



Justice Committee

Oral evidence: [The work of the Judicial Appointments Commission](#) HC 1132

Wednesday 5 March 2014

Ordered by the House of Commons to be published on 5 March 2014

Written evidence from witnesses:

Christopher Stephens, Chairman;

Mr Justice Bean, Commissioner; and

Dame Valerie Strachan, Commissioner, [Judicial Appointments Commission](#)

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Members present: Sir Alan Beith (Chair), Mr Christopher Chope, Jeremy Corbyn, Nick de Bois, Mr Elfyn Llwyd, Andy McDonald, John McDonnell, and Yasmin Qureshi

Questions 1–59

Witness[es]: **Christopher Stephens**, Chairman, Judicial Appointments Commission, **Mr Justice Bean**, Commissioner, Judicial Appointments Commission, and **Dame Valerie Strachan**, Commissioner, Judicial Appointments Commission, gave evidence.

Q1 Sir Alan Beith (Chair): Mr Stephens, congratulations on your reappointment to chair the Judicial Appointments Commission, and welcome. Mr Justice Bean, welcome to the Committee; and Dame Valerie Strachan, welcome. We are glad to have your help in assessing how you are getting on with the many demands that are placed upon you, both in terms of the number of appointments that you have to make and the criteria that have been set and emphasised for you.

Let us start with time. In your memorandum to us, you say that the average end-to-end time for the recruitment of a new member of the judiciary has come down to 24 weeks, compared with an anecdotal 72 weeks in 2009. How has the time been reduced? Why does it take so long?

Christopher Stephens: Thank you for your question. When I was in front of you before, the evidence was anecdotal and it was uncertain how long the total process took. Actually, it was uncertain what the precise definition of the length of the process was. Mostly, we were quoting from the gleam of a possibility of a vacancy to an appointee turning up ready to do the job. The JAC's part is, of course, a subset of that and a much shorter process. We have now defined it exactly; I think this is the first time that it has happened,

astonishingly. We have put a group together from the Courts Service, the Judicial Office, the MOJ and the judiciary themselves to look in detail at what were the delays and difficulties, and a clear definition of the end-to-end process. We are now much clearer about who does what, and at what stage of the process. It probably is the case that, at an early stage, that 18 or 19-month period was the sort of period that people were quoting. I do not think that is the case any more.

We are now very clear that our piece is from the launch of the selection exercise, when the Lord Chancellor has determined that there is a vacancy and asks us to fill it, to the moment when the successful candidate has been accepted by the appropriate authority and we have passed on their details to the Judicial Office who issue the formal offer letter. That is the key piece that we are responsible for; we are notified of a vacancy, and an offer letter goes to a candidate. When I started three years ago, that was roughly between 18 and 30 weeks. Currently, it is about 20 weeks, and our target is that it should be about 18 weeks. That is quite a reasonable period. It is a competitive period for what happens externally. There are a number of statutory processes that we have to go through, and they take some time. Candidates must be given an opportunity to apply, referees must be given an opportunity to write a decent reference, we must be given the opportunity to consider things, then there has to be an interview process and so on, and then there is the approval process. That is not a bad target. If we achieved 18 weeks, we would feel that we were discharging our duty in a respectable way. That is the story. It was all rather blurry: it is now crystal clear, and it is a shorter period than it was.

Q2 Sir Alan Beith (Chair): Are you confident that the period before you become involved is not the subject of unnecessary delay?

Christopher Stephens: It is very hard for me to comment on that. There are multiple issues about how those vacancies get approved, before the Lord Chancellor is comfortable with saying, “Yes, go. There is a vacancy, the funds are available for it, and there is a business need.” There are multiple issues, and I am not really a party to all of them, so I am not sure that I can comment in an informed way on that earlier piece.

Q3 Sir Alan Beith (Chair): If not, you may get the blame for delays that arise while consideration is given to whether it is necessary to fill the post.

Christopher Stephens: The blame is absolutely straightforward. We are blamed for the whole process—from the gleam to the person who arrives—and we are developing a certain robustness to that, because we have to.

Q4 Sir Alan Beith (Chair): You have made considerable efficiency savings in the last three years, involving significant staff reductions, and your workload has increased. How do you manage that?

Christopher Stephens: We have done a number of things. If you are happy with this, I would like to ask Dame Valerie to comment. There are a number of headings under which we have made those savings, and I know that Dame Valerie will be happy to speak about them.

Dame Valerie Strachan: As you indicated, a large part of the savings has been made through a head-count reduction, from over 100 staff in 2009 to about 65 currently. That

has been achieved partly through economies in corporate service staff. A larger proportion of our staff are now on what I would describe as the actual real work, and a much smaller proportion are engaged in the back-room activities of finance, HR and so forth. It is partly through rationalisation of the selection teams.

Importantly, the number of members of the senior civil service has been reduced from six to two. Procurement of better value contracts has been a large part of it—for example, for the online qualifying tests. Our advertising, which used to be through the paper media and was pretty expensive, is now almost entirely done online and much more cheaply. We host selection days much closer to where the candidates and panel members live, thereby saving on travel and subsistence costs. We have cut out all discretionary spend. Certainly from my perspective, I see a pretty lean organisation, which is extremely parsimonious with taxpayers' money.

Sir Alan Beith (Chair): By the way, do you have a problem with sun beaming in your eyes? We looked to see if we could improve the blinds. If you want, you can move down the table, or is it all right?

Dame Valerie Strachan: I am okay for the moment.

Christopher Stephens: Thank you very much.

Q5 Sir Alan Beith (Chair): I didn't want you to think that you were getting the third degree treatment.

In a moment, we will look in more detail at diversity issues, but there are a number of other things that are covered in the Crime and Courts Act. In your memorandum, you give us some information about the other changes that the Act brought, and also the regulations in 2013. Have you made any assessment of the impact of those changes?

Christopher Stephens: Yes. They are a very important set of changes for us, and some of them impact on diversity, which no doubt we will talk about in a moment. Others are a sort of endorsement, we feel, of the constitutional position of the JAC. When I was last here, there was some doubt about the future of the JAC, but our sense is that the Crime and Courts Act has swept that doubt aside.

Several points were changed. The first is in the arrangements of panels for senior appointments. There is greater lay representation on panels for senior appointments, and the chairman of the JAC is the chairman of the panel to select both the Lord Chief Justice and the President of the Supreme Court, the latter in rotation with Scotland and Northern Ireland. If constitutional is the right word, those are constitutional enhancements of the role of the JAC.

