant

Some of the questions are so vague and lacking in context that they are virtually bizarre. It is hard to know what they're going on about... and you're expected to answer it in the middle of an interview... devoid of the context of actually having heard the facts and details.

Successful Summary Sheriff applicant

[Based on interview feedback] the impression I have is that I'm not moving into the precise language that they want to hear for their competency-based responses... Somewhere between me and the panel, a candidate that they think might well be appointable is not appointable because precise answers have not been given.

Unsuccessful Sheriff applicant

The interview

Case studies

Generally, the use of case studies (where relevant) was seen to be a fair and reasonable way to assess candidates' decision making abilities and legal knowledge. It was also felt to be important to have a criminal and civil case study so that candidates could demonstrate their ability to research and come to a judgement in an area of law they are less familiar with.

Some criticisms did emerge in relation to the case study element:

- Some respondents questioned giving candidates information in advance and relying on them not discussing it with anyone – this was felt to be 'a bit naïve', and also unrealistic, as in real life you would discuss issues with colleagues.
- However, others felt that it is not realistic to receive papers at the interview and to have such a short amount of time to read the information and give a judgement – this is artificial, as in real life you would deliberate properly and read information in detail.
- Some again felt the amount of work required was disproportionate because of the amount of time needed to prepare – when actual legal experience should be sufficient to demonstrate ability.

I think the case studies are a really important part of the interview process... [It] provides a real opportunity to demonstrate that although you're not a criminal or civil practitioner, you have the skill to take a problem to research to find the relevant law and make a judgement about it.

Successful Sheriff applicant

I question the fact you get the paperwork in advance. You're directed not to discuss it with anybody, and in an ideal world people wouldn't – but I question if that happens. You could have a spouse who's a solicitor or lawyer, and if your family life depends on you getting that job...

Unsuccessful Sheriff applicant

It's hard to guard against collusion and people going to their mates and saying 'I've got this problem'... You're not supposed to do that but... it's impossible to police.

Successful Summary Sheriff applicant

That's a wee bit artificial but... I did stick to it. In real life you wouldn't do that, if you were a Sheriff and you had a problem that was in an unfamiliar area, you would go and speak to your colleagues.

Successful Summary Sheriff applicant

You have to read through five cases for each, get up to speed, try to work out what you were going to do and so on... That's 3 days' work, let alone mugging up all your examples. At what point does it matter that we've already got all this legal ability from years and years and years? That's what I think is disproportionate.

