



## Increasing judicial diversity is vital to a fairer justice system

**London, 25 April 2017** – Despite the diverse make-up of the United Kingdom, our senior judiciary is dominated by white and privately educated men.

On Tuesday 25 April 2017, JUSTICE will launch its *Increasing judicial diversity* Working Party report exploring the structural barriers faced by women, people from visible ethnic minorities and those from less advantaged socio-economic backgrounds in reaching the bench. The report explains why diversity is a vital constitutional issue, calls for systemic changes to increase accountability and improve recruitment processes, and proposes more inclusive routes to the senior bench.

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It has been 45 years since JUSTICE first raised concerns about judicial appointments and the demographic composition of our judiciary, but as the report highlights the UK still lags behind other European and common law jurisdictions. The UK Supreme Court vividly illustrates the “diversity deficit”: Lady Hale is the only woman ever to serve on the Court and all of the judges are, and have always been, white. None are from disadvantaged backgrounds. In England and Wales, the Circuit bench, High Court and Court of Appeal all suffer from a lack of diversity as well.

In our Working Party’s view, changing the make-up of our highest courts is vital to ensure continued legitimacy and quality. In particular, a senior judiciary that so markedly fails to reflect the ethnic, gender and social composition of the nation is a serious constitutional issue. While there have been changes, especially over the last ten years, progress has been too slow. The report recognises the natural tendency in senior selections to replicate the characteristics of the existing judiciary. Without positive action, “merit” can all too easily become a vehicle for unconscious bias.

**Nathalie Lieven QC, Chair of the Working Party explains,** *“We have been impressed by the high level of recognition of and commitment to a more diverse judiciary among key decision-makers. However, simply leaving change to organic processes is taking far too long and, on current projections, will never deliver sufficient diversity to the bench. We need systemic, structural changes to both appointments and human resources management. Our report calls for reformed selection processes, and a proactive approach to recruitment and promotion.”*

The Working Party believes that there is a significant pool of talent from which to draw a more diverse senior judiciary, but active steps need to be taken to recruit from beyond the independent Bar. As the report explains, the vast majority of judges in the Circuit bench and above were formerly barristers. While the Bar undoubtedly produces many excellent judges, a wider pool as well as an upward career path for judges already serving in lower courts would result in a stronger, more inclusive bench.

The Working Party sets out a series of measures to encourage underrepresented groups to embark upon a judicial career and to give them a fair chance of appointment to the bench. The report’s recommendations include:

- Introducing targets “with teeth”, i.e. targets for selection bodies, with the “teeth” being obligations to comply and/or explain, reporting on progress to the Justice Select Committee.

- Creating a permanent “Senior Selections Committee” dedicated to appointments to the Court of Appeal, Heads of Division and UK Supreme Court. This Committee would, alongside the JAC, set targets for diversity for each level of the judiciary, reporting on its progress to a Parliamentary committee.
- Increasing accountability for diversity, through a general responsibility on selectors and the judiciary to encourage a much more diverse field of people to apply for senior judicial office.
- Introducing “appointable pools”, i.e. talent pools of suitable judges for each court. This requires a rolling, proactive programme of recruitment consisting of two stages: the first focussed on the qualities of the individuals applying, the second focussed on the needs – including diversity – of the court in question.
- An external review of selection processes.
- Creating an upward judicial career path, where junior lawyers can take up an “entry-level” position in the Tribunal system or on the District bench and stand a meaningful chance of promotion to the senior judiciary.
- A “Talent Management Programme” to enable talented judges to progress their career.
- Ensuring more attractive, inclusive career paths and working conditions, including making flexible working the default.

**Director of JUSTICE, Andrea Coomber**, said, *“We realise that some of the measures recommended in this report will be unpopular with some, but if the long-standing issue of lack of diversity is to be genuinely addressed then those at the most senior levels must accept that difficult and perhaps unpopular decisions will have to be taken to deliver a more diverse judiciary.”*

*“Now is the perfect time for change. We are faced with an unprecedented opportunity as the majority of the Supreme Court – all nine judges from England and Wales – will be replaced over the next three years, resulting in vacancies cascading down the judiciary. With such a high number of appointments opening up, there is a real chance to change swiftly the demographic composition of our senior judiciary.”*

The full *Increasing judicial diversity* report and its annexes will be available on the JUSTICE website following the launch event on Tuesday 25 April 2017 at Berwin Leighton Paisner LLP in London.

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#### Notes for editors

1. Now approaching its 60th anniversary, JUSTICE has a long and rich history of using working parties of its membership to effect systematic and vital changes within the legal system. The Ombudsman system and Criminal Injuries Compensation Board, for example, were set up on the recommendation of previous JUSTICE working party reports. In 2016, the ground-breaking [What is a Court?](#) informed the HMCTS reform programme to maximise access to justice. Upon the request of Lord Justice Ryder and the Lord Chief Justice, HMCTS has set up a working party to follow up on the report’s recommendations. The report has also been discussed at a number of other high level meetings and events.
2. This latest [Working Party](#), set up and supported by JUSTICE and drawn from its membership, features a wealth of expertise from across the legal profession – including legal, academic, judicial and police experience of complex trials. The Working party was chaired by Nathalie Lieven QC, working alongside Sir John Goldring, Sir Paul Jenkins, George Lubega, Professor Rosemary Hunter, Diane Burleigh OBE, Sa’ad Hossain QC, Karamjit Singh, Kate Cheetham, Ruchi Parekh, Stephen Frost, Geoffrey Robertson QC, Tim Smith and Andrea Coomber (Director of JUSTICE). The Working Party was supported by Berwin Leighton Paisner LLP.
3. This is the third JUSTICE report raising concerns about the demographic make-up of the judiciary. It follows [The Judiciary](#) (1972) and [The Judiciary in England and Wales](#) (1992).

4. JUSTICE is an all-party law reform and human rights organisation working to strengthen the justice system – administrative, civil and criminal – in the United Kingdom. For more information about JUSTICE visit [www.justice.org.uk](http://www.justice.org.uk).
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