A number of measures relate to our role. We are now responsible for a wider selection of appointments. Section 9(1) judges—you may want to talk about that in greater detail—are deputy High Court judges. We consider that our involvement in that is important, because it is a sort of training and development position for people heading towards the High Court. A diversity responsibility that we have had from the beginning is to attract a range of candidates. A diversity responsibility has been laid upon both the Lord Chancellor and

the Lord Chief Justice. We think that that is important, and we are beginning to see some evidence of its being taken very seriously.

There is provision for flexible part-time working among senior judges. These may sound like quite small things, but the diversity agenda is only pushed forward with multiple tiny strokes, tiny things that change it. The availability of part-time working may be another aspect of that, which will ultimately affect the diversity numbers. Then we have the equal merit provision, which again you may want to talk about at greater length. It gives us the freedom to choose a candidate from a protected category—from a disadvantaged grouping, a less represented grouping—without being in breach of the law. That is another important thing. All of these changes in the Crime and Courts Act have either enhanced our position or given us opportunities for pushing the diversity agenda forward, and we are very pleased with them.

Sir Alan Beith (Chair): We shall come back to some of the diversity aspects later.

Q6 Mr Chope: Your memorandum sets out the five major projects that you have under way or are planning. Would you explain what is entailed in your project to review and improve the reliability of your selection process?

Christopher Stephens: Yes, certainly. The selection process is the very core of our activity. It is what we do. We attract a diverse field of candidates and then sort them into a merit order and make recommendations either to the Lord Chancellor, the Lord Chief or the President of the Tribunals Service.

I felt that the selection process, which was devised seven or eight years ago and some of which was carried over from the previous regime, needed to be looked at again. We interview about three candidates for every position. That is a very expensive thing to do, and quite a significant number of the people we interview turn out to be not appointable. If we could improve our selection process at the sift level we would interview fewer people, saving money thereby, and give ourselves the resource to take greater care in the selection process. We are looking at it from the sifting, through the interview process itself, to the use of competency-based interviewing and the use of role play. The various things we do include the way in which we use references and the way in which we use statutory consultation. We are looking at the totality of the selection process in order to ensure that it is as safe as possible. When we make a recommendation to someone for a judicial post—from which they cannot be dislodged and for which there is certainly no probation period and mostly no appraisal process—we need to be as sure as we can be that our selection process is the very best available to us. That is what we are looking at.

Q7 Mr Chope: It concerns me to hear you say that a lot of your applicants are not appointable. Do you think that there is an issue about the modest—relatively speaking—remuneration for quite a lot of senior judicial appointments, bearing in mind that most of the people who apply for those appointments would be volunteering to take a significant cut in remuneration?

Christopher Stephens: It is a fascinating area. I was for a couple of years a member of the Senior Salaries Review Body that looked at judicial pay. That was a previous role; it is no longer really my role now to be an expert on pay.

Our experience is that through our selection processes we have been able to recommend candidates who we believe are either strong, or in our terms what we call outstanding—A grade candidates, top-grade candidates; and we do not believe that remuneration, either in pension or in the absolute cash figure, has affected the quality of the candidates that we have been able to recommend. I am not sure that it has much of an impact on the number of people who apply. Judicial appointments are still very attractive. The real question is whether the pay is affecting the quality of recommendations. We believe that so far, although it can change, it has not.

Q8 Mr Chope: How can you reduce the number of people who come forward who are not appointable?

Christopher Stephens: In a sense, we are victims of our own success. Our statutory duty is to select on merit, on the basis of the widest and most diverse population, so we have gone out to attract as many people as we can. If you look at our numbers, in the life of the JAC we have attracted between 20,000 and 30,000 candidates for judicial appointments.

We have fulfilled our statutory obligation, but we think that a fair number of the people who apply are either not appropriate or are appropriate but applying too early in their careers. We need to be more careful, in one sense, in discouraging applications, and one of the ways we are going to do that is by a test called the “Am I ready?” test, so that we give people better information about the role and about the kind of qualities and abilities that are to be found in candidates who are recommended. People can self-select more intelligently and say, “I am on the route,” or, “I would like to be on the route to become a judge, but I am not ready yet. I need to collect some more experience. I need to collect some more technical knowledge. I need to grow in confidence in this, this and this way.” The “Am I ready?” test will help them to do that. We still want a diverse range of candidates, but we would like fewer, appointable candidates that we can sort into a merit order.

Q9 Mr Chope: When applicants are unsuccessful, do you give them feedback to enable them to know whether they might apply again?

Christopher Stephens: We do as best we can, but feedback is always a problem when you have a vast number of applicants. Our average number of applicants is over seven to one—seven applicants for every recommended appointment. Getting the feedback sufficiently specific to each individual to be really useful to them is quite a challenge, and we are still improving our processes.

Q10 Mr Chope: You are, I think, involved in appointments to international courts such as the European Court of Human Rights.

Christopher Stephens: I wish we were. We are not; we are wholly excluded from that.

Q11 Mr Chope: Do you think that you should be involved in that?

Christopher Stephens: We are the lead agency on UK candidates available for judicial appointments. It therefore seems to me that there is some logic that we should be catching those international appointments, but we have no involvement in it whatsoever.

Q12 Mr Chope: One of the problems that we have in relation to the paucity of good, top-quality candidates—for example, to the European Court of Human Rights, where we are looking for candidates who already have senior judicial experience—is what happens after they finish their term of appointment, which is now fixed term, and how they are going to fit back into the system. That is where your organisation would be involved. Is there any discussion with the people who are making those appointments as to what could be done to make a judicial career that includes a term as an international judge more attractive?

Christopher Stephens: I am sure that it is on the agenda of the Lord Chief Justice, but we are not actively involved in discussions on that at the moment. I would welcome them.

Q13 Nick de Bois: Good morning. I apologise for my voice, which is going—which will please some Committee members.

Since your appointment three years ago, what lessons have you drawn about the governance arrangements for the JAC? Specifically, has your independence ever been challenged?

Christopher Stephens: Those are two very different questions, if I may say so. May I answer the second one first—the independence question? Then, if I may, I would like to involve Dame Valerie on the governance questions as well. We would like to double answer your question.

Independence falls into several quite different categories, some quite explicit issues and some more subtle. The explicit question is whether our independence in making decisions about recommendations about who should become judges is being over-influenced by the Government, by politicians, by the judiciary or by any other source. I think I can say with confidence that the feeling of the commission as a whole is that that is absolutely not the case at the moment, neither in the run of the many hundreds of appointments that we make for tribunals and the Courts Service as a whole, nor in the delicate public domain appointments at the most senior level. In my three years, I have had no single incidence of political interference or engagement of an inappropriate sort in any of our appointments.

