



LORD CHIEF JUSTICE
OF ENGLAND AND WALES



SENIOR PRESIDENT
OF TRIBUNALS

Guide to Judicial Diversity Statistics

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1. Background to Judicial Diversity Statistics

The Judicial Diversity Statistics bulletin provides an overview of the diversity of appointed court judges, tribunal judges, 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 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 in court.

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). The recruitment exercises run in recent years by the Judicial Appointments Commission (JAC) may also impact on diversity.

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

For an explanation of judicial roles see: www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/judicial-roles/

2. Users

User:	Summary of main statistical needs:
Ministry of Justice (MoJ) ministers and senior officials within MoJ, Judicial Office, Her Majesty's Court and Tribunal Service and within the JAC	Statistics are used to inform policy development, and to monitor the impact of policy changes over time.
MPs and House of Lords	Statistics are used to answer parliamentary questions.
Existing judges, candidates for judicial appointment, 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.

3. Points to note

a. Coverage

Courts - England and Wales

Tribunals - all tribunals administered by HMCTS and Welsh Tribunals not administered by HMCTS. This includes Employment Tribunal Scotland, in addition to Tribunals in England and Wales. Tribunals that are the responsibility of the devolved Welsh Government are not included.

Magistrates - England and Wales

b. Appointment Type - Primary and Secondary roles

The figures in this bulletin reflect a judge's primary appointment (i.e. the one they hold most of the time). However, judges can hold multiple appointments. The majority of judicial office holders (over 90%) hold only one appointment, although more tribunal judges than court judges have two or more roles.

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

The bulletin provides breakdowns of fee paid, salaried and salaried part-time judges and non-legal members of tribunals. 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. All figures exclude those who are sitting in retirement as a fee paid judge - improvements have been made to the 2019 statistics to ensure exclusion of all those sitting in retirement.

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.

4. 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 at point of entry into the judiciary, and represent the perspective of the individuals themselves. These are non-mandatory, and while coverage is good, it is not complete.

a) **Gender** is recorded as a binary woman/man characteristic. This represents self-determined gender, acknowledging that a binary gender category does not fully encompass the increasingly understood non-binary complexity of gender.

b) **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. Owing to the small numbers involved, it would not be meaningful to present disaggregated ethnicity statistics, 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 this bulletin and is widely used in other statistical publications.

c) **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'. This information is non-mandatory, but coverage is very good (see section 5.c. on declaration rates). 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, which is likely to be the most recent profession at the time of taking up judicial office. Figures will not capture the prior professional experience not recorded in such cases).

d) **Disability** information is not currently presented as it is not possible to differentiate between those without a disability and non-respondents. Disability information is collected on a non-mandatory basis by self-declaration, representing the perception of the individuals themselves.

Disability information may change over time, an individual's diversity information is only taken at point of entry unless they contact the relevant HR staff to update their disability information should their status change. Changes to what and how we collect diversity information in 2019/20 may provide us with more accurate data to use in the future (see section 5.d.).

e) **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 among the judiciary.

5. Methodology

a. Calculation of representation percentages for self-declared characteristics

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

Where a diversity characteristic is self-declared and non-mandatory, invariably there will be a proportion of individuals that have not declared, meaning their status is unknown for that characteristic. As a result, there is a level of uncertainty around the figures that increases in relation to the proportion of unknowns. The assumption of no bias in whether individuals choose not to declare is made when calculating percentages of representation.

The standard approach to calculating percentages for self-declared characteristics with a proportion of unknowns is to use the *representation percentage* excluding unknowns. It is appropriate to consider this alongside the *declaration rate* (see section 5.c.) – the proportion of the total number of individuals who gave a declaration for the characteristic. Only where the declaration rate is sufficiently high to mean that coverage of the characteristic is good (a widely adopted standard is a minimum threshold of 60%) will the representation rate be presented. 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.

This bulletin presents the declaration rate of self-declared characteristics, and calculates the percentage representation excluding unknowns. This is the standard approach used across the Ministry of Justice, and widely across government.

b. Rounding conventions

Percentages are presented as rounded whole numbers, but charts and percentage point calculations use unrounded figures. Where rounded numbers are used percentages may not sum to the total.

c. Declaration rates

Declaration rates are recorded each year. In recent years, declaration rates have increased, and the uncertainty around levels of representation should now be low. As at 1 April 2019, declaration rates were as follows:

Type of appointment	Declaration rates (%)		
	Gender	Ethnicity	Professional background
Court Judges	100	86	99
Tribunal Judges	100	93	98
Non-Legal Members of Tribunals	100	90	<i>Not Applicable</i>

d. Changes to collection of diversity information

The way we collect diversity information is changing. From 2019/20 judges will be able to enter and edit their own diversity information rather than it being as at point of entry into the judiciary (unless HR teams are contacted with updated details). This will allow judges to access all of their diversity information on a regular basis to ensure it is up to date and accurate. We will also begin to collect additional diversity information with the aim to include it in the published statistics (subject to appropriate declaration rates).

