



**JUDICIAL  
APPOINTMENTS  
BOARD FOR  
SCOTLAND**

# **Annual Report 2018-2019**

Laid before the Scottish Parliament by the Scottish Ministers  
under section 18 of the Judiciary and Courts (Scotland) Act 2008

September 2019

SG/2019/153



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Any enquiries regarding this publication should be sent to us at:

Judicial Appointments Board for Scotland  
Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HD

E-mail: [mailbox@jabs.gsi.gov.uk](mailto:mailbox@jabs.gsi.gov.uk)

This publication is only available on our website at [www.judicialappointments.scot](http://www.judicialappointments.scot).

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## FOREWORD



In this, our 10th Anniversary Year I am pleased to present the Annual Report of the Judicial Appointments Board for Scotland as a statutory body. This has been a significant year with the 100th Anniversary of the Representation of the People Act 1918 and 100th Anniversary of the Sex Disqualification (Removal) Act 1919 opening the legal profession to women for the first time. In such a remarkable anniversary year for gender equality, I am pleased to note that we have met the Scottish Government Gender Diversity Target of 50:50 by 2020.

It has been a continued honour and a privilege for me to contribute to the work of Judicial Appointments Board for Scotland for my second year as Lay Chairing Member. In this reporting year, the Board has delivered again on its core purpose of making recommendations for appointment with eight recommendations for judicial office made during this reporting period.

The Board continues to seek opportunities to improve the way we do our work and implement changes. We have created a five year Strategic Plan. I am confident that it will help us to hit our key operational milestones and to achieve our ambitions.

Whilst always safe-guarding our independence, Board members have paid special attention to increasing engagement in the legal and judicial world, seeking to deepen understanding of how we work and to learn how people experience us. We have taken a fundamental look at the question “What makes a good judge?” As a result, we are transitioning to a revised set of qualities for use in assessment of applicants. We have ensured our selection processes remain fair, robust and fit for the future.

Needless to say, none of the work would be possible without the dedicated and skilled contributions from the lay, legal and judicial Board members and our much appreciated Business Management Unit staff.

Nicola Gordon  
Lay Chairing Member

## INTRODUCTION AND MEMBERSHIP

### Introduction

#### Judiciary and Courts (Scotland) Act 2008

Following the implementation of the Judiciary and Courts (Scotland) Act 2008 (the 2008 Act), the Board became an advisory Non-Departmental Public Body on 1 June 2009; the Board's functions, as set out in Section 9 of the 2008 Act, are:

- To recommend to members of the Scottish Government individuals for appointment to judicial offices within the Board's remit, and
- To provide advice to members of the Scottish Government in connection with such appointments.

The judicial offices within the Board's remit, as set out in Section 10 of the 2008 Act are:

- Senator of the College of Justice
- Chair of the Scottish Land Court
- Temporary Judge (with a number of statutory exemptions)
- Sheriff Principal
- Sheriff
- Part-time Sheriff
- Summary Sheriff
- Chamber Presidents of the Scottish Tribunals
- Member of the Scottish Tribunals

The **Judiciary and Courts (Scotland) Act 2008** also places the following responsibilities on the Board:

- a) selection must be solely on merit;
- b) the Board may select an individual only if it is satisfied that the individual is of good character; and
- c) in carrying out its functions, the Board must have regard to the need to encourage diversity in the range of individuals available for selection to be recommended for appointment to a judicial office.

## Membership

There are normally twelve Board members: six judicial and legal members (a Senator of the College of Justice, a Tribunal President, a Sheriff Principal, a Sheriff, a member of the Faculty of Advocates and a Solicitor) and six lay members, one of whom is the Chairing Member. The Board membership during the period covered by this Annual Report was as follows:

### Lay Members

Mrs Nicola Gordon  
Ms Neelam Bakshi  
Mrs Elizabeth Burnley, CBE (since August 2018)  
Mrs Deirdre Fulton  
Mrs Alison Mitchell  
Professor Stephen Tierney  
Dr Michael Ewart (until June 2018)