Q14 Nick de Bois: May I press you on that point, just to be clear? How many times, if any, since your establishment have you had a recommendation for appointment rejected, and how many times, if any, have you been asked to reconsider a recommendation?

Christopher Stephens: To be clear, the Lord Chancellor, and now the Lord Chief and the Senior President of the Tribunals Service, have the authority under legislation to reject or to ask us to reconsider, or to accept of course. In the 3,500 appointments that we have made, the score is that it has happened five times in one form or another, and I think that two of those were in my period of office. There were five in total. I think that is right.

Q15 Nick de Bois: I am sure that you cannot remember what they were.

Christopher Stephens: I certainly can, if you give me a minute or two.

Nick de Bois: I would be very grateful, or you could let us know afterwards.

Christopher Stephens: No, I'll tell you, but it will take me a second to find it.

There was one in 2008–09, when there was some doubt about the particular requirements of the post; there had been a misunderstanding between ourselves and the Lord Chancellor. It was not in the least bit controversial. We simply got the wrong end of the stick in some way; we suggested an alternative candidate whom the Lord Chancellor was pleased to appoint.

There was a senior appointment at the tail-end of the previous Administration, in the spring of 2010. I must be very clear about this; it was not a JAC process but a process for a Head of Division in which JAC representation was present. This was before my time, but it is a well-rehearsed story. There was JAC representation. The then Lord Chancellor, Jack Straw, asked us to reconsider—the panel, not the JAC. The panel chose not to change their recommendation, and the Lord Chancellor accepted their recommendation. The recommendation went ahead and the person was appointed. That was in the spring of 2010, and I joined in the spring of 2011.

In my period, two fee-paid—fee-paid, so part-time—medical tribunal members were rejected by the Lord Chancellor. The Lord Chancellor considered that the candidates did not have the required experience for the office in question. He rejected them. So be it.

Q16 Nick de Bois: Thank you. Dame Valerie, do you want to touch on governance?

Dame Valerie Strachan: Within the JAC, governance is by the commission members, which includes myself and Mr Justice Bean. We meet as a commission nine times a year, and there are meetings of the commission as a selection and character committee twice a month. The committee does the selecting, and the commission determines the policy of the JAC.

Looking more broadly at how we fit into government as a whole, we have all the things that you would expect. There is a framework document, a business plan and a governance statement that we publish in our annual report, and we have an audit and risk committee which I chair. We produce risk registers. We have assurance statements by senior members of staff that everything within their purview is under control. We have an internal audit function, which is provided by the Ministry of Justice. The NAO, as you would expect, audits us. That is all terribly good.

Q17 Nick de Bois: Have these been in place over the last three years? Have you refined them? Have lessons been learned about their appropriateness, or are you entirely satisfied with them?

Dame Valerie Strachan: Basically, we comply with Government requirements. We do whatever we are asked to do. What we do within the commission is very much our own judgment, and our chairman has refined our procedures as we have gone along. I am very struck, as someone who used to run a very large organisation, to find myself now in a very small organisation but with all the paraphernalia of any Government Department.

Q18 Nick de Bois: I do not want to put words into your mouth, but do you think that there is an over-zealousness that may not be appropriate to the size of the organisation—that it is a bit of a burden, effectively, and not all of it entirely necessary?

Dame Valerie Strachan: We find that we are quite often repeating ourselves in different documents. I would not want to say that any of these things is a bad idea, but I am conscious of the fact that there is quite a lot for a small number of staff to handle.

Q19 Nick de Bois: If you are duplicating, by definition you could still achieve the same objectives if there was a slimming down—possibly. Is that something that you would look into?

Dame Valerie Strachan: I would be very pleased if the Cabinet Office and the National Audit Office were to look into it, in order to simplify as far as possible the arrangements, particularly for small arm's length bodies.

Q20 Nick de Bois: That is very useful.

Mr Stephens, moving on a little, do you think it appropriate for your post to continue to be subject to pre-appointment scrutiny by the Committee, looking back over the last three years?

Christopher Stephens: Yes, I do. It seems right that a body such as this should be answerable to Parliament, and you have to put some substance behind what it means to be answerable to Parliament. We produce an annual report. We, as a commission, have been in front of this Committee or its predecessors on five or six occasions, and we have been in front of the House of Lords Constitution Committee on one occasion. This is the first time in my period that I have had a review with you. I welcome it. It is right that we should be able to say to other constituents that we are accountable to Parliament, and that Parliament takes a proper and legitimate interest in the work and progress of the commission. The alternatives to my position being subject to this sort of scrutiny are not attractive. I do not want to put words in your mouth, but you might consider pre-appointment scrutiny of judicial appointments. I think that would be a reduction of quality; it would not be a good way to go.

Q21 Nick de Bois: That is a fine distinction. You talked of a 7:1 ratio in applications. That will therefore have some bearing on your view as to whether the JAC should take charge of the process for recruiting magistrates, as has been suggested in the report on transforming justice. It sounds as if that could end up being a massive expansion of your services. Would that investment be warranted by the suggested benefits?

Christopher Stephens: Seven to one is not necessarily the ideal. That is why we are doing the selection process review; we should have fewer, appointable people.

As to the separate issue about the magistracy, I understand that it was always intended that we should become responsible for the magistracy, and then a very explicit decision was made that we would not be. It is for others to decide whether it would be appropriate. If we were able to help, either on attracting a more diverse candidate base or in any of the processes that we have adopted to define merit and to appoint the right people, we would welcome it, but it is for others to decide.

Q22 Nick de Bois: It would require expansion to deal with it.

Christopher Stephens: It would require some resource, of course.

Q23 Mr Llwyd: Good morning. Would you accept that there is not a great deal of evidence that the commission has had great success hitherto in encouraging judicial diversity, perhaps because of the views that Baroness Hale holds—that several issues impinge on that?

Christopher Stephens: With respect, I wouldn't. I do not accept that we have not made progress on diversity within the judiciary. It is patchy, but we can look back and look around to real success as far as women are concerned: 41% of all our appointments. More than 1,500 women have been appointed to judicial posts. That includes both legal appointments and non-legal appointments, and it includes full-time and part-time. Over 1,500 is a non-trivial number of women involved in judicial decision-making. The percentage of those appointments for actual legal appointments is 41%.