Unsuccessful Senator applicant

The interview process

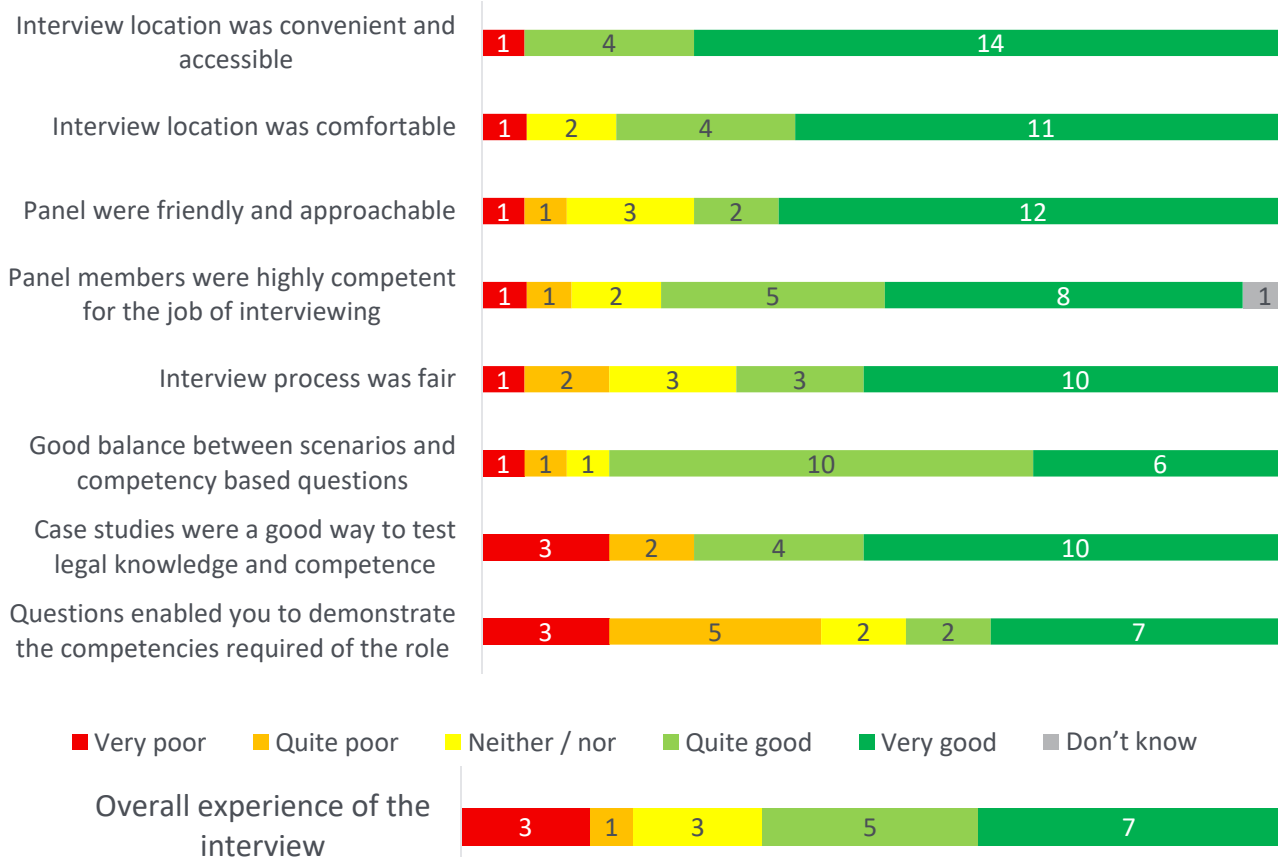


- 20 survey respondents had been invited for an interview, and 19 had attended (1 had already accepted another role).
- NB: Absolutes are provided rather than percentages, due to very small numbers – findings are indicative only.
- Respondents were most likely to **agree** that:
 - The interview location was convenient (18 of 19 respondents agreed) and comfortable (15)
 - There was a good balance of scenarios and competency based questions (16).
- Highest levels of **disagreement** were for:
 - The questions enabled you to demonstrate the required competencies (8 people disagreed)
 - Case studies were a good way to test legal knowledge/competence for role (5 disagreed).
- Overall, 12 of the 19 respondents rated their interview experience as being quite or very good; 4 said it was quite or very poor.

Ratings of online application process



■ Strongly disagree
 ■ Slightly disagree
 ■ Neither / nor
 ■ Slightly agree
 ■ Strongly agree
 ■ Don't know



■ Very poor
 ■ Quite poor
 ■ Neither / nor
 ■ Quite good
 ■ Very good
 ■ Don't know

Q14: To what extent do you agree with the following statements about the interview process? Base (all interviewed, excl N/A): 19
 Q15: Overall, how would you rate your experience of the interview?



Perceptions of JABS as an organisation

Interaction with JABS

Contact during the process

Feedback was generally positive about contact with JABS – as an organisation they were described as being professional, efficient, and stick to the timetables they lay out etc.

Few applicants reporting having very much contact, but respondents generally had no issues with the communications received.

The only negative reports about contact from JABS related to requests for feedback on the application process (see earlier).

I didn't feel any need for any additional contact. It was all just so straightforward.

Successful Tribunal applicant

They weren't in touch every day, but they kept me posted and the rejection came through promptly, there weren't long delays. I think they gave an indication of timescales, and stuck to that.

Unsuccessful Tribunal applicant

The process is absolutely clear, they set out a timetable, they always follow it. You know what date to expect information, you always got it, either then or thereabouts.

Successful Sheriff applicant

I was very disappointed at their engagement with me after I had very politely asked for some feedback. Very, very curt responses, not responding quickly to me... I'm not expecting them firing emails right back, but waiting a while before you get any kind of response, and basically you felt as if you were written off at that stage.

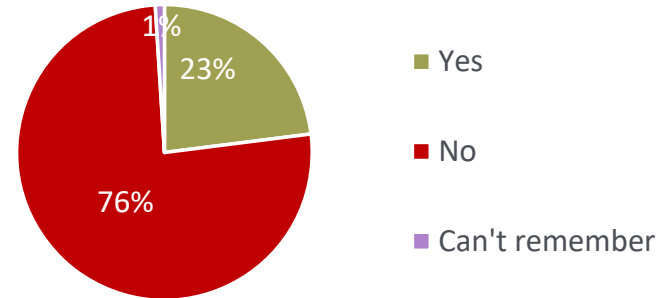
Unsuccessful Tribunal applicant

Communication during the process



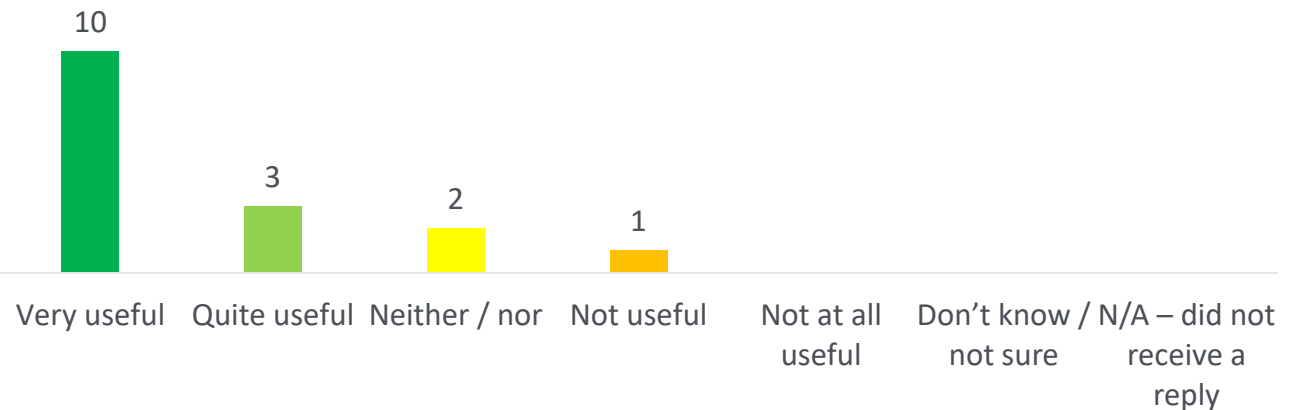
- Three quarters of applicants responding to the survey had not had any contact with JABS throughout the process.
- Of the 16 people who had additional contact, most said the response they received was useful: 13 of 16 rated it as very or quite useful, with the balance towards 'very' useful (10 respondents).