### Judicial Members

The Honourable Lady Wise, QC  
The Honourable Lord Minginish, QC  
Sheriff Principal Derek Pyle (until January 2019)  
Sheriff Principal Marysia Lewis (since January 2019)  
Sheriff Michael O'Grady, QC

### Legal Members

Mr James McNeill, QC (until January 2019)  
Ms Morag Ross, QC (since February 2019)  
Mr Alistair Morris (until January 2019)  
Ms Eilidh Wiseman (since February 2019)

## Lay Assistant Selection Panel Members

With the introduction of the Tribunals Scotland Act 2014, statutory provision was made for the Board to appoint Assistants to help the Board to deliver its workload. The Lay Assistant Selection Panel Members during the period covered by this report were:

Mrs Elizabeth Burnley (until August 2018)  
Mr John Cummings  
Mr David Robinson (until December 2018)

## **FIVE YEAR STRATEGIC PLAN**

In October 2018 the Board published its Five Year Strategic Plan.

This document sets out our strategic plan for the next five years, 2018-2022. It documents how we will continue to contribute to justice in Scotland and provides a 'road map' of how we aim to deliver our priorities.

The Five Year Strategic Plan detailed our Vision, Values, Objectives and Priorities.

We are confident that it will help us to hit our key operational milestones and to achieve our ambitions. We will continue to make sure our selection processes remain fair, robust and fit for the future.

Whilst always safe-guarding our independence, we will be open and engaged - seeking out ways to improve the way we do our work and implementing changes. We know that we cannot achieve our ambitions without the help and input of others.

As we move forward with the delivery of this strategic plan, we will provide regular feedback on our progress and lessons learned. As we focus on delivery over the next five years, we will also think about our long-term aspirations for judicial appointments in Scotland.

We recognise that our agenda is ambitious. For us to be successful, we need to respond to the evolving resources available to us to ensure we can deliver the best outcomes for applicants, our justice colleagues and for the people of Scotland.

We recognise that it is a great privilege to be able to contribute to the democracy of our country, and will continue to do so with energy, commitment, care and transparency.

Our Five Year Plan is available on our website: [www.judicialappointments.scot](http://www.judicialappointments.scot)

## OUR VISION

To attract applicants of the highest calibre, encourage diversity in the range of individuals available for selection and to recommend applicants based solely on merit through processes that are fair and transparent.

## OUR VALUES

- **TRUST** - Our actions justify the faith others have put in us to make recommendations based on merit.
- **FAIRNESS** - Our actions and processes are designed to be equitable and to reduce the role of bias in our decision making.
- **INDEPENDENCE** - Our systems and processes are independent, open and transparent.
- **AGILITY** - We are flexible, adaptable and we embrace change where it helps us to streamline our processes.
- **EVOLUTION** - We embrace opportunities to learn and develop through continuous improvement.
- **INCLUSION** - We observe, listen, understand and support everyone we work with.

Our Vision and Values are on our website at: [www.judicialappointments.scot](http://www.judicialappointments.scot)

## OUR STRATEGIC OBJECTIVES

- We will contribute to furthering justice in Scotland alongside Scottish Ministers, the judiciary and the legal profession.
- We will make independent recommendations for appointment to courts and tribunals based solely on merit.
- We will work in a fair and transparent, way which commands the confidence of courts and tribunal users and the wider public.
- We will encourage diversity in the range of individuals available for selection.
- We will pursue continuous improvement in the way we do our work.

## OUR PRIORITIES

- Developing our Board and our staff creating the right conditions to enable them to do their best work.
- Making the best use of our resources including technology and digital connectivity.
- Our relationships with our stakeholders and partners and how we work with other organisations.
- Taking steps to help encourage a diverse range of applicants.
- Using an evidence-based approach to continuously improve our processes.

Our Objectives and Priorities are on our website: [www.judicialappointments.scot](http://www.judicialappointments.scot)

## JUDICIAL SKILLS AND QUALITIES



Over the past year the Board have been working closely with key partners in the justice family to develop and implement a clearer description of the skills and qualities required by individuals who wish to hold judicial office. At present, these refreshed qualities relate to the offices of Senator, Sheriff and Summary Sheriff.