To say that we have not made any progress is simply wrong. We have looked with particular care, and the major issue is on the court side, not the tribunal side; 43% of all tribunal appointments are already women. That is not the case on the court side, where the number is south of 25%. The court side is where the priority lies. We have looked with particular care at seven critical court appointments. You know them all—you will be familiar with them all: from deputy district judge, through district judge, recorder, circuit judge, and the High Court, both full-time and part-time formal court appointments. In each one of those, the proportion of women being appointed since the JAC was started is greater than the proportion of women appointed in the five years before the JAC came into existence, which is where we happen to have the data. We are pretty confident not only that we are attracting women in large enough numbers but that women perform extremely well through our processes. We think that our processes are adequately equality-proofed, so that women are not discriminated against, and we are making some significant appointments.

The numbers decline as we go up the judiciary. There is no question about that. That is Baroness Hale's principal point. She looks around the Supreme Court and sees no other women sitting in the Supreme Court, and that is what is influencing her comments. You could take, for example, the most recent appointment to the circuit bench. You know better than I do that the circuit bench is the engine room of the judiciary; it is the first level at which a judge presides over a court with a jury. At the last circuit bench competition that we managed, which concluded in December 2013, half the appointments were men and half were women. Since the JAC came into existence, we have appointed between 80 and 90 women circuit judges. That is a very different world; it is changing the face of the circuit bench. To say that we have not made progress on women is simply factually incorrect.

Q24 Mr Llwyd: With respect, Mr Stephens, I did not ask about women but about diversity, which includes ethnic minorities.

Christopher Stephens: Of course. May I go on to that?

Mr Llwyd: Certainly.

Christopher Stephens: I started with my best story.

Mr Llwyd: Your best point.

Christopher Stephens: That may have been a tactical error. Maybe I should have ended with it, because there are some negative stories that we have not resolved.

As far as the black and minority ethnic community is concerned, we consistently appoint, of all our appointees, between 8% and 10% black and minority ethnic candidates. We have not managed to nudge that forward very much. They are a larger proportion of our applicant base, so we are attracting them in at the front end of the process, and more of them fall at various stages of the process. We think that the black and minority ethnic candidates are applying too soon, and there are all sorts of reasons behind that. It is partly that we have encouraged them to apply, and then they are not getting through the process, so we have a lot of frustrated BAME applicant aspirants, who do not get through the process.

Q25 Mr Llwyd: During the pre-appointment hearing that you attended, you said a few memorable things. You said that you should be catalysing lawyers' professional bodies to be evangelists on your behalf for judicial diversity. I would not characterise the Law Society or the Bar Council as happy-clappy just yet. How have you managed in terms of your relations with those bodies and others?

Christopher Stephens: This is the error of using slightly exaggerated language, isn't it?

Mr Llwyd: Politicians do it every day.

Christopher Stephens: I know, and I am trying to learn not to do it.

The answer is that we have constant and effective relationships with the Bar Council and the Law Society, and with the Chartered Institute of Legal Executives, an important newcomer to the judicial environment. We cannot do this on our own. You have seen our staff numbers; we have just under 70 people and we are involved in making the appointments. We cannot do the outreach; the outreach has to be done by the judiciary and the professions, and we have to support them. We have a full programme of work with the Law Society and the Bar Council, which are our particular areas of concern.

Of course, we could all do more. One of the difficulties, which again you will be very familiar with, is that at the senior level of the Bar the number of women and black and minority ethnic candidates is still very low, and has not moved very much. At the entry level, it is appealing—half and half men and women, and a significant number of black and minority ethnic candidates—but as they go through their careers, for whatever reason women drop off and black and minority ethnic candidates are not making it to the top in large enough numbers.

The initiatives that we have to take in order to attract those senior candidates are specific. In recent times, we have had joint seminars for black and minority ethnic candidates, and for women returners to work. I would like to ask David Bean to comment on this as well; there is an important group of diversity and community relations judges—between 80 and 90 judges—who have committed themselves to working on diversity and community relations issues. We have worked with them on a number of seminars. I have spoken at numerous events, including recently at a Middle Temple women's event, and in the last few weeks there was an event at the Supreme Court for legal academics. We are doing things with the professions in face-to-face events. Probably more significant is what

happens on the internet, on our website and on our e-mail alerts, and the way in which we are communicating with candidates. We are using digital media in whatever way we can.

Are they evangelists, and have I succeeded in catalysing them? It is not down to me alone, but there is a high level of well-focused activity by the professions working in partnership with us. Of course it is not enough, but we are working at it.

Q26 Mr Llwyd: Sir David, do you want to come in on this?

Mr Justice Bean: I agree with Mr Stephens that the figures for women at most levels below the Supreme Court and Heads of Division are encouraging, and that the figures for BAME appointments, particularly at the more senior levels, are disappointing. I don't think there is an easy magic bullet solution, because, if so, somebody would have found it by now.

I wonder whether it may be possible to advance matters by rather old-fashioned methods. For decades, judges have had students or just-qualified barristers or solicitors in for what used to be called marshalling, now usually called work experience. Our target audience are not the 23-year-olds or 24-year-olds who are just starting; they are people who have been in the profession typically for 10, 12 or 15 years, who should be thinking of applying for their first fee-paid appointment. There is a judicial work shadowing scheme. It is not very well known. It is run by the Judicial Office, and it has really taken off in the last seven or eight years. It now has about 500 or 600 applicants per year, and in the last few years considerably more women than men, but the Judicial Office could not provide me with the ethnicity breakdown of applications. I wonder whether there is scope, particularly for the diversity and community relations judges, or indeed for judges more generally, to get to know the ethnic minority lawyers practising in their area, in that bracket of 10, 12 or 15 years' experience, and to try to get them to spend a couple of days seeing what it is like, to talk about a possible career with them and to encourage applications. I am not saying that this is the magic bullet solution, any more than anything else is, but it is worth trying.

Q27 Yasmin Qureshi: First, the panel may be aware that we normally tend to make declarations before we start asking questions. The declaration that I want to make is to Mr Justice Bean: I appeared before you at the divisional court some years ago.

My question is in relation to something that Mr Stephens touched upon, when you said that some of the ethnic minority lawyers are, in your opinion, applying for the job far too quickly, and are not qualified enough at that stage or not experienced enough. Is that supported by empirical statistical evidence?

Christopher Stephens: Yes, it is. It is absolutely clear that that is what is happening. It is not just a supposition.

Q28 Yasmin Qureshi: I take it that, of those who are qualified or who are capable of application, not enough of them are coming through. You mentioned things like marshalling or judicial work experience. Do you think that there is something a bit more—I have to be careful how I say this, so I shall use an analogy. As you know, for a number of years, the Labour party had all-women shortlists. In the 2010 election, all-women shortlists produced only English women and no ethnic minority women. It was only recently, in the last few

selections, that a few came through, but not many. Do you think that, at the end of the day, for senior law posts, there is a human element that in the end determines abilities and how you decide whether somebody is competent or not? Is there something else happening there? Do you accept that there is something else happening, in the sense that maybe there is an element of people tending to want to support people who look a bit like themselves?

