



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

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LORD CHIEF JUSTICE OF ENGLAND AND WALES**

**SPEECH TO THE TEMPLE WOMEN'S FORUM AND
THE ASSOCIATION OF WOMEN BARRISTERS**

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INTRODUCTION

1. Thank you very much indeed for your very kind and over-generous introduction. It gives me great pleasure to come and speak to you all about judicial diversity.
2. I am sure I don't need to tell any of you how important diversity is to all of us and particular to the judiciary. I have now an express duty under the Constitutional Reform Act to promote it and I embrace it warmly, but I am not here out of the sense of duty. I am here because I feel I ought to be here and we ought to be changing things. The judiciary has to be open to everyone of the requisite ability and that ability fostered by university then during the course of professional development and most importantly of all – if you join the judiciary – in the training programmes we have.
3. Diversity is so important, not just to public confidence in justice. It is also a feature of justice itself because it represents both fairness and equality of opportunity. I have always strongly felt that unless we embrace the whole of our society we don't get all the potential judges we ought to get. Years ago we simply did not attract enough women and we did not attract enough people from Black Asian and Minority Ethnic communities. I think that our primary aim should be to ensure that everyone has that opportunity to apply. The Judicial Appointments Commission selects people on merit irrespective of background, but there is a real need to ensure that there is a level of playing field and people have a proper opportunity when applying for judicial appointment.
4. So what I thought I might do is look at three matters. First of all to say where we are, secondly, what we are doing at the moment, and thirdly, to say something about the

future. It is no use talking about now; one has to look at the trends in the profession and elsewhere that might affect your careers in 10, 15 or 20 years hence.

WHERE ARE WE NOW?

5. Where have we got to? The position in the Court of Appeal has changed a lot since 2012: there were four female judges, but now we have eight. In the High Court in 2012 there were 17 women, and there are now 21. There has been a steady increase in the number of female Circuit Judges to one in five; and the percentage of women Deputy District Judges and Tribunal Judges is steadily on the rise. For this audience I think it's important to turn to the crucial fee-paid position of Deputy District Judge because there has been a particular increase in the proportion of women among them from about 32% to 36%. This is so important because of the curtailment of the opportunity of being appointed a Civil Recorder. There is simply no demand for those at all now. I was interested to see that in the latest Deputy District Judge competition a number of barristers applied; this was a route to the judiciary which traditionally was never taken up by the Bar. I regard that as an important development, but it's not enough.

WHAT IS THE JUDICIARY DOING?

6. So what are we doing to widen the pool? We have now a proper Diversity Committee of the Judges' Council bringing together within the judiciary different strands of work to make certain we are doing things in a coordinated way. I have been incredibly fortunate that Dame Heather Hallett was persuaded to chair this group and to drive it forward; she brings enormous enthusiasm and a wealth of experience. With judicial diversity it is too easy to say "we must do this, we must do that", but we actually measure what we do by concrete achievements. If one was a civil servant one might ask: "are we delivering?" but I think "concrete achievement" may be a phrase that appeals more on the committee. We decided (maybe being a bit too much like civil servants in our language) that if we do not deliver according to a plan we will get nowhere. So about a year ago we agreed a plan, and have now reached a number of distinct achievements.
7. First, in October 2014 over 90 judges were appointed as judicial role models, to support various outreach events as speakers, to network with potential applicants, and to act as mentors. They are responsible for mentoring lawyers seeking their first judicial appointments and judges who are seeking to progress to a higher office.

8. Secondly, we have engaged in outreach events. I am particularly grateful to the judges who have taken part, going to Bristol, Manchester, London and Leeds. We particularly targeted women, BAME lawyers and those with the Government Legal Service (GLS) and Crown Prosecution Service (CPS). It is important that we look to both the CPS and to the GLS because they have achieved much greater diversity among their lawyers, and there is no reason why many of them should not apply to the judiciary. We are going to monitor carefully whether we are getting the presentations right and whether applicants are getting what they need from outreach events.
9. Thirdly, on the 26 February we went live with a formal judicial mentoring scheme. It is seeking to target and help the same groups of people, particularly those from non-traditional backgrounds who are applying for their first judicial appointment. You might happen to be in a set of chambers where you can talk to people who have been judges; that is an opportunity not available to everyone, so I regard mentoring schemes as extremely important. Of the 41 applications we have so far received, 29 have come from women.
10. Fourthly, we have now completed, I hope, the appointments of diversity and community relations judges. We now have 123. This is a way of targeting a younger group, by engaging with the community, schools and universities to encourage people to think of a legal career, and to include joining the judiciary as one of their goals.
11. Fifthly we also are now running the judicial work shadowing scheme more effectively. This really must be for those who want to be judges not for those who want to put something on their CV. The capacity is limited and so we are now strict in trying to ensure those who apply for this really do intend to look ultimately for a judicial post.
12. And sixthly and finally, and this is the bit probably many of you have read about, a new route to the High Court has been introduced. It became apparent to us that with the change in the way in which we recruited Recorders that is was exceptionally difficult for anyone with a civil background who wanted to apply to be a criminal Recorder to compete against the very large number of people who already had a criminal background. Further, there had been a bar until recently preventing appointment as Deputy High Court Judge if one was not already a judge of the Upper Tribunal or a Recorder. The Crime and Courts Act 2013 made it possible to remove that bar and permitted a direct route to the High Court. We decided that for a competition for Deputy High Court judges, to be launched by the Judicial Appointments Commission this July, this requirement to have judicial experience would be removed, thereby

opening up the competition to a wider range of applicants. Successful candidates will then be given appropriate training in the relevant jurisdiction and the opportunity to sit as a Deputy High Court Judge so that, when the time comes, they can compete on a more level playing field for salaried posts in the High Court.

