



LORD CHIEF JUSTICE
OF ENGLAND AND WALES



SENIOR PRESIDENT
OF TRIBUNALS

Guide to Judicial Diversity Statistics

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Background to Judicial Diversity Statistics

The Judicial Diversity Statistics Bulletin provides an overview of the diversity of appointed judges in the courts, judges and non-legal members of tribunals, and magistrates. Figures are published on an annual basis, taking a snapshot of the staffing position as at 1 April of each year.

These statistics are designated as Official Statistics, indicating they are fit for purpose and are produced in compliance with the Code of Practice for Official Statistics, in accordance with the Statistics and Registration Service Act 2007.

This designation can be broadly interpreted to mean that the statistics:

- meet identified user needs;
- are well explained and readily accessible;
- are produced according to sound methods; and
- are managed impartially and objectively in the public interest.

The focus of this bulletin is diversity, and accordingly the figures within the bulletin relate to individuals, and not to the posts held. Where a judge holds more than one appointment, the statistics are compiled for the appointment considered to be their primary appointment, i.e. the appointment they hold most of the time. Figures are on a headcount basis, and do not reflect the full-time equivalent (FTE) value of part-time salaried judicial post holders (to do so would be to understate representation among part-time individuals). Similarly, for those in fee-paid roles, figures count individuals, not posts held nor appearances.

This bulletin gives a summary of the results and commentary on the following characteristics:

- Gender;
- Ethnicity;
- Professional background;
- Age (first published in 2015); and
- Salaried / fee-paid judges.

The accompanying tables give more detailed breakdowns of these characteristics.

Levels of representation within specific groups on these diversity characteristics may change year on year due to staffing movements including flows in and out (e.g. recruitment, resignations and retirements) and internal moves (e.g. promotions). Accordingly, the recruitment exercises run over the last year by the Judicial Appointments Commission will also impact on diversity.

The Judicial Career Progression Chart provides an overview of progression through the judiciary in England and Wales <https://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/judicial-career-progression-chart/>

For an explanation of judicial roles see:

<https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/judicial-roles/>

Users

| User: | Summary of main statistical needs: |
|---|---|
| MoJ ministers and senior officials within MoJ, Judicial Office and Her Majesty's Court and Tribunal Service and within the JAC. | Statistics are used to inform policy development, to monitor the impact of policy changes over time. |
| MPs and House of Lords. | Statistics are used to answer parliamentary questions. |
| Existing Judges, and candidates and member organisations (the Bar Council, The Law Society, Chartered Institute of Legal Executives) and other groupings, such as the Black Solicitors Network. | Statistics are used to monitor the diversity profile of the judiciary. |
| Academics and members of the public. | Providing a descriptive account of the diversity of the judiciary to both a lay and expert user base, for research purposes, to inform debate, to hold to account, and in the interest of transparency. |
| Journalists, particularly in specialist legal publications such as the Law Gazette, but also wider media. | Statistics are used to tell a coherent and accurate story on judicial diversity |

Points to note

Appointment Type - Primary and Secondary roles

The figures in this publication reflect a judge's primary appointment i.e. the one they hold most of the time. However, judges can hold multiple appointments. The vast majority of judges hold only one appointment, although more tribunal judges than court judges have two or more roles.

Judges by contract type (fee-paid, salaried and salaried part-time)

The publication provides breakdowns of fee-paid, salaried and salaried part-time for judges in courts. For both courts and tribunals, fee-paid positions are paid according to the number of sittings or days worked. The number of sitting days varies depending on the type of appointment, and will generally be at least 15 days a year.

In courts, just over half of judges are in fee-paid positions, with just under half being salaried. Among tribunal judges, around three-quarters are fee-paid, with around a quarter salaried.

The large majority of salaried judges in both courts and tribunals work on a full-time basis.

Definitions of Diversity Characteristics

Diversity characteristic information is collected and published for gender, ethnicity, age and professional legal background. Ethnicity and professional background are self-declared fields, representing the perspective of the individuals themselves. These are non-mandatory, and while coverage is very good, it is not complete.

Gender is recorded as a binary male/female characteristic, recognising that a binary gender category does not encompass the full complexity of gender.

Age is presented in groups that differ from common groupings used in other statistical publications. This is due to the nature of the data in relation to eligibility and experience, and reflects the appropriate granularity based on the distribution of ages.

Ethnicity is recorded by self-declaration on administrative systems on a non-mandatory basis, with the individual selecting the most appropriate category based on their own self-perception from the 2011 Census definitions (18 categories), or stating they choose not to declare. Due to the numbers involved at this level of granularity, it would not be meaningful to present ethnicity statistics in disaggregated form, and may pose disclosure risks. Accordingly, for statistical purposes, ethnicity is presented in aggregated form, using the 5+1 2011 Census definitions of White, Asian or Asian British, Black or Black British, Mixed, and Other ethnic background (the '+1' representing unknown, where individuals have either not responded or have stated their preference not to give a declaration). In addition, due to the numbers involved, for percentages to be statistically meaningful, figures additionally collate non-White ethnicities together under the Black, Asian and Minority Ethnic (BAME) umbrella term. Those that have declared themselves White of any origin or nationality (including 'White other') are grouped together. We acknowledge that aggregation of ethnicity to categories such as this, does not encapsulate the different lived-experience within these categories. The BAME group represents considerable diversity beyond that captured in the 18 categories, which does not coalesce into a single cohesive group. Neither does this approach capture differences in experiences of those within both BAME and White groups with a nationality or origin outside of the United Kingdom, or those from Gypsy/Traveller/Roma communities. However, it is necessary, from a statistical perspective, to consider groups with sufficient numbers to make meaningful comparisons. The comparisons presented maintain consistency with previous iterations of the publication and is widely used in other statistical publications.