Christopher Stephens: I don't think so. I do not think that there is a unique set of circumstances that make it difficult for BAME candidates to become judges. The small number of distinguished BAME judges who have made it to the circuit bench and the one distinguished High Court judge are evidence that, given the right set of circumstances, there are no barriers.

I do not want to sound complacent about it, because it is not happening yet in the numbers that any of us want, but I do not think that there is anything in our process that prevents people from getting through who ought to get through. I do not think that there is anything in our process that stops people applying, but people do need to take advantage of all the things that are available—whether it is shadowing, having an appropriate mentor, being in and around the Courts Service, or getting a range of experiences in different parts of the law. There are multiple things on offer; for example, at the JAC we test all our tests on real candidates, and we invite people to offer themselves as trial candidates. We would like more black and minority ethnic people to be trial candidates, and to see what it feels like to be interviewed and so on.

Dame Valerie Strachan: We ought to make it clear that the proportion of BAME candidates who succeed is in line with their proportion in the eligible pool. Where we appear to be doing less well is that the proportion is less than the applications—the applications are higher than you would expect, given the eligible pool compared with other groups.

It is probably also worth mentioning that we try hard to ensure that both we, and the panel members who do the selecting, are given diversity training. As it happens, there was a training event for panel members just yesterday, and a chunk of that was devoted to detecting unconscious bias in oneself. The panel members found it very useful, and they are all pretty experienced people.

Q29 Sir Alan Beith (Chair): Has there been any progress in removing barriers to employed solicitors—employed lawyers of both kinds, I should say—in the Crown Prosecution Service getting appropriate experience to enable them to apply for judicial appointments and to come through your process?

Christopher Stephens: We have made no progress in that, actually. There are certain specific circumstances in which they are excluded; in other words, if they would be judging in an area in which they had had some previous experience. It is an area that I have had on my radar, but we have not made the progress that we would have liked on Government lawyers.

Q30 Sir Alan Beith (Chair): It is a field in which there is reasonably good representation of both women and black and minority ethnic lawyers.

Christopher Stephens: Yes, it is, and I think it needs to be a greater priority for us in future.

Q31 Mr Llwyd: You referred to the Crime and Courts Act in an earlier response to Sir Alan. I'd like to ask you about consultation on the implementation of the equal merit provision. Your memorandum says that you see the way forward as the application of the provision in relation to race and gender at the final decision-making stage. Why have you decided on what I might call a cautious approach, which is arguably the minimum change that you could make? Do you have an open mind on extending the application of this provision more widely in future?

Christopher Stephens: Yes, we absolutely have an open mind. We absolutely intend to review it regularly. We are cautious about it; when we consulted, we got a very mixed response from both men and women, from the professions and the judiciary. A great many people are concerned that this is moving away from the golden principle of merit, and women want to be sure that they have been appointed on merit, and black and minority ethnic candidates want to be sure that they have been appointed on merit. There is serious caution among many; the stakeholders in this involvement are cautious about this. Rightly or wrongly, we decided to start small, and you are quite right: it is fairly minimalist. We want to see whether it works, whether it adds just another little tool in our armoury to attack this important agenda about diversity more widely. We shall see how it goes.

Q32 Jeremy Corbyn: Thank you for the answers that you have given us so far, and thank you for coming here.

I have been looking through the notes on the barrier to entry research that was done. They are interesting studies. I would be interested to know whether you are happy with the results of that survey and what you are doing about it.

Secondly, in previous questions we asked about the number of women candidates and women appointments and black and ethnic minority appointments, but do you also look at the social background of candidates, the universities that they have been to, their socio-economic background, region of the UK, overseas background and that sort of thing? Do you feel that you are covering all this in your attitudes?

Christopher Stephens: Let me answer the second part of your question first. Social mobility is the most difficult aspect of all. For the person who appears in this review in five years, the issue will be all about social mobility and not about diversity. We are beginners, as most of us are in society.

Q33 Jeremy Corbyn: This place is hardly an example.

Christopher Stephens: Indeed. Nor is the current judiciary. We know that.

For a variety of very good reasons, we have chosen not to look carefully at people's educational backgrounds in our selection processes. We do not focus on schools, we do not focus on universities, because we are anxious about it; I inherited this, and I have continued it, and I think that it was the right thing to have done—until now. We may have to review it, but we have not focused on people's universities because we are nervous of the conscious or unconscious preference for people picking candidates from Russell group and Oxbridge universities. We did not want that to happen, so we excluded that

information. It was a worthy thing to do, for a high-minded reason. The snag about it is that we do not have hard data on the social mobility of our candidates. We do not know. I think that some data is now being aggregated in the Judicial Office on the serving judiciary, and it produces—I was going to say a gloomy picture, but particularly for the senior judiciary it produces an Oxbridge-Russell group kind of picture. We have not focused on that. We are concerned. We are fortunate to have as one of our commissioners a very able QC who comes from an Afro-Caribbean background: grammar school, Oxford, the Bar, silk—a classic, dark blue background in that sense. His view, and if he was here he would express it extremely articulately, is that the greater issue is not about his ethnicity or his Afro-Caribbean background but about social mobility.

You have put your finger on an issue that will become a bigger and bigger part of our agenda. To that end, we invited Alan Milburn to speak to our commission some months ago, and the diversity forum, which I chair. The chief executive of the Social Mobility Commission—I think it is called—is coming to speak to us in 10 days' time.

Q34 Jeremy Corbyn: Could you do a blind survey of the lower levels of judicial appointments that have been made, or of serving people, from magistrates, district judges and so on up the scale, and see what that produces, and if that is later reflected in the judicial appointments that you make?

Christopher Stephens: Of course, we could, but other people are closer to that data than we are. We are simply an appointments body; we know a lot about our candidates at the time they pass through us, but they then move on. The right source for that data is probably the Judicial Office and the Ministry of Justice. I am not ducking it. I think that it should be done. We would welcome it. The social mobility issue is there for us to deal with, and we are anxious about it. I don't know whether I have responded. That was the second part of your question. The first part was about the barriers research.

Q35 Jeremy Corbyn: Yes. It is quite depressing, isn't it?

