



SENIOR PRESIDING JUDGE
FOR ENGLAND AND WALES

THE RIGHT HON. LORD JUSTICE GOLDRING

SENIOR PRESIDING JUDGE

IMPROVING JUDICIAL DIVERSITY

WESTMINSTER LEGAL POLICY FORUM KEYNOTE SEMINAR

23 MAY 2012

CHECK AGAINST DELIVERY

Why a diverse judiciary is important

The House of Lords Constitution Committee recently said that justice, fairness and equality are central values in the law which should be reflected in the composition of the judiciary itself. The report said that judges are independent of Parliament and the executive but they should not stand apart from the society in which they adjudicate. A judiciary which is visibly more reflective of society, it said, will enhance public confidence.

Why diversity and appointment solely on merit are complementary

Our firm view is that appointment must be solely on merit. The Constitution Committee agreed. The Crime and Courts Bill makes that plain. Appointment solely on merit is not at odds with the concept of promoting diversity.

The mistake of concentrating solely on appointments to the High Court and above

There is a danger when considering diversity of over concentrating on the (160) judges who make up the High Court, the Court of Appeal and the Supreme Court. Twenty-two are

women. Two are from a black and minority ethnic background. There is no doubt we need to do all we can to increase diversity within that group.

There are well over three and a half thousand judges, including fee-paid (but excluding magistrates) who sit in courts. The mostly recently available statistics show that in April last year over 22% of these judges were women. 5% had identified themselves as from a black and minority ethnic background.

Women make up around 42% of tribunal office holders. Over 10% identify themselves as from a black and minority ethnic background.

Diversity in the professions

Judges have to be lawyers. Those appointed to the High Court Bench will normally be lawyers of high distinction at the top of their profession. If that group of lawyers is not diverse, that obviously has implications for the diversity of the judiciary. The statistical data presented in the Equality Impact Assessment that MoJ published alongside its recent consultation on judicial appointments demonstrates the complexity of the issues. It illustrates why, as the Diversity Panel concluded there is no 'quick fix.

Women make up only 11% of Queen's Counsel. Among solicitors in private practice, only 25% of partners are women. For the City firms, the figures are I believe worse than that.

Barristers defining themselves as being from an ethnic minority background make up only 5% of Queen's Counsel (a figure that has risen by only 1% in the past four years); and, amongst solicitors, only 7% of partners have defined themselves as being from an ethnic minority (a figure which, again, has risen by only 1% in the past four years).

In short, a key part of the responsibility for widening the pool of applicants from which a diverse judiciary can be appointed inevitably rests with the professions. Women and those from a minority ethnic background disproportionately practise in those areas of law which are publicly funded. If so, they will disproportionately be affected by the reduction in public funding which is taking place.

Some anticipated changes

These are of substance.

A judicial career

The Diversity Panel found that “sustained progress on judicial diversity requires a fundamental shift in approach from a focus on selection processes towards a judicial career that addresses diversity at every stage”. The Constitutional Committee agreed, saying that “there should be a greater emphasis within the judiciary on judicial careers, making it easier to move between different courts and tribunals and to seek promotions”.

Flexible deployment between courts and tribunals is key to promoting that concept of a judicial career. The Crime and Courts Bill currently before Parliament provides for the flexible deployment of tribunal judges into the Courts.

Flexible working

Flexible working is already available in many areas of the judiciary. The Bill paves the way for extending the principle of salaried part-time working to the High Court and above. It changes the manner in which the ceiling on High Court Judges is expressed. This will put High Court Judges on a par with other salaried officeholders. It is hoped this will make appointment to the High Court more attractive to people who might not otherwise have applied. The judicial response to the MoJ consultation on appointments advocated this.

The tipping point provision

Further proposals in the Crime and Courts Bill will enable the Judicial Appointments Commission to apply the 'tipping point' provision, available in Section 159 of the Equality Act 2010, where two applicants to judicial office are of equal merit. In other words, the Commission will be able to take protected characteristics (such as race or gender) into account where two or more candidates are considered to be as qualified as each other for a post. This was the topic of some discussion before the Constitutional Committee and the judiciary's support for the proposal were widely reported in the media as was our concern that any diminution of the merit principle would be entirely unacceptable.

What we are doing

The commitment of the Lord Chief Justice

The Lord Chief Justice is convinced of the benefits of a more diverse judiciary, and committed to supporting the development of the judiciary in a way that supports greater diversity.

The appointment of the two new High Court Diversity Judges

In his commitment to ensuring that diversity is understood and accepted at all level of the judiciary, the Lord Chief has appointed two Senior Liaison Judges for Diversity, Nicola Davies and Gary Hickinbottom, to continue the important role of their predecessor, Mrs Justice Dobbs. Linda Dobbs retired after many years in the role. During that time she worked tirelessly to promote judicial diversity and to open up the prospect of a judicial career to countless numbers of lawyers and students who would otherwise never have considered this a possibility.

The Diversity and Community Relations judges

There are more than 60 Diversity and Community Relations judges. They are Circuit Judges and District Judges. They do a huge amount of work. They encourage students and lawyers

from under represented groups to see that a judicial career is open to them. Their work is voluntary. Much of it is undertaken out of court time. What they do is quite astonishing – Question and Answer sessions, mock-trials, fortnightly visits to schools, marshalling, work-shadowing and so on. The number and range of people reached is vast – schools, colleges and universities; youth and community associations; faith and inter-cultural groups etc. Details of their work will be published on the judicial intranet shortly.

Judicial Diversity Event in November

We are planning a major event in November. The Bar Council, the Law Society and CILEx are involved. We shall bring together members of the legal professions who might have felt themselves excluded from judicial office – say because of their gender, their ethnicity or their sexuality – and putting them in touch with judges who can offer advice and act as role models.

I hope that gives you a flavour of what the judiciary is doing, in partnership with others.

Please note that speeches published on this website reflect the individual judicial office-holder's personal views, unless otherwise stated. If you have any queries please contact the Judicial Office Communications Team.