Contact with JABS



Q18: Did you have any contact with JABS throughout the application process, e.g. to ask questions about completing the application or to obtain further information about the vacancies advertised?

Base (all): 70



Q19. How useful was the reply you received from JABS in response to your queries?

Base (all who contacted JABS): 16

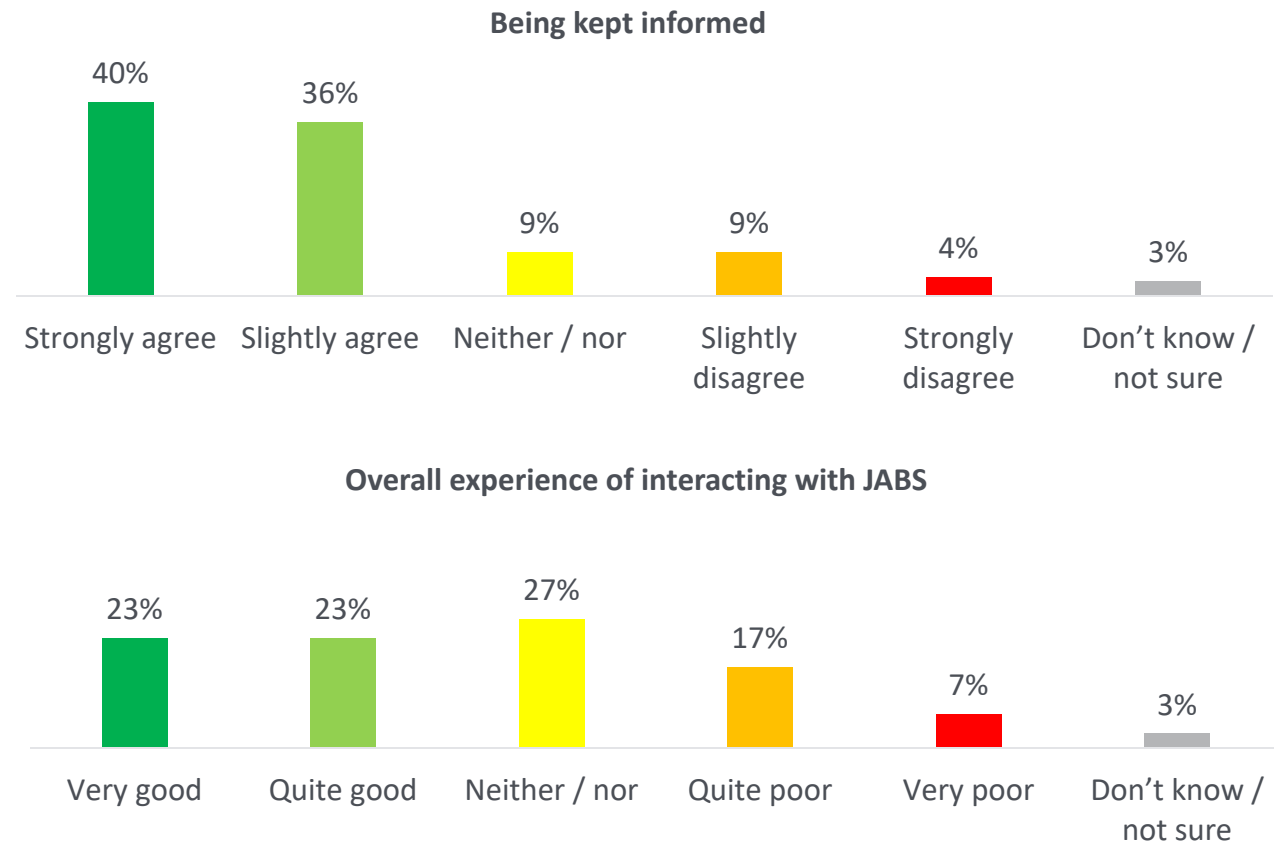


Communication during the process



- Survey respondents were positive about JABS keeping them informed about what was happening with their application.
- Three quarters (76%) agreed either strongly or slightly that JABS had kept them informed – and 40% strongly agreed.
- Ratings of the overall experience of interacting with JABS when applying for judicial appointment were more mixed. A total of 46% rated the overall experience as being very or quite good, but 24% rated it as being very or quite poor. Three in ten (27%) said ‘neither/nor’.

Communication and interaction with JABS



Q17: Throughout the application process, to what extent do you agree or disagree that JABS kept you informed about what was happening with your application?

Q20: Overall, how would you rate your experience of interacting with JABS when applying for judicial appointment?

Base (all): 70 49

Interaction with JABS

Timings

Some respondents also felt that the process as a whole takes too long – it is nerve wracking waiting for the outcome, people feel they are putting their life on hold, they would like a more streamlined process if possible.

Conversely, some felt the timings at the **start** of the process were too short – i.e. the time between posts being advertised and applications being submitted. This was thought to be problematic when applicants have very busy workloads and limited time to spend on the application.

[There were] huge periods of time when nothing's happening – months. I think the paper application was in June, and then the interviews aren't until September. You're told you've got an interview, about six weeks before... Then you're not told about whether or not you're successful for another couple of months. So, the whole process took up about six or seven months of my life last year.

Unsuccessful Sheriff applicant

Why does it take six to nine months, what am I supposed to do with my job and my career... Do I just sit for nine months and hope I'll be lucky? Or do I go and do something else? So I think the whole process takes too long... As soon as that application is in your life is on hold.

