COURTS AND
TRIBUNALS JUDICIARY

Judicial Diversity and Inclusion Strategy

2020 – 2025

Judicial Diversity and Inclusion Strategy

2020 – 2025

OGL

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Contents

Foreword by the Lord Chief Justice 4

Chair of the Judicial Diversity Committee of the Judges' Council 5

Introduction 6

Current levels of representation 8

Judicial Diversity and Inclusion Strategy: 2020 – 2025 Objectives 10

Creating an environment in which there is a greater responsibility for and reporting on progress in achieving diversity and inclusion 11

Supporting and building a more inclusive and respectful culture and working environment within the judiciary 13

Supporting and developing the career potential of existing judges 16

Supporting greater understanding of judicial roles and achieving greater diversity in the pool of applicants for judicial roles 17

Next Steps 20

Foreword by the Lord Chief Justice

I welcome publication of the Judicial Diversity and Inclusion Strategy which sets out our objectives and ambitions to increase the diversity of the judiciary.

Many judges, magistrates and members of the legal professions undertake initiatives to encourage the best people from diverse backgrounds to apply for and secure judicial appointment on the recommendation of the Judicial Appointments Commission.

This Strategy builds on the excellent work already undertaken but recognises that more needs to be done. All those concerned with judicial appointments - the Ministry of Justice, the Judicial Appointments Commission, the Judicial Diversity Forum, the professions and the judiciary itself - must remain committed to this task and think constantly about practical and effective steps which increase diversity at every level and in every jurisdiction.

A more diverse judiciary will capture talent that is currently lost to us and help cement the confidence of the public that the judiciary broadly reflects society.

We recognise that we must ensure that those from diverse backgrounds feel welcome and comfortable as members of the judiciary.

The objectives that we set ourselves in this Strategy are testing and ambitious. They demonstrate our collective commitment to ensuring that the judiciary provides an environment in which talented individuals, whatever their personal or professional background, can thrive.

Recruitment to the judiciary should come from the most talented in all parts of the legal profession, not only those in private practice but also those working in the public sector and in-house in the private sector.

The Diversity Committee of the Judges' Council has been at the forefront of the work undertaken by the judiciary in support of increasing diversity, supported, in particular, by our 128 Diversity and Community Relations Judges. It was chaired by Lady Hallett until her retirement at the end of last year. I would like to take this opportunity to thank her and all members of the Diversity Committee, including its new Chair Lady Justice Simler, for the valuable work that has been done. None of it would have been possible without the work of countless judges and the support of a dedicated team of officials.

The Diversity Committee is made up of members of the judiciary from across the courts and tribunals. This strategy is applicable to both and has the full support of the Senior President of Tribunals.

Chair of the Judicial Diversity Committee of the Judges' Council

At a time when events both here and abroad have highlighted experiences of unfair discrimination, prejudice and disadvantage, I am more committed than ever to having a judiciary in which a stronger culture of inclusion and collaboration is fostered and maintained. Where the best legal professionals from a range of backgrounds, cultures and experiences are recruited at all levels, and are supported, encouraged and retained.

The diversity and inclusion initiatives undertaken by the legal professions, the Judicial Appointments Commission and the judiciary over the last decade are having a positive impact on the representation of women in the judiciary, including at senior levels. However, while the representation of judges from Black, Asian and other minority ethnic backgrounds has increased, progress in this regard is too slow and there is still a long way to go to realise a judiciary that fully reflects the society it serves. Nor can we be complacent about the progress we have made to increase the representation of lawyers in the judiciary with invisible differences and characteristics.

I believe we have a collective responsibility to redouble our efforts to achieve lasting change in this area. There is no single solution. However, this five-year strategy will guide our efforts and focus our activities on achieving appropriately targeted and measurable outcomes. We have identified four main objectives and the actions and programmes we will put in place to achieve them in the short and medium term. This will enable us to measure our progress and report meaningfully on what we have achieved. I am particularly pleased that one of our four core objectives is to ensure that leadership judges have greater responsibility for progress in achieving our diversity and inclusion objectives, and the responsibility for reporting on their activities to this end. I believe this to be critical to greater progress in achieving our overarching aim of increasing the personal and professional diversity of the judiciary at all levels.

Introduction

The judiciary of England and Wales is internationally renowned. It works to uphold the rule of law and secure the administration of justice across all jurisdictions.