The Board considered the question of what makes a person a good judge, both now and, as far as we can, for the future guided by seven key principles.

Our aim is to provide improved clarity on the legal knowledge, skills and competence as well as the personal and judicial qualities that make a person a good judge. The Board take a holistic approach of these seven skills and qualities in making their recommendations for judicial office.

The skills and qualities for Senator and Shrieval judicial office are published at: <https://www.judicialappointments.scot/resources/what-were-looking/courts>

In 2019/20 the Board will consider and publish the judicial skills and qualities required for tribunal appointments.

## JABS RECOMMENDATIONS FOR JUDICIAL APPOINTMENTS

The Board is responsible for recommending individuals for judicial offices within its remit. During the year the Board:

- completed one appointment round started in the reporting year 2017-2018;
- concluded one appointment round within this reporting year.
- started two shrieval appointment rounds in March 2019 that will be concluded in the next reporting period (including diversity data).

A summary of the Board's recommendations in the reporting year is as follows:

Judicial Office	Appointment rounds	Applications received	Recommendations for appointment
The Office of Summary Sheriff: 2018	1	173	7
President of the General Regulatory Chamber of the First-Tier Tribunal for Scotland	1	4	1
The Office of Sheriff 2019	1	To be concluded in the next reporting period	
The Office of Summary Sheriff 2019	1		
<b>Total</b>	<b>4</b>	<b>177</b>	<b>8</b>

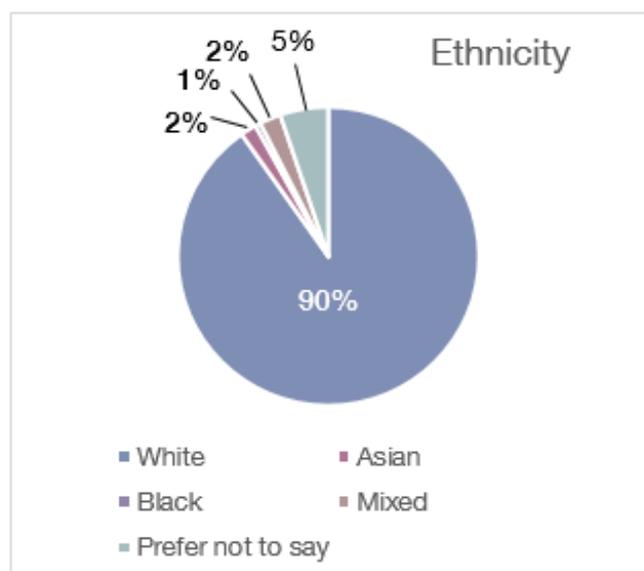
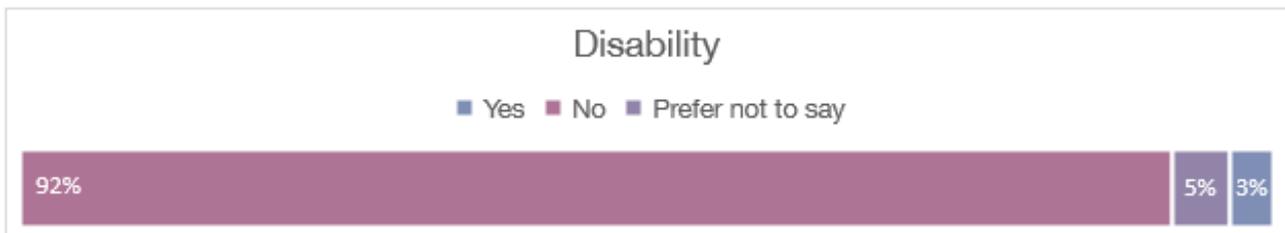
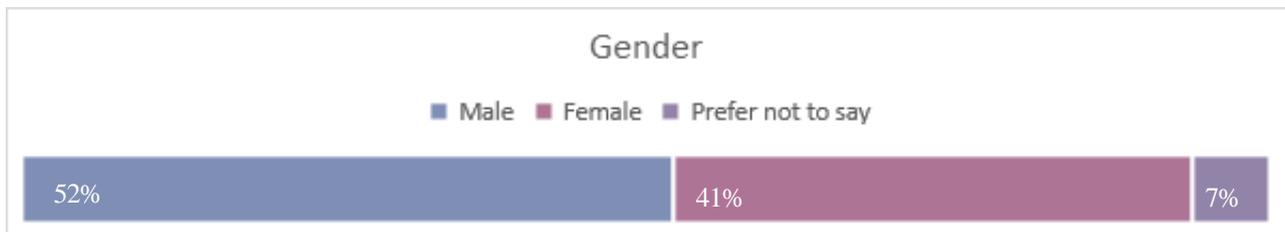
All applicants for judicial office are invited to complete a Diversity Monitoring Questionnaire. The purpose of the questionnaire is to assist the Board in identifying changes in the nature of the eligible pool of applicants. Completion is voluntary, applicants may complete all, some or none of it. The questionnaire is separated from the application form upon receipt and is not seen by Board members.