Unsuccessful Summary Sheriff applicant

My recollection is you don't get an awful long time from advertisement to submission... If you're in practice at the bar... four weeks isn't actually a long time. It might discourage people from applying.

Successful Sheriff Principal applicant

Attitudes towards & understanding of JABS

progressive

JABS as an organisation

Applicants generally found it quite difficult to comment on JABS as an organisation or how it operates.

Most did not have strong views either way, or said they didn't really know enough about how the organisation operates to give specific feedback, or views about if/how the organisation should change in the future.

Respondents tended to report that JABS is delivering the process efficiently enough: any negative feedback related to the process itself.

Some also noted that the Board has a difficult job to do and there will always be criticisms of the process despite their best efforts. One respondent also suggested that JABS should address any criticism about appointments directly, because he felt it was unfair (i.e. people are critical of appointments without specifying exactly who is an inappropriate appointment or why).

Stakeholders, while giving similar comments to applicants about not feeling able to provide detailed comments on how JABS operates, also reported positive changes recently in terms of engagement with the Board. One also noted the benefits of JABS staff being involved in attending conferences and events to help build understanding of judicial roles and the appointments process.

They appear to be fairly organised, they will have faults like anyone else but I don't know them well enough to comment really.
Unsuccessful Summary Sheriff applicant

JABS staff are professional, discreet, helpful, impartial.
Successful Sheriff applicant

I don't know them particularly well. I looked them up and I can see it's quite high calibre people. I have to just take it on trust that it's set up in the way it needs to be in order to have the ability to appoint good people.
Unsuccessful Summary Sheriff applicant

All communication I've had in terms of asking for feedback has been really good. They seem like a really helpful organisation, but I do think there's work to be done on the application stuff.
Unsuccessful Tribunal applicant

I think that they have an awkward job to do and they try very hard to do it as transparently and fairly as they are able to do.
Successful Sheriff applicant

I think they need to... address some of the public criticism... because there's been quite a lot of idle speculation... that the Board are making inappropriate appointments, without ever specifying which of the individuals the Board have recommended they think are so incredibly useless.
Successful Sheriff applicant

I think the general direction of travel just now is good. I do think they're suitably open; they have a lot on their plate for a small group of people... [They are] increasingly coming across – fresh and interested. That's all positive.
Stakeholder

Attitudes towards & understanding of JABS

progressive

Confidentiality

It was common for respondents to report that quite often 'word gets out' about who has applied for various posts – although nobody specifically blamed JABS for this or suggested that it is JABS breaking confidentiality.

People commented that JABS staff were discreet, but that the profession is a small world and everyone knows when the interview dates are, so will notice when a colleague books time off on those days etc.

Applicants gave specific examples of being approached in court or at social events by people commenting on the fact their application for judicial appointment had been unsuccessful. They were not sure how the information had become public but found this situation quite difficult.

I had absolutely no issue with that, anecdotally people say everyone knows... I think that's just the consequence of having a small jurisdiction. I didn't feel anything was compromised and I didn't know who the other applicants were, so didn't feel that I had to be wary of what I said to anyone.

Unsuccessful Sheriff Principal applicant

It's not that JABS leaked... it's just that lawyers are dreadful gossips and will cheerily extrapolate from very little evidence what's going on.

Successful Sheriff applicant

You don't apply for these things lightly because... and I don't know whose fault it is, but the fact you've applied seems to be common knowledge throughout the profession and it is really off-putting. I'm not saying that's the Board's fault. It probably isn't. But, a number of people get to know that you've applied once you get to a certain stage... I could live with not being appointed... I don't lose sleep over that. What you don't really want is all the gossip about it, that's not great.

Unsuccessful Sheriff applicant

It's quite difficult to have secrets in Scotland... It's part of the collegiate nature of the Bar and the smallish nature of the jurisdiction and I think to expect too much confidentiality is... I think they do reasonably well.

Unsuccessful Senator applicant

Attitudes towards & understanding of JABS

Confidentiality

progressive

Respondents found it hard to suggest ways around the issue of people knowing who else has applied.

However, it was suggested that, since people did tend to know who else was applying, it would be better to send out correspondence to both successful and unsuccessful candidates on the same day – if you know a colleague has also applied and you hear that they've been notified they have been successful but you still haven't heard two days later, that can add to the anxiety of the whole process.

The whole process is supposed to be confidential, and it is from [JABS's] perspective, but they lack an appreciation that potentially some candidates might come to know who else is a candidate.... For example everyone knows when the interviews are, if they're all 'out of the office' everyone knows each other are applying. If Andrew and Mary get told they're through, and Johnny's heard nothing two days on, he starts to get anxious. [JABS] lack an appreciation that the minute they communicate with one person, word has already got out – they need to do it all at the same time. They must be able to do that with technology. Even if it just says 'dear candidate' and is a blanket email with recipients hidden – if you're waiting to move house, leave your firm... it's a huge pressure.

Unsuccessful Sheriff applicant



Encouraging diversity

Encouraging diversity

Positive feedback

progressive

Several respondents highlighted positive improvements in recent years, and felt that JABS was doing its best in relation to encouraging diversity – particularly in relation to the age and gender profile of those appointed.

Some also noted that the very existence of a more formal application process has played its part in opening up the process and encouraging a wider pool of applicants.

While it was recognised that encouraging diversity is an aim of JABS, most respondents pointed out that this depends on the diversity of the profession as a whole, over which JABS has no control. Some commented that this is changing gradually and will filter through to the judicial appointments process over time.