Judicial office holders[1] are appointed on merit following a fair and open competition from the widest range of eligible candidates. The Judicial Appointments Commission (JAC) is the independent body that recommends candidates for judicial appointment. Under the Constitutional Reform Act 2005, the JAC's statutory duties are to: select candidates solely on merit; select only people of good character; have regard to the need to encourage diversity in the range of persons available for judicial selection. Recruitment Advisory Committees recommend candidates for appointment as magistrates.

The judiciary is generally seen as a second career, with lawyers joining the judiciary after many years' experience within the legal professions. Having this wealth of experience and knowledge within the judiciary helps maintain the world class status of the judiciary of England and Wales.

There is a statutory requirement for at least five or seven years of post-qualification experience for legally qualified posts. The most recent statistics[2] show that of those who applied for court and tribunal positions requiring at least five years of post-qualification experience, candidates had around 15 years' experience on average. Of those who applied for positions requiring at least seven years of experience, candidates had around 25 years' experience on average.

Many salaried judicial office holders held a fee-paid role before joining the salaried judiciary. Fee-paid roles offer the chance to gain experience as a judicial office holder before taking on a salaried role. As at 1 April 2020, 6364 judges were fee-paid and 1917 judges were salaried, of whom 352 were part-time. On 1 April 2020, 13,177 magistrates were in post.

The Crime and Courts Act 2013 amended the Constitutional Reform Act 2005 and placed a duty upon the Lord Chancellor and the Lord Chief Justice to take such steps as each considers appropriate for encouraging judicial diversity.

The Judicial Diversity Committee was set up at the end of 2013 to support the Lord Chief Justice in encouraging judicial diversity. The Chair of the Committee, Lady Justice Simler, acts as the lead judge on diversity, supporting the Lord Chief Justice in his statutory responsibilities to encourage judicial diversity. The committee consists of steering group members: Lord Chief Justice, Lady Justice Simler (Chair), Mr Justice Jeremy Baker, Mrs Justice McGowan, Mr Justice Saini, Upper Tribunal Judge Gray, His Honour Judge Dight, Deputy Senior District Judge (Chief Magistrate) Ikram; and full committee members, Her Honour Judge Cahill, District Tribunal Judge Gill, District Judge Rich, Tribunal Judge Vasmer, Tribunal Member Lancaster and Duncan Webster JP.

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1 By judicial office holders we mean all court and tribunal judges, non legal members and magistrates.

2 https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics

The Committee itself works to encourage greater diversity within the judiciary and to increase the number of applicants for judicial appointment from non-traditional backgrounds. It also undertakes extensive outreach, including through a pool of Diversity and Community Relations Judges.

128 judges have volunteered to act as a Diversity and Community Relations Judge. They act as a link between the judiciary and the public. They also seek to encourage legal professionals from under-represented groups to consider a judicial career. Their activities inform and educate people about the reality of what it is to be a judge and help remove the myths and misconceptions that prevail. Over the 12 months prior to April 2020, DCRJs have reached over 30,000 school, college and university students, community members and legal professionals.

The Lord Chief Justice is a member of the Judicial Diversity Forum (JDF). The JDF provides strategic direction for its stakeholder members in the areas of: challenging structural barriers to appointment, analysing and addressing the reasons behind differential progression, the gathering and use of data and evidence on diversity and inclusion, resolving issues of common concern and the coordination of agreed activities aimed at encouraging greater judicial diversity. JDF members support each other's initiatives and undertake joint projects.

The members of the JDF are: the Chair of the Judicial Appointments Commission (Chair of the JDF), the Lord Chancellor (Ministry of Justice), the Lord Chief Justice (the Judiciary), the Chair of The Bar Council, the President of The Law Society, the President of the Chartered Institute of Legal Executives, the Chair of the Legal Services Board.