Christopher Stephens: Well, it is and it isn't. If you have an appointments process that turns down more people than it appoints, you are going to have some aggrieved people out there. The fact that people are aggrieved is absolutely inevitable. It is part of the waking-up process that is now coursing through the judiciary and the legal profession as a result of the creation of the JAC. You will be appointed if you are the most meritorious person, and it is tough. It is particularly tough for people in the later part of their careers who have never been interviewed for anything in their lives, and have had a seamless ascent to serious and senior positions. Then we come along and say, "We are now going to test you. We are now going to interview you. We are now going to take references on you. We are now going to find out about you, and we are going to compare you with other candidates." That is hard for people to get used to, but I think they are getting more used to it. It is interesting that the barriers research says that all groups feel that they are discriminated against—all groups, including elderly white males from Oxford and Cambridge.

Q36 Jeremy Corbyn: The interviewing system and the peer group review and so on is a good thing. Why should there be an automatic appointment just because you have been in place for a long time?

Christopher Stephens: Absolutely.

Q37 Jeremy Corbyn: The next point that I wanted to raise was diversity and women, which my colleagues have also raised. Clearly, there have been improvements, but we are still talking of less than a quarter of court judges being women. If you came back here in one year, two years or five, would we be somewhere near 50% by then?

Christopher Stephens: I am absolutely certain that we will not be. The numbers just do not work like that.

Q38 Jeremy Corbyn: Is that because of the turnover?

Christopher Stephens: It is because of the turnover. We have not done the maths on exactly how long it will take, but if 40% of all our appointments are women, the number is going to increase. We are seeing it just very slightly seep upwards; the 25% that I quoted is actually just short of 25%. In the papers that we sent you, you have the number in front of you; if you look back 10 years, it is improving. Our rate of 40% of all appointments is changing that, and there is 50% to the circuit bench. In the last district judge competition, which is the entry level for full-time salaried appointments, over 50% of the candidates were women. Ultimately, that is going to change the numbers.

Q39 Sir Alan Beith (Chair): Could I put it to you that improvement was taking place before you existed?

Christopher Stephens: Of course it was.

Q40 Sir Alan Beith (Chair): And possibly at a slightly higher rate. The old tap-on-the-shoulder method, as Jack Straw described it, enabled a Lord Chancellor simply to make sure that certain appointments created more diversity. We now have an elaborate system, but it has not raised the game at any greater rate, has it?

Christopher Stephens: It has raised the rate for women. It absolutely has raised the rate. If we have not sent you our 10-year study, which shows pre-JAC numbers and post-JAC numbers, you must have it. It is completely unambiguous as far as women are concerned. It certainly has raised the rate. I have lost the second part of your point.

Q41 Sir Alan Beith (Chair): It was in relation to black and minority ethnic candidates. The point I was making is that the old system was producing better results before you were created.

Christopher Stephens: I am not sure that is right. I do not think that it was. Factually, it was not producing better results; our results are marginally better for black and minority ethnic candidates and better for women. I do not think that you are right on a matter of fact. If you are suggesting that we might go back to the tap on the shoulder—

Sir Alan Beith (Chair): No, I wasn't.

Christopher Stephens: That particular ink is out of that particular bottle, and I am not sure that that is where we should be going.

Q42 Sir Alan Beith (Chair): The rate of increase was slightly higher before you came in than subsequently. You might want to argue that the low-hanging fruit had been taken before you came along, but you still have to face that fact.

Christopher Stephens: A helpful point. The numbers are also very small, therefore looking even at proportions of very small numbers is a risky thing to do.

Mr Justice Bean: There is always the danger that people concentrate on the bad news rather than the good news, which isn't news. In last year's High Court competition, women were one sixth of the applicants, and one third of those appointed—five out of 14. I do not think that there was ever a year under the old system when five new women High Court judges took office. That is not to say that it will for ever be repeated at double the proportion of those who apply. As Chris Stephens said, when you have very small numbers, one either way can make quite a difference. It is a pity that people concentrate so much on the fact that Baroness Hale is the only one of 12 Supreme Court judges to be a woman, and do not look at what is happening further down the system.

Q43 Jeremy Corbyn: I have asked most of my questions, but I have one observation that you might want to comment on. Looking through the totality of the legal profession, from judges down, university law schools now have a majority of women and a very large proportion of black and ethnic minority students, so over time clearly the whole thing is going to change. Are you confident that we have an appointments system that will actually reflect all of that, and that we do not end up with the perpetuation of the dominance of white men still running the higher levels of the judiciary?

Christopher Stephens: The numbers are very positive at law school level, and on entry to both the professions the numbers of black and minority ethnic people and women are positive. The retention numbers are not nearly as positive as the entry numbers, so there is an issue about retention, but that is down to the professions. It is worth mentioning CILEx—the Chartered Institute of Legal Executives; 75% of all its members are women, so at that level, there are encouraging numbers.

I am confident that our current processes attract adequate numbers and quality of black and minority ethnic and women candidates, and that our processes do not discriminate negatively against these protected characteristics, so I am very confident at the moment. Valerie, do you want to add to that?

Dame Valerie Strachan: The only point that I would add is, as I said before, that we give unconscious bias training to all our panel members. Our panel members themselves are becoming more diverse, and that is an important feature in ensuring that candidates do not feel disadvantaged. We will continue to do that. At the end of the day, we have a statutory duty to appoint on merit, and we would not be doing any favours to women or to black and minority ethnic candidates if we were to appoint other than the most meritorious candidates.

Q44 Jeremy Corbyn: I do not think that anyone is suggesting that you should do that. We are suggesting that there should be consciousness about how the appointments are made, which is a different issue.

Dame Valerie Strachan: We are very conscious of that. As I said before, we equality-proof all our processes. At every stage of every competition, we have a report on the diversity make-up of the people who are at that stage. We are keeping a watch on what is going on, and if there is something peculiar about it, we will ask further questions and, if necessary, halt the process. We have not, I think, found it necessary to halt the process—I am checking behind me; no, we haven't—but we do check it out and challenge when we are in any doubt.

Q45 Andy McDonald: I was going to concentrate on that very area, about increasing the proportion of BAME candidates. If you were going to announce an assessment, it would simply be, "Must do better." We are not in the right place at the moment, in terms of the make-up. The survey about perceptions that my colleague Jeremy Corbyn referred to certainly showed that BAME lawyers felt that there was prejudicial treatment in the selection process. We have heard thus far that that is not borne out in reality. Is that in itself a barrier to people making progress through the process? If so, I wonder what can practically be done about that perception, however wrong it may be.

Christopher Stephens: This is the classic case where perception is reality. If that is their perception, it is going to stop them applying. We therefore have to do all the things that we have described in order to encourage them. It is role models; it is shadowing; it is mentoring; it is access to senior judiciary; it is proximity to the Courts Service; there is a whole range of little things that people need to do more of. I think we have identified the right programmes. Everybody, to some extent, is resource constrained, but we have identified the right programmes and we are doing the right things.