Most also suggested that work to engage with a wider pool of potential applicants therefore needs to happen earlier in the process, e.g. outreach at universities etc.

[JABS is] a big improvement. I would not have got the tap on the shoulder... The mere fact JABS exists has encouraged diversity – it encouraged me to apply and I found it a very fair process.

Successful Sheriff applicant

They've made strides in recent years to encourage applications from diverse backgrounds – it's clear in their communications, and outreach sessions, the forms are clearly designed to make that clear as well.

Unsuccessful Summary Sheriff applicant

I think they do quite well, but... we don't have a diverse set of lawyers in Scotland yet... in terms of black and ethnic minorities... I'm not sure whether the people who might be appropriately appointed have reached the age and stage yet, just because of the demographics of the profession... the more diverse people are still probably too young in general to be applying for judicial office, but that will happen. I think they do not bad. Certainly more female applicants are being appointed than used to be the case.

Unsuccessful Sheriff Principal applicant

I think they're doing as best they can, I think it's difficult to do more than that in the appointment process... That has to be tackled by getting in... even at university level and saying to people, 'have you considered a judicial position, will you be considering this in later life, if not, why not, can we help you to do that?'... You have to get in at ground level.

Stakeholder

Encouraging diversity

Work still to be done

progressive

Suggestions to help encourage diversity included:

- Offering more flexible roles, e.g. term-time / part time roles:
 - Some respondents commented that the UK judiciary are 'ahead of JABS' in relation to this
 - There was criticism of the loss of Part Time Sheriff appointments (e.g. one respondent mentioned a role where the job spec was changed from part time to full time hours after the person had been offered the role) – this was deemed to 'fly in the face of JABS encouraging diversity' as it makes it harder for women if there are fewer part time/flexible roles.
- Considering flexibility in terms of geography – e.g. allow people to commute during the week, conduct some business via conference / video call etc – rather than expecting people to move their families.
- Thinking about offering mentoring, work-shadowing etc to encourage a wider pool of people to experience the roles and think about if it is suitable for them.
- Taking action to 'practise what they preach' when sifting applications (although people recognised a need to focus on skills and qualifications as well as the profile of applicants).
- One respondent also suggested that the competency based approach could put women at a disadvantage as they are less likely to have good examples of cases they have worked on when there is evidence that women at the Bar are instructed less than men are.

There seems to be a disconnect between what JABS are trying to do in diversifying the judiciary – and they do seem genuinely committed to this – and the reality of the lack of opportunities to work flexibly.... JABS could play a role as leaders in diversifying the judiciary.

Successful Sheriff applicant

[We need] more flexible working for the judiciary because that way they can actually attract a broad spectrum of people. I think it is indirect discrimination when you don't have flexible working arrangements, given that women still have the majority of the caring arrangements.

Unsuccessful Senator applicant

Getting out and talking to a very wide group of people, quite early on in their career; you know, offering that work-shadowing, mentoring with judges, so that people that really understand what these roles are.

Stakeholder

I suppose just kind of practise what they preach. I went to a JABS event [and] they were really positive about younger people, women, ethnic minorities and it was all really really positive. Then when you looked at who was appointed that year, I don't think any women were appointed... But then, it could have been that any applications they had just weren't good enough...

Potential Tribunal applicant

Encouraging diversity

Work still to be done

For some, 'diversity' should be interpreted in a wider sense, e.g. considering background and experience as well as demographic profile. For example, this included:

- **Social background** – respondents suggested a need to recruit people from working class backgrounds, so they have empathy
- **Career background/experience** – some felt that people from a wider range of backgrounds should be appointed:
 - E.g. academic, Government and local authority lawyers – not necessarily court practitioners
 - This included a perception that only those with civil experience would be appointed as Senators and a suggested need to revisit the specification / requirements for the next Senator recruitment round
 - This is also related to gender balance, e.g. one respondent noted that a perceived focus on those who had been Advocate Deputes for Senator roles could also disadvantage women, as the Advocate Depute role does not lend itself to flexible working.

Finally, some respondents suggested a need to broaden diversity on the Board itself, e.g. in terms of disability, ethnicity or social background.

Diversity covers a lot of different aspects: social, economic, sexual, backgrounds... I don't know what the balance is of private to public practice, there's an awful lot of Procurator Fiscals getting appointed [and] people who have worked in government departments.

Unsuccessful Sheriff applicant

If someone comes from a working class background, they've got life experience as a single parent or they've been on benefits... to me it makes them a better Sheriff. They have a better understanding and empathy with the accused... a better understanding of people and the decisions that they make.

Unsuccessful Summary Sheriff applicant

I don't think you need to be a court practitioner to be a good judge... What if they've gone into... more of a strategic legal role, and less of a coalface day to day law role. Does that necessarily mean that they're not ready or that they don't have the right skills to be a judge? I don't personally think so.

Successful Sheriff applicant

I asked was there any point in me applying again... as long as I had no civil experience the answer would be no... It was never intended to be so narrowly focused on giving judge's positions to civil QCs, which is what it had become... [JABS said they would] recognise the increased specialisation within the profession, as long as people were able to demonstrate they could adapt to new things, it didn't matter... [The specification] should be changed next time around.

Unsuccessful Senator applicant

There's a sense in the solicitors' profession that advocates are the only people who will make senior judicial office... I think it should be especially possible for solicitors who have done things like work as employment tribunal judges or tribunal judges of some kind.