Current levels of representation

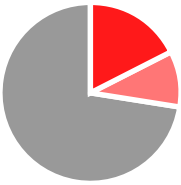
The Judiciary at 1 April 2020:

5,000 court and tribunal judges **3,281** non-legal members **13,177** magistrates

3,174 Court judges

1,241 salaried full time
157 salaried part time
1,776 Fee-paid

1,826 Tribunal judges

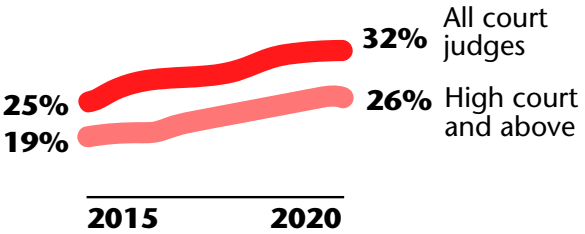


320 salaried full time
186 salaried part time
1,328 Fee-paid

Women in the Judiciary

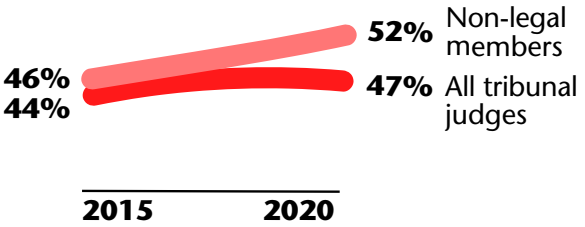
32% of court judges **47%** of tribunal judges **52%** of tribunal members, **56%** of magistrates

Courts



30% of fee-paid court judges, **36%** of salaried
28% new entrants, **17%** leavers

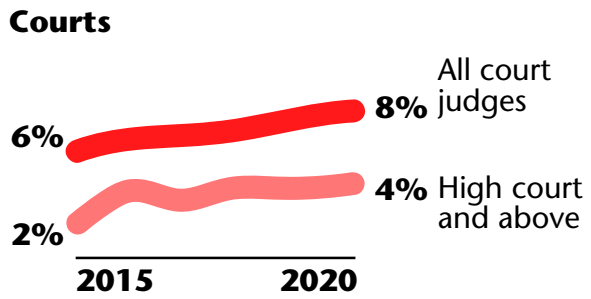
Tribunals

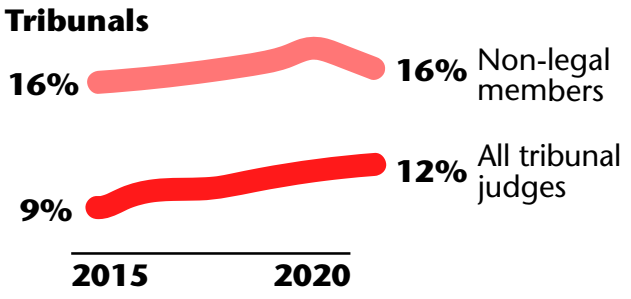


46% of fee-paid tribunal judges, **48%** of salaried
47% new entrants, **38%** leavers (judges)

Black, Asian and minority ethnic (BAME) judicial office holders

8% of court judges **12%** of tribunal judges **16%** of tribunal members, **13%** of magistrates