Q46 Andy McDonald: It would naturally follow that you would fully expect to see the benefits of doing those right things come to fruition in a given number of years, or you would have some idea of when that might come around.

Christopher Stephens: I am not sure that we do know when. These are inputs, and it is difficult to attribute outcomes to specific inputs. You just have to do lots of things to make it work better.

Q47 Andy McDonald: I hope that we do not go back to the tap on the shoulder. The tap on the shoulder apparently still exists if you watch "Silk."

Mr Justice Bean: It was rather depressing to watch it on Monday.

Andy McDonald: Yes. Could I ask specifically about the statistical information that we have? It seems that, when we are doing these analyses of ethnic minorities, there are an awful lot of unknowns, and quite a significant proportion of people where the ethnicity of people in position is not known. I wonder whether that causes you some concern. Why is it like that, when it is such an important piece of information that you need to make progress on these issues? Why are the judiciary not helping us make progress?

Christopher Stephens: In our process, people self-declare. I am astounded at how many people are not prepared to say even what gender they are, never mind what ethnicity they are. We also ask a number of other questions that are more delicate and sensitive, which you can understand, but we have a small proportion of people who do not tell us even

what gender they are. That is a particular issue for the disability community, because we find ourselves having to make appropriate support for disabled candidates in much larger proportions than the number of people declaring themselves as being disabled. People do not always want to tell you stuff about themselves, and that is a limiting factor.

Q48 Yasmin Qureshi: We talked about the issue of women and ethnic minorities and others, but I want to turn to an issue that I know is not very tangible. It is not just the law; it is also the case with politics, medicine and the civil service. A lot of people coming into these professions come from certain backgrounds, normally a middle-class background; they have been to private school and are Oxford-educated, and they are the ones who often get the best chances and get the best jobs. The law is no exception. Has anybody thought about how we try to deal with this issue? We are talking about diversity, the people who should represent the country at large. Has anybody thought about how to deal with that? Ultimately, a lot of things often end up with what school you went to and what university.

Christopher Stephens: This may be a tantalising response, but again it is the multiple small things that we have to do. If you look at our website, which you may have had a chance to do, you will see multiple role models of people from ethnic minority backgrounds who have been appointed as judges, whose careers are described for all to see. We have ethnic minority panel members, and 20% of our staff are from ethnic minorities. We are touching many of the right things, and role models are most particularly important. We are using people, when they are prepared to be role models, which not everybody is.

Q49 John McDonnell: There is a sense of irony, isn't there? We are interrogating you about representation, and apart from Yasmin and, at a stretch, Elfyn, we are grey-haired white men. *Hansard* does not usually record irony, so I thought that I should state that.

Can we come on to other under-represented groups—people with disabilities, disabled people? This is for Mr Justice Bean. On the figures that you have reported, this is a glass half full. The statistics are saying that it looks as though your forecast is a rise of 3% in 2012-13 to 16%. That is a considerable achievement. What is behind that increase?

Mr Justice Bean: The last figure I am afraid is slightly distorted—actually, it is considerably distorted—by the fact that there was a competition for disability members of a specialist tribunal, and a large number of appointments to be made. I am afraid that the 16% does not really tell you anything. If you take out those figures, it is pretty well a flat line for the last five years.

Q50 John McDonnell: How are you going to address that? It is becoming a significant issue in this House and elsewhere.

Christopher Stephens: May I tell you about that competition? It was not what you asked, but I cannot resist telling you. It was for a fee-paid disability member for the social entitlement chamber, and we were asked in the vacancy request particularly to focus on people who were disabled themselves. It was a large competition, and we made 152 recommendations. There was huge competition; we had over 1,600 applicants. Of the 152 appointees, 68, that is 45%, had self-declared as disabled. We can appoint disabled people, and the early signs—this is now anecdote—are that we have appointed some fantastic

people to that social entitlement chamber. We are very pleased about it. We know we can do it.

Q51 John McDonnell: How are you going to carry that over to the general appointments?

Christopher Stephens: It is another area of focus. I suppose that it must be a year or so ago that I attended a very active Bar Council disability focus group for disabled people. I contributed to that workshop. We need to do more of that. We have benefited from having a disabled commissioner for the last two years; he was on a two-year appointment, and he has just left us. He kept us very mindful of the disabled community and contributed much to our affairs. We need to do more of that.

Q52 John McDonnell: I would find it very helpful if you would let us know in writing about the process that you will be going through to address that specific issue with regard to disabled people.

Christopher Stephens: I would be pleased to do that.

Q53 John McDonnell: It is a coming issue, like social mobility. I shall move on to other groups, but I have one general question. Are you continuing to monitor the number of solicitor applications for judicial posts, and what is that telling you? It relates to an issue that was raised with regard to the CPS as well.

Christopher Stephens: We are continuing to monitor them. The facts are that 66% of those serving in the Tribunals Service are solicitors, and 38% of those serving in the Courts Service are solicitors; overall, it is 48% of those in judicial legal appointments. In our recommendations, it is 48%, but the numbers are going down. The proportion of recommendations among solicitors is going down. At the top level of the judiciary it is a bleak picture indeed. There is only one, albeit very distinguished, solicitor High Court judge. There are a number of solicitor circuit judges, but at the High Court there is only one, and at the Court of Appeal and the Supreme Court there are currently none who have had a solicitor career.

The Law Society is doing a number of positive things, two in particular on which I am engaged with them. One is that they have now identified a solicitor judge division. In other words, they have gone out to their membership and asked, "Will you self-declare? Who among you are judges, and who among you have a background purely as solicitors?" I think that there are 200 and something members in that division. That is the first positive thing. In a sense, they are trying to find the sort of support that the Bar, as a profession, gives their young people coming through the profession. The Law Society is keen to do something like that, because it has worked for the Bar and it needs to work for solicitors.

Secondly, in the previous regime in 2011–12, John Wotton, the president of the Law Society, asked all the major solicitor firms: "Will you sign this commitment to supporting candidates amongst your staff who apply for the judiciary?" Twenty-one firms signed that commitment, and the Law Society is following up with those 21 firms. That is very positive. It is clear to me that there are some really benign lawyers firms who see the value of this to their staff, and to their reputation as legal firms, and are prepared to release people for part-time appointment; and there are other firms who absolutely do not. The combination of the billable hours on the one hand and the partnership model on the other

precludes them, in their view, from making it easy for candidates to volunteer for judicial appointment.