Stakeholder



Areas of good practice and potential improvements

Areas of good practice

Summary

progressive

When asked what JABS does well, respondents tended to focus on process-related aspects, for example:

- Most felt that they are efficient and keep to the stated timescales – you know what is happening and when you will hear from them
- The information and guidance provided is useful
- They are consistent – it is very clear everyone is asked the same thing, so people feel it is a fair process
- Cutting down the length of the application form was a positive step
- Asking for legal written work where relevant was unanimously supported
- They are obviously focused on increasing the diversity of applicants, which is generally viewed positively
- The interview stage of the process was viewed more positively than the earlier stages – interview panels are thought to be well selected and run professionally etc
- A small minority mentioned liking the application form and word counts as it focused their responses
- Finally, several respondents (both applicants and stakeholders) commented that they were pleased to have been invited to take part in the research and were very positive about JABS taking a proactive approach to improving the application process.

Overall it's a fair process, it's well managed, with good information provided by JABS.

Unsuccessful Summary Sheriff applicant

They do their best to try to guide you through the process... there's copious notes about how you complete the application form.

Unsuccessful Tribunal applicant

The interview stood out for me. Very fair and well measured.

Successful Summary Sheriff applicant

At the interview, they treat you with courtesy and very pleasantly.

Unsuccessful Summary Sheriff applicant

The competency questions force to you decide whether you are fit for the role, [and] limiting the number of words was good.

Successful Tribunal applicant

It's really nice that you guys are doing this, and the research has obviously been commissioned by JABS itself, so they're obviously interested in the way that people perceive the process and are looking to improve things, so that's absolutely brilliant.

Potential Tribunal applicant

[JABS] have to be given a huge thumbs up for this process at all: the fact that you're out taking structured feedback and trying to build in recommendations for improvement. I think that's terrific, and that in itself will build confidence in JABS from the Scottish solicitors' profession.

Stakeholder

Potential improvements

Summary



Suggested improvements tended to focus on a need to:

- Address the perceived focus on process over substance; too much emphasis on the application form rather than skills/experience
- Greater focus on scenarios rather than competency based questions
- Greater engagement with candidates at interview – more discussion, not relying on people coming up with the best example and describing it in a way that ‘ticks the right boxes’
- Provide feedback after the sift: people recognise that this may be difficult due to the volumes involved, but it is hard to know how to do better at competency based questions if you are not used to these and feel you have followed the guidance provided – this can put people off applying again
- Invite a greater proportion to interview from the sift, and/or introduce more stages to the process:
 - There is some concern about candidates who look great on paper or are good at filling in an application, but are not great at the job
 - Legal knowledge needs to be assessed at an earlier stage
- Provide greater transparency about what profile/experience they are looking for (e.g. civil/criminal), and/or use more specific requirements to reduce the number of applicants
- Include an element of external input, e.g. references – particularly for those currently working under a Sheriff Principal who can provide feedback on their suitability, and/or expand the consultation process to obtain a fuller picture of candidates
- Streamline the process where possible to avoid long periods of uncertainty
- Think about confidentiality – e.g. timing of communications to unsuccessful and successful candidates; conducting more events via webinar
- Offer more flexible / part time roles
- Think about offering structured progression / clearer career paths.

Potential improvements

I think there is a problem with process over substance, which I accept is easier to identify than to remedy, but I certainly think that there are good candidates not getting through.

Unsuccessful Senator applicant

It's difficult for me to re-design the JABS process. All I can say is that slimming it down would make it far, far more accessible for people. It's disproportionate to spend three weeks on an application process... Of course, when you introduce new systems, and this is fairly new, there's going to be a little bit of time before you get it right. I'm really encouraged that JABS is having a good look at it. The things from my experience that I want to see change is a more proportionate system in all the right ways we discussed, and flexible as well.

Unsuccessful Senator applicant

When looking at an application form, they need to look at their experience, look at the application as a whole, as a bigger picture, before breaking it up and marking each part separately. They need an overview of this candidate, if we decide they don't meet all the requirements... and we don't interview that candidate, are we throwing the baby out with the bathwater here?... A lot of really potentially good people don't get a chance just because of the artificial and unusual nature of the application process. And then if you have someone who comes to interview stage, and something's not quite right, what is wrong with letting them know where they went wrong. Because that person could be put off applying again and you could be losing someone good.

Unsuccessful Tribunal applicant

Areas for improvement

- When asked if they had any other comments about how the judicial appointments process could be improved, 54 survey respondents provided a comment.
- By far the most common responses related to:
 - Providing feedback in relation to unsuccessful applications (mentioned by 23 respondents)
 - Criticisms of the competency based approach rather than a focus on skills, experience and temperament of applicants (20 respondents).
- Full verbatim responses will be provided separately.

Any other comments about improvements to the appointments process



Any other comments*	No.
Provide (meaningful) feedback	23
Criticism of focus on competency based application form, rather than skills / experience / personality	20
Focus on practical exercises (e.g. role play / situational exam) earlier in the process	6
Encourage greater diversity of careers backgrounds / perceived bias in who is appointed	6
More transparency about the sift / how applications are assessed	4
Should take soundings / get references	4
Comments on specific personal experience / circumstances	2
Interview more applicants	2
Positive feedback on JABS staff / process	2
Base (all who commented)	54

* Mentioned by more than 1 person

Q21: Do you have any other comments about how the process for judicial appointments could be improved?

Outcomes of the JABS process

Comparisons to the old system

Applicants were almost unanimous in their view that the current system is better than the old 'tap on the shoulder' approach. This was judged to lack transparency, and inappropriate in a modern democracy.