13. In addition to that, and in advance of the Deputy High Court Judge competition, we have also run a scheme to give practical support to potential applicants from non-traditional backgrounds. This has been immensely successful; we have had around 250 applications for the scheme (for 30 places). The scheme will try to introduce people to the judicial world, by familiarising them with the culture and ways of working in the High Court, as well as holding a workshop to help prepare them for the selection exercise. We cannot accommodate many, but I very much hope that those we can support will benefit from the scheme.
14. It is a targeted scheme for people who are of the right calibre because the appointment of the 14 Deputy High Court judges will still be on merit. We are looking for people we hope will be in a position within two to three years to become High Court Judges. We hope the work that we are doing through the familiarisation process will help a lot of people who might never have thought of becoming a judge. I am very optimistic we will go forward with the kind of wide pool we never seen before with the prospect of having new members of the High Court within a relatively short time.
15. Of course, one of the reasons why I wanted to come here tonight was actually to hear your ideas rather than just telling you what we are doing. I shall listen with great interest to the panel discussion, and to any questions you may have about what I have just described.

WHAT LIES AHEAD?

16. One area we have to think about is the change to the legal profession. I needn't tell you the effect of the legal aid cuts and the long-term effect of Legal Services Act; these are having a profound impact upon the profession. But you must also recall that we are about to reform Her Majesty's Court and Tribunal Service. You may have read about two of the more radical proposals that have been put forward. One is the Civil Justice Council's proposal for dealing with smaller civil claims online, and another was the set of proposals published by JUSTICE on Thursday of last week (24 April). These proposals envisage the courts changing in a considerable way, and I take these by way of example. We would hope to do much more, for the benefit of the public and users

of the system; but I hope also that these changes will make the system more efficient, and will benefit of judges of the future who could have much more flexible ways of working. I mention that because this is one of the changes where I cannot predict how it will work, but it is one of the matters we will have to take into account in looking at diversity in the professions.

17. A second area of change where I think we have to look at very carefully is trends in the appointments of silks. There was previously a rise in the number of women silks appointment; it fell back again, then in this current year returned to almost to what it was at the higher point. There is also a trend that is perceivable that fewer of those who practise outside of London to take silk. For example, this year there were only five people appointed silk who practised in either the Northern or North-Eastern circuits. When you think that that includes Sheffield, Leeds Liverpool, Manchester and Newcastle, to name five important sectors of the Bar, it is a very worrying trend.
18. The final issue which warrants a mention is that the tribunals and the courts are almost certainly coming closer together. The 2013 Act provides a great deal of interchange ability (there is a very complicated schedule which if you were an insomniac would send you to sleep). The basic idea, though, is that where you have equivalent judges who are appointed to the tribunals and those who are courts appointments there is room for flexible deployment between the two. This trend, I think, will very much increase as we move to a more common form of procedure between the courts and tribunals, and especially as we introduce proper IT as part of the HMCTS reform programme.
19. I have really just touched on the elements of each of those changes which will have a profound effect on the youngest of you.. This sort of seminar also tries to project into the future. We don't do enough research on how the profession will develop over the next 10 to 20 years. I am very interested in trying to persuade someone to do this, because it is imperative to consider the likely risks and opportunities. The only thing I can be sure about is that it won't be like the profession I am addressing tonight.

WHY BECOME A JUDGE?

20. Finally, I wanted to say something about the benefits of a judicial career; I hope it is something many of you would want to think about. In the past there was just one type of appointment – full-time – but we are now much more flexible. We offer flexible work patterns for some appointments, and that seems to work quite well. I also believe

that the upcoming change in IT systems will enable people to work more flexibly, both within existing court buildings, and working more from home.

21. I would encourage you also to bear in mind that it really doesn't matter what sort of practice you have. There is an increasing tendency for specialisation; if you were a mesothelioma lawyer you may spend your entire life doing that, or you may be an intellectual property lawyer. Now, if you want to become a Deputy District Judge there is probably little scope for your expertise, but the Judicial College has adapted in the last few years to teach people in a way that is useful and modern and applicable to their work as a judge. When I was taught, it was the old terror method: generally you were asked to stand up before an audience of this size and answer a question. That's a really good way to put someone off a judicial career! Now it's very, very different and I think a much better approach. And, so if you do join the judiciary, the terms are more flexible; the fact you maybe a specialist and not broadly trained doesn't matter.
22. This also presents an opportunity; you don't necessarily have to do what you always done. You may find your area of expertise comfortable and many judges who would really feel "I have done perpetuities all my life, I want to go on doing perpetuities for the rest of my life" as it is in their comfort zone; this is certainly a possibility. But there are others who have said "I have done this for 10, 20, 30 years let me do something new". And so a change may be one reason you would consider becoming a judge.
23. Many people feel that to have been a member of the Bar is quite a privileged occupation; but you may also want to give something back, and go into a public service. I also think there are opportunities for doing much more outside the court or hearing room. Teaching at the Judicial College is one example. I mentioned earlier the community relations judges. Then there is upper level of the High Court which provides opportunities for interaction on many, many wider areas of concern to the justice system.
24. To conclude, I very much hope that you will feel that something positive is been done and done in concrete terms rather than terms of aspirations to improve diversity in the judiciary; we are offering a number of events that I hope that you will look at and will be interested in. I also hope that you will see the advantages offered by a judicial career as a chance either to do something completely different, or as a way of building on an area of work that you love, as well as the broader opportunity to contribute.
25. Most importantly, I hope you will feel that in future we will achieve a judiciary that is very different in some ways – one which is flexible, and takes account of modern family

life – but that continues, as it has always done, to attract people who believe strongly in the delivery of justice, and in the value of public service.