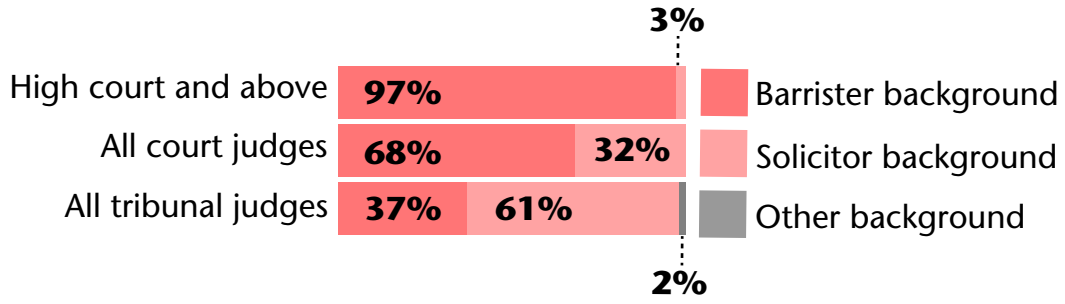


9% of fee-paid court judges, **6%** of salaried
6% new entrants, **3%** leavers

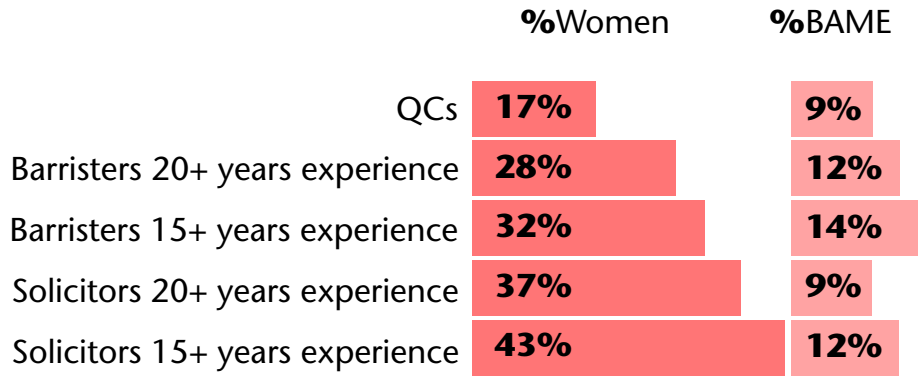
11% of fee-paid tribunal judges, **13%** of salaried
18% new entrants, **6%** leavers (judges)

Professional background

32% of court judges and **63%** of tribunal judges from non-barrister backgrounds



Diversity in the professions as at 1 April 2020:



Further information and statistics covering all court and tribunals can be found in the statistical publication available from GOV.UK:

Diversity of the judiciary 2020: legal professions, new appointments and current post-holders

Judicial Diversity and Inclusion Strategy: 2020 – 2025 Objectives

For the judiciary diversity, inclusion and equality are fundamental to the rule of law and to what judicial office holders do. Public confidence in and the legitimacy of the judiciary are sustained by a judiciary that reflects the broad composition of the society it serves. This is also a question of fairness; all those who have the requisite skills and ability should have a fair opportunity to apply for and secure judicial appointment. If we do not draw from the widest pool, irrespective of background, we will inevitably miss out on talented individuals and will not appoint the best people. This Judicial Diversity Strategy sets our ambitions for achieving better diversity, inclusion and equality in the judiciary over the next five years. It applies to all court and tribunal judges, non-legal members of tribunals and magistrates.

Our overarching aim is to increase the personal and professional diversity[3] of the judiciary at all levels over the next five years by increasing the number of well qualified applicants for judicial appointment from diverse backgrounds and by supporting their inclusion, retention and progress in the judiciary. To help deliver this overarching aim we must improve the diversity data we hold and our reporting on diversity in the judiciary. Better data will mean that we can identify areas where we have become more diverse and take focussed action, on an evidence led basis, on the areas where progress to date has not been sufficient. We will use the data we collect to inform and improve policies, procedures and practices in the judiciary, and to drive strategies directed at improving the personal and professional diversity of the judiciary and supporting a more inclusive culture.

To achieve these aims we will adopt the following four core objectives:

- **Creating an environment in which there is greater responsibility for and reporting on progress in achieving diversity and inclusion**
- **Supporting and building a more inclusive and respectful culture and working environment within the judiciary**
- **Supporting and developing the career potential of existing judges**
- **Supporting greater understanding of judicial roles and achieving greater diversity in the pool of applicants for judicial roles**

3 By 'personal and professional diversity' we mean ethnicity, gender, disability, religion or belief, sexual orientation, caring responsibilities, socio-economic background, marriage/civil partnership and gender identity; and also, professional diversity, such as individual career paths and jurisdictional backgrounds.

Creating an environment in which there is a greater responsibility for and reporting on progress in achieving diversity and inclusion

Responsibility for progress in and reporting on achieving greater diversity and inclusion will be a requirement of all judicial office holders in leadership and management positions. Leadership judges will be supported in their efforts to promote a respectful and inclusive working environment, encouraging a wider, more diverse pool of talented lawyers to apply for judicial roles in the area for which they have responsibility, and supporting the progress and development of those who are appointed in their area.

We will achieve this objective through the following actions:

By Spring 2022 a specific core value making leadership judges responsible for taking actions to achieve greater diversity and inclusion will be introduced.

Inclusive leadership and a responsibility for achieving greater diversity and stronger inclusion will be introduced into leadership and management expectations, supporting documents and frameworks will be introduced from Spring 2021.

By Spring 2022 all leadership magistrates will be responsible for encouraging an inclusive and respectful culture and working environment.

Leadership magistrates will be responsible for encouraging and supporting all magistrates in their area whatever their personal or professional background.

From 2022 leadership judges and magistrates will be supported and equipped to meet their diversity responsibilities.

