

Prisons and Courts Bill

Judicial Appointments Commission

Introduction

1. The JAC, Judicial Appointments Commission, was established in 2006 as an executive non-departmental public body in order to select candidates for judicial office. In January 2015, the MOJ conducted a triennial review into the work of the JAC which recommended the JAC explore providing assistance to a wider range of appointments, and develops a charging model to do so.
2. The JAC is a world leader in independent merit based appointments. It is already often approached to provide assistance for appointments which are not expressly under its statutory duties. This measure seeks to make it possible for the JAC to share its skills and expertise when appropriate.

What is the current position?

3. As the JAC is set up by law, it has to operate within the boundaries provided by that law. It is required to select candidates for a range of judicial posts as set out in the Constitutional Reform Act 2005, it must also do so solely on merit, only selecting persons of good character and having regard to the need to encourage diversity.
4. The JAC is currently permitted to assist with appointments outside of those listed in statute, where the Lord Chancellor requests that they do so. However, this is restricted to posts where responsibility for the appointment rests with the Lord Chancellor, or another Minister of the Crown. The Lord Chancellor must also consider if it is appropriate for the JAC to help with the appointment, and consult with the Lord Chief Justice and the JAC before making a request.
5. Because the JAC is a statutory corporation, it requires a statutory power to recover the costs of any assistance that it provides; as there is currently no such power, the JAC cannot recover such costs.

What are the proposed changes?

6. The legislation will allow the JAC to assist with appointments that are made by people other than the Lord Chancellor or another Minister of the Crown, when requested to do so by the Lord Chancellor. These requests will not be limited to judicial posts, although the Lord Chancellor must take into account the nature of the appointment when considering if it is appropriate for the JAC to assist. The law makes it clearer that the JAC must prioritise its core judicial appointments functions and that any assistance it offers elsewhere must not undermine this. This will mean that the JAC's expertise can be fully used.
7. The JAC will also be allowed to recover costs from the people benefiting from its assistance.