## Recommendation for the Office of Summary Sheriff

In February 2018, the Board invited applications from those eligible for appointment to Office of Summary Sheriff. Seven vacancies were advertised and the Board received 173 applications.

Board members who participated in the recommendation process were: Ms Neelam Bakshi, Mrs Deirdre Fulton, Mr James McNeill, QC, The Hon. Lord Minginish, QC, Mrs Alison Mitchell, Mr Alistair Morris, Sheriff Principal Derek Pyle, Professor Stephen Tierney and The Hon. Lady Wise, QC.

The following table provides statistical information on these applications:



## **Recommendation for the Chamber President of the First-tier Tribunal for Scotland - General Regulatory Chamber**

The Judiciary and Courts (Scotland) Act 2008 (as amended by the Tribunals (Scotland) Act 2014) gives JABS responsibility for recommending individuals for appointment to specified posts in the Scottish Tribunals.

In January 2019, the Board invited applications from those eligible for appointment to the office of Chamber President of the First-tier Tribunal for Scotland - General Regulatory Chamber.

As this was for a panel to recommend a new tribunal appointment, the Board welcomed The Rt. Hon. Lady Anne Smith, PC, President of the Scottish Tribunals as a panel member.

The selection panel was chaired by Lay Board Member, Mrs Alison Mitchell. The Hon. Lord Minginish, QC and Professor Stephen Tierney were the third and final selection panel members.

Due to the small number of applicants for this recruitment round, the Board agreed that diversity statistics would not be published on this occasion.

## **COMPLAINTS**

The Board's complaints procedure is set out in full on our website. The information explains to candidates how they can make a complaint, the timescales and how to proceed if they wish to take matters further.

For complaints which appear to fall within the scope of this procedure, the Chairing Member of the Board will establish a Complaints Committee of three Board members who have had no previous direct involvement in the matter complained of to consider and reach a determination on the complaint. The Committee will endeavour to reach a determination within 20 working days of the commencement of the investigation. A complainant has a right to request the Chairing Member to review the decision of the Complaints Committee.

A complainant not satisfied with the result of the review has the right to ask the Scottish Public Services Ombudsman to consider the matter.

During the period of this report, no complaints were received.

## **FREEDOM OF INFORMATION**

During the period 1 April 2018 to 31 March 2019 the Board received seven requests for information under the Freedom of Information (Scotland) Act 2002.

All responses were provided within the statutory 20 working days.

## PUBLICATIONS

The Board has adopted the following corporate documents in fulfilment of its responsibility as a public body:

- Framework Document (between JABS and the Scottish Government)
- Publication Scheme under the Freedom of Information (Scotland) Act 2002
- Complaint Procedures
- Code of Conduct for Board Members
- Code of Conduct for Business Management Unit Staff
- Data Protection Policy
- Policy on Confidentiality
- Statement of Principles on Criminal Convictions
- Business Continuity Plan
- Records Management Plan

These documents are available on our website. [www.judicialappointments.scot](http://www.judicialappointments.scot)

## MEETINGS

The Board normally meets on the third Monday of each month. The minutes of meetings in the reporting period are published on the JABS website.