Judges will be given the option to decide not to declare any of their diversity information at any point. As a consequence, declaration rates of existing information may change and the presentation of the judicial diversity statistics will change over the next few years. This new method provides judges with the option to '*Prefer not to say*' and thus opt out of providing us their data, ensuring compliance with the General Data Protection Regulation.

e. New Tables – Experimental Statistics

A new set of experimental statistics have been added to the 2019 bulletin. These new tables (4.1 – 7.4) present the same diversity breakdowns as the court and tribunal tables (1.1, 1.4, 2.2 and 2.3), but for new appointments and leavers. These figures have been included in response to answering requests for evidence from the Senior Salaries Review Board, Freedom of Information requests and other general enquiries. The new tables should have considerable immediate value to users allowing them to clearly assess how the diversity of the judiciary is changing, by presenting flows in and out of the judiciary.

These statistics are classed as experimental as this is a new methodology which is being tested and is still subject to modification. Following the publication of these statistics and any feedback from users, the methodology used to produce these tables will be reviewed prior to the publication of future updates to ensure quality and accuracy of the statistics.

1. New appointments

Tables 4.1 – 4.4 present the diversity information of court and tribunal judges and members who have started a **new appointment** in the last financial year (2018/19). This category includes those who have:

- started their first appointment;
- been promoted from fee paid to salaried; or
- have had a promotion from a salaried post to a higher salaried post.

Judges or members changing appointment, such as extension, change of jurisdiction or returning to sit in retirement are excluded.

These figures on new appointments do not directly match the recommendations for appointment made by the Judicial Appointments Commission (JAC) over the same period. The reasons for this include;

- There are a small number of recommendations that will either not be accepted by Judicial Office or the applicant will withdraw
- Not all those recommended will be appointed in the same year, appointments will be made dependant on demand and applicants accepting the appointment and location offered
- JAC statistics will include applicants that are already in the judiciary and those applying from outside of the judiciary. Whereas, the new entry tables exclude those who already had a judicial appointment, and the promotion tables only includes judicial office holders that are changing their primary appointment and entering a salaried role.

1.1. Promotions

Tables 5.1 – 5.4 present a further breakdown of the statistics presented in tables 4.1 – 4.4. These tables only show **promotions** from one judicial role to another that happened in the last financial year (2018/19). Promotions can be either from fee paid to salaried, or from salaried to a higher salaried post. As the tables only present diversity breakdowns for promotions, no information is included on fee paid posts. Furthermore, numbers may be small for some appointment types as they have a limited number of appointments.

1.2. New Entries

Tables 6.1 – 6.4 present a further breakdown of the statistics presented in tables 4.1 – 4.4. These tables only show **new entries** (i.e. those taking up their first judicial role). Judicial office holders may take up a new or additional appointment while in office, therefore we count a new entrant as a judicial office holder starting a new appointment and they did not hold another appointment at the start of the financial year. Although judicial office holders can have multiple appointments, they are counted on a head count basis and so will only be counted once by their primary appointment.

2. Leavers

Tables 7.1 – 7.4 present the diversity breakdowns of judicial office holders **leaving the judiciary** in the last financial year (2018/19). Individuals are included regardless of the reason that they left, with reasons including:

- retirement;
- resignation;
- death in service; and
- removal by the Lord Chancellor

As judicial office holders can hold more than one appointment, they are only counted when they leave their primary appointment and hold no other appointments.

6. 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 bulletin are extracted to represent the position **as at 1 April** in each year. This snapshot is taken some time after the reference date to enable updates to be made, better reflecting the true position as at the reference date.

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 to a lesser extent (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 JAC has shared diversity data on candidates recommended for immediate appointment with the Judicial Office where the individual confirmed they were content for the information to be shared.

7. Related publications

Statistics on the diversity of recommendations for appointment are published on an annual basis by the JAC at www.judicialappointments.gov.uk/jac-official-statistics

8. Next update

We are considering the potential of combining JAC statistics on recommendations for new appointments and Judicial Office statistics on the diversity of the current judiciary. These statistics could be presented alongside membership diversity information from the professional bodies (The Bar Council, The Law Society and CILEx) or their regulatory bodies (the Bar Standards Board, the Solicitors Regulation Authority and CILEx Regulation) as appropriate. This would show the representation of under-represented groups from the professional bodies through the JAC recruitment process and into the judiciary. We will also look to develop the eligible pool into a more meaningful comparator.

As part of the review of the publication to consider the inclusion of wider information, we will also be reviewing the existing content and methodologies. If you have any feedback, please write to us at judicial.statistics@justice.gov.uk