



Response of the Judges' Council to the DCA Consultation Paper "Return to Practice by Former Salaried Judges"

1. The Judges' Council has had the benefit of the work and advice in a [Report of a Working Group](#), chaired by Lord Justice Gage, which dealt with the principle of salaried Judges returning to practice and [a second Report](#) prepared by a subsequent Working Group, chaired by Lord Justice Pill, which suggested answers to the questions posed in the consultation paper and detailed further reservations and advice on the principle of return to practice.
2. On 14th December 2006 the Lord Chancellor attended the Judges' Council and addressed the meeting setting out his observations on the Report of the second Working Party.
3. The Judges' Council has since reflected on the Reports and debate in the meeting and has reached the following conclusions:
 - a. the current convention against returning to practice after retirement should continue in respect of all members of the judiciary
 - b. the proposed safeguards or conditions are unworkable, risk being unlawful as being in restraint of trade and in any event would have the effect of deterring those who might be attracted by the idea of being able to return to practice.
 - c. there is no adequate evidence that the proposed scheme will have any effect on increasing the diversity of applicants for judicial office
 - d. if the current convention is not continued, there will be serious impact on the standing and status of the judiciary.
 - e. for this reason, the effect of any public announcement from the government which would be along the lines that "Judges are now able to return to practice when they cease holding judicial office" is likely to attract fewer rather than more applicants to judicial office. It would further open serving judges to accusations of bias and would be detrimental to the public's current perception of the judiciary as independent and impartial.

4. The Judges' Council supports the Reports of both working groups and the conclusions set out in the respective Reports. Whilst the Judges' Council accepts that Terms and Conditions of serving judges are within the remit of the Lord Chancellor, the Council nevertheless considers that the convention that judges should not return to legal practice is a matter for the judiciary.

A handwritten signature in black ink, appearing to read 'N. Phillips', is centered on the page. The signature is fluid and cursive, with a long horizontal stroke at the end.

Chairman of the Judges' Council

21st December 2006