However, some felt the balance had swung too far in the opposite direction, with too much emphasis now placed on the application form rather than knowledge of the individual and their skills/experience.

Respondents quite frequently noted that while it is better to have an application process in place than not, this does not mean that the **outcomes** of the process are necessarily any better than under the old system of appointment.

As noted earlier, some gave specific examples of unexpected or less appropriate appointments being made (e.g. someone with no court experience at all being appointed as a sheriff; examples of very good Part Time Sheriffs who have proved they can do the job not being successful when applying for a full time post).

Others raised doubts about whether the competency based approach does actually result in the most appropriate / qualified people being appointed, despite acknowledging that a process is necessary.

However, nobody expressed any doubts about JABS appointing people of good character.

Some people criticise the process as being about who is best at filling in forms. I think that's unfair, it's as good a system as you're going to get, and beats the old 'tap on the shoulder' approach.

Successful Sheriff applicant

I just feel, it's a process that's just too slavish to the application form... we've gone from one system that was too far over, 'it's not what you know but who you know', to now, we've got this wonderful application process, but I think the success lies somewhere in the middle.

Unsuccessful Tribunal applicant

[Are higher quality candidates being appointed?] Not necessarily, no... The tap on the shoulder system can't survive... but that's not to say that the best people weren't appointed because... overall the judges and Sheriffs in post when I first started off as a lawyer were all pretty well regarded all round.

Unsuccessful Sheriff applicant

People appointed are learning on the job, and I don't think that's right. It was apparent [a newly appointed Sheriff] did not know one end of a criminal trial from the other... She appeared at a criminal trial court... she said that she was there so as to see what happened in a trial before taking on her role. To me that's the wrong way of doing it. Her first trial as a job will be her first trial in a court ever.

Unsuccessful Summary Sheriff applicant

Outcomes of the JABS process

Comparisons to the old system – Stakeholder views

Stakeholders' views again mirrored those of applicants:

- There was a feeling that, while it is fair and appropriate to have an application process rather than a 'tap on the shoulder' system, this has not necessarily resulted in the highest quality candidates being appointed.
- Again, the current balance was not felt to be right between a focus on the application and an individual's skills and experience.
- There is therefore a perception that there is 'something missing' from the process to assess temperament and suitability for appointment which is not teased out in the application form or interview.

On no view could you justify in the modern world a tap on the shoulder but ironically, has it improved the quality? I don't know if it has... In the old days, useless people were appointed, and I tell you this literally, because their wives were bridge partners... So that's gone, no-one feels there's a prejudice and a bias anymore. It's just how good the system is at identifying the best people.

Stakeholder

You get people that have been working in this business for 30 years at the highest level... and it comes down to how well they can fill in a form and do an interview. So there seems to be something not quite right about that, the balance isn't quite right.

Stakeholder

It's understandable the public wish greater transparency in the appointment of their judges and that's very important... but it is also very important that the legal profession have confidence in their judges... The only way to ensure that the legal profession have confidence in the appointments is to make sure that the people that are being appointed are those who the legal profession respect.

Stakeholder

I think they're losing people through this competency based process... I know from the last recruitment round, speaking to [Sheriffs Principal] each one of them has had someone appointed to their Sherifdom who is completely unsuited to the job.

Stakeholder



Research conclusions and potential improvements suggested by respondents

Research conclusions (1)

This research project has engaged with a wide variety of applicants and stakeholders, through both qualitative and quantitative methods. Key feedback provided on the judicial appointments process as a whole was as follows:

- It is important to have a fair and transparent system, and the formalised approach is better in principle than the old ‘tap on the shoulder’ method of judicial appointment.
- JABS as an organisation was described as being professional and efficient. Those who had been interviewed were generally positive about their experience of the panel – they were also reported to be professional, friendly, fair, made people feel comfortable, and the interview process was well managed.
- However, there are some perceived problems with the current process and the outcomes are not always understood. The process was described as ‘a lottery’ by several respondents, both applicants and stakeholders.
- The application form is ‘very daunting’ and time consuming to complete. While some suggested that it **should** be a challenging process, the balance of opinion was that the current system is too onerous, is artificial and relies too much on the application form – the danger is that people can come across well on paper but this does not mean they will be good in the job.
- The high proportion of applicants rejected at the sift stage is therefore problematic for many respondents – the process does not allow JABS to see the person as a whole and the perception is that high quality applicants are not getting through the sift. Good Part Time Sheriffs not being offered an interview for Full Time Sheriff posts was frequently mentioned in this context.

Research conclusions (2)

- Some respondents were positive about the competency based approach, saying it is clear what is expected, it is fair and as good a way of assessing applicants as any. However, use of the competency based approach was the most frequently criticised element of the process, and was raised as an issue spontaneously by all respondent types (successful and unsuccessful; applicants and stakeholders). Key criticisms include:
 - It only measures skills in answering competency based questions which may not necessarily reflect suitability for appointment
 - The existence of training/consultancy in this area undermines the idea that the process is meritocratic or effective
 - It relies on self-assessment
 - It doesn't take into account the level of experience or legal knowledge of applicants.
- The lack of feedback available after the sift was also a source of frustration for those who were rejected, as they do not know if/how they could improve their applications and whether it is worth applying again.
- The time period between initial application and final outcome was also mentioned as being an issue, particularly for those who were applying for jobs in other locations, thinking about relocating their families etc.
- This research was welcomed by respondents, who were very positive about the fact that JABS is undertaking this work to help improve the application process.