Because I am really concerned about this area, in the autumn, I and Sir Gary Hickinbottom, the High Court judge who is a solicitor, met about 20 medium and large solicitor firms. What came out of that is that they are very diverse—sorry, they are different, not diverse; they are not nearly diverse enough. They are very different from each other. There are those who are supportive and there are those who are pretty unsupportive. If you remember Baroness Neuberger’s report on judicial diversity, a group of solicitors firms contributed to that report, and it sounded as though they were going to be supportive. The actions have been concentrated on some of those firms only, and others have done little to support candidates. That is an important initiative.

This is not going to change the world, but the most recent president of the Law Society has just joined us as a commissioner—Lucy Scott-Moncrieff. She is not going to let the subject rest. She has not started as commissioner yet, but she starts imminently, and she will not let this rest. It is a profession of 120,000 people, so I am still a bit agnostic about quite how we make inroads on this.

Mr Justice Bean: If people do not apply, we cannot appoint them. In the last High Court competition, out of 81 applicants only two were practising solicitors and neither was appointed. That does not tell you very much, except that we had only two applicants.

John McDonnell: It is part of your evangelistic role. It is a reflection of the social mobility issues that you need to address as well.

Q54 Mr Chope: My understanding is that it is much easier now to move from one side of the profession to the other. Surely, if somebody was a solicitor and thought that their aspirations lay in holding high judicial office in mid-career, would they not be better advised to try to join the Bar? Do you have any figures that show the number of judicial appointments held by people who may have become barristers but started off as solicitors, in the same way that quite a lot of people at the Bar switched to being solicitors when they realised that their aptitudes were better suited to the solicitor’s profession?

Mr Justice Bean: I do not think that we have figures. I am aware anecdotally of examples. For instance, my colleague who is judge in charge of the Commercial Court this year, Mr Justice Cooke, was a commercial solicitor for five, six or seven years¹ before crossing over to the Bar. In past generations, people had to cross over to the Bar if they wanted to apply for senior judicial office because those offices were closed to solicitors, but that is not the position now. You may say to a partner, say aged 45, in a firm that is not keen on letting him or her take time out for part-time judicial work, “Would it not be a good idea to cross over to being a barrister?” But it is a big step to take at that point in a solicitor’s career.

Q55 Mr Chope: Particularly if the solicitor is earning between £500,000 and £1 million a year.

Mr Justice Bean: Indeed so.

¹ Correction by witness: This was in fact three years

Q56 Mr Chope: Is that not an explanation also as to why, if you are paying a partner in your firm of solicitors £500,000 to £1 million a year, you are not keen for them to go part-time?

Mr Justice Bean: Wouldn't it be possible, in many firms, for the solicitor to do three weeks of part-time judging a year, as a recorder or whatever it may be? If the partners are going to say, "Well, in that case you must go on to 90% or something like that," maybe that is an appropriate price to pay. It is a pity if people are shut out from doing three weeks' judicial service a year. Doing three weeks' judging a year, as I found when I was appointed a recorder, particularly if it is in different work from what you do in the day job, is very stimulating, and I think it makes you a better lawyer. Perhaps that is something that solicitors could bear in mind.

Q57 Andy McDonald: I offer an observation for your consideration. Perhaps it is not simply solicitors who are earning between £500,000 and £1 million a year that might be considering it, but those—

Jeremy Corbyn: Are you one?

Andy McDonald: I wish, Jeremy. Perhaps those who earn more modest incomes of around £45,000 a year who have an aptitude for a judicial appointment may be discouraged from doing so not because of the time that has to be taken to shadow and attend the court and so on but, more importantly, the signal that it sends to a firm, however willing it may be in signing up to a process. It will say, "You've just sent us a loud signal about your career intentions." It is that, I suggest, that is blighting the solicitors' side of the profession, in not permitting candidates to come forward. I put that to you for consideration from my own experience.

Mr Justice Bean: Thank you.

Q58 John McDonnell: To round off on other under-represented groups, particularly with regard to the protected categories under the Equality Act 2010, what consideration have you given to those? For example, your annual report does not include a range of statistics to demonstrate any of the numbers in those various groups. I give a couple of examples. With regard to the LGBT community, InterLaw, a group that represents gay, lesbian, bisexual and transgender lawyers, says that "the perception of hostility to gay judges and the isolated nature of the job are deterring gay and lesbian lawyers from applying for careers as judges." The Advisory Panel on Judicial Diversity noted the "virtual invisibility of lesbian, gay, bisexual and transgender judges and those with disabilities". What are we doing about people from those protected categories? We do not seem to be monitoring it at the moment.

Christopher Stephens: We are just beginning to. We work very closely with InterLaw. Two-plus years ago, we helped them with a survey that particularly focused on the LGBT community. At around that time, we started to monitor LGBT applicants to the judiciary, on the same self-declaration basis. People do not necessarily want to self-declare. We have started doing that, but it is too soon to draw any conclusions.

Q59 John McDonnell: You haven't published that yet.

Christopher Stephens: We have not published it, but we intend to publish it, I think later in 2014, when we have a run of numbers.

Just to be clear about what happens, if you apply for judicial appointment you have to fill in an application form. At the front of the application form, you are invited to declare a number of things. That document is torn off from the substance of the application and is not shared with the panel who make the recommendation, so they would not know that the person had declared themselves a member of the LGBT community, for example. We take it away and we look at it for statistical analytical purposes.

The very first piece of analysis that we have done—it is too soon, and it is not in our published statistics—is that the proportion of applicants applying for our jobs who have self-declared as LGBT is broadly in line with the proportion that declares themselves to be LGBT in the community at large. If that is the case we will be very pleased, because it will mean that we are not driving people away. Apart from working with InterLaw, a responsible group that is leading on this, and working closely with Stonewall, we have put a number of case studies on our website, which you can find, of leading judges, and judges at each level of the judiciary, who are prepared to declare themselves as members of the gay community, and we are pleased to have those on our website. We are very mindful of this. It is too soon to say exactly what the numbers will be, but we hope that they will be consistent with those in the community.

There is a slightly wider question. The other area that we have begun to monitor is religious affiliation, but I do not have anything to say about that yet. We shall have to see what the results are, and what percentage there is. The more questions you ask, the more you put people off declaring stuff at all. There is quite a resistance to it, but we have added LGBT issues and religious issues. You have the list of protected characteristics in front of you; for example, we are not concerned about pregnant women, who are one of the other categories, nor indeed age. Valerie is our age monitor.

John McDonnell: I think you had better rephrase that.

Sir Alan Beith (Chair): Mr Stephens, Mr Justice Bean and Dame Valerie, thank you very much indeed for your help this morning.