Professional background refers to the legal profession which individuals had predominantly been employed within prior to taking up judicial office. This information is collected by self-declaration on a non-mandatory basis, reflecting the perception of the individuals themselves. Options include, but are not limited to, 'solicitor', 'barrister', 'CILEx' (Fellows of the Chartered Institute of Legal Executives) and 'other'. As this information is non-mandatory, coverage is not complete. Some ambiguity may also exist where individuals have had multiple prior roles (for example an individual that had been both a solicitor and a barrister would need to choose just one of these to enter, and figures will not capture the prior professional experience not recorded in such cases).

Disability information is currently presented for magistrates only, and is not available for judges or tribunal members. Disability information is collected on a non-mandatory basis by self-declaration, representing the perception of the individuals themselves. Although the question asked on the administrative system allows for magistrates to declare whether they have or do not have a disability, or to state they choose not to declare, the administrative database was set up in such a way as to only collate information with a flag where individuals had declared they have a disability. As such, the held administrative data cannot

distinguish those who declared they do not have a disability from those who chose not to declare or those who did not respond. As such, while a simple count of the number that declared a disability can be presented, it is impossible to determine the proportion of those that provided information that declared a disability, so meaningful representation percentages are not possible. Therefore no statistical value can be derived from currently held disability information, and it is presented solely for transparency purposes, where available, which is for magistrates only at present.

Methodology

Calculation of representation percentages for self-declared characteristics

Representation percentages (the representation of particular groups within a diversity characteristic) are calculated excluding unknowns.

In the first release of last year's bulletin, the Judicial Diversity Statistics had included unknowns in calculations of percentages. This issue was identified, and a revised bulletin was subsequently issued, including percentages both calculated including and excluding unknowns for cross-compatibility and transparency over the issue. Having two sets of percentages calculated on a different basis has the potential for confusion, and may misleadingly suggest that there are two alternate, equally valid and meaningful ways to calculate percentages for self-declared characteristics which have the possibility of unknowns.

Where a diversity characteristic is self-declared and non-mandatory, invariably there will be a proportion of individuals that have not provided a declaration, meaning their status is unknown for that characteristic. As a result, there is a level of uncertainty around the figures. This is directly analogous to survey methodology. Not everyone will respond, and the information of those that did respond is used to generalise, to cover those that did not respond, on the assumption of no bias in whether individuals choose not to declare. This may not be an entirely safe assumption, and accordingly the larger the proportion of unknowns, the more likelihood of bias that may have an impact to the accuracy of figures.

While it is important to consider the level of coverage of declarations on a characteristic, as a measure of the certainty which we have over declared figures, this is an entirely separate and distinct consideration to the representation of different groups within that characteristic. Calculating percentages including unknowns conflates these two separate issues into one, resulting in an understatement of the figures for all groups, and making comparisons across time or between groups entirely invalid, with comparisons likely to be misleading.

The methodologically appropriate, and widely used standard approach to calculating percentages for self-declared characteristics with a proportion of unknowns, is calculation of the *representation percentage* excluding unknowns, and pair this with a *declaration rate* – the proportion of the total number of individuals who gave a meaningful declaration for the characteristic (analogous with a response rate in standard survey methodology). Only where the declaration rate is sufficiently high to mean that coverage of the characteristic is good (ergo we have reasonable certainty over the figures, and where any potential bias in non-declaration is not likely to have a material effect) will the representation rate be presented. A widely adopted standard is the minimum threshold of 60% declaration. Where declaration rates fail to meet the minimum threshold of 60%, representation rates are withheld as the level of uncertainty is too great for representation rates to be meaningful. The higher the

declaration rate, the better the coverage and the greater the certainty over the representation figures.

As long as the level of declaration is sufficient, exclusion of unknowns from representation percentages provides the best estimate of representation based on known information. Excluding unknowns from calculations ensures comparability of percentages across time and between groups, and is consistent with standard statistical survey methodology, and the standard approach to handling representation for self-declared diversity fields.

Accordingly, from this iteration of the Judicial Diversity Statistics onward, we have reverted to presenting representation percentages excluding unknowns, including for the available comparable time series. Additionally, declaration rates are now also presented to provide context of coverage and certainty. This brings the bulletin into line with the standard approach to consideration of self-declared diversity characteristics in statistics bulletins across the Ministry of Justice, wider government, and beyond. It also maintains full comparability with previous iterations of this bulletin (including last year's revised bulletin). There is no impact whatsoever of this methodological improvement to the actual underlying numbers.

Data Quality

A new HR system (e-HR) was introduced for the judiciary in 2016, which rationalised a number of existing systems that contained HR and training data.

Data for this statistics bulletin are extracted to represent the position as at 1 April in each year. This is a snapshot of a moment in time, however the data extract of this snapshot is taken some time after the reference date to enable late updates to be made, to better reflect the true position as at the reference date point.

Extensive validation of the data is undertaken, to ensure figures are accurate. However, as with any large scale administrative database, there may be some inherent degree of inaccuracy within the figures presented.

The database of the self-declared fields (including ethnicity and professional background) for the judiciary may be incomplete as (a) judicial office holders are asked to provide the information on a voluntary basis and (b) such details have only been collected since October 1991. Further ethnicity data was collected from judicial office holders in post through a diversity survey undertaken by the Judicial Office in 2007. In May 2009, the Judicial Office began collecting ethnicity data from all new judicial appointees.

With effect from December 2011, the Judicial Appointments Commission has shared diversity data on selected candidates with the Judicial Office, in those cases where the individual confirmed they were content for the information to be shared.

Related publications

Statistics on the diversity of recommendations for appointment are published by the Judicial Appointments Commission <https://jac.judiciary.gov.uk/jac-official-statistics>