

Action plan on disability equality and judicial appointment

November 2005

Purpose

The Department for Constitutional Affairs (DCA) is committed to ensuring equality for disabled people who apply for judicial appointment and for serving judges who have an impairment or long term medical condition.

This action plan is a key part of the Judicial Diversity Programme. It covers four areas:

- The DCA's approach;
- Appointments processes;
- Judges in post, both fee-paid and salaried;
- Outreach to potential applicants for judicial office.

The overall aim of the work is to promote a positive approach to disability and reasonable adjustment.

Background

This action plan originates in a roundtable held by Baroness Ashton on 21 September 2005 as part of the Judicial Diversity Programme. A range of individuals and organisations with experience of and expertise in disability equality and legal issues took part, including:

- The Disability Rights Commission (DRC);
- Group for Solicitors with Disabilities;
- RNIB;
- RNID;
- Mind;
- The Bar Council;
- The Law Society;
- Several serving judges.

Following the meeting, a joint working group of roundtable participants and DCA officials has been established to develop solutions to the barriers disabled people face in relation to judicial appointment.

The action plan identifies key priorities, for which responsibility has been assigned to named officials within DCA. A clear timetable has been established within which each action is to be completed. DCA officials will consult working group external members on how to implement the actions and report regularly on progress. A further meeting will be held by Baroness Ashton early in 2006.

Although this work focuses particularly on legally qualified judges in courts and tribunals, it is anticipated it will benefit other court and tribunal users (including non-legally qualified tribunal chairs and members). Equally, there may be simple solutions for judges because of work already underway to ensure disability equality for other court and tribunal users, or for staff.

Where the current action involves a review or information-gathering, we will follow this with any necessary action to bring what is done up to an appropriate standard.

The DCA's approach

The DCA welcomes applications for judicial appointment from disabled people. Everything we do should reinforce this approach. We want there to be a positive working environment in courts and tribunals for lawyers and judges who have an impairment or long term medical condition. We will make sure that every disabled applicant receives the reasonable adjustments to which they are statutorily entitled or which best practice suggests they should receive, as will every judge in post who develops an impairment or long term medical condition. We will make sure there is a consistent approach to issues of reasonable adjustment, and that the new structures that result from the constitutional changes in April 2006 take account of this programme of work.

By 30 November 2005, we will:

- Develop, publish, promote and implement a policy which sets out very clearly the DCA's positive approach and addresses, both in principle and practice, how issues of reasonable adjustment will work during the appointments process and for serving judges.
- Ensure the DCA's Disability Equality Scheme includes the judiciary, so the impact of the positive duty to promote disability equality on judicial appointment and the judiciary in courts and tribunals is clear.

- Consider how to gather monitoring information from existing judges on impairments or long term medical conditions.
- Explore with the Judicial Studies Board, and particularly the Equal Treatment Advisory Committee, what training judges receive in disability equality.
- Ensure that absence connected to an impairment or long term medical condition does not count against an individual's eligibility for the purposes of the new statutory criteria.

By 31 December 2005, we will:

- Gather information on current practice from throughout courts and tribunals in England and Wales on staff training; physical accessibility and the provision of appropriate facilities for lawyers and judges; and the provision of information on facilities at every court and tribunal.
- Ensure clear responsibilities for disability equality issues within the Judicial Appointments Commission (JAC), the Judicial Office for England and Wales (JOEW) and across tribunals.
- Consider establishing a single point of contact where judges, applicants and potential applicants can obtain clear information on reasonable adjustments and discuss their options.
- Discuss with the legal professions what is being done to improve access for disabled people to professional qualifications, training contracts and pupillage.
- Ensure disability equality is reflected in the Legal Professions Diversity Action Plan in response to the Legal Services Consultative Panel advice on diversity in the legal professions.

By 31 January 2006, we will:

- Make any necessary changes to the DCA website and particularly those sections relating to judicial appointment to ensure it is fully accessible to visually impaired users, users of access keys and people with dyslexia.

Appointments processes

We want to make sure that all applicants for judicial office are considered on merit, regardless of whether they are disabled or not. Candidates and those recommended for appointment should be made aware that reasonable adjustments will be made both during the application process (to enable candidates to be considered fairly) and if they are recommended for appointment. Every disabled applicant will

be considered only against the competency framework for the relevant competition. Any impairment or long term medical condition will not be taken into account as part of the selection process, but only in relation to issues of reasonable adjustment. The competencies against which suitability is assessed must not themselves be indirectly discriminatory.

By 30 November 2005, we will:

- Ensure that information is consistently advertised as being available in alternative formats throughout the appointments process.

By 31 December 2005, we will:

- “Equality proof” application materials in relation to disability, including advertisements, application forms and guidance for applicants, to ensure that disability issues are handled appropriately for both the applicant and the demands of office.
- Review the wording of the generic competency framework.
- Review guidance and disability equality training currently given to assessors and sifters.

By 31 January 2006, we will:

- Review the wording of letters to ensure that reasonable adjustments are offered at every stage; and review how any response requesting reasonable adjustment is dealt with by officials who may be contacted following receipt of these letters.

In early 2006, we will:

- Ask the Judicial Appointments Commission to consider reviewing the generic competency framework to promote disability equality and the approach to consultees.

Judges in post (fee-paid and salaried)

We want to make sure that judges who have an impairment or long term medical condition are consistently and appropriately supported throughout their judicial career. Judges who develop an impairment should know in advance what support they will receive, within a positive environment that will always consider reasonable adjustment in consultation with the judge him or herself.

By 31 December 2005, we will:

- Clarify within HMCS and tribunals how the Access to Work Scheme is used to support judges who develop an impairment or long term medical condition.

- Consider establishing systems or points of contact to ensure a consistent approach by different courts and tribunals when a disabled person is appointed and when a judge develops an impairment or long term medical condition.

By 28 February 2006, we will:

- Ensure information on reasonable adjustments is provided on appointment and at regular intervals to all serving judges.

Outreach

We want to make sure that disabled lawyers are fully aware that an impairment or long term medical condition is not a bar to appointment for a suitable candidate, in other words one who meets the competencies to a sufficiently high standard to be appointable to the post to which the competition relates. We hope that in the future judges who have an impairment or long term medical condition will feel able to be open about disability issues. We want to encourage disabled lawyers to take part in the judicial work shadowing scheme so that they gain a real idea of what life as a judge would be like.

By 30 November 2005, we will:

- Ensure so far as possible that judicial role models who appear at outreach events include judges with a declared impairment or long term medical condition.
- Ensure that we include disability organisations when publicising all outreach events.
- Review how we gather monitoring information for attendees at outreach events.
- Investigate an informal information-gathering exercise to ensure that judges who have an impairment or long term medical condition (whether or not this is declared) are included as judicial role models.
- Review the judicial work shadowing scheme materials to ensure they ask about reasonable adjustment.
- Review the list of organisations approached in targeted marketing exercises to ensure it includes organisations with access to networks of disabled lawyers.

By 31 December 2006, we will:

- Consider how to ensure disabled applicants for work shadowing are paired with judges with a positive attitude; and how to promote work shadowing to disabled lawyers.