The Board continues to maintain close and effective relationships with a range of interested parties. Over the past year, the Board and its officials have held meetings or discussions with the following individuals and organisations to promote the work of the Board and to explore matters of common interest:

Scottish Government

Lord President of the Court of Session

Lord Justice Clerk

President of the Scottish Tribunals

Crown Agent

Sheriffs Principal

Judicial Office for Scotland

Scottish Legal Complaints Commission

Northern Ireland Judicial Appointments Commission

Judicial Appointments Commission (for England and Wales)

Faculty of Advocates

Society of Solicitor Advocates

Law Society of Scotland

## Attendance at Board Meetings

Board Member attendance at JABS meetings during the year was as follows:

Details	Board	QAG	ARMC	DSG
<b>Total Meetings in the Year</b>	<b>10</b>	<b>3</b>	<b>3</b>	<b>3</b>
Mrs Nicola Gordon, Chairing Member	10/10	-	-	2/3*
Dr Michael Ewart	2/2	-	-	-
Mrs Alison Mitchell	10/10	3/3	-	-
Mrs Deirdre Fulton	10/10	3/3	-	-
Professor Stephen Tierney	9/10	-	3/3	-
Ms Neelam Bakshi	10/10	-	3/3	-
Sheriff Principal Derek Pyle	6/6	-	-	-
The Hon. Lord Minginish, QC	8/10	-	-	-
The Hon. Lady Wise, QC	10/10	-	-	3/3
Mr James McNeill, QC	5/8	3/3	-	-
Mr Alistair Morris	6/8	3/3	3/3	-
Sheriff Michael O'Grady, QC	7/10	-	-	-
Mrs Elizabeth Burnley, CBE	8/8	-	-	0/1
Sheriff Principal Marysia Lewis	4/4	-	-	2/2**
Ms Eilidh Wiseman	1/2	-	-	-
Ms Morag Ross, QC	2/2	-	-	-

Notes:

1. / = possible attendance depending on when members joined or left the Board/committee
2. \*Although Mrs Gordon attended two DSG meetings, she is not a member.
3. \*\* Sheriff Principal Lewis attended two DSG meetings before joining the Board as a member.
4. There were no Board meetings in May and July 2018.
5. For details of current Board members, please see the JABS website. Details for retired members are available on request
6. Members also attended meetings on behalf of the Board in addition to those detailed above.

## ENGAGEMENT

Throughout this reporting period, the Board has continued to extend their reach to groups surrounding the judiciary, including those which are currently underrepresented.

By working with different organisations throughout the year, we aimed to broaden the field of those who may consider appointment to a judicial role as a career path.

The Board is also mindful that the Judiciary and Courts (Scotland) Act 2008 enunciates that - in carrying out its functions, the Board must have regard to the need to encourage diversity in the range of individuals available for selection to be recommended for appointment to a judicial office.

We worked and arranged events with the following organisations in this reporting period:

- Scottish Ethnic Minority Lawyers' Association (SEMLA)
- Scottish Young Lawyers' Association (SYLA)
- Trainee and Newly Qualified Society Scotland (TANQ)
- Law Society of Scotland Annual General Meeting 2018
- Pride in Justice Network for LGBTI staff and allies
- Judicial Office for Scotland outreach events in Glasgow/Dundee

## COMMITTEES AND GROUPS

To assist in its work in 2018/19 the Board continued to be supported by one Committee and one Working Group. The Board also contributes to the Diversity Steering Group which has a broader membership and remit.

### **Audit and Risk Management Committee (ARMC)**

In 2018/19 the Committee was responsible to the Board for the:

- Adequacy of governance and risk management arrangements (including Business Plan and Risk Register, Business Continuity Plan, Information Security and Annual Report).
- Arrangements for the review, monitoring and delivery of the Business Plan.
- Findings from any Scottish Government internal audit reports and proposed responses.
- Governance implications of major policy issues.
- Corporate governance compliance.
- Arrangements for securing best value, regularity and propriety.
- Arrangements for delivering efficiency savings.
- Arrangements for delivery of anti-fraud policies.
- Draft Annual Report prior to submission to the Board.
- Reviewing the Board's Records Management Plan.

