



Prison Reform Trust response to Appointments and Diversity

“A Judiciary for the 21st Century”

Prison Reform Trust

The Prison Reform Trust, established in 1981, is a registered charity that works to create a just, humane and effective penal system. The Prison Reform Trust aims to improve prison regimes and conditions, defend and promote prisoners’ human rights, address the needs of prisoners’ families, and promote alternatives to custody. Its activities include applied research, advice and information, education, parliamentary lobbying and the provision of the secretariat to the All Party Parliamentary Penal Affairs Group.

The Prison Reform Trust has responded to some of the questions in this consultation, rather than all.

Question 13: Do you believe that the principle of salaried part-time working should be extended to the High Court and above? If so, do you agree that the statutory limits on numbers of judges should be removed in order to facilitate this? (Sections 2 and 4 of the Senior Courts Act 1981)

The Prison Reform Trust believes that salaried part time working should be extended to the High Court and above, and that the statutory limits on the numbers of judges should be removed in order to facilitate this. We believe that diversity in the Senior Judiciary would be improved if part time working were available.

Question 14: Should the appointments process operated by the JAC be amended to enable the JAC to apply the positive action provisions when two candidates are essentially indistinguishable? (S63 of the CRA)

The appointments process operated by the JAC should be amended to enable the positive action provisions when two candidates are essentially indistinguishable. The progress towards diversity in the judiciary has been too slow and this change in process may help accelerate progress. We do not believe appointment by merit will be jeopardised by this.

Question 15: Do you agree that all fee-paid appointments should ordinarily be limited to three renewable 5 year terms, with options to extend tenure in exceptional cases where there is a clear business need?

We agree that all fee-paid appointments should be limited to three renewable 5 year terms, with options to extend tenure in exceptional cases. Indeed, in the interests of increasing diversity and flow into the judicial profession, we would advocate a reduction to two renewable 5 year terms, rather than three. There is now fierce competition for fee-paid appointments, and they should be seen, and used, as a stepping stone to a full time judicial career. The full time

judiciary at certain levels already has an “old” profile. The longer fee-paid appointments are prolonged, the older the profile of the judiciary will be and the fewer opportunities available for new candidates.

Question 20: Are there any other issues/proposals relating to the process for appointing the judiciary or for improving the diversity of the judiciary that you believe the MoJ should pursue?

The Prison Reform Trust would like the JAC to look at diversity also from the point of view of age, class and sexuality. We are concerned that even were disabled people, women and BAME communities fully represented in the judiciary, it could not be called truly diverse without addressing the issues of age, class and sexuality. On these three latter dimensions the judiciary does not appear to be representative of the wider population. We accept that it is difficult for a profession like the judiciary to be truly representative of the class make-up of England and Wales, but we feel that the judiciary would inspire more public confidence were the class background of its members at least more diverse than now.

There are no easy answers to making the judiciary more diverse without compromising quality. However we wonder whether the outreach campaign might be more assertive and creative, using social media, developing e-mentoring and further professional support of interested candidates and using the legal trade press more frequently.

The Prison Reform Trust's work on children in trouble, and people with mental health needs or a learning disability caught up in the justice system, is a testimony to the need to improve not only diversity but a breadth of understanding in the judiciary which will lead to a clear, fair and just response to vulnerable groups and individuals.