We will design and provide training and support for leadership judges and magistrates in developing and acquiring the skills and knowledge needed to meet their diversity and inclusion responsibilities. We will continuously develop the training offered, reflecting the latest learning and best practice to achieve the strongest possible outcomes. From Spring 2022, newly appointed judicial leaders will undertake training in the skills and knowledge to understand and address matters of diversity which occur within the scope of their leadership role. We will then offer training for identified existing judicial leaders. This will be supported by evaluation of its impact and learning from best practice in the field. The Judicial College will report on this in its Annual Activity Report.

By Autumn 2022 leadership judges will report the actions they have taken to support greater diversity.

The Crime and Courts Act 2013 amended the Constitutional Reform Act 2005 and placed a duty upon the Lord Chancellor and the Lord Chief Justice to take such steps as each considers appropriate for encouraging judicial diversity. The Lord Chief Justice is committed to providing information about this important work. Leadership judges will support the Lord Chief Justice by reporting on their efforts in meeting this statutory obligation.

By March 2021 all judicial office holders will be encouraged to self-classify against a wider range of diversity characteristics.

Currently only data on ethnicity, gender, age and professional background is available for publication. We will widen the diversity characteristics that judges are asked to self-classify against, including a means of defining socio-economic background. We will break down the broad category of BAME into different categories reflecting the different ethnic communities in England and Wales, to improve our method of measuring inclusion. This will enable us to consider more focussed action targeted at areas where diversity progress has not improved or not been sustained.

To ensure our data analysis is built on a comprehensive evidence base, we will look at ways to increase completion rates (whilst ensuring that data collection forms continue to allow individuals to select a 'prefer not to say' option) of diversity data within the judiciary.

We will ensure activities aimed at improving the personal and professional diversity of the judiciary are guided by evidenced data analysis. This will include fully evaluating the Deputy High Court Support Programme, Judicial Work Shadowing Scheme, Judicial Mentoring Scheme, application seminars and other initiatives to better understand their success and impact. We will use this data analysis to understand the impact of policies, practices and initiatives, and of the challenges to diversity and inclusion experienced. It will be used to drive action and focus resource aimed at improving the personal and professional diversity of the judiciary.

We will continue to publish statistics of the diversity of appointed court judges, tribunal judges, non-legal members of tribunals and magistrates on an annual basis.

Publishing annual data will provide transparent reporting on the overall aim of achieving greater diversity within the judiciary. We will work as members of the Judicial Diversity Forum to gather and publish a more complete set of diversity data of those within the judiciary and the legal professions. This will include publishing data on patterns and trends and will allow us to develop a clear picture of the diversity profile of the judiciary, across the legal professions and those applying for judicial appointment. As the data available grows we will analyse it to gain a more detailed picture of career pathways within the professions and into the judiciary.

Supporting and building a more inclusive and respectful culture and working environment within the judiciary

We will continue to ensure that all serving judicial office holders feel supported and included, whatever their personal or professional background. Their lived experience will be better understood, respected and valued, and will be considered when policies, practices and initiatives are developed.

We will achieve this objective through the following actions:

By Spring 2021 lead diversity and inclusion judges will be appointed who will support and enable better, more inclusive ways of working at each level and in each jurisdiction across the judiciary.

Lead judges, with portfolio areas of responsibility, will be appointed by the Judicial Diversity Committee. They will engage as appropriate to assist and promote our strategy for diversity and inclusion and to support and ensure the delivery of this strategy.

By 2022 there will be training and support for all judicial office holders to gain a deeper understanding of diversity and inclusion, to take an anti-discriminatory approach, and to promote positive behaviour and a culture of respect that is sensitive to different needs and intolerant of any discrimination, bullying and harassment.

The topic of bias will be included in all induction training and, as appropriate, in continuation training. This will support the development of a more inclusive and respectful culture and working environment within the judiciary, and also support the judiciary in the social context, values and ethics of judging. Training will include best practice for engagement and effective communication with all manner of people from a variety of backgrounds with different capacities, needs and expectations, as well as the recognition of the existence of implicit bias and how to employ mitigation strategies. The training will support judges in understanding the different influences at work on them and others when hearing and deciding cases and how best to reduce their influence on the conduct and outcome of proceedings.

By the end of 2021, we will undertake an audit of all training to identify what training is being delivered in the area of diversity and inclusion.

The audit will evaluate the content and delivery methods to address gaps in our training and priority areas where training should be expanded and developed. This will be supported by internal evaluation aimed at ensuring the training offered adopts best practice and is focussed on delivering the strongest possible outcomes.