#### **Committee Membership:**

Ms Neelam Bakshi (Chair)

Mr Alistair Morris (until January 2019)

Professor Stephen Tierney

During the period covered by this report the ARMC met on three occasions in May, August and December 2018. At the meetings the ARMC, in addition to providing general oversight of corporate governance, received reports on the Board's actual and projected expenditure and reviewed the JABS Business Plan and JABS Risk Register.

In March 2019, after consulting with Scottish Government Internal Audit and our Sponsor Department, the Board concluded that we may be best served by moving from these arrangements to trial a new and more proportionate governance approach with the whole Board sitting as an Audit and Risk committee on a quarterly basis; this governance trial is expected to continue throughout 2019.

## **Quality Assurance Group (QAG)**

The Board strives for continuous improvement and best practice. As a sub-committee of the Board, in 2018/19 the QAG continued to:

- Ensure that systems employed by the Board are sound, appropriate and kept up to date.
- Carry out a regular review of systems; and ensure through quality assurance that there is reasonable consistency and best practice.
- Monitor implementation of new legislation published by the Scottish Government insofar as it affects or could affect the statutory remit of the Board.
- Regular monitoring of appointment rounds.
- Ensure that the Board has robust systems in place for monitoring the quality of its processes.
- Monitor areas for improvement and monitor candidate experience.
- Make recommendations to the Board on the development of any relevant processes.
- Review the effectiveness of the Board in ensuring that members receive the appropriate support and training to undertake their roles as members of the Board.

Any recommendations made by the QAG and subsequently accepted by the Board can be further reviewed at any point. The QAG met on three occasions during the period of this report, in May, August and December 2018. In these meetings, the QAG considered all of the appointment campaigns carried out in the reporting period.

### **Group Membership:**

Mr James McNeill, QC (Chair) (until January 2019)

Dr Michael Ewart (until June 2018)

Mrs Alison Mitchell

Mr Alistair Morris (until January 2019)

Mrs Deirdre Fulton

Towards the end of the reporting period, the Board has been considering how to secure quality assurance, continuous improvement and best practice in the future. The QAG provided a useful approach when all Board members contributed to every competition. The Board continues to approve all recommendations, but different panels are constituted for each individual competition. We will trial a new approach for the whole Board to consider quality assurance and continuous improvement matters in 2019.

## **Diversity Steering Group (DSG)**

The Group is a voluntary collaboration and its function is to support the Board in the fulfilment of its statutory responsibility under section 14 of the Judiciary and Courts (Scotland) Act 2008.

The DSG will explore the scope for consensus, within the context of a shared commitment to selection of judges solely on merit, on approaches to encouraging diversity in the range of individuals available for selection to be recommended for appointment to judicial office.

### **Steering Group Membership:**

The DSG member bodies each nominate an individual for membership and the Lord President nominates both a Senator of the College of Justice and a member of the Judicial Office.

- The Hon. Lady Wise, QC, JABS Board Member (Chair)
- Mrs May Dunsmuir, Chamber President of the Health and Education Chamber
- Mr Tim Barraclough, Judicial Office for Scotland
- Mr Brian Napier, QC, Faculty of Advocates
- Mr Rob Marrs, Law Society of Scotland
- Sheriff Principal Turnbull, Judiciary of Scotland
- Professor Stephen Tierney (until January 2019)
- Sheriff Principal Marysia Lewis, JABS Board Member (since October 2018)
- Mrs Nicola Gordon, JABS Charing Member (Observer)
- Mr Gery McLaughlin, Scottish Government (Observer) (until October 2018)

The DSG met on 19 June 2018, 1 October 2018 and 21 January 2019.