Potential improvements suggested by respondents (1)



The research findings suggest that improvements could be made in the following areas:

- Ensure the application process is **proportionate**, e.g. review the forms and how long they are likely to take to complete
- Reduce the focus on **competency based application**:
 - Balance towards content not process – e.g. include consideration of professional record and experience
 - Assess legal knowledge and/or scenarios earlier in the process
 - Include an element of objective testing/examining experience as part of the process, to counter any bias gained by getting training or paying to have applications completed
- Include **additional stages** in the process (e.g. qualifying assessments to test legal knowledge, which is thought to be lacking from the current process) and/or invite a greater number of applicants to the interview stage
- Include an element of **external feedback**, not just self-assessment
 - This includes a review of the consultation process, which stakeholders feel is too limited

Potential improvements suggested by respondents (2)

- Focus on **transparency and communication** about the profile/experience required for each role, and how the sift is conducted/scored
- Allow a more **flexible approach to interview**, to allow exploration of responses, less rigid focus on 'tick box' answers, assess temperament as well as competencies
- **Provide feedback** to encourage people to apply again / improve their chances of success
- Timings: **streamline** the process where possible
- Think about **practical aspects of the roles** in future (though this may be outwith the remit of JABS)
 - E.g. geographical requirements, flexible hours, clearer career paths, salaries
 - Fast tracking applications from people moving up the roles or guaranteeing interviews – to avoid demoralising people

Such improvements should build trust in the process, help address barriers to application and hopefully encourage more potential candidates to apply for judicial appointment.

Thank you



Contacts



Ruth Bryan
ruth.bryan@progressivepartnership.co.uk



Sarah Ainsworth
sarah.ainsworth@progressivepartnership.co.uk



Stefan Durkacz
stefan.durkacz@progressivepartnership.co.uk

Progressive Partnership
Q Court, 3 Quality Street
Edinburgh EH4 5BP

0131 316 1900

info@progressivepartnership.co.uk

Progressive's Services



Core qualitative techniques
A full range of qualitative research methods



Language and behaviour
Gets communications right in tone and content



Mobile ethnography
Captures real consumer behaviour in real time



The View on Scotland
Glasgow city centre viewing facility provides comfort convenience and first class facilities



Brand mapping
Discovers core brand values, benchmarks and maps progress



Core quantitative techniques
A full range of quantitative research methods



Progressive Scottish Opinion
Offers fast and inexpensive access to over 1,000 Scottish consumers



Progressive Business Panel
Takes soundings from companies across Scotland quickly and efficiently



Field and tab
Bespoke stand alone Field and Tab services for qualitative and quantitative methods



Data services
We have a wide range of analytical services

Technical appendix

Qualitative



- The data was collected by in-depth interview.
- The target groups for this research study were applicants and stakeholders of JABS.
- The sampling frame used for this study was provided by JABS.
- In total, 45 depth interviews were undertaken.
- Fieldwork was undertaken between 15th May and 2nd July 2018.
- Respondents were recruited by telephone by a skilled in-house recruiter, who worked to predetermined quota controls to ensure that the final sample reflected the requirements of the project.
- In total, 3 moderators were involved in the fieldwork for this project.
- It should be noted that, due to the small sample sizes involved and the methods of respondent selection, qualitative research findings do not provide statistically robust data. This type of research does however, facilitate valid and extremely valuable consumer insight and understanding.
- All research projects undertaken by Progressive comply fully with the requirements of ISO 20252.

Technical appendix

Quantitative



- The data was collected by online survey.
- The target group for this research study was JABS applicants.
- Two sampling frames were used for this study: 1) Respondents who had volunteered to take part in the qualitative stage but who had not been selected for interview were sent the online survey invitation; 2) JABS also sent the invitation to all applicants to the most recent recruitment round.
- Fieldwork was undertaken between 2nd and 25th July 2018.
- No sampling approach was applied as all respondents on the sample lists were invited to take part. Respondents to self-completion studies are self-selecting and complete the survey without the assistance of a trained interviewer. This means that Progressive cannot strictly control sampling and in some cases, this can lead to findings skewed towards the views of those motivated to respond to the survey.
- There was no target sample size set. The final achieved sample size was 70. The overall response rate to the survey was 26%. This response rate is good for a survey of this kind. The overall sample size of 70 provides a dataset with a margin of error of between $\pm 2.01\%$ and $\pm 10.11\%$, calculated at the 95% confidence level (market research industry standard).
- Where a self-completion survey is returned anonymously there is not any opportunity for validation. However all questionnaires returned undergo rigorous editing and quality checks and any thought to be invalid are removed from further processing. Our data processing department undertakes a number of quality checks on the data to ensure its validity and integrity:
 - Responses are checked for duplicates where unidentified responses have been permitted.
 - All responses are checked for completeness and sense.
 - Depending on the requirements of the survey, and using our analysis package SNAP, data is either imported from email responses received in a dedicated email inbox or stored directly on our dedicated server
- A computer edit of the data carried out prior to analysis involves both range and inter-field checks. Any further inconsistencies identified at this stage are investigated by reference back to the raw data on the questionnaire.
- Where 'other' type questions are used, the responses to these are checked against the parent question for possible up-coding. Responses to open-ended questions will normally be spell and sense checked. Where required these responses may be grouped using a code-frame which can be used in analysis.
- A SNAP programme set up with the aim of providing the client with useable and comprehensive data. Crossbreaks are discussed with the client in order to ensure that all information needs are met
- All research projects undertaken by Progressive comply fully with the requirements of ISO 20252.