From 2021, we will monitor and review the extent and impact of training in diversity and inclusion regularly through Judicial College governance.

This will be enabled by the development of a refreshed approach to training evaluation which measures the extent of applied learning.

All newly-appointed judicial office holders attend an induction which reinforces diversity and inclusion within the judiciary and court and hearing room environment. This course also communicates the support provided to all judges – in their daily role, to support their wellbeing and inclusion, and in career development, raising awareness of bias and mitigating strategies, and promoting the use of the Equal Treatment Benchbook. We will continue to review and develop our induction training so that it provides tools to enable new judiciary from the widest range of backgrounds to reach their full potential quickly.

All training offered supports the increasing diversity of the judiciary, ensuring everyone feels included.

Training will be delivered in a way which is accessible to all, and increasingly in a way which encourages those from different backgrounds to feel included and supported within the judiciary.

Further, we are committed to ensuring training contributes to the judiciary's understanding of diversity and inclusion issues within the court and hearing room environment.

Following the ongoing review of the Equal Treatment Bench Book, we will ensure the right programme of communication and training is in place to embed judicial understanding of the topics covered.

The Equal Treatment Bench Book aims to increase awareness and understanding of the different circumstances of people appearing in courts and tribunals. It helps enable effective communication and suggests steps which should increase participation by all parties. It is full of practical guidance aimed at helping make the court experience more accessible for parties and witnesses who might be uncertain, fearful or feel unable to participate. A judge-led review of the Equal Treatment Bench Book is currently underway, with a comprehensive update expected in early 2021.

Senior leadership judges will continue to highlight the utility of the Equal Treatment Bench Book and to encourage all judicial office holders to make use of it as an appropriate resource.

By 2022 HR support and services will be reviewed to ensure they take account of the experience and requirements of all judicial office holders whatever their background and support them in their roles.

This will include reviewing the experience of new joiners to consider how best to support them when joining the judiciary by Spring 2021. Clear, well sign-posted policies and procedures will be made available, including wider attention being drawn to the salaried part time working policy.

HR regional support will be made available for all judicial office holders.

Confidential routes will be made available by which judicial office holders are able to raise questions or concerns they may have. These will be promptly and appropriately addressed, respecting so far as possible any desire for confidentiality.

Wellbeing and resilience within the judiciary will be supported and developed. Proactive work will be undertaken to promote and drive positive mental health.

We will continue to work with HM Courts and Tribunals Service (HMCTS) to ensure that judicial office holders have access to workplace support and reasonable adjustments that enable them to work in an environment that supports them to give their best.

Diversity and Community Relations Judges and magistrates will continue to meet with local communities, acting as an important link between the judiciary and the local community.

Diversity and Community Relations Judges and magistrates will share the understanding they have built of different community groups with other judicial office holders to increase understanding of the lived experience of different community groups.

Supporting and developing the career potential of existing judges

All serving judicial office holders will be supported and encouraged to develop and fulfil their potential whatever their personal or professional background.

We will achieve this objective through the following actions:

By 2022, leadership judges will provide focussed support for the career aspirations of all serving judicial office holders, including those from less traditional backgrounds.

Leadership judges will consider outcomes from appraisal and/or career discussions to better understand the career ambitions of their judges and identify appropriate development opportunities. Opportunities for ticketing, and for flexible and cross deployment of judges in different jurisdictions will be considered as ways of providing career development.

The Judicial Diversity Committee will continue to offer application seminars, information and support to judicial office holders wishing to progress their judicial careers.

From 2022 training, support and guidance will be given to leadership judges to assist them in providing focussed support for the career aspirations of their judges in a fair, objective and inclusive way.

We will review the training and support offered to leadership judges to ensure that, by 2022, they are fully trained, supported and assisted in how to provide appropriate and focussed support for the career aspirations of their judges and in doing so in a fair, objective and inclusive way. Throughout the period of this strategy, we will adapt and develop induction processes and training to ensure they are accessible and appropriate to all judicial office holders whatever their personal or professional background.

We will develop and continuously improve induction to the judiciary to ensure that those who join the judiciary are well-equipped to achieve their potential through high quality induction and ongoing training.

Supporting greater understanding of judicial roles and achieving greater diversity in the pool of applicants for judicial roles

We will make even greater use of online platforms and resources to support and build outreach within schools, local communities and within the legal profession.