The DSG discussed diversity relative to gender and career progression as well as the difficulty in capturing wider diversity information. The Group reaffirmed that they wished to look at the breadth of personal characteristics that relate to diversity and not only focus on gender. Other areas of discussion were:

- the factors which may contribute to a lower re-application rate for female applicants;
- perceptions in the LGBTI community about judicial diversity;
- early engagement with law schools and currently ineligible lawyers; and
- the possibility of the Scottish Government changing legislation if it is found to be inhibiting diversity in the judiciary.

## FINANCIAL STATEMENT

The Board is funded by the Scottish Government. The Board's expenditure during the financial year 2018 – 2019, as recorded in the Scottish Executive Accounting System (SEAS) to 31 March 2019, is set out below:

Expenditure	Amount
Staff salaries including ERNIC and Superannuation	£212,842
Members' fees and ERNIC	£92,570
Travel and Subsistence for Board Members	£4,646
Travel and Subsistence for Staff	£1,545
Training	£1,357
Accommodation including rent, maintenance and utilities	£66,591
Catering for Board Meetings and Interview Panels	£1,160
Appointment Advertising Costs	£1,121
Project Work - including Public Face of JABS, Applicant and Stakeholder Research and JABS rebranding	£22,057
IT Professional Services <i>for website and vacancy system maintenance and development</i>	£29,592
Consultancy - <i>Legal Advice in relation to GDPR</i>	£4,183
Office Expenditure	£6,100
<b>Total</b>	<b>£443,764</b>

## **BUSINESS MANAGEMENT UNIT (BMU)**

Our staff are civil servants, assigned to the Board by the Scottish Government:

Chief Executive	Mrs Erica Clarkson (until November 2018)
Chief Executive	Mr John Craig (from November 2018)
Head of Business Management Unit	A civil service B3 grade post (a new post since January 2019)
Secretary to the Board and Court Appointments Manager	A civil service B2 grade post
Tribunal Appointments and Governance Manager	A civil service B2 grade post (Reviewed and restructured as the B3 Head of BMU in December 2018)
Appointments Team Leader	A civil service B1 grade post
Administrator	A civil service A3 grade post

Board members and the BMU work very closely together as a team of 17 with 12 members and 5 office staff.

In early 2018 the former JABS Secretariat was renamed to be the JABS Business Management Unit (BMU) in order to more accurately reflect the nature of its work in supporting the Board and its members.

In December 2018 the requirement to enhance BMU resilience and business management resulted in the Tribunal Appointments and Governance Manager B2 post being restructured to the new Head of Business Management Unit B3 post.

The move of 4 staff members in 2018-19 on promotion or to new career opportunities required the recruitment of 4 new members of staff including the Chief Executive. During this period the Board paid particular close attention to ensure the capacity and capability of staff was maintained in order to deliver efficient and effective recommendations by the Board for judicial office.



## **JABS WEBSITE**

The Board's website is the primary source of information on the Board, judicial vacancies, news items, and recent appointments. We know from the data gathered that many of the applications we receive for judicial appointments are from applicants who first saw the advert on the Board's website.

In September 2018, the Board launched its brand new website as part of a bigger project to rejuvenate the public face of JABS. We hope that the switch to a more customer centric portal allows, you, our audience, a more seamless journey through the website and ultimately to the information you are looking for.

The Board aims for continuous improvement in all that they do, and this includes our website. Feedback is always welcome, and we would be grateful for your thoughts or suggested improvements to the site.

To offer this feedback, please do so through our "Contact Us" form found on the website.

### **Online application**

Since December 2015 all of our appointment rounds have been run on an online application platform.

Applications for appointment will always be made online, however the Board will always make reasonable adjustments where required.

Our address for correspondence is:

Judicial Appointments Board for Scotland  
Thistle House  
91 Haymarket Terrace  
Edinburgh  
EH12 5HD

Telephone: 0131 528 5101  
Email: [mailbox@jabs.gsi.gov.uk](mailto:mailbox@jabs.gsi.gov.uk)  
Website: [www.judicialappointments.scot](http://www.judicialappointments.scot)