Targeted activities, steered by stronger data, analysis and insights, and delivered together with the legal professions and the Judicial Appointments Commission, will reach, support and encourage a wide range of well qualified applicants from diverse personal and professional backgrounds into the judiciary.

We will use improved data and analysis to target activities aimed at encouraging greater diversity within the magistracy.

We will achieve this objective through the following actions:

We will attract, encourage and support applications for judicial office from the widest and most diverse pool of well-qualified candidates possible.

We will use both digital and face to face outreach to attract and encourage applications from well-qualified candidates from under-represented groups, utilising case studies and visible role models to highlight the diversity of the existing judiciary and the attraction of a judicial role.

We will use the Judicial Work Shadowing Scheme to continue to offer eligible legal practitioners, who are considering a career in judicial office, an insight into the work of a judge.

We will use the Judicial Mentoring Scheme to enable eligible lawyers from under represented groups to receive confidential advice, support and guidance from a mentor judge, to help them establish what skills and experience are needed to support their application for judicial office and to identify areas where further development and experience is required and to consider how these may be acquired.

We will continue to run a programme of activity which will include undertaking outreach, judicial work shadowing and mentoring, application seminars and targeted support programmes. We will evaluate these initiatives and use the results of those reviews to ensure activities are correctly targeted for achieving the best outcomes.

We will work with Judicial Diversity Forum partners to evaluate, develop and expand the Pre- Application Judicial Education Programme.

We will continue to work with the MoJ and HMCTS to ensure a wide, diverse pool of applicants is encouraged to apply to join the magistracy.

We will improve data capture to analyse the magistracy profiles within each Advisory Committee and target communications accordingly.

We will support activity to raise awareness of the magistracy and encourage greater diversity within the applicant pool, including utilising case studies and visible role models to highlight the benefits and diversity of the magistracy.

By Autumn 2021 the Judicial Diversity Committee will evaluate and review the initiatives it offers, using the findings to focus future activity.

We will undertake a full in-depth evaluation of the Deputy High Court Support Programme, Judicial Work Shadowing Scheme, Judicial Mentoring Scheme and application seminars to better understand their success and impact.

We will use the information gained to make evidence-based decisions to drive action and focus resource on activities and programmes that have the greatest impact.

We will continue to work with the Judicial Appointments Commission to review and improve selection processes.

We will widen the personal and professional backgrounds of judicial members of Judicial Appointments Commission sift and selection panels.

By Autumn 2021 we will further expand our outreach to support wider understanding of the rule of law and judicial roles, including reaching more students from socially deprived areas.

We will continue to support and build on the outreach undertaken by Diversity and Community Relations Judges, providing increased training to equip them to confidently and successfully engage with schools, communities and legal professionals from all spheres of work.

Greater use will be made of online opportunities to support and enable a wider audience.

We will link with Public Legal Education charities such as the National Justice Museum and Young Citizens and Government Departments, such as the Department for Education, to connect with school students in hard to reach communities.

Diversity and Community Relations Judges and magistrates will continue to engage with the wider community to dispel the myths that surround the judiciary, giving people a more accurate understanding of the role of the judge and the justice system.

Diversity and Community Relations Judges and magistrates will continue to make links with the legal professions, academia, the Crown Prosecution Service and Government Legal Department, and with school and university students, particularly from under-represented groups. They will use these links to increase understanding of the judiciary and awareness of the fact that judicial careers are available to people of all backgrounds provided they have the necessary personal and professional skills and abilities.

Next Steps

This strategy sets out our ambition, aim and objectives for the next five years. We believe that setting these objectives, and undertaking the actions contained within each one, will lead to a meaningful positive change to the representation of underrepresented groups within the judiciary.

As stated above, our overarching aim is to increase the personal and professional diversity of the judiciary at all levels over the next five years by increasing the number of applicants for judicial appointment from diverse backgrounds and by supporting their inclusion, retention and progress in the judiciary.

We will review and evaluate the activities we have set out and use this analysis to further build our ambitions and the actions we will take.

We will continue to publish annual diversity statistics, currently published as part of the Judicial Diversity Forum's combined statistical report[4], which will provide an updated measure of representation of personal and professional diversity across all levels of the judiciary.

We will report on an annual basis to ensure transparency is given on progress achieved and actions still needed to ensure the ambitions, aim and objectives we have set are reached.

4 https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics