

Barriers to Application for Judicial Appointment Research: Lesbian, Gay, Bisexual and Transgender Experiences

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The Law Society



INTERLAW
DIVERSITY
FORUM
FOR LGBT
NETWORKS



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ACKNOWLEDGEMENTS

This unique piece of research would not have been possible without the support, hard work, tireless devotion and dedication of many individuals: Stephen Ward, the Law Society's diversity champion; Pamela Bhalla of the Bar Council Equality and Diversity Committee; Simon Robinson; Andrew Daum; Lee Smith; Ben Summerskill, Chief Executive of Stonewall; and Laura Hodgson, co-chair of the InterLaw Diversity Forum. We are grateful to the Diversified Global Graphics Group (DG3) for generously providing their printing services. The Law Society and Bar Council have provided support throughout this project. Jonathan Leonhart, Andrea Kantor and Stephen Manion's generosity and diligence ensured the report's publication.

The Judicial Appointments Commission (the "JAC") played a key role in facilitating the research. Their consent to our use of a questionnaire developed for earlier research commissioned by the JAC was of vital importance to the success of this project. Their support has continued throughout.

Particular thanks are due to all those who completed the online questionnaire. Without your gift of time, experience and insight none of this would have been possible.

FOREWARD FROM THE CHAIRMAN OF THE JAC

The Judicial Appointments Commission (JAC) is pleased to have supported the production of this research. I am also pleased to announce that last month the Commission decided to include sexual orientation and religion and belief on its application monitoring form. Completion of the form is voluntary and has no part in the selection process. But it does enable us to monitor the progress of lesbian, gay and bisexual candidates anonymously to ensure there is no unintended bias in the system.

This research is based on and reinforces the *Barriers to Application for Judicial Appointment* research published by the JAC in 2009. The biggest perceived barriers highlighted are the same in both pieces of research: the isolated nature of the judicial role; the culture of the judiciary; travel requirements and the loss of flexibility.

The main reasons for not having applied are also the same: current job satisfaction; uncertainty of appointment and perceived lack of skills. Finally, the key reasons that are most likely to lead to a future application are the same: more information on the minimum entry requirements; the appointments process and the nature of judicial office. The good news is there is activity underway by the judiciary, the JAC and the professions, to address the areas for work identified in the original research.

I welcome the positive findings of the new research. The sample size may be small, but over 85% of the LGBT lawyers who responded thought the creation of the JAC was a positive development. LGBT lawyers are actually more likely to apply for judicial office than the general legal population. I am encouraged that there is such enthusiasm in the LGBT legal com-

munity. On the other hand, this study has found that LGBT lawyers are not as well informed as we would like them to be about the selection process and there is a perception of bias.

The JAC selects on merit and we work hard to ensure the process is fair, open and free from bias against any group. We equality proof our processes and have worked with the InterLaw Diversity Forum, Stonewall and other LGBT groups to reach out to the widest range of possible candidates. The first JAC-InterLaw Diversity Forum seminar in November 2010 was very well attended and I hope future events will be too.

We will try to bring perceptions in line with reality and to address concerns that still exist about the fairness of the system. We will add to outreach work, including publishing case studies on our website by openly gay judges who have been through JAC processes. I hope LGBT lawyers will engage with this work, as one of most disappointing survey findings was that two out of three LGBT respondents had not accessed JAC communications. We need the help of the InterLaw Diversity Forum and other LGBT groups to change this.

For my part, I commit the JAC once more to working closely with the InterLaw Diversity Forum and others to promote equality of opportunity for LGBT lawyers who wish to become judges to create a judiciary known for its excellence as well as its diversity. This report makes some challenging recommendations and we must consider how they might be implemented.

My final message is simple – if you believe you have the qualities and abilities to be a judge, please do apply. If you are more meritorious than other eligible applicants you will be selected.

Christopher Stephens

PREFACE FROM THE CO-CHAIRS OF THE INTERLAW DIVERSITY FORUM

The InterLaw Diversity Forum, founded in 2008, is an inter-organisational forum for the LGBT networks in law firms and for all personnel (lawyers and non-lawyers) in the legal sector, including in-house counsel (the “LGBT Legal Community”). As a testament to its success and unique appeal, in just over three years the InterLaw Diversity Forum has grown to over 1,000 members and supporters from more than 70 law firms and 40 corporates and financial institutions. The overall objective of the InterLaw Diversity Forum is to encourage LGBT diversity, equality and inclusion in the legal sector.

In 2009 we became aware that the advisory panel on judicial diversity, chaired by Baroness Julia Neuberger and established to examine barriers to progress on judicial diversity, was not focusing on sexual orientation. After an initial meeting, we realised the panel was faced with a lack of information in the area of sexual orientation, which provided the motivation to undertake our study of LGBT perceptions towards the judiciary, the findings of which are documented in this report.

Since that initial meeting and the launch of our study many advancements have been made for LGBT judicial diversity: Baroness Neuberger’s *Advisory Panel on Judicial Diversity report* recognised the importance of sexual orientation, recom-

mending monitoring of sexual orientation for applicants to the judiciary; outreach events are now co-hosted by the JAC and the InterLaw Diversity Forum, including panels with LGBT judges; LGBT judges regularly speak to the InterLaw Diversity Forum in our Judicial Speakers Series; the JAC has included case studies of LGBT judges to their most recent annual report and to their website; and the JAC has decided to add sexual orientation on its application monitoring form.

While we never expected so many of these things could happen in such a short space of time when this work began in 2009, this report tells us that there remains much work to be done until we can say that we have a judiciary which fully reflects the society it represents. This work is set out in the recommendations in our report and the tasks set forth are challenges for the legal professions, the LGBT community, the InterLaw Diversity Forum, the JAC, the Ministry of Justice and, most importantly, the judiciary itself. The promotion and advancement of diverse judges at the senior levels of the judiciary is one of the greatest challenges before us.

The InterLaw Diversity Forum looks forward to continuing this work and to collaborating with all parties involved to achieve diversity and inclusion in the judiciary.

*Daniel K Winterfeldt, CMS Cameron McKenna &
Laura Hodgson, Norton Rose*

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SUMMARY OF KEY FINDINGS

Since the lifting of the unspoken ban in the mid-1990s on the appointment of homosexuals to the judiciary of England and Wales, there has been considerable change for the better. Nevertheless, the judiciary is often still perceived by Lesbian, Gay, Bisexual and Transgender (“LGBT”) people as an unwelcoming environment. The judiciary continues to face considerable obstacles in achieving the greater diversity in its ranks to which it is publicly committed.

The challenge in respect of increasing the diversity of judges has often been framed in terms of ensuring that the pool of eligible lawyers becomes more diverse. In respect of LGBT lawyers at least that is not where the challenge seems to lie. Our survey found that there are very high levels of interest in becoming a judge within the LGBT legal community. Sixteen per cent of respondents had already applied for judicial office and 96% of respondents thought that the work would be enjoyable; similarly high levels indicated that the public service aspect and the chance to make a difference as appealing. The advent of the JAC is also viewed positively by nine out of 10 respondents.

It would seem that, as surveys of women and black and minority ethnic (“BME”) lawyers found, the isolated nature of the judicial role, the culture of the judiciary, travel requirements and loss of flexibility are the greatest perceived obstacles to participation by LGBT lawyers. However, for some the judicial culture is more than usually problematic. Gay women and BME LGBT lawyers cite judicial culture as unappealing at much higher levels than white or male LGBT respondents do. This is a familiar double-whammy effect that is very marked indeed in this survey.

THIS STUDY HAS FOUND THAT:

between 85% and 90% of LGBT lawyers believe the creation of the JAC was a positive development;

70% of LGBT lawyers think that there is prejudice within the selection process;

more LGBT lawyers than the lawyers sampled in the *JAC Barriers Report* questionnaire are very likely to apply for judicial office;

50% of LGBT lawyers do not apply for judicial office because they do not think they would be appointed;

70% of LGBT lawyers indicated that more openly LGBT lawyers would make them more likely to apply for judicial office; and

more than 50% of LGBT lawyers say judges are not ‘selected on the basis of merit only’ on the basis of merit only’.

RECENT POLLING HAS FOUND THAT:

one in four gay people think they would be treated worse than others if they appeared before a judge for a major offence; and

two in five lesbian and gay parents expect to be treated worse than heterosexuals if they appear before a family court judge.

This, in turn, means that the judiciary is challenged when it comes to maintaining the confidence of the diverse society that it serves.

Confidence in the judiciary is central to the functioning of a fair society. Therefore, we believe it is vital that the judiciary, those responsible for the appointment of judges and the wider legal sector address this problem as a matter of urgency.

There is much that can be done, as the 2010 Neuberger *Advisory Panel on Judicial Diversity* report concluded. Our own recommendations are set out in Section 10 of this report, beginning with the need to monitor the sexual orientation of applicants and appointed judges. This will facilitate diversity monitoring. A more sexually diverse judicial family will give more LGBT lawyers the confidence to apply for the judiciary and give the wider community greater confidence that the judiciary reflects and effectively serves the whole of society.

We go on to make recommendations in relation to the appointments process, awareness-raising and judicial culture, and also commit to undertaking more work ourselves with stakeholders across the legal and judicial spectrum.

We are grateful to the JAC for its support and practical help with this survey and we look forward to continuing to work with them. We also hope that we can support LGBT judges to step forward as role models and activists in this cause. Real change, though, requires the will and effort of ministers at the Ministry of Justice and the very senior judiciary. We look forward to broadening the diversity dialogue with them.

2

INTRODUCTION

2.1 BACKGROUND

In 2008 the Judicial Appointments Commission (the “JAC”) commissioned the British Market Research Bureau to undertake an investigation into the barriers to application for judicial appointment. One of the ‘primary’ aims of that study was to investigate these barriers across different groups (Allen 2009, 8).

In 2009 the JAC published the findings in a report, *Barriers to application for judicial appointment* (Allen 2009) (the “JAC Barriers Report”). The purpose of the report was to help the JAC better understand what attracts people to apply for judicial office and what deters people from applying, giving them an insight into how the perceived barriers differ between groups of potential applicants (Allen 2009, 1). The study was designed to assist the JAC in achieving one of its statutory duties -- to have regard for ‘the need to encourage diversity in the range of persons available for selection for appointments’ (Constitutional Reform Act 2005 s64(1)). With this in mind the project investigated the experiences of different groups. These groups were defined by sex, ethnicity and employment status, which were the diversity strands targeted by the Judicial Diversity Strategy agreed by the Ministry of Justice, Judiciary and the JAC. Sexual orientation, among other strands, was not covered.

The InterLaw Diversity Forum for Lesbian, Gay, Bisexual and Transgender (“LGBT”) Networks (“InterLaw Diversity Forum”) is an inter-organisational forum for the LGBT networks in law firms and all personnel (lawyers and non-lawyers) in the legal sector, including in-house counsel, and has over 1,000 members and supporters from more than 70 law firms and 40 corporates and financial institutions. The InterLaw Diversity Forum welcomed the JAC study but wished to see similar research undertaken about the experiences and perceptions of LGBT people. With the support of the Law Society and the Bar Council, the InterLaw Diversity Forum approached the JAC with a proposal to use the JAC Barriers Report questionnaire (the “JAC questionnaire”) as the basis for a study of LGBT experiences and perceptions of barriers to application for judicial appointment. The JAC generously gave its support. This report (the “InterLaw Diversity Forum Report”) is the result.

The establishment of an *Advisory Panel on Judicial Diversity* in April 2009, chaired by Baroness Julia Neuberger, to examine barriers to progress on judicial diversity and to make recommendations to further progress towards diversity added

to the urgency of the project. The InterLaw Diversity Forum was fortunate to be able to work with the advisory panel and also present to them preliminary findings from this research in January 2010, prior to the publication of the panel’s report. The Neuberger report¹ describes the judicial diversity policy objective as having flawed beginnings. A coherent and comprehensive strategy to promote diversity, it concludes, has been ‘lacking’ (Neuberger 2010, 4). In relation to sexual diversity the panel was faced with a particularly difficult challenge due to the lack of any official data about this aspect of diversity in the judiciary. They described this state of affairs as a ‘fundamental’ problem (Neuberger 2010, para 49). It is hoped that the findings contained in this report, along with the JAC’s continued support, will help serve to change that state of affairs.

The reform process is continuing. In June 2010 the Secretary of State for Justice, Kenneth Clarke QC, issued a ministerial statement announcing a review of the judicial appointments process². This review has now completed its work, but has been followed by an inquiry by the House of Lords Constitution Committee. We hope this report will make an ongoing contribution to debates about the diversity of the judiciary and the judicial appointments process.

The *InterLaw Diversity Forum Report* has four specific aims:

1. To investigate perceived barriers that may be preventing applications to the judiciary by LGBT people.
2. To compare these barriers across different subgroups among the LGBT respondents.
3. To compare LGBT data with the results published in the JAC Barriers Report.
4. To provide recommendations for reform.

The analysis that follows is based upon 188 responses to a questionnaire. Just under three-quarters of respondents (73%) identify as gay men. Around a fifth of respondents (22%) identify as a gay woman or lesbian. The remaining respondents identify themselves as bisexual (3%) or other (2%). Some of the samples studied are small and related findings need to be treated with some caution. Clearly more research needs to be done. It remains the case that the data is unique and offers an invaluable insight into perceptions and expectations of the judiciary and judicial careers.

¹ <http://www.justice.gov.uk/publications/docs/advisory-panel-judicial-diversity-2010.pdf>

² 28 June 2010, Hansard.

<http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm100628/wmstext/100628m0003.htm#1006284000649>

2.2

SIMILARITIES AND DIFFERENCES

The data collected in the *InterLaw Diversity Forum Report* indicate that there are many similarities between respondents to the InterLaw Diversity Forum questionnaire (“LGBT respondents”) and respondents to the JAC questionnaire (“JAC respondents”).

Both the LGBT respondents and the JAC respondents share a largely positive view of judicial office and a general perception that judicial work is enjoyable, interesting work. Eighty-five per cent of LGBT respondents feel that the work would be enjoyable.

Both reports indicate similar levels of belief among respondents that they have the skills and experience necessary to be a good judge. Similar numbers of respondents to both questionnaires indicate that they have applied in the past or would consider applying in the future for judicial office. Sixteen per cent of LGBT respondents have previously applied for judicial office. Again, this is similar to the number reported in the *JAC Barriers Report*.

There are also similarities in both reports when it comes to reasons given for not considering an application for judicial office. Both groups of respondents indicate that current job satisfaction, uncertainty of appointment and lack of skills are the key reasons for not considering judicial office.

LGBT perceptions of the key barriers to application are similar to those listed the *JAC Barriers Report*. ‘Being a barrister’, ‘knowing senior members of the judiciary’, ‘being involved in the right social networks’, ‘having the right educational background’ and ‘prior experience before higher judges’ are all strongly associated with judicial careers by both groups of respondents. Both groups of respondents continue to perceive the judiciary as a group made up of professional and social elites.

When broken down into legal professional subgroups similarities continue to be found between both groups of respondents. For example, LGBT barristers are more likely than LGBT solicitors to have a judicial career in mind, just as is the case with barristers from the JAC respondents. LGBT barristers are by far the most likely (75%) to feel they would be supported in their application by their place of work, while only 38% of LGBT solicitors feel that this would be the case. Again, this mirrors the findings in the *JAC Barriers Report*.

There is also evidence that some of the gender differences noted in the *JAC Barriers Report* are mirrored in the different experiences reported by gay women/lesbians and gay men. For example, the *JAC Barriers Report* finds that female respondents are more likely than male respondents to identify ‘making a difference’ as an important positive aspect of judicial office (Allen 2009, 28). This is echoed in the InterLaw Diversity Forum Report which shows that gay women/lesbians rank this aspect of judicial office higher than gay men (100% compared to 93%).

But there are also differences between LGBT perceptions and experiences and those given in the *JAC Barriers Report*. Some of these differences suggest that LGBT respondents are more positive about judicial careers.

Just over one in 10 (12%) of LGBT respondents indicate that they would be ‘very likely to apply’ for judicial office in the future with a further 24% being ‘quite likely to apply’. This is higher than indicated by the JAC respondents. More LGBT respondents (33%) than JAC respondents (28%) indicate that they view judicial office as a possible career option. A smaller number of LGBT respondents (53%) than JAC respondents (58%) do not view judicial office as a possible career option.

The factors that inform these positive feelings towards judicial office are another source of differences between the two reports. Asked to choose the most appealing aspects of a career in the judiciary, ‘making a difference’ scores higher among LGBT respondents than among JAC respondents. LGBT respondents rank ‘status and prestige’ higher than JAC respondents when choosing from the least appealing aspects.

Data from the *InterLaw Diversity Forum Report* also offer some evidence that there may be a perception among LGBT respondents that the barriers to application may be higher for them.

When comparing seven years post-qualified LGBT respondents with seven years post-qualified JAC respondents, the LGBT respondents (40%) are more likely to indicate that a judicial career is not for them than the JAC respondents (33%). A smaller percentage of these LGBT respondents than JAC respondents consider becoming a judge as something to do at the end of their career. A smaller number of these LGBT respondents also indicate a belief that their practice or chambers would support their application for judicial office.

Seven years post-qualified LGBT respondents are more likely than seven years post-qualified JAC respondents to identify ‘judicial culture’ as a reason why they never applied for judicial office (29% compared to 17%).

LGBT respondents identify a wider range of factors as negative influences on judicial career aspirations. ‘Being female’, ‘being disabled’ and ‘being a solicitor’ are all perceived as negatives by LGBT respondents, while JAC respondents view them all as neutral factors. LGBT respondents identify only one factor as neutral: ‘being from a minority ethnic background’. Additionally, being ‘lesbian, gay or ‘bisexual’ is rated by LGBT respondents as a negative influence on the outcome of an application. Among LGBT respondents, gay women/lesbians and black and minority ethnic LGBT respondents were more likely to consider this a negative.

All LGBT subgroups consider ‘membership in diversity groups’ such as the InterLaw Diversity Forum a negative influence on the outcome of an application for judicial office.

Barristers and BME respondents, however, are the two respondent subgroups least likely to indicate that it would have a negative influence.

There is considerable sentiment among LGBT respondents that more openly LGBT members of the judiciary and stronger public commitments to equality and diversity in relation to judicial office would make them more likely to apply for office. Seven out of 10 LGBT respondents indicate that more openly LGBT members of the judiciary would make them more likely to apply for judicial office. Two in three indicate that a stronger public commitment to equality and diversity by the judiciary and JAC would make them more likely to apply.

In some cases, sexual orientation seems to diminish the effects of other differences among subgroups. The *JAC Barriers Report* finding that '[W]omen were also more likely than men to feel that a judicial career is not for people like them (38% compared to 30%)' (Allen 2009, 31) is not reproduced in the InterLaw Diversity Forum data. Among LGBT respondents, women's responses tend to correspond more with men's than in the *JAC Barriers Report*. Both gay women/lesbians and gay men indicate a similar level (33% compared to 34%) of agreement with the statement: A judicial career is not for people like me.

But there is also evidence that LGBT respondents believe gender and ethnicity in combination with sexual orientation may have the effect of making the barriers seem even higher. For example, gay women/lesbians and BME LGBT respondents are the subgroups most likely to associate negative effects with being members of various strands of diversity. Both subgroups identify 'being from a minority group' as a negative influence and are also more likely than other subgroups to identify 'being female' as a negative influence.

Gay women/lesbians and BME LGBT respondents are the two subgroups most likely to indicate 'judicial establishment and culture' as an unappealing aspect of judicial office.

Among LGBT respondents, gay women/lesbians are less likely than gay men to indicate they will apply in the future. The *JAC Barriers Report* finds no differences between male and female respondents in this regard.

BME LGBT respondents are much more likely to indicate that 'a judicial career is not for me' than BME JAC respondents (54% compared to 28%). BME LGBT respondents are also less likely to indicate they will apply in the future. This is contrary to findings in the *JAC Barriers Report* where BME respondents indicate they are more likely to apply in the future.

2.3

INFORMATION AND AWARENESS

Much like the JAC respondents, very few LGBT respondents feel well-informed about any detail of the selection process. Fewer LGBT respondents would go to the JAC for information if they were thinking of applying for judicial office. LGBT respondents are more likely than JAC respondents to indicate they do not know who to use as a referee. LGBT respondents have a lower awareness of the reforms introduced in the

Tribunals Courts and Enforcement Act 2007, a piece of legislation avowedly designed to increase judicial diversity.

In contrast, more LGBT respondents describe themselves as well-informed about the day-to-day responsibilities of a judicial role than do JAC respondents.

2.4

SELECTION PROCESS

LGBT respondents are less likely than JAC respondents to believe that the selection process is fair. A larger percentage of LGBT respondents than JAC respondents (70% compared with 55%) indicate that they believe that there is prejudice within the selection process. LGBT respondents are less likely to express belief that judges are selected on a merit-only basis.

LGBT respondents are more likely to agree and more likely to strongly agree that judicial appointment depends upon good networking. Lesbians and BME LGBT are the subgroups most likely to believe that the selection process is not fair and that prejudice plays a role in judicial appointments.

2.5

AWARENESS AND ATTITUDES TOWARDS THE JAC

Almost three out of four LGBT respondents (74%) claim previous awareness of the JAC. This is slightly higher than the levels of awareness reported in the *JAC Barriers Report* (70%). LGBT respondents who are seven years post-qualified are more likely to have prior awareness of the JAC than JAC respondents (79% compared to 70%). Lesbians and BME LGBT indicate the lowest levels of awareness. LGBT support for the JAC as a positive development was consistently higher than among JAC respondents. Lesbians are more likely than gay men to consider it a positive development (90% compared to 85%). BME LGBT respondents are the least likely to consider it a positive development and the subgroup most likely to indicate 'don't know'.

The *JAC Barriers Report* concludes: 'There was limited awareness of JAC communications' (Allen 2009, 73). The *InterLaw Diversity Forum Report* offers more evidence in support of this conclusion: Two out of three LGBT respondents have not accessed JAC communications. Gay women/lesbians

are the subgroup least likely to have accessed any of the JAC communications (85% compared to 61% gay men).

The InterLaw Diversity Forum added an additional question to its own questionnaire to gain an insight into levels of awareness of the JAC's statutory duty to encourage diversity. Slightly more than half of LGBT respondents (54%) indicate they have no knowledge of the JAC's statutory duty to encourage diversity. And although slightly less than half (47%) claim knowledge of this responsibility, the overwhelming majority of these respondents (92%) claim this was the limit of their knowledge. Among the LGBT respondents, gender and ethnicity also appear to make a difference. Lesbians and BME LGBT are the two subgroups most likely to indicate no knowledge.

The rest of this report sets out the findings generated by the InterLaw Diversity Forum questionnaire in more detail.

3

PAST AND PRESENT APPLICATION
BEHAVIOUR

3.1 HEADLINES

LGBT respondents report some similar and some different experiences and perceptions of the barriers to judicial careers than the groups studied in the *JAC Barriers Report*.

More LGBT respondents than JAC respondents indicate they are 'very likely' to apply for judicial office in the future.

BME LGBT respondents are less likely to indicate they will apply in the future. This is contrary to findings in the *JAC Barriers Report*, in which BME respondents indicate they are more likely to apply in the future.

Lesbians are less likely than gay men to indicate they will apply in the future. The *JAC Barriers Report* finds no differences between male and female respondents.

LGBT barristers, like the barrister JAC respondents, are much more likely than solicitors to indicate an intention to apply for judicial office in the future.

A slightly larger proportion of LGBT respondents than JAC respondents have either applied or considered applying for judicial appointment.

A higher percentage of seven years post-qualified LGBT respondents than JAC respondents have previously applied for judicial office.

Most LGBT respondents who have not thought of applying feel they 'are too young for a judicial career', 'are happy in their current job' or 'do not consider that they have the right skills or experience for the job'.

Seven years post-qualified LGBT respondents give the same reasons for not considering an application as those given by JAC respondents.

Seven years post-qualified LGBT respondents are more likely than JAC respondents to identify 'judicial culture' as a reason why they have never applied.

Seven out of 10 LGBT respondents indicate that 'more openly LGBT members of the judiciary' would make them more likely to apply for judicial office.

Two in three LGBT respondents indicate a 'stronger public commitment to equality and diversity by the judiciary and JAC' would make them more likely to apply.

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3.2

LIKELIHOOD TO APPLY

A key question identified in the *JAC Barriers Report* is the likelihood of application for judicial appointment in the future. Do LGBT respondents indicate different or similar responses to those presented in the *JAC Barriers Report* (see Table 3a below)?

Just over one in 10 (12%) LGBT respondents indicate they would be 'very likely to apply' for judicial office in the future with a further 24% being 'quite likely to apply'. This is higher than indicated by the JAC respondents.

Among LGBT respondents, barristers are far more likely than solicitors to indicate they are likely to apply for judicial office (71% compared to 33%). There is less disparity when comparing indications of being 'very likely' to apply (barristers 14% and solicitors 12%). This echoes findings in the *JAC Barriers Report* that legal professional background is an important factor in perceived barriers to a career in the judiciary.

A smaller number of LGBT respondents (47%) than JAC respondents (65%) indicated they would be unlikely to apply in the future.

LGBT respondents were given a list of items related to judicial office and the application process and for each were asked to indicate whether it would make them 'much more likely' to apply for judicial office, 'slightly more likely' or would 'make no difference'. The InterLaw Diversity Forum added two items to the list. One was designed to explore the impact of a strong public statement about commitment to equality and diversity and the second asked whether having more openly LGBT members of the judiciary might increase the likelihood of applying for judicial office in the future (see Table 3b below).

The three most frequently cited things that would make LGBT respondents more likely to apply are the same as those chosen by JAC respondents: 'more information about minimum entry requirements', 'more information about the

application process' and 'more information about the nature of judicial office'.

There are differences between LGBT respondent subgroups. Seven out of 10 lesbians (70%) say that 'part-time working' would make them more likely to apply. In contrast, one in two (51%) gay men say that 'part-time working' would make them more likely to apply.

Lesbians are more likely than gay men to say 'more information about the selection process' would make them more likely to apply (87% compared to 79%).

BME LGBT respondents are more likely to say increase in salary would make them more likely to apply than white LGBT respondents (92% compared to 60%).

Of the two additional questions added to the questionnaire by the InterLaw Diversity Forum, 'more openly LGBT members of the judiciary' rates as the more important of the two. Seven out of 10 (71%) LGBT respondents indicate 'more openly LGBT members of the judiciary' would make them more likely to apply for judicial office. Two out of three (65%) LGBT respondents indicate a 'stronger public statement by the judiciary and the JAC to a commitment to equality and diversity' would also increase likelihood of application.

Lesbians (83%) were most likely to say that 'more openly LGBT members of the judiciary would' make them more likely to apply. More solicitors than barristers indicate that 'more openly LGBT members of the judiciary' would make them more likely to apply for judicial office (70% compared to 61%).

Three out of four barristers (72%) indicate that a 'stronger public statement about commitment to equality and diversity by the judiciary and the JAC' would make them more likely to apply. This dropped to half (50%) of BME LGBT respondents who indicate it would make them more likely to apply.

Table 3a

LIKELIHOOD OF APPLYING IN THE FUTURE

InterLaw Diversity Forum Questionnaire (153 total respondents)

JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 153 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (111) JAC Men	Gay Women/ Lesbians (32) JAC Women	White LGBT (139) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (112) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (85) JAC 7 Years PQ
Very likely	12% 8%	12% 8%	3% 8%	13% 7%	0% 13%	12% 6%	14% 20%	13% 8%
Quite likely	24% 18%	27% 18%	9% 18%	23% 17%	23% 25%	21% 16%	57% 29%	24% 18%
Not very likely	37% 35%	37% 34%	47% 30%	38% 35%	31% 29%	42% 36%	14% 26%	35% 35%
Not at all likely	21% 30%	19% 30%	28% 30%	19% 31%	39% 19%	20% 33%	0% 17%	24% 30%
Don't know	7% 10%	5% 10%	13% 9%	6% 9%	8% 13%	5% 10%	14% 8%	5% 10%

Table 3b

WHAT WOULD MAKE RESPONDENT MORE LIKELY TO APPLY?

InterLaw Diversity Forum Questionnaire (150 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 150 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (111)	Gay Women/ Lesbians (31)	White LGBT (136)	BME LGBT (13)	LGBT Solicitors (109)	LGBT Barristers (14)	LGBT 7 Years PQ (84)
More info about minimum entry	80% 63%	81%	81%	81%	77%	79%	86%	73%
More Info about selection process	79% 67%	79%	87%	79%	75%	80%	86%	74%
More info about the role	76% 64%	77%	81%	76%	77%	80%	86%	71%
Work shadowing	71% 64%	71%	78%	70%	7%	70%	79%	66%
More openly LGBT members of judiciary	70% n/a	70%	83%	70%	66%	74%	61%	70%
Stronger public statements/commitment to equality and diversity	65% n/a	61%	71%	66%	50%	64%	72%	67%
Early notice of vacancies	64% 57%	64%	68%	64%	67%	65%	79%	63%
More training	62% 60%	61%	70%	61%	62%	61%	70%	61%
Opportunity to return to practice	62% 40%	73%	72%	61%	70%	66%	61%	52%
Increase in salary	62% 55%	62%	67%	60%	92%	68%	71%	50%
Part-time working	55% 55%	51%	70%	53%	67%	56%	57%	55%
Fewer minimum requirements	53% 38%	50%	53%	52%	58%	54%	49%	45%
Less reliance on references	50% 39%	47%	60%	49%	58%	51%	50%	47%

3.3

PREVIOUS BEHAVIOUR

Respondents were asked whether they had ever applied for judicial office and those that had not applied were asked whether they had ever considered it (see Table 3c below).

A slightly smaller percentage of LGBT respondents (47%) than JAC respondents (49%) have either applied or considered application for judicial appointment. When the LGBT sample is confined to those who had the necessary seven years post-qualified experience, LGBT respondents report higher rates (52% compared to 49%).

LGBT barrister respondents are much less likely than JAC barrister respondents to have applied in the past (21% compared to 35%). LGBT barrister respondents are far more likely than LGBT solicitor respondents to have applied for judicial office (21% compared to 13%).

The *JAC Barriers Report* found that white respondents are more likely to have applied in the past than BME respondents

(Allen 2009, 19). This is not the case in the data from the *InterLaw Diversity Forum Report*. There is little evidence that ethnicity makes a difference for LGBT respondents when it comes to those who have applied or would consider making an application. White LGBT respondents are, however, more likely than BME respondents to have not considered application (56% compared to 46%).

Gay male respondents and LGBT solicitor respondents are the demographic subgroups least likely to consider making an application for judicial office.

The *JAC Barriers Report* concludes that there is evidence that gender appears to be a factor influencing judicial career decisions (Allen 2009, 19). There is some evidence in support of this in the context of LGBT respondents. Gay men are more likely to have actually applied compared to gay women/lesbians (15% compared to 12%). Lesbians indicate the lowest level of past application for judicial office of any LGBT subgroup.

Table 3c

WHETHER EVER APPLIED FOR JUDICIAL OFFICE

InterLaw Diversity Forum Questionnaire (154 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 154 LGBT respondents 2,182 JAC respondents		By Respondent Subgroups						
		Gay Men (112) JAC Men	Gay Women/ Lesbians (32) JAC Women	White LGBT (140) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (112) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 YEARS PQ (86) JAC 7 Years PQ
Yes – has applied	16% 17%	15% 18%	12% 14%	16% 17%	15% 11%	13% 13%	21% 35%	28% 17%
No – has considered	28% 32%	28% 33%	28% 31%	28% 31%	31% 40%	31% 31%	28% 33%	24% 32%
No – has not considered	55% 49%	57% 48%	53% 52%	56% 50%	46% 47%	54% 53%	43% 30%	48% 49%

3.4

REASONS FOR NOT APPLYING

LGBT respondents who have never applied were asked their reasons for not applying (see Table 3d below). The most frequently given reason for not having applied for judicial office is that respondents are too young (56%). This differs from the most frequent reason given by respondents to the JAC questionnaire, where 'happy in their current job' is the most frequent explanation (51%).

When the LGBT sample is limited to seven years post-qualified respondents, the main reasons for not considering an application are the same as those given by JAC respondents ('Happy in current job', 'Don't think I would be appointed' and 'Don't have the relevant skills/experience').

Seven years post-qualified respondents and gay women/lesbians were the LGBT subgroups most likely to identify the difficulties of the selection process as a reason why they never applied.

LGBT seven years post-qualified respondents are more likely than JAC respondents to identify 'judicial culture' as a reason why they have never applied (29% compared to 17%).

LGBT barristers (70%) are the subgroup most likely to consider their youth a reason why they have never applied for judicial office. They are more likely than LGBT solicitors to say they have not applied because they do not have the relevant skills or experience (60% compared to 47%).

The JAC Barriers Report data indicate that women (44%) are more likely than men (34%) to say that they have not applied because they do not have the relevant skills (Allen 2009, 21).

Data from the InterLaw Diversity Forum questionnaire show a number of differences between gay men and gay women/lesbians. Lesbians are more likely than gay men to cite long hours and inflexibility as a reason for non-application (12% compared to 1%). Gay men are more likely than gay women/lesbians to give judicial establishment and culture as a reason why they have never applied (30% compared to 15%). Gay women/lesbians are more likely than gay men to indicate they have never considered a judicial career (31% compared to 23%).

A higher proportion of LGBT respondents than JAC respondents have not applied because they do not think they have relevant skills or experience (48% compared to 38%). More LGBT respondents than JAC respondents identify 'judicial culture' as a reason why they have never applied for judicial office (25% compared to 17%). Being LGBT⁷ is given as a reason for not applying by 11% of LGBT respondents. A higher proportion of BME LGBT respondents (46%) in contrast to white LGBT respondents (23%) report that they have never considered judicial office.

BME LGBT respondents (46%) were the most likely to have never considered judicial office. The comparison between BME LGBT respondents and white LGBT respondents is 46% to 23%.

BME LGBT respondents (55%) were the subgroup most likely to indicate 'judicial culture' as a reason why they had never applied for judicial office. BME LGBT (18%) and gay women/lesbians (15%) were also the subgroups most likely to give being LGBT as a reason why they never applied for judicial office.

Table 3d
REASONS FOR NEVER APPLYING FOR JUDICIAL OFFICE
 InterLaw Diversity Forum Questionnaire
 JAC Questionnaire

% of ALL Respondents LGBT respondents JAC respondents		By Respondent Sub-groups						
		Gay Men	Gay Women/ Lesbians	White LGBT	BME LGBT	LGBT Solicitors	LGBT Barristers	LGBT 7 Years PQ
Too young	56% 33%	59%	50%	56%	55%	59%	70%	27%
Happy in current job	48% 51%	51%	46%	49%	36%	51%	20%	46%
Don't have the relevant skills/experience	47% 38%	50%	50%	50%	36%	47%	60%	36%
Don't think I would be appointed	43% 50%	44%	42%	44%	36%	49%	20%	42%
Lack of information about what the job involves	27% 24%	27%	35%	25%	36%	32%	10%	25%
Lack of information about selection process	26% 31%	29%	27%	29%	9%	32%	10%	29%
Judicial establishment	25% 17%	30%	15%	23%	55%	28%	20%	29%
Never thought about it	25% 3%	23%	31%	23%	46%	30%	10%	25%
Lack of relevant references	14% 14%	14%	15%	14%	9%	14%	20%	15%
Lack of specialist knowledge	14% 28%	12%	19%	13%	27%	16%	10%	10%
Financial/salary	12% 6%	17%	0%	13%	9%	15%	0%	9%
Because I'm LGBT	11% n/a	10%	15%	10%	18%	12%	10%	12%
Selection process too difficult	10% 7%	10%	12%	10%	9%	12%	0%	12%
Long hours/inflexibility	4% 6%	1%	12%	4%	0%	4%	0%	2%
I'm too old	2% 2%	2%	0%	2%	0%	1%	0%	3%
Selection process too long	2% 13%	1%	4%	2%	0%	2%	0%	3%

3.5

UNDERSTANDING DRIVERS OF BEING LIKELY TO APPLY TO THE JUDICIARY IN THE FUTURE

We included a series of questions about factors that would make respondents more likely to apply for judicial office. One in two respondents (50%) say they would be more likely to apply if more information were provided about judicial roles. More information about the selection process is also highly ranked (2nd) by respondents.

Two in five respondents (40%) indicate that 'more openly LGBT or "out" members of the judiciary' would make them much more likely to apply for judicial office.

Factors identified as making 'no difference' include: 'part time/flexible working', reliance on references, early notice of vacancies and minimum entry requirements.

Overall, LGBT respondents feel they are not well informed about all aspects of the appointments process. We included specific questions about knowledge of equality and diversity obligations. Again respondents feel they are not well informed about these particular aspects of the judicial appointments process.

4

OVERALL PERCEPTIONS OF
THE JUDICIARY

4.1 HEADLINES

Overall LGBT perceptions of judicial office are positive — 85% feel that the work would be enjoyable.

A smaller percentage of seven years post-qualified LGBT respondents than JAC respondents consider becoming a judge as something to do at the end of your career.

Lesbians are more likely than gay men to believe that being a judge is something to do at the end of their career.

Lesbians are more likely than gay men to identify salary, pension provision and work/life balance as appealing aspects of judicial office.

Current workplace commitment to equality and diversity, salary and work/life balance are perceived as unappealing aspects of a judicial career.

Lesbians and BME respondents are the two sub-groups most likely to indicate judicial establishment and culture as an unappealing aspect of judicial office.

LGBT rankings of the most and least appealing aspects of judicial office differed from those reported in the *JAC Barriers Report*. 'Making a difference' and 'status and prestige' were ranked higher.

4.2 General perceptions	18
4.3 Attitudes towards office	19

4.2

GENERAL PERCEPTIONS

The InterLaw Diversity Forum questionnaire asked a series of questions about LGBT perceptions of the judiciary modelled on the questions used in JAC questionnaire. In addition, a new question was asked about the relevance of a strong judicial workplace commitment to equality and diversity.

A smaller percentage of seven years post-qualified LGBT respondents than JAC respondents consider becoming a judge as something to do at the end of their career (40% compared to 44%).

When gauging the feeling of the entire group, though, LGBT respondents are more likely than JAC respondents to indicate becoming a judge is something to do at the end of their careers (47% compared to 44%).

One in two LGBT respondents (50%) does not consider judicial office as an end-of-career option. This mirrors the response found in the *JAC Barriers Report* data.

In contrast to the *JAC Barriers Report* findings that men are more likely to believe that being a judge is something to do at the end of their career (48% compared to 39%), the *InterLaw Diversity Forum Report* finds that gay women/lesbians are more likely to think this than gay men (54% compared with 45%).

Eighty-five per cent of LGBT respondents feel that judicial work would be enjoyable. This is a higher percentage than reported by respondents in the *JAC Barriers Report* (75%).

LGBT barristers are more likely than solicitors to believe that judicial work would be enjoyable. BME LGBT respondents are less likely to believe that judicial work would be enjoyable than white LGBT respondents (52% compared to 88%).

Table 4a

BECOMING A JUDGE IS SOMETHING TO CONSIDER AT THE END OF YOUR CAREER

InterLaw Diversity Forum Questionnaire (159 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 159 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (114) JAC Men	Gay Women/ Lesbians (35) JAC Women	White LGBT (145) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (117) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (88) JAC 7 Years PQ
Agree strongly	8% 8%	7% 9%	11% 6%	6% 8%	23% 9%	7% 8%	14% 10%	6% 8%
Agree slightly	39% 36%	38% 38%	43% 32%	40% 36%	23% 34%	43% 37%	21% 32%	34% 36%
Disagree slightly	29% 29%	29% 28%	29% 30%	28% 29%	39% 25%	29% 29%	28% 29%	32% 29%
Disagree strongly	21% 21%	22% 20%	17% 24%	22% 21%	8% 26%	3% 20%	36% 26%	25% 21%

Table 4b
JUDICIAL WORK WOULD BE ENJOYABLE

InterLaw Diversity Forum Questionnaire (153 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 153 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (110) JAC Men	Gay Women/ Lesbians (33) JAC Women	White LGBT (139) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (111) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (84) JAC 7 Years PQ
Agree strongly	44% 32%	46% 32%	33% 33%	45% 32%	39% 34%	39% 30%	72% 43%	49% 32%
Agree slightly	41% 42%	44% 44%	39% 40%	43% 43%	23% 42%	43% 43%	21% 40%	38% 42%
Disagree slightly	9% 10%	7% 9%	18% 10%	8% 10%	15% 7%	13% 10%	0% 8%	7% 10%
Disagree strongly	1% 4%	1% 5%	0% 3%	1% 4%	7% 4%	2% 5%	0% 4%	1% 4%

4.3

ATTITUDES TOWARDS OFFICE

LGBT respondents were asked what aspects of judicial office they found appealing. The InterLaw Diversity Forum questionnaire contained an additional question asking respondents if a strong workplace commitment to equality and diversity in relation to judicial office would appeal. LGBT respondents indicate that the most appealing aspect of judicial office is the interesting nature of judicial work (96% compared to 92% of JAC respondents).

LGBT respondents do not differ from the respondents in the *JAC Barriers Report* research. Over nine in 10 LGBT respondents indicate that the interesting nature of the work undertaken by the judiciary is the most appealing aspect of judicial office.

Almost as many LGBT respondents (94%) say that ‘making a difference’ is an aspect of judicial office they find appealing. LGBT ranking of this aspect of judicial office differs from that found in the *JAC Barriers Report* (ranked 2nd compared to 3rd).

The *JAC Barriers Report* finds that female respondents are more likely than male respondents to identify ‘making a difference’ as being important (Allen 2009, 28). The *InterLaw Diversity Forum Report* data suggest that gay women/lesbians rank ‘making a difference’ higher than gay men do (100% compared to 93%).

All LGBT barristers indicate that ‘public service’ was an appealing aspect of judicial office.

More gay women/lesbians than gay men identify salary (82% compared to 59%), work/life balance (85% compared to

75%) and pension arrangements (89% compared to 77%) as aspects of judicial office that are appealing. All gay women/lesbians identify ‘change of career’ as an appealing dimension of judicial office (compared to 91% of gay men).

Four out of five LGBT respondents (80%) say that the status and prestige related to judicial office appeal. LGBT ranking of this aspect of judicial office differs from that reported in the *JAC Barriers Report* (ranked 7th compared to 9th). One hundred per cent of BME LGBT respondents identify ‘status’ as an important factor, while three out of five white LGBT respondents (60%) identify it as a factor. More BME than white LGBT respondents identify salary as an appealing aspect of judicial office (75% compared to 65%).

Nine out of 10 seven years post-qualified LGBT respondents indicate that a change of career appeals to them.

Two out of three LGBT respondents (67%) say that a strong workplace commitment to equality and diversity would make judicial office appealing.

Respondents were also asked to select from a list of aspects of judicial office which they found unappealing. Table 4d below contains the results.

Aspects of judicial office relating to the general nature of the role of the judge are frequently cited as unappealing. Almost two-thirds of LGBT respondents (63%) identify the isolated nature of the role of judge as the most unappealing aspect. LGBT respondents are less likely than JAC respondents to identify loss of flexibility as unappealing (44%, ranked 4th, compared to 58%, ranked 2nd).

Almost one in two LGBT respondents indicate that judicial establishment and culture is an unappealing aspect of judicial office. This is similar to the findings of the *JAC Barriers Report*.

Gay women/lesbians and BME respondents are the two subgroups most likely to find judicial establishment and culture unappealing. More LGBT solicitors (50%) than barristers (29%) indicate that it is unappealing. This echoes the findings in the *JAC Barriers Report* which note that women and BME respondents are also most likely to find judicial establishment and culture one of the most unappealing aspects of judicial office. BME JAC respondents also rank this higher than other respondents (Allen 2009, 30). More gay women/

lesbians than women JAC respondents identify judicial culture as unappealing (71% compared to 54%).

Lesbians and BME are the two LGBT subgroups most likely to say that increased workload is an unappealing aspect of judicial office.

BME LGBT respondents and LGBT barristers identified reduction of earnings as one of the most unappealing aspects. BME respondents are more likely to identify potential gender/sexual hostility as unappealing. Gay women/lesbians are the subgroup most likely to say increased workload is unappealing.

Table 4c
WHICH ASPECTS OF JUDICIAL OFFICE ARE APPEALING
InterLaw Diversity Forum Questionnaire
JAC Questionnaire

% of ALL Respondents finding appealing LGBT respondents JAC respondents		By Respondent Sub-groups						
		Gay Men	Gay Women/ Lesbians	White LGBT	BME LGBT	LGBT Solicitors	LGBT Barristers	LGBT 7 Years PQ
Interesting work	96% 92% (1 st)	97%	100%	97%	85%	97%	92%	96%
Making a difference	94% 86% (3 rd)	93%	100%	94%	92%	94%	86%	90%
Public service	92% 89% (2 nd)	93%	96%	92%	92%	91%	100%	89%
Change of career focus	92% 80% (6 th)	91%	100%	92%	93%	92%	92%	94%
Job security	91% 84% (4 th)	92%	89%	91%	85%	90%	92%	87%
Status/prestige	80% 70% (8 th)	84%	85%	60%	100%	85%	85%	81%
Pension arrangements	80% 81% (5 th)	77%	89%	79%	92%	80%	79%	86%
Work/life balance	76% 73% (7 th)	75%	85%	76%	77%	75%	69%	73%
Strong workplace commitment to equality and diversity	67% n/a	66%	71%	67%	67%	65%	72%	70%
Salary	64% 63% (9 th)	59	82%	64%	75%	60%	64%	66%

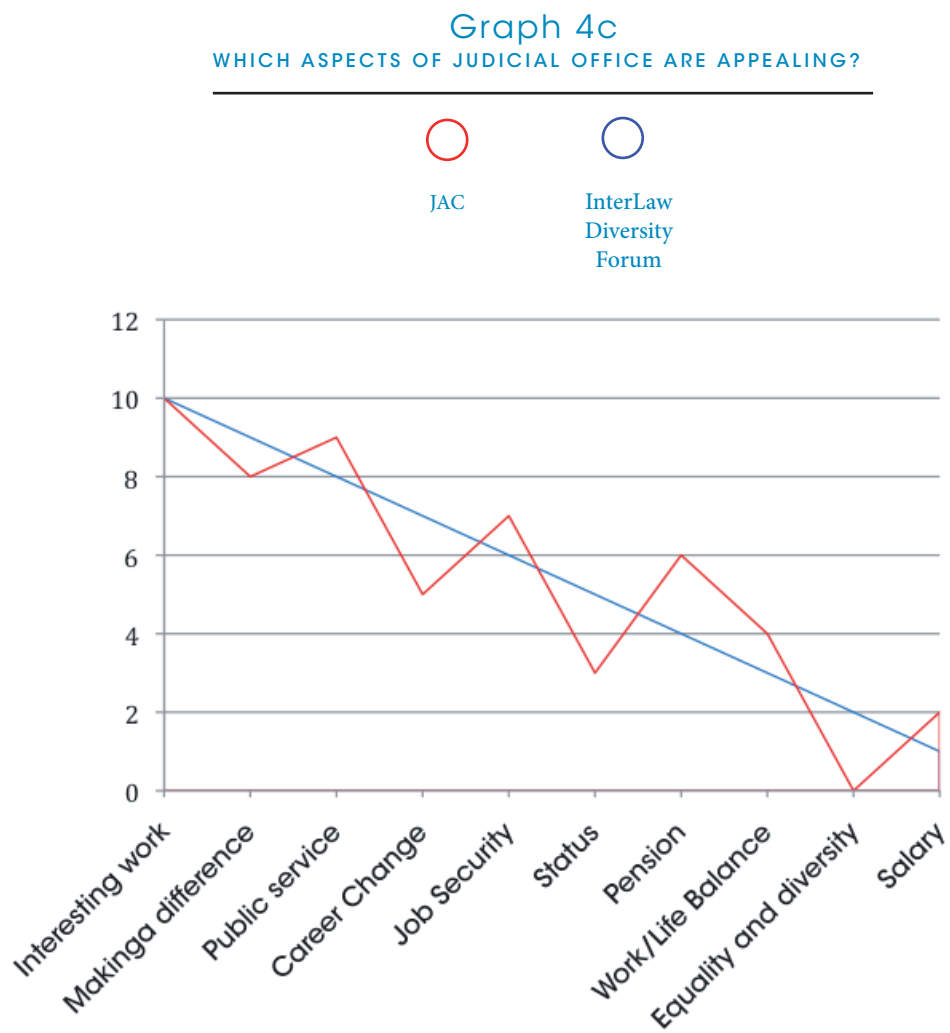
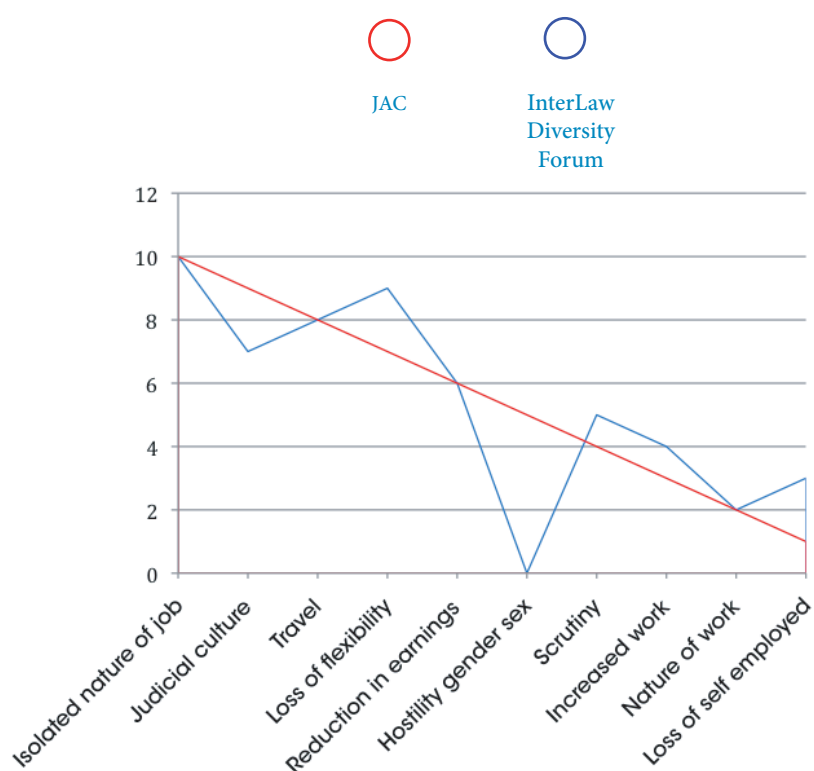


Table 4d
WHICH ASPECTS OF JUDICIAL OFFICE ARE UNAPPEALING?
 InterLaw Diversity Forum Questionnaire (139 total respondents)
 JAC Questionnaire³

% of ALL Respondents finding unappealing 139 LGBT respondents JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (126) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (103) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Isolated nature of role	63% 66% (1 st)	63% 65%	60% 66%	64% 66%	48% 69%	64% 66%	57% 62%	55% 66%
Judicial establishment/culture	48% 50%(4 th)	45% 47%	71% 54%	46% 49%	77% 62%	50% 51%	29% 42%	53% 50%
Travel/ being based in different places	47% 53%(3 rd)	45% 49%	46% 60%	44% 52%	77% 60%	48% 55%	36% 38%	51% 53%
Loss of flexibility	44% 58%(2 nd)	48% 59%	36% 55%	44% 57%	46% 60%	37% 56%	64% 67%	44% 58%
Reduction of earnings	41% 44%(5 th)	44%	32%	37%	84%	41%	50%	37%
Potential gender/sexual hostility	37% n/a	39%	32%	40%	61%	38	29%	34%
Increased profile/scrutiny	36% 42%(6 th)	37%	36%	34%	46%	35%	43%	36%
Increased workload	32% 42%(7 th)	29%	43%	30%	46%	33%	36%	31%
Nature of work	17% 27%(9 th)	17%	21%	15%	38	17%	21%	15%
Loss of self-employed status	14% 29%(8 th)	14%	21%	12%	38%	12%	36%	14%

Graph 4d
WHICH ASPECTS OF JUDICIAL OFFICE ARE UNAPPEALING?



³ The JAC Barriers Report does not provide data for the subgroup perceptions of all 'unappealing' categories. See Allen 2009, 30.

5

CAREER ASPIRATIONS

5.1 HEADLINES

Seven years post-qualified LGBT respondents are more likely to indicate that a judicial career is 'not for people like me' than JAC respondents.

Seven years post-qualified LGBT respondents and JAC respondents indicate similar levels of belief that they have the skills and experience to make a good judge.

Gender does not seem to have a significant influence on LGBT responses to the statement 'a judicial career is not for people like me'.

BME LGBT respondents are much more likely to indicate that 'a judicial career is not for me' than the BME JAC respondents.

A smaller number of LGBT respondents than JAC respondents indicate a belief that their practice or chambers would support their application for judicial office.

5.2 General perceptions	24
5.3 'Not for people like me'	24
5.4 'Being a judge as part of my career path'	25
5.5 'The skills and experience'	25
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5.2

GENERAL PERCEPTIONS

To understand why respondents have not applied in the past or why they are not likely to apply in the future it is important to know how respondents view a judicial career (see Table 5a below).

Table 5a
OPINIONS ABOUT JUDICIAL CAREERS

InterLaw Diversity Forum Questionnaire (167 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents agreeing with statement 167 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men JAC Men	Gay Women/ Lesbians JAC Women	White LGBT JAC White	BME LGBT JAC BME	LGBT Solicitors JAC Solicitors	LGBT Barristers JAC Barristers	LGBT 7 Years PQ JAC 7 Years PQ
A judicial career is not for people like me	35% 33%	34% 29%	33% 36%	33% 33%	54% 28%	37% 35%	21% 21%	40% 33%
I see being a judge as part of my career path	33% 28%	36% 29%	17% 27%	36% 28%	38% 30%	28% 24%	79% 52%	40% 28%
I have the skills and experience to make a good judge	59% 66%	62% 71%	44% 56%	60% 67%	54% 73%	54% 62%	75% 84%	65% 66%
My practice/ chambers would support me if I applied for judicial office	40% 51%	39% 54%	3% 47%	33% 51%	46% 60%	38% 45%	71% 80%	43% 51%

5.3

'NOT FOR PEOPLE LIKE ME'

When comparing seven years post-qualified LGBT respondents with JAC respondents (all JAC respondents are seven years post-qualified), LGBT respondents are more likely to indicate that a judicial career is not for them (40% compared to 33%).

The *InterLaw Diversity Forum Report* data suggest there is little difference between the number of LGBT and JAC respondents who indicate 'a judicial career was not for people like me' (35% compared to 33%).

There is little difference between LGBT solicitors and barristers and JAC respondent solicitors and barristers. LGBT solicitors are also more likely than LGBT barristers (37% compared to 21%) to think that a judicial career is not for people like them.

This picture begins to change when you examine the LGBT respondents by way of gender. The *JAC Barriers Report* finding that '[W]omen were also more likely than men to feel that a judicial career is not for people like them (36% compared to 29%)' (Allen 2009, 31) is not reproduced in the *InterLaw Diversity Forum Report* data. Gay women/lesbians are more like gay men in their response. Both groups indicate a similar level (33% compared to 34%) of agreement with the statement, 'a judicial career is not for people like me'.

BME LGBT respondents are much more likely to indicate that 'a judicial career is not for me' than BME JAC respondents (54% compared to 28%).

5.4

'BEING A JUDGE AS PART OF MY CAREER PATH'

The *JAC Barriers Report* argues that whether a respondent sees being a judge as part of a career path is one of the key determining factors informing future application behaviour (Allen 2009, 32). Is judicial office a career option LGBT respondents have in mind?

More LGBT respondents than JAC respondents (33% compared to 28%) indicate that they see a judicial office as part of their career path. A larger number of LGBT than JAC respondents indicated that a judicial career is not for people like me, (35% compared to 33%).

Seven years post-qualified LGBT respondents are more likely than the general sample of LGBT respondents to see the judiciary as a part of their career path (40% compared to 33%).

Gender seems to play a significant role in LGBT responses whether being a judge is seen as part of one's career path. Gay women/lesbians are much less likely to see judicial office as part of their career path than gay men (17% compared to 36%).

5.5

'THE SKILLS AND EXPERIENCE'

Both seven years post-qualified LGBT respondents and JAC respondents indicate similar levels of belief that they have the skills and experience to make a good judge (65% compared to 66%).

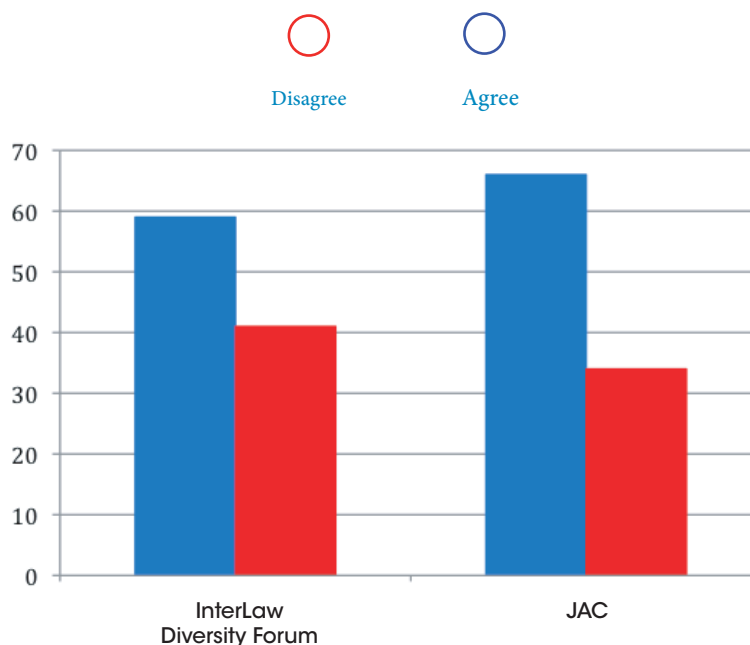
Just over two in five gay women/lesbians (44%), compared to three in five gay men (62%), believe they have the necessary skills for a judicial career.

A smaller number of gay women/lesbians (44%) than female JAC respondents (56%) indicate a belief that they have the skills and experience to make a good judge.

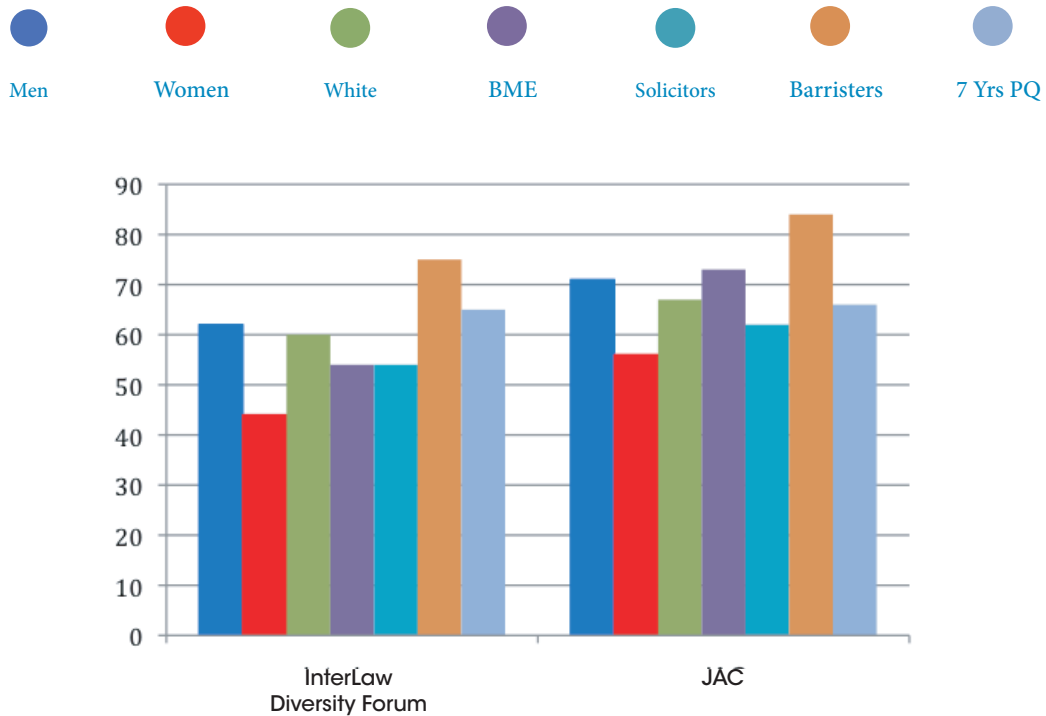
BME LGBT respondents are much less likely to indicate that they have the skills and experience to make a good judge than BME JAC respondents (54% compared to 73%).

Graph 5a

'I HAVE SKILLS AND EXPERIENCE TO MAKE A GOOD JUDGE'



Graph 5a.1
'I HAVE SKILLS AND EXPERIENCE TO MAKE A GOOD JUDGE'



5.6

'SUPPORT BY PRACTICE/CHAMBERS'

A smaller number of LGBT respondents (40%) than JAC respondents indicate a belief that their practice or chambers would support their application for judicial office. This remains true even when questioning only seven years post-qualified LGBT respondents.

LGBT barristers (75%) are by far the most likely to feel they would be supported in their application by their place of work (compared to 38% of LGBT solicitors). This mirrors findings in the *JAC Barriers Report*.

The difference between gay women/lesbians and gay men is much greater (3% compared to 39%) than that found in the *JAC Barriers Report* (47% women compared to 54% men).

BME LGBT respondents (46%) are more likely to feel they would be supported in their workplace than white LGBT respondents (33%). This also mirrors responses in the *JAC Barriers Report* data.

6

INFORMATION

6.1 HEADLINES

More LGBT respondents describe themselves as well-informed about the day-to-day responsibilities of a judicial role.

Like the JAC respondents, very few LGBT respondents feel well informed about any detail of the selection process.

Fewer LGBT respondents would go to the JAC for information if they were thinking of applying for judicial office.

LGBT respondents are more likely than JAC respondents to indicate they do not know whom to use as a referee.

LGBT respondents have a lower awareness of the reforms introduced in the Tribunals Courts and Enforcement Act 2007 a piece of legislation avowedly designed to increase judicial diversity.

Seven years post-qualified LGBT respondents have higher rates of participation and knowledge about the work-shadowing scheme than JAC respondents with similar professional experience.

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6.2

HOW WELL INFORMED ARE POTENTIAL CANDIDATES?

The *JAC Barriers Report* concludes that information about the nature of the role and the selection process for judicial office is strongly correlated with the likelihood of application for judicial office (Allen 2009, 36). The opening question in the JAC questionnaire is ‘How well-informed do you feel about the day-to-day responsibilities of a judicial role?’ Only one in 10 (10%) JAC respondents describes him/herself as well-informed. What was the LGBT response to this question?

Slightly more LGBT respondents, over one in 10 (13%), describe themselves as well-informed. When the respondent group is narrowed to those who are seven years post-qualified the response is even higher — almost one in five (20%).

The *JAC Barriers Report* finds that ‘Barristers were much more likely to feel “very” well informed — 28% compared with only 6% of solicitors.’ (Allen 2009, 37) But although LGBT barristers are more likely than LGBT solicitors to indicate that they feel ‘very well-informed’, the gap between them is smaller — 14% compared to 11%.

Data from the *JAC Barriers Report* show that men are also more likely than women to feel informed about the judicial role. The *InterLaw Diversity Forum Report* data offer evidence of similar differences between gay men and gay women/lesbians. The difference between gay men and gay women/lesbians,

however, is much greater than between male and female JAC respondents — 16% of gay men compared to 3% of gay women/lesbians and 12% of men compared to 6% of women, respectively.

White LGBT respondents are also more likely to feel well-informed about the judicial role than BME LGBT respondents (14% compared to 8%). The *JAC Barriers Report* research finds ‘little difference’ by way of ethnicity (Allen 2009, 37) on this issue.

The *InterLaw Diversity Forum Report* data suggest that LGBT respondents would choose sources of information about judicial careers similar to those chosen by JAC respondents. Most (60%) indicate they would go to the JAC (see Table 6a below). A larger number indicate that the Law Society and the Bar Council would be sources of information (56% and 47%, respectively). Like the findings in the *JAC Barriers Report*, LGBT barristers are more likely to go to the JAC than LGBT solicitors (71% compared with 58%).

Gay women/lesbians and BME LGBT respondents are more likely to go to the Law Society or the Bar Council than to the JAC for information than gay men or white respondents are. The *JAC Barriers Report* makes no reference to gender or ethnic differences in this regard.

Table 6a
SOURCES OF INFORMATION ABOUT JUDICIAL CAREERS

Sources of information about judicial careers		
	InterLaw Diversity Forum Questionnaire (168 respondents)	JAC Questionnaire (2,182 respondents)
JAC	60%	64%
Law Society/ Bar Council	56%	47%
Legal press or website	30%	30%
Colleagues	26%	30%
Other media (national press)	13%	9%
Wouldn't look for information	4%	2%

6.3

INFORMATION ABOUT THE SELECTION PROCESS

The *JAC Barriers Report* finds low levels of awareness about the selection process — only 1% says that they feel ‘very’ well-informed (Allen 2009, 39). LGBT respondents similarly report low levels of awareness (1%). Seven years post-qualified LGBT respondents report slightly higher levels of awareness (2%).

Responses to a question about awareness of detailed aspects of the selection process are found in Table 6b below.

In many respects levels of knowledge among LGBT respondents are similar to those among JAC respondents. The InterLaw Diversity Forum questionnaire included two questions about equality and diversity that were not included in the JAC questionnaire. One focused on the statutory duty of the JAC to encourage diversity in the pool of candidates for judicial appointment, and the second focused on the equal-

ity and diversity policies of the JAC. Few LGBT respondents indicate that they are well-informed about either (11% and 15%, respectively).

The *JAC Barriers Report* finds little awareness (9%) of some of the recent development to the selection process, in particular qualifying tests (Allen 2009, 41). A higher level of awareness about this particular aspect of the selection process is reported by LGBT respondents (14%).

Seven years post-qualified LGBT respondents and JAC respondents both report similar levels of awareness of recent changes to the selection process (16% compared to 15%). Likewise, LGBT barristers are more likely than LGBT solicitors to be aware of changes (21% compared to 15%), echoing findings among barristers and solicitors in the *JAC Barriers Report* (Allen 2009, 41).

Table 6b
HOW WELL-INFORMED ON SPECIFIC ASPECTS
OF SELECTION PROCESS

	InterLaw Diversity Forum Questionnaire JAC Questionnaire		
	Well-informed	Not well-informed	DK/NS
Definition of ‘good character’	30% 28%	60% 64%	10% 8%
Experience/skills needed	25% 27%	65% 65%	10% 7%
References	21% 18%	68% 72%	10% 9%
Minimum entry requirements	21% 24%	67% 68%	11% 8%
Application forms	19% 19%	70% 72%	11% 10%
How long the selections process takes	18% 14%	71% 77%	11% 9%
Definition of merit	17% 11%	72% 77%	11% 8%
Definition of equality and diversity policies of JAC	15% n/a	75% n/a	10% n/a
Shortlisting – qualifying tests	14% 9%	75% 82%	11% 9%
Role play	12% 9%	75% 82%	12% 9%
Interview	13% 12%	76% 80%	11% 8%
Shortlisting - sift	11% 10%	78% 82%	11% 9%
Statutory duty to encourage diversity	11% n/a	75% n/a	10% n/a
Statutory consultation	9% 8%	79% 82%	11% 9%

6.4

REFERENCES

The *JAC Barriers Report* finds ‘widespread misunderstanding’ about what references are required as part of the selection process (Allen 2009, 41). Among JAC respondents 31% report a belief that one needs a reference from a high court judge to successfully apply and 39% were not sure. Among LGBT respondents an even higher percentage (43%) believe that one needs a high court judge as a referee. A slightly smaller number (34%) indicate that they did not know. LGBT solicitors are more likely than LGBT barristers to not know whether a reference from a high court judge is needed. This echoes the findings of the *JAC Barriers Report* (Allen 2009, 41).

Similar to *JAC Barriers Report* findings relating to women and BME respondents, gay women/lesbians and BME LGBT respondents are most likely to believe that a reference from a high court judge is needed (Allen 2009, 42).

In response to the statement ‘I wouldn’t know who to use as a referee’, LGBT respondents are more likely than JAC respondents to indicate agreement with this statement (62% compared to 47%).

Gay women/lesbians and BME LGBT respondents are the most likely subgroups to indicate that they do not know who to use as a referee.

The InterLaw Diversity Forum questionnaire also asked whether respondents knew what information they needed to provide as part of the selection process.

Over half of all LGBT respondents (57%) do not feel that they know what information they need to provide, and almost one in three (29%) being unable to answer the question. This is similar to findings in the *JAC Barriers Report* (Allen 2009, 43).

Echoing the *JAC Barriers Report*, LGBT barristers are more likely than LGBT solicitors to indicate that they know what information to provide (23% compared to 13%). LGBT barristers are also less likely to indicate they ‘don’t know’ (15% compared to 29%).

Unlike the findings in *JAC Barriers Report*, the *InterLaw Diversity Forum Report* data suggest that gender and ethnicity may affect responses when combined with sexual orientation. Gay men are much more likely than gay women/lesbians to indicate that they know what information to provide (16% compared to 7%). BME LGBT respondents are more likely than white LGBT respondents to indicate that they know what information to provide (23% compared to 14%).

Table 6c

YOU NEED A REFERENCE FROM A HIGH COURT JUDGE TO APPLY SUCCESSFULLY FOR JUDICIAL CAREER

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (125) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	17% 11%	14% 8%	29% 15%	13% 10%	54% 23%	14% 10%	38% 13%	18% 11%
Agree slightly	28% 21%	26% 21%	32% 21%	28% 21%	23% 27%	30% 21%	38% 23%	19% 21%
Disagree slightly	9% 14%	11% 16%	7% 11%	10% 15%	0% 8%	10% 14%	14% 16%	12% 14%
Disagree strongly	12% 15%	14% 19%	4% 10%	13% 16%	8% 11%	12% 14%	0% 21%	19% 15%
Don't know	34% 39%	36% 37%	11% 43%	33% 39%	15% 32%	35% 41%	14% 27%	32% 39%

Table 6d

I WOULDN'T KNOW WHO TO USE AS A REFEREE

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (125) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	27% 22%	24% 19%	39% 28%	27% 21%	33% 29%	29% 22%	31% 21%	24% 22%
Agree slightly	35% 25%	38% 24%	27% 28%	37% 25%	8% 31%	35% 26%	31% 23%	24% 25%
Disagree slightly	18% 22%	18% 23%	18% 19%	17% 22%	25% 17%	19% 22%	8% 20%	22% 22%
Disagree strongly	12% 21%	12% 25%	4% 14%	11% 21%	25% 17%	9% 19%	31% 31%	18% 21%
Don't know	9% 9%	9% 9%	11% 11%	9% 10%	8% 6%	9% 10%	0% 5%	12% 9%

Table 6e

I KNOW WHAT INFORMATION I NEED TO PROVIDE

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (125) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	2% 4%	1% 4%	0% 3%	2% 4%	0% 4%	1% 3%	0% 9%	1% 4%
Agree slightly	13% 11%	15% 12%	7% 10%	12% 11%	23% 13%	12% 9%	23% 24%	21% 11%
Disagree slightly	21% 19%	22% 22%	14% 16%	21% 20%	23% 20%	18% 18%	31% 25%	23% 19%
Disagree strongly	36% 28%	33% 27%	50% 31%	37% 29%	23% 27%	41% 31%	31% 17%	28% 28%
Don't know	29% 38%	29% 36%	29% 40%	28% 37%	31% 36%	29% 40%	15% 25%	27% 38%

6.5

ADVERTISING APPOINTMENTS

Respondents were asked the extent to which they agreed with the statement ‘I don’t always know when appointments are available’.

LGBT respondents are almost as likely as JAC respondents to indicate that they do not always know when appointments are available (71% compared to 75%). The authors of the *JAC Barriers Report* do not find this particularly surprising, as most JAC respondents (59%) have not even considered applying for judicial office. Likewise, most LGBT respondents (84%) have never applied for any kind of judicial office.

Like BME JAC respondents, BME LGBT respondents are less likely to know when appointments are available. Unlike the *JAC Barriers Report*, the *InterLaw Diversity Forum Report* finds no difference between solicitors and barristers in this regard.

Table 6f

I DON'T ALWAYS KNOW WHEN APPOINTMENTS ARE AVAILABLE

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (125) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	45% 44%	45% 42%	50% 47%	43% 44%	62% 52%	49% 47%	36% 28%	40% 44%
Agree slightly	26% 31%	29% 30%	21% 31%	30% 31%	7% 29%	23% 30%	36% 39%	19% 31%
Disagree slightly	13% 8%	14% 6%	11% 7%	13% 8%	15% 5%	14% 6%	14% 16%	20% 8%
Disagree strongly	7% 4%	5% 3%	7% 3%	7% 4%	15% 3%	6% 3%	7% 9%	11% 4%
Don't know	8% 13%	7% 14%	11% 12%	9% 13%	0% 10%	8% 14%	7% 10%	11% 13%

6.6

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2008

The JAC questionnaire included two questions designed to explore awareness of the Tribunals, Courts and Enforcement Act 2008 (the “TCE Act”). One of the TCE Act’s main provisions was to amend the minimum legal qualification eligibility requirements for judicial appointment in England and Wales with the avowed aim of increasing the diversity of the judiciary. The *JAC Barriers Report* finds that only a minority of JAC respondents (28%) claim any awareness of the TCE Act, with two-thirds (64%) saying they were unaware of it. What level of awareness was there among LGBT respondents?

Table 6g below compares the LGBT response to that in the *JAC Barriers Report*.

A smaller number of LGBT respondents (20%) than JAC respondents claim they are aware of the TCE Act. Four out of five LGBT respondents indicate that they are unaware of the TCE Act.

Seven years post-qualified LGBT respondents indicate a slightly higher level of awareness than the sample as a whole (24% compared to 20%).

The awareness level among LGBT subgroups mirrors that among subgroups in the *JAC Barriers Report*. LGBT barristers are more likely than LGBT solicitors to be aware of the Act — 29% compared to 18%; gay men are more likely than gay women/lesbians — 22% compared to 13%; white LGBT are more likely than BME LGBT — 21% compared to 8%.

These findings add further evidence to support the conclusion of the *JAC Barriers Report* authors, that ‘Given that the Act aims to increase the diversity of the judiciary, it is notable that the very candidates who would contribute most to achieving such diversity are least likely to be aware of it’ (Allen 2009 46).

Table 6g
AWARENESS OF TCE ACT

InterLaw Diversity Forum Questionnaire (151 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 151 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (111) JAC Men	Gay Women/ Lesbians (31) JAC Women	White LGBT (138) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (111) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (85) JAC 7 Years PQ
Aware	20% 28%	22% 32%	13% 21%	21% 29%	8% 19%	18% 26%	29% 37%	24% 28%
Not aware	80% 64%	78% 61%	87% 69%	79% 63%	92% 71%	82% 66%	71% 53%	77% 64%

6.7

WORK SHADOWING

LGBT respondents were asked the extent to which they agree with the statement ‘I don’t really know what’s involved in judicial office’ (see Table 6h below). Just over one in two (53%) feel they do not know what is involved in judicial office. This is higher than in the *JAC Barriers Report* (43%).

The most notable difference was between gay women/lesbians and gay men — 60% compared to 50% report that they do not know what is involved. This echoes findings in the *JAC Barriers Report*, which concludes that ‘women were much more likely to not know what was involved’ (53% compared to 38%) (Allen 2009, 47).

Ethnicity was another notable difference — 53 % of white LGBT respondents compared to 39% of BME LGBT respondents feel they do not really know what is involved. This differs from the *JAC Barriers Report*, in which ethnicity is said to make ‘little difference’ (Allen 2009, 47). Professional difference (i.e. whether one is a barrister or solicitor) was identified as the most notable difference.

The *JAC Barriers Report* asked respondents about their knowledge and experience of the judicial work-shadowing scheme designed to provide eligible legal practitioners with

insight into judicial life. LGBT respondents were asked the same questions.

Very few (8%) have taken part in the judicial work shadowing scheme although this was higher than indicated by JAC respondents (3%). Almost one in four (24%) LGBT respondents are aware of the scheme, a smaller number than the JAC respondents.

Seven years post-qualified LGBT respondents have higher rates of participation in the work-shadowing scheme than JAC respondents with similar professional experience (13% compared to 3%). Almost one-third (31%) of seven years post-qualified LGBT respondents have heard of the scheme, which is similar to levels reported by JAC respondents.

BME LGBT respondents report higher levels of knowledge/participation or knowledge/no participation in the scheme than white LGBT respondents — 9% and 36% compared to 8% and 29%, respectively. Gay women/lesbians are more likely than gay men to have heard of the scheme but not to have participated in it (30% compared to 22%). The *JAC Barriers Report* found little gender or ethnic difference (Allen 2009, 48).

Table 6h
I DON’T KNOW WHAT’S INVOLVED IN JUDICIAL OFFICE

InterLaw Diversity Forum Questionnaire (167 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 167 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (36) JAC Women	White LGBT (153) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (92) JAC 7 Years PQ
Agree strongly	10% 13%	8% 10%	18% 17%	10% 12%	8% 16%	10% 14%	14% 3%	13% 13%
Agree slightly	43% 31%	42% 28%	42% 36%	43% 31%	31% 28%	45% 34%	36% 11%	29% 31%
Disagree slightly	30% 25%	32% 26%	24% 23%	30% 25%	39% 30%	32% 25%	29% 23%	32% 25%
Disagree strongly	18% 28%	18% 32%	15% 20%	17% 28%	23% 24%	13% 22%	21% 60%	26% 28%
Don't know	0% 4%	0% 4%	0% 4%	0% 4%	0% 2%	0% 5%	0% 3%	0% 4%

Graph 6h

I DON'T KNOW WHAT'S INVOLVED IN JUDICIAL OFFICE

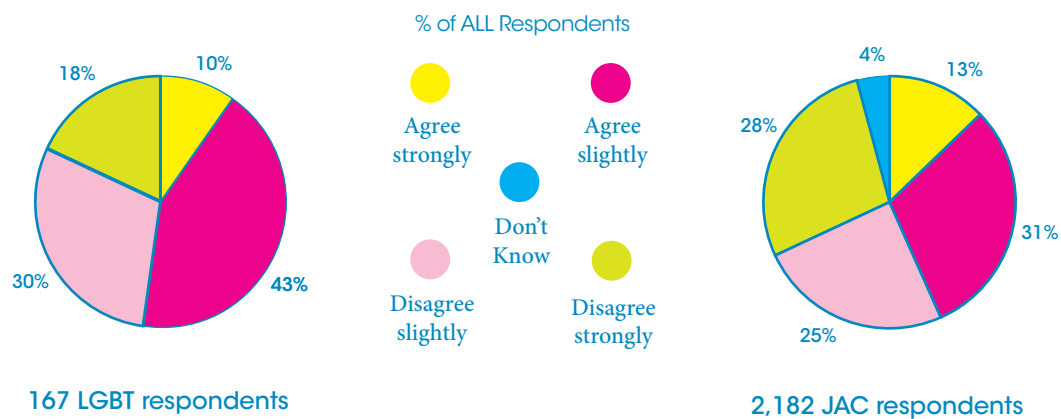


Table 6i

ARE YOU AWARE OF THE JUDICIAL WORK SHADOWING SCHEME?

InterLaw Diversity Forum Questionnaire (137 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 137 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (28)	White LGBT (125)	BME LGBT (13)	LGBT Solicitors (99)	LGBT Barristers (13)	LGBT 7 Years PQ (78)
Yes, and have participated	8% 3%	9%	7%	8%	9%	8%	7%	13%
Yes, but have not participated	24% 33%	22%	30%	29%	36%	21%	50%	31%
No	68% 60%	69%	63%	69%	55%	71%	43%	56%

7

SELECTION PROCESS

7.1 HEADLINES

Sixteen per cent of LGBT respondents have previously applied for judicial office. This is similar to the number of JAC respondents.

BME LGBT respondents are the subgroup most positive about qualifying tests as an effective way of assessing candidates.

LGBT respondents are less likely than JAC respondents to believe that the selection process is fair.

Gay women/lesbian and BME LGBT respondents are most likely to believe that the selection process is not fair and that prejudice plays a role in judicial appointments.

LGBT respondents are less likely to express a belief that judges are selected on a merit-only basis.

A larger percentage of LGBT respondents than JAC respondents (70% compared to 55%) indicate that they believe there is prejudice in the selection process.

LGBT respondents are more likely to agree and more likely to strongly agree than JAC respondents that judicial appointment depends upon good networking.

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7.2

DETAILED RATINGS OF SELECTION PROCESS

The focus of this section is on the experience of the judicial selection process.

Sixteen per cent of LGBT respondents had previously applied for judicial office. This is similar to the percentage of JAC respondents. Of those who had applied 38% had done so before 2006 (when the JAC began its operations) and 62% had applied beginning in 2006.

The InterLaw Diversity Forum questionnaire followed the JAC questionnaire, asking those who had applied to rate the different aspects of the application process on a scale of 1 to 10, with 1 representing a rating of 'extremely poor' and 10 a rating of 'extremely good'. The resulting data reveal the respondents' perceptions and experiences of the judicial selection process.

Table 7a

RATINGS (1-10) OF SELECTION PROCESS BY THOSE WHO
HAVE BEEN THROUGH THE APPLICATION PROCESS

	InterLaw Diversity Forum Questionnaire	JAC Questionnaire Pre-2006/From 2006 forward	
Contact with staff	6.6	5.1	6.7
Application form	5.4	5.0	5.7
Shortlisting - sift	4.6	4.5	5.0
Shortlisting – qualifying test	4.8	3.8	4.5
Interview	4.8	5.0	5.8
Role-play	5.5	4.2	5.6
Feedback	3.4	3.5	3.5
Time it took	4.1	4.2	4.1
Equality and diversity aspects of selection process	4	n/a	n/a

7.3

IMPACT OF THE SELECTION PROCESS
ON FUTURE APPLICATION

LGBT respondents were asked whether the experience of applying had made them more or less likely to apply in the future.

The impact of previous applications on LGBT judicial applicants tends to be more negative than positive in terms of impact on likely application in the future. This mirrors the findings of the *JAC Barriers Report*.

Table 7b

IMPACT OF EXPERIENCE ON LIKELIHOOD
OF FUTURE APPLICATION

InterLaw Diversity Forum Questionnaire JAC Questionnaire		
Likely	No difference	Less Likely
21% 17%	21% 26%	58% 57%

7.4

QUALIFYING TESTS

LGBT candidates were asked whether they agreed that qualifying tests are an effective way of assessing candidates.

The opening comment of the *JAC Barriers Report* in response to the data on qualifying tests is that there are high levels of ‘don’t know’, which is to be expected (Allen 2009, 56). LGBT responses to this question produce a similar rate of ‘don’t knows’ — 25% compared to 27%. The notable exception to this was BME LGBT respondents, with only 8% indicating ‘don’t know’.

BME LGBT respondents are the most positive about selection tests. There was little difference between gay women/lesbians and gay men on this point.

LGBT barristers are also more positive about this approach than solicitors. This is contrary to the findings of the *JAC Barriers Report*.

Table 7c

I BELIEVE QUALIFYING TESTS ARE AN EFFECTIVE WAY OF ASSESSING CANDIDATES

InterLaw Diversity Forum Questionnaire (139 total respondents)

JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (125) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	15% 13%	15% 12%	11% 15%	13% 12%	31% 23%	15% 14%	21% 10%	17% 13%
Agree slightly	40% 36%	38% 40%	43% 30%	39% 37%	46% 32%	41% 38%	50% 27%	41% 36%
Disagree slightly	10% 16%	13% 16%	4% 16%	11% 16%	0% 17%	11% 15%	7% 19%	9% 16%
Disagree strongly	10% 8%	10% 8%	14% 8%	10% 8%	15% 10%	9% 6%	0% 19%	10% 8%
Don't know	25% 27%	25% 24%	29% 32%	27% 27%	8% 18%	25% 28%	21% 27%	23% 27%

7.5

FAIRNESS

LGBT respondents were asked several questions relating to their perception of the fairness of the selection process. The questions examine perceptions of factors that inform and influence the selection and appointment process. We begin by examining responses to a statement that the process is ‘fair’.

LGBT respondents are less likely to believe that the selection process is fair than JAC respondents. Gay women/lesbian and BME LGBT respondents are most likely to dis-

agree with the statement, ‘the selection process is fair’. The JAC Barriers Report also finds that BME respondents are most likely to not feel that the process is fair (Allen 2009, 58).

BME LGBT respondents and LGBT barristers have the strongest opinions on the fairness of the process, with small percentages of respondents indicating they ‘don’t know’ (7% and 2%, respectively).

Table 7d

I BELIEVE THE SELECTION PROCESS TO BE FAIR

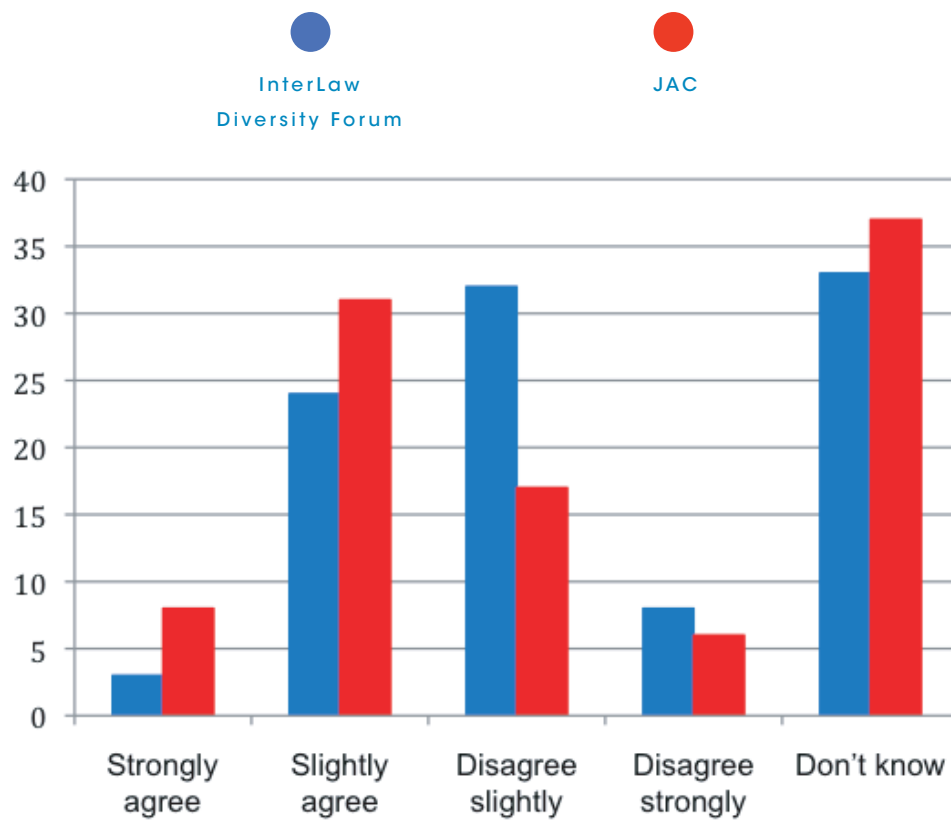
InterLaw Diversity Forum Questionnaire (139 total respondents)

JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (126) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	3% 8%	4% 9%	0% 5%	3% 8%	0% 7%	2% 7%	7% 14%	4% 8%
Agree slightly	24% 31%	25% 35%	11% 23%	23% 32%	31% 24%	24% 30%	21% 34%	27% 31%
Disagree slightly	32% 17%	29% 16%	43% 20%	32% 17%	31% 23%	34% 17%	36% 18%	33% 17%
Disagree strongly	8% 6%	7% 6%	14% 7%	6% 6%	31% 10%	7% 6%	14% 8%	7% 6%
Don't know	33% 37%	35% 34%	32% 44%	36% 37%	7% 36%	34% 40%	2% 25%	28% 37%

Graph 7d

I BELIEVE THE SELECTION PROCESS TO BE FAIR



7.6

APPOINTMENT ON MERIT?

An important aspect of the fairness of the judicial appointments process introduced in the Constitutional Reform Act 2005 is the obligation to appoint the judiciary on the basis of merit. Merit is in law the sole basis for judicial selection and appointment. The answers to the statement 'I believe judges are selected on the basis of merit only' offer an opportunity to explore LGBT perceptions of the success or otherwise of this statutory basis for judicial appointment.

Over half of LGBT respondents (55%) do not believe judges are selected on the basis of merit only. This is a larger percentage than in the *JAC Barriers Report*, which finds that 37% do not believe this but 51% do indeed believe judges are

appointed on merit. A much smaller percentage of LGBT respondents than JAC respondents 'don't know' — 4% compared to 12%.

A number of findings in the InterLaw Diversity Forum Report mirror those in the *JAC Barriers Report*. LGBT barristers are more likely than LGBT solicitors to believe that selection is purely merit based (50% compared to 38%). Gay men (48%) are more likely than gay women/lesbians (13%) to believe that selection is purely merit based. Ethnicity also generated differences. White LBTs (43%) are more likely than BME LGBTs (16%) to believe judicial appointment is made purely on merit.

Table 7e

I BELIEVE JUDGES ARE SELECTED ON THE BASIS OF MERIT ONLY

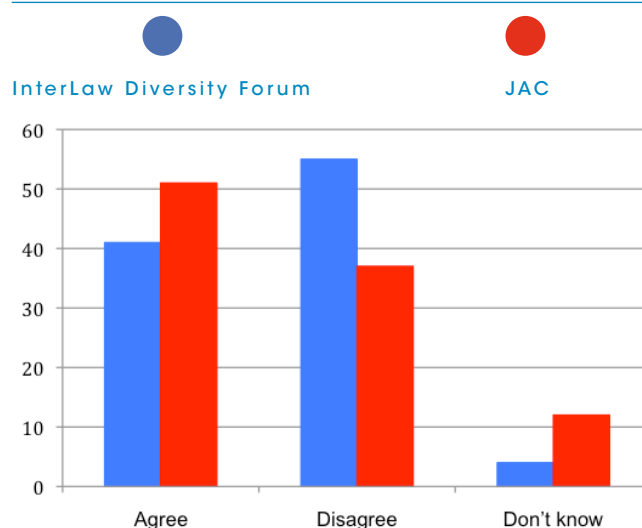
InterLaw Diversity Forum Questionnaire (167 total respondents)

JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 167 LGBT respondents 2182 JAC respondents		By Respondent Sub-groups						
		Gay Men (121) JAC Men	Gay Women/ Lesbians (36) JAC Women	White LGBT (153) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (124) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (92) JAC 7 Years PQ
Agree strongly	12% 20%	14% 22%	0% 16%	12% 20%	8% 23%	14% 19%	7% 24%	14% 20%
Agree slightly	29% 31%	34% 33%	13% 28%	31% 32%	8% 21%	24% 31%	43% 33%	31% 31%
Disagree slightly	31% 25%	26% 24%	50% 28%	32% 25%	17% 26%	33% 25%	36% 24%	32% 25%
Disagree strongly	24% 12%	22% 11%	31% 13%	21% 11%	58% 18%	27% 12%	7% 12%	20% 12%
Don't know	4% 12%	4% 10%	6% 15%	4% 12%	8% 10%	3% 13%	7% 7%	3% 12%

Graph 7e

I BELIEVE JUDGES ARE SELECTED ON THE BASIS OF MERIT ONLY



7.7

PREJUDICE

Respondents were asked about a number of statements designed to explore their perceptions of a range of other grounds for appointment. The first response was to the statement, 'It is more difficult for certain types of people to apply successfully for judicial office'. Table 7f below summarises the findings.

Three-quarters of LGBT respondents (75%) feel that it is more difficult for certain types of people to apply successfully. This mirrors a finding in the *JAC Barriers Report* (72%). BME LGBT respondents are the most likely to feel, and to feel strongly (92%), that it is more difficult for certain types of people to apply successfully. Again, this mirrors a finding in the *JAC Barriers Report* (Allen 2009, 61).

As in the *JAC Barriers Report*, different professional backgrounds produce differences in belief (Allen 2009, 61). LGBT barristers are more likely to indicate that they do not believe it is more difficult for certain types of people to apply successfully (29% of barristers compared to 12% of solicitors). Unlike the *JAC Barriers Report*, where similar percentages of both solicitors and barristers feel that it is more difficult for certain types of people to apply (73% of barristers compared to 72% of

solicitors), in the *InterLaw Diversity Forum Report* data professional differences persist (only 64% of barristers compared to 80% solicitors believe this).

The responses to a statement about the operation of prejudice in the judicial selection process are in table 7g below.

Again, a larger percentage of LGBT respondents than JAC respondents (70% compared to 55%) indicate that they believe that there is prejudice in the selection process. A smaller number of LGBT respondents than JAC respondents (14% compared to 22%) do not feel that there is prejudice within the selection process, and a smaller number of LGBT respondents say they 'don't know' (17% compared to 23% LGBT barristers are the subgroup most likely to express uncertainty about their belief (29% compared to 14% solicitors).

Lesbian respondents (100%) are most likely to feel that there is prejudice in the process of appointment and most likely to feel strongly about this. BME LGBT respondents similarly believe that prejudice plays an important role in the judicial appointments process.

Table 7f

IT IS MORE DIFFICULT FOR CERTAIN TYPES OF PEOPLE TO APPLY SUCCESSFULLY FOR JUDICIAL OFFICE

InterLaw Diversity Forum Questionnaire (167 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 167 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (121) JAC Men	Gay Women/ Lesbians (36) JAC Women	White LGBT (153) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (124) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (92) JAC 7 Years PQ
Agree strongly	35% 29%	36% 29%	32% 30%	30% 28%	92% 37%	36% 30%	21% 26%	40% 29%
Agree slightly	40% 43%	38% 43%	56% 43%	44% 44%	0% 41%	44% 42%	43% 47%	37% 43%
Disagree slightly	15% 11%	18% 11%	0% 10%	16% 11%	8% 9%	12% 11%	29% 10%	14% 11%
Disagree strongly	5% 6%	5% 6%	3% 5%	5% 6%	0% 5%	3% 5%	0% 9%	6% 6%
Don't know	5% 11%	4% 11%	9% 12%	5% 11%	0% 8%	4% 12%	7% 7%	4% 11%

Table 7g

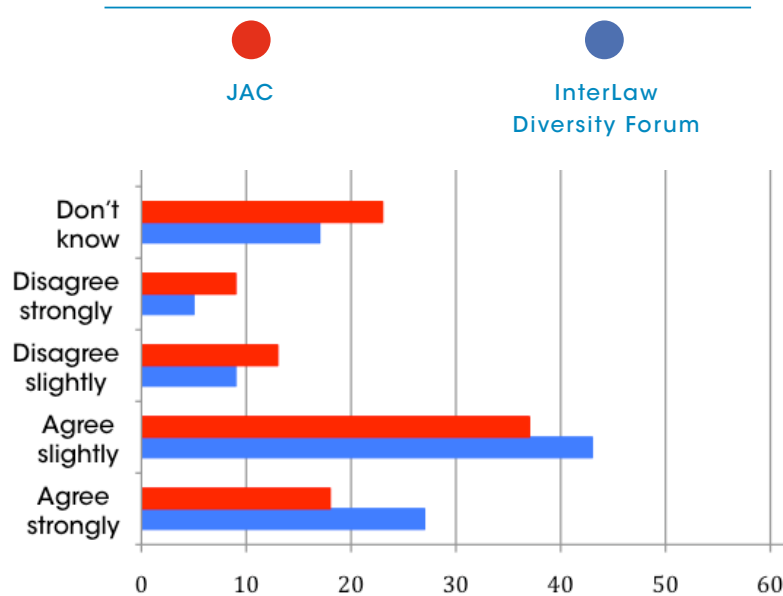
THERE IS PREJUDICE WITHIN THE JUDICIAL SELECTION PROCESS

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (126) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	27% 18%	24% 16%	39% 22%	24% 17%	54% 31%	27% 19%	29% 17%	27% 18%
Agree slightly	43% 37%	38% 37%	61% 37%	44% 37%	31% 34%	48% 37%	29% 35%	41% 37%
Disagree slightly	9% 13%	12% 14%	0% 11%	10% 13%	0% 11%	8% 12%	7% 16%	10% 13%
Disagree strongly	5% 9%	5% 11%	0% 5%	5% 9%	8% 4%	4% 8%	7% 15%	8% 9%
Don't know	17% 23%	21% 22%	0% 25%	16% 23%	8% 20%	14% 24%	29% 16%	15% 23%

Graph 7g

THERE IS PREJUDICE WITHIN THE JUDICIAL SELECTION PROCESS



7.8

IT'S NOT WHAT YOU KNOW, BUT WHO YOU KNOW

The *JAC Barriers Report* notes that in the past judicial appointment was associated with the operation of an 'old boys' network'; that 'it's not what you know but who you know' that counted. They included a statement to test current beliefs on this point and the InterLaw Diversity Forum questionnaire followed in their footsteps, as shown in the findings summarised in Table 7h below.

More than four out of five (84%) LGBT respondents feel that networking is important if you want to be successful in an application for judicial office. This is higher than in the *JAC Barriers Report*. LGBT respondents are also more likely to strongly agree that networking is needed. LGBT respondents who have the necessary seven years post-qualified experience are more likely than JAC respondents to feel strongly that you need to network to apply successfully for judicial office.

The *JAC Barriers Report* finds that gender and ethnicity produce major differences in believing whether one needs to network for successful judicial appointment. The *InterLaw Diversity Forum Report* data offer more evidence in support of this conclusion. Gay women/lesbians are the subgroup most likely to believe (and to strongly believe) that you need to network for successful judicial appointment. In the *InterLaw Diversity Forum Report* data BME LGBT respondents are most likely to have strong beliefs in the importance of networking.

LGBT barristers are less likely to believe that you need to network than LGBT solicitors (79% compared to 87%). This echoes the findings in the *JAC Barriers Report* (Allen 2009, 63).

Related to the idea of networking as a powerful factor influencing appointment is the role of references and the weight attached to them. The JAC questionnaire and the InterLaw Diversity Forum questionnaire included the following

statement: 'too much weight is placed on references in the selection process'.

One of the findings of the *JAC Barriers Report* is that there is a high number of respondents who are unable to respond to this statement — half of those taking part in the survey (51%). A smaller number of LGBT respondents are unable to answer the question (43%). A larger number of LGBT respondents than JAC respondents agree with the statement that too much weight is placed on references (42% compared to 31%).

Gay men and white LGBT respondents are least able to respond to the statement.

The table below follows the practice of the *JAC Barriers Report* and presents only the responses of those who expressed an opinion about the statement.

LGBT respondents are more likely than JAC respondents to indicate they feel strongly that too much weight is placed on references (25% compared to 19%). While LGBT solicitors and barristers both agree that too much weight is placed on references, barristers expressed stronger opinions — 50% compared to 20% strongly agreeing. Overall, LGBT solicitors were more likely than LGBT barristers to agree that too much weight is placed on references (85% compared to 63%).

There is also a pronounced difference between gay women/lesbians and gay men respondents — 50% of gay women/lesbians sampled believe strongly that too much weight is placed on references compared with 17% of gay men respondents. There are also differences in terms of ethnicity: 40% of BME LGBT respondents believe strongly that too much emphasis is placed on references compared to 22% of white LGBT respondents. These findings offer more evidence in support of the findings in the *JAC Barriers Report* (Allen 2009, 65).

Table 7h
YOU NEED TO BE ABLE TO NETWORK TO APPLY SUCCESSFULLY FOR JUDICIAL OFFICE

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (126) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	47% 28%	41% 22%	68% 39%	44% 27%	69% 47%	47% 28%	43% 27%	44% 28%
Agree slightly	37% 41%	43% 43%	21% 39%	40% 42%	15% 36%	40% 42%	36% 38%	34% 41%
Disagree slightly	6% 12%	6% 14%	4% 7%	6% 12%	0% 8%	6% 12%	7% 14%	8% 12%
Disagree strongly	4% 7%	2% 9%	4% 4%	3% 8%	8% 4%	2% 6%	7% 15%	5% 7%
Don't know	7% 11%	8% 11%	4% 11%	6% 11%	8% 6%	5% 12%	7% 7%	9% 11%

Table 7i

TOO MUCH WEIGHT IS PLACED ON REFERENCES IN THE SELECTION PROCESS

InterLaw Diversity Forum Questionnaire (73 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 73 LGBT respondents 1100 JAC respondents		By Respondent Sub-groups						
		Gay Men (53) JAC Men	Gay Women/ Lesbians (16) JAC Women	White LGBT (63) JAC White	BME LGBT (10) JAC BME	LGBT Solicitors (54) JAC Solicitors	LGBT Barristers (8) JAC Barristers	LGBT 7 Years PQ (47) JAC 7 Years PQ
Agree strongly	25% 19%	17% 16%	50% 27%	22% 18%	40% 37%	20% 19%	50% 20%	23% 19%
Agree slightly	56% 43%	64% 41%	38% 49%	59% 44%	40% 41%	65% 47%	13% 29%	47% 43%
Disagree slightly	13% 28%	13% 31%	12% 20%	16% 29%	0% 15%	13% 26%	13% 34%	21% 28%
Disagree strongly	6% 10%	6% 12%	0% 5%	3% 10%	20% 7%	2% 8%	24% 17%	9% 10%

7.9

SPEED OF SELECTION PROCESS

In response to a statement about the speed of the selection process, the JAC Barrier Report finds that a large percentage of respondents (58%) are 'unable to answer' (Allen 2009, 66). Almost one in two (49%) LGBT respondents is also 'unable to answer' this question, responding 'don't know'. Where respondents express an opinion, the pattern of responses from LGBT participants is similar to that of the JAC respondents. LGBT respondents are more likely to disagree (46%) than agree (5%) with the statement, and these are higher and lower than responses reported in the *JAC Barriers Report* (33% disagree and 8% agree).

Table 7j below follows the practice of the *JAC Barriers Report* by excluding those who say they 'don't know' and those who skipped the question.

LGBT respondents are less likely to believe that the selection process is quick than JAC respondents (10% compared with 20%). Differences between the LGBT subgroups are more pronounced. For example, no gay women/lesbians indicate a belief that the selection process is quick.

Table 7j

I BELIEVE THE SELECTION PROCESS IS QUICK

InterLaw Diversity Forum Questionnaire (70 total respondents)
JAC Questionnaire (938 total respondents)

% of ALL Respondents 70 LGBT respondents 938 JAC respondents		By Respondent Sub-groups						
		Gay Men () JAC Men	Gay Women/ Lesbians () JAC Women	White LGBT () JAC White	BME LGBT () JAC BME	LGBT Solicitors () JAC Solicitors	LGBT Barristers () JAC Barristers	LGBT 7 Years PQ () JAC 7 Years PQ
Agree strongly	1% 3%	2% 3%	0% 3%	2% 3%	0% 2%	2% 2%	0% 4%	0% 3%
Agree slightly	9% 17%	10% 19%	0% 12%	8% 17%	13% 17%	10% 16%	11% 18%	12% 17%
Disagree slightly	53% 56%	58% 56%	36% 57%	57% 58%	25% 50%	52% 60%	22% 45%	44% 56%
Disagree strongly	37% 24%	30% 22%	64% 29%	34% 23%	63% 31%	37% 22%	67% 33%	44% 24%

7.10

FEAR OF FAILURE

Table 7k below brings together the data on what the *JAC Barriers Report* calls ‘fear of failure’.

Almost one in two LGBT respondents (46%) state that they would not apply for judicial office unless they knew they would be successful. This is a higher percentage than in the *JAC Barriers Report* (40%).

Gay women/lesbians and LGBT barristers are most likely to indicate that they would not apply unless they knew they would be successful.

The *JAC Barriers Report* finds that not only women but also BME respondents are ‘most likely’ to apply if they thought that would be successful. The *InterLaw Diversity Forum Report* data do not follow this pattern: BME LGBT respondents are the least likely to agree.

Table 7k

I WOULD NOT APPLY FOR JUDICIAL OFFICE UNLESS I KNEW I WOULD BE SUCCESSFUL

InterLaw Diversity Forum Questionnaire (139 total respondents)

JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104) JAC Men	Gay Women/ Lesbians (28) JAC Women	White LGBT (126) JAC White	BME LGBT (13) JAC BME	LGBT Solicitors (102) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78) JAC 7 Years PQ
Agree strongly	12% 11%	11% 11%	14% 11%	12% 10%	7% 17%	12% 11%	7% 9%	9% 11%
Agree slightly	34% 30%	33% 28%	39% 33%	35% 29%	23% 33%	36% 30%	43% 27%	30% 30%
Disagree slightly	30% 32%	32% 32%	29% 31%	30% 33%	31% 24%	33% 31%	29% 34%	36% 32%
Disagree strongly	17% 20%	16% 23%	11% 16%	15% 20%	31% 20%	13% 20%	14% 24%	17% 20%
Don't know	8% 8%	8% 7%	7% 9%	8% 8%	7% 5%	7% 8%	7% 6%	8% 8%

8

PERCEIVED INFLUENCES ON SUCCESS

8.1 HEADLINES

LGBT perceptions of the key barriers to application are similar to those reported in the *JAC Barriers Report*.

There is a broad consensus among LGBT respondents on the factors which have the most positive and negative influence.

'Being a barrister', 'knowing senior members of the judiciary', 'being involved in the right social networks', 'having the right educational background' and 'prior experience before higher judges' are all strongly associated with having judicial careers.

Being BME was perceived to be a neutral, not a positive influence.

LGBT respondents identify a larger range of factors as having a negative influence.

Being female or having a disability are perceived by LGBT respondents as negative rather than neutral factors.

Being a solicitor is perceived by LGBT respondents as a negative and not a neutral factor.

Gay women/lesbians and BME LGBT respondents are the demographic groups most likely to associate negative effects with categories of difference.

All LGBT-related factors were negatively rated by LGBT respondents.

8.2

POSITIVE AND NEGATIVE INFLUENCES

In the *JAC Barriers Report* one of the 'key barriers to application' was the perception — and what they describe as the 'misperceptions' — of the judicial establishment and culture among potential candidates (Allen 2009, 69). Chapter 8 of that study is dedicated to exploring that perception. In an effort to generate new information about LGBT perceptions and 'misperceptions' of influences on success the *InterLaw Diversity Forum Report* questionnaire also included questions asking respondents to rate a number of factors on the basis of whether they thought they were positive or negative influences on the successful outcome of an application for judicial office.

In addition to the work-related and biographical factors included in the JAC questionnaire, the InterLaw Diversity Forum questionnaire asked respondents whether they thought 'being LGBT', 'being out at work' and 'being involved in LGBT organisations' would have a positive or negative influence on the successful outcome of an application for judicial office. The results are set out in Table 8.1 below.

The table, following the approach adopted in the *JAC Barriers Report*, organises the responses into four groups depending on how positive or negative the respondents are (Allen 2009, 69-70). The scores are based on a simple calculation, subtracting the proportion of those who rated the factor as a negative influence from the proportion who rated the factor as a positive influence. Each factor is then allocated a score out of 100 to show its relative influence. The higher the score the more likely it is to be seen as a positive influence on successful application to judicial office. The authors of the *JAC Barriers Report* note that although rudimentary, the scoring offers a clear view of underlying preconceptions of the judiciary and the selection process.

There is considerable similarity between the pattern of LGBT responses and the responses of those in the *JAC Barriers Report*. Perceptions and 'misperceptions' of the factors which have the most positive and most negative influences are similar.

There is a strong perception among LGBT respondents that achieving a judicial appointment is dependent upon professional background and contacts: being a barrister with experience and contacts in the higher courts who has a particular educational background (i.e. Oxbridge educated). Being male, middle-aged and middle class are also positive factors.

Both groups of respondents continue to perceive the judiciary as being made up of professional and social elites.

There is also much consensus on the negative influences. For example, LGBT respondents consider being female and being disabled as having negative influences, but even more so than JAC respondents do.

All factors relating to sexual identity (being LGBT, being out at work and being a member of an LGBT network) are

considered to be factors with negative effects on the judicial selection process.

There are other parallels between LGBT responses and those identified in the *JAC Barriers Report*. LGBT solicitors and gay women/lesbians are more likely than LGBT barristers and gay men to believe that having the right educational background exerts a strong influence on a successful application. LGBT barristers are the least likely to indicate that the right educational background has a strong positive influence.

Being male is seen as a positive factor by more LGBT respondents than JAC respondents. Gay women/lesbians indicate that they consider being male to have a strong positive influence. This echoes the finding in the *JAC Barriers Report* whereby being a man is overwhelmingly seen as a positive influence by women.

Being middle or upper class is overwhelmingly seen as a positive influence by more gay women/lesbians than gay men.

LGBT respondents only identify one factor as neutral: being from a minority ethnic background. One subgroup, LGBT barristers, identify it as a positive influence.

LGBT respondents identify a wider range of factors having a negative influence than JAC respondents. Being female, being disabled and being a solicitor are all perceived to be negative, not neutral, factors by LGBT respondents.

Lesbians and BME LGBT respondents are the demographic groups most likely to associate negative effects with categories of difference. For example, both subgroups identify 'being from a minority group' as a negative influence. Both are also more likely than other subgroups to identify 'being female' as a negative influence.

LGBT barristers and gay men are the subgroups who identify 'being female' as a neutral factor.

There is some overlap between LGBT respondents and JAC respondents in relation to negative factors. All agree that a 'working class background' and 'being under 40' have a negative influence on whether an application has a successful outcome.

The statements relating to being LGBT were all rated as having a negative influence on the outcome of an application. Lesbians and BME LGBT respondents are most likely to consider them negative factors.

All LGBT subgroups consider being a member of a group such as The InterLaw Diversity Forum to be a negative influence on the outcome of an application for judicial office. LGBT barristers and BME respondents are the least likely to indicate that it would have a negative influence.

Table 8a
WHICH FACTORS POSITIVELY OR NEGATIVELY INFLUENCE
THE OUTCOME OF AN APPLICATION?

Strong positive influence		Positive influence	
InterLaw Diversity Forum Questionnaire	JAC Questionnaire	InterLaw Diversity Forum Questionnaire	JAC Questionnaire
- being a barrister (+96)	-known to senior judiciary (+89)	-middle/upper class (+67)	-in 40's (+56)
- known to senior judiciary (+95)	-having High Court experience (+87)	- 41-50 (+53)	-in private practice (+49)
-having High Court experience (+94)	-being a barrister (+87)	-over 50 (+50)	middle/upper class (+38)
- in the right social networks (+92)	-right educational background (+79)	- male (+47)	-a specialist (+34)
- right educational background (+92)		-in private practice (+36)	-over 50 (+27)
		-a specialist (+36)	-male (+27)
			-BME group (+21)
Neutral		Negative influence	
InterLaw Diversity Forum Questionnaire	JAC Questionnaire	InterLaw Diversity Forum Questionnaire	JAC Questionnaire
-being from an minority ethnic group (-5)	-being a solicitor (+12)	-under 40 (-59)	-aged under 40 (-43)
	-having a disability (+2)	-working class (-56)	-working class (-25)
	-female (+1)	- being LGBT (-52)	
		- being out at work (-50)	
		-in an LGBT network (-38)	
		-a solicitor (-24)	
		-a disability (-23)	
		-female (-20)	

Table 8b
WHICH FACTORS POSITIVELY OR NEGATIVELY INFLUENCE
THE OUTCOME OF AN APPLICATION?
 InterLaw Diversity Forum Questionnaire
 JAC Questionnaire

Scores of ALL Respondents LGBT respondents JAC respondents		By Respondent Sub-groups						
		Gay Men JAC Men	Gay Women/ Lesbians JAC Women	White LGBT JAC White	BME LGBT JAC BME	LGBT Solicitors JAC Solicitors	LGBT Barristers JAC Barristers	LGBT 7 Years PQ JAC 7 Years PQ
Strong positive influence								
Being a barrister	95 87	94 88	100 85	95 87	100 87	97 89	86 73	92 87
Being known to a senior judge	95 87	93 86	100 90	96 88	92 93	95 89	79 83	90 87
Having Higher Court experience	94 89	92 90	90 86	94 89	92 89	91 89	100 87	89 89
In the right social networks	92 78	91 73	99 86	92 77	92 89	95 80	79 64	89 78
Having the right educational background	92 79	91 77	100 85	92 79	92 90	93 82	79 67	89 79
Positive influence								
Middle/upper class	67 38	64 30	89 52	68 36	69 65	70 43	77 14	62 38
41-50	53 56	59 55	41 59	57 56	39 56	55 56	57 56	40 56
Over 50	50 27	53 24	54 33	48 26	85 42	54 31	31 7	35 27
Male	47 27	39 13	88 54	47 25	69 60	48 33	36 0	46 27
In private practice	36 49	39 52	43 44	37 49	23 53	32 47	62 58	46 49
A specialist	48 34	49 37	46 29	48 35	54 42	43 34	77 38	46 34
Neutral								
From a minority ethnic group	-5 21	0 24	-36 16	-6 26	-31 -36	-9 17	31 43	0 21
Negative influence								
Under 40	-59 -43	-61 -44	-52 -43	-57 -43	-77 -48	-60 -43	-62 -48	-59 -43
Working class	-56 -25	-49 -18	-86 -37	-57 -23	-62 -49	-59 -28	-64 -9	-58 -25
Being LGBT	-52 n/a	-50 n/a	-68 n/a	-52 n/a	-54 n/a	-56 n/a	-50 n/a	-46 n/a
Being 'out' at work	-50 n/a	-46 n/a	-71 n/a	-51 n/a	-46 n/a	-59 n/a	-43 n/a	-38 n/a

9

AWARENESS OF AND ATTITUDES
TOWARDS THE JAC

9.1 HEADLINES

Almost three out of four LGBT respondents (74%) claim previous awareness of the JAC.

Gay women/lesbian and BME LGBT respondents indicate the lowest levels of awareness.

Support for the JAC as a positive development was consistently higher among LGBT respondents than among JAC respondents.

BME LGBT respondents are least likely to consider the creation of the JAC as a positive development.

Two out of three LGBT respondents have not accessed JAC communications about judicial careers.

LGBT respondents are least likely to indicate they have seen advertisements for judicial appointments.

More than one in two LGBT respondents (54%) indicates no knowledge of the JAC's statutory duty to encourage diversity.

Of those who do claim such knowledge, the overwhelming majority (91%) also indicate that they knew nothing about the substance of that duty.

9.2 The JAC	51
9.3 Awareness of the JAC's duty to encourage diversity	53

9.2

THE JAC

Finally, we explore LGBT awareness and attitudes towards the JAC. In addition to the questions in the JAC questionnaire, we added one about knowledge of the JAC's statutory duty to encourage diversity in the judiciary. These are our findings.

Almost three out of four LGBT respondents (74%) claim previous awareness of the JAC. This is slightly higher than the levels of awareness reported in the *JAC Barriers Report* (70%). Seven years post-qualified LGBT respondents are more likely to have prior awareness of the JAC than similarly qualified JAC respondents (79% compared to 70%).

Levels of awareness across the different LGBT demographic groups are summarised in Table 9a below.

LGBT barristers are more likely (86%) to have heard of the JAC than LGBT solicitors (70%) and gay men are more likely (77%) than gay women/lesbians (59%) to have heard of the JAC. These findings echo those reported in the *JAC Barriers Report*, although the disparity between men and women is greater in the *InterLaw Diversity Forum Report* data.

Unlike the conclusions drawn in the JAC Barriers Report, the *InterLaw Diversity Forum Report* data suggest ethnicity makes a difference: 76% of white LGBT respondents compared to 45% of BME LGBT respondents indicate prior awareness of the JAC.

Do LGBT respondents consider the establishment of the JAC a positive development? The findings are in Table 9b below.

LGBT support for the JAC as a positive development was consistently higher than in the *JAC Barriers Report*. Gay women/lesbians are more likely than gay men to consider it a positive development (90% compared to 85%).

BME LGBT respondents are least likely to consider it a positive development and the subgroup most likely to indicate

'don't know'. BME LGBT respondents are more likely to indicate it is not a positive development than white LGBT respondents (9% compared to 2%).

The JAC has developed various information initiatives. One question was designed to explore use of this information. The data from the InterLaw Diversity Forum questionnaire are set out in Table 9c below.

The *JAC Barriers Report* concludes, 'There was limited awareness of JAC communications' (Allen 2009, 73). The *InterLaw Diversity Forum Report* data offer more evidence in support of this conclusion. Two out of three LGBT respondents have not accessed JAC communications.

Gay women/lesbians are the subgroup least likely to have accessed any of the JAC communications — 85% compared to 61% of gay men.

LGBT barristers are the subgroup most likely to have accessed JAC information and LGBT solicitors were a subgroup that indicates one of the highest rates of non-access — 71% compared to 31% of LGBT barristers.

LGBT respondents are less likely to indicate they have seen advertisements for judicial appointments than JAC respondents.

Gender and ethnicity do seem to make a difference. BME LGBT respondents and gay women/lesbians are the two subgroups most likely to indicate they have not seen adverts — 90% of BME LGBT respondents compared to 50% of white LGBT and 70% of gay women/lesbian respondents compared to 49% of gay men respondents.

Unlike the *JAC Barriers Report* there is no evidence in the *InterLaw Diversity Forum Report* data of differences between LGBT solicitors and LGBT barristers.

Table 9a

PRIOR AWARENESS OF THE JAC

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (27)	White LGBT (127)	BME LGBT (13)	LGBT Solicitors (100)	LGBT Barristers (14)	LGBT 7 Years PQ (78)
Yes	74% 70%	77%	59%	76%	45%	70%	86%	79%
No	26% 30%	23%	41%	24%	55%	30%	14%	21%

Table 9b

DO YOU CONSIDER THE ESTABLISHMENT OF THE JAC A POSITIVE DEVELOPMENT?

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (27)	White LGBT (127)	BME LGBT (13)	LGBT Solicitors (100)	LGBT Barristers (14)	LGBT 7 Years PQ (78)
Yes	86% 75%	85%	90%	89%	55%	88%	86%	87%
No	3% 7%	4%	0%	2%	9%	2%	0%	3%
Don't know	11% 18%	11%	11%	9%	36%	10%	14%	10%

Graph 9b

DO YOU CONSIDER THE ESTABLISHMENT OF THE JAC A POSITIVE DEVELOPMENT?

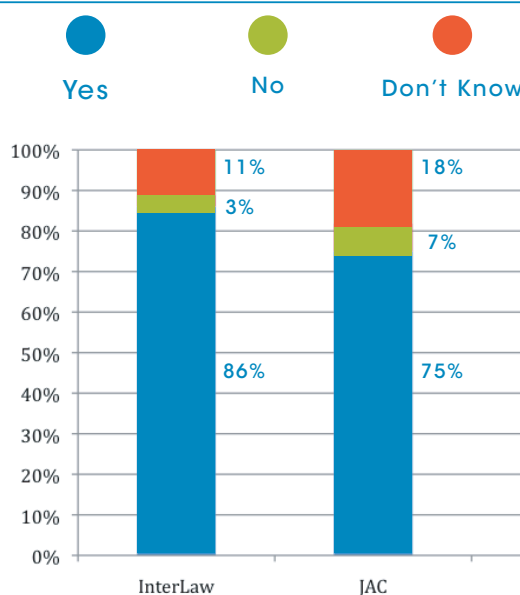


Table 9c

ACCESSING INFORMATION FROM JAC

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (27)	White LGBT (127)	BME LGBT (13)	LGBT Solicitors (100) JAC Solicitors	LGBT Barristers (14) JAC Barristers	LGBT 7 Years PQ (78)
'Judging Your Future' newsletter	6% 5%	7%	4%	6%	0%	4% 4%	7% 10%	9%
JAC outreach programme	1% 2%	0%	0%	1%	0%	0% 2%	0% 5%	1%
JAC website	27% 25%	32%	11%	26%	40%	25% 22%	62% 41%	33%
None of these	66% 69%	61%	85%	66%	60%	71% 73%	31% 51%	56%

Table 9d

HAVE YOU SEE ADVERTS IN THE NATIONAL MEDIA FOR JUDICIAL APPOINTMENTS

InterLaw Diversity Forum Questionnaire (139 total respondents)
JAC Questionnaire (2,182 total respondents)

% of ALL Respondents 139 LGBT respondents 2,182 JAC respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (27)	White LGBT (127)	BME LGBT (13)	LGBT Solicitors (100)	LGBT Barristers (14)	LGBT 7 Years PQ (78)
Yes	43% 51%	48%	30%	46%	9%	43%	43%	51%
No	54% 42%	49%	70%	50%	90%	55%	50%	44%
Don't know	3% 7%	4%	0%	4%	0%	2%	7%	5%

9.3

AWARENESS OF THE JAC'S DUTY TO ENCOURAGE DIVERSITY

The responses to a question about awareness of the JAC's statutory obligations to encourage diversity in candidates available for selection are set out in Table 9.5 below.

More than one in two LGBT respondents (54%) indicate they have no knowledge of the JAC's statutory duty to encourage diversity.

While almost one in two LGBT respondents (47%) claim to have knowledge of this responsibility, the overwhelming majority of these (92%) also claim that this is the limit of their knowledge — they know only that the statutory duty exists, but nothing else about it.

Gender and ethnicity appears to make a difference. Gay women/lesbian and BME LGBT respondents are the two sub-groups most likely to indicate no knowledge of the JAC's requirement to encourage diversity.

Table 9e

ARE YOU AWARE OF THE JAC'S DUTY TO ENCOURAGE DIVERSITY?

InterLaw Diversity Forum Questionnaire (139 total respondents)

InterLaw Diversity Forum Questionnaire (139 total respondents)								
% of ALL Respondents 139 LGBT respondents		By Respondent Sub-groups						
		Gay Men (104)	Gay Women/ Lesbians (27)	White LGBT (127)	BME LGBT (13)	LGBT Solicitors (100)	LGBT Barristers (14)	LGBT 7 Years PQ (78)
Yes, but I don't know anything about it	43%	45%	33%	43%	36%	43%	57%	53%
Yes, and it seems to make a difference	4%	2%	7%	4%	0%	3%	0%	3%
No	54%	53%	59%	53%	64%	54%	43%	44%

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CONCLUSIONS AND RECOMMENDATIONS

DATA AND MONITORING

1. Demographic data relating to 'sexual orientation' should be collected and published for all judicial appointments and applications for appointment. We are delighted that the JAC announced in June 2011 that it will now collect this data.
2. Demographic data on the composition of current members of the judicial family should incorporate 'sexual orientation'.
3. 'Sexual orientation' should also be a standard part of all data gathering exercises promoted by other legal professional regulators (the Legal Services Board, the Solicitor's Regulation Authority and stakeholders (including the The Law Society and The Bar Council).
4. Compliance and disclosure should be enforced against institutions by way of 'comply or explain'.

THE JUDICIAL APPOINTMENTS SYSTEM

5. All key judicial appointments fora should have specific regard to sexual diversity issues.
6. Diversity criteria, including sexual orientation, should be incorporated into the selection process for all key judicial appointments fora, with the objective of having a sexual diversity stakeholder on each.
7. All key judicial diversity advisory and policy development decision-making fora should have specific regard to sexual diversity issues and incorporate sexual diversity stakeholders.
8. A review of the composition of the appointments panels, especially for the most senior judicial appointments, including the Supreme Court, heads of divisions, Lord Justices and the High Court, should be undertaken with the objective of widening participation in the appointments process.

9. The JAC should engage with LGBT groups as it develops its processes and selection materials, including for the most senior appointments, to ensure all unfair barriers to progress are removed. The JAC's Advisory Group may be the appropriate forum for this engagement.

10. The professional profile and appointment of the most senior judges (High Court and above) should be more transparent. We welcome the Parliamentary post-appointment hearings with senior judges and we propose that transcripts of such hearings should be made available to the public. For example, the present Lord Chief Justice met with the Constitution Committee between his appointment and taking up office. More generally we propose that each senior judicial appointee should have a biographical web page that enables access to a transcript of the appointment interview and the Parliamentary post-appointment hearings together with access to a full CV. We note that publication of the transcript of the appointment interview of senior judges is made public in other jurisdictions, including South Africa. We would urge the adoption of a similar approach in England and Wales. Judicial biographical notes should have due regard to the need to ensure that public information about the senior members of the judicial family should contribute to portraying the diversity of the judiciary.

11. Compliance and disclosure should be enforced against the relevant organisations by way of 'comply or explain'.

COMMUNICATIONS AND OUTREACH

12. The Ministry of Justice, the Lord Chief Justice and the JAC should review current statements about commitment to diversity with the objective of ensuring that all demonstrate in a clear and positive way a commitment to sexual diversity.

13. The Ministry of Justice, the Lord Chief Justice and the JAC should review current media policies and strategies to raise the diversity profile of new judicial appointees.

14. The JAC should review its strategies to engage with LGBT legal professionals with the objective of enhancing links.

15. Targeted engagement initiatives (e.g. with solicitors, barristers, women, black and minority ethnic lawyers, lawyers of different faiths and lawyers with disabilities) should always ensure that they incorporate an inclusive approach recognising all of the Equality Act's protected characteristics, including sexual diversity within these groups.

16. The Ministry of Justice and Lord Chief Justice should review their communications strategy and practices with regard to the representation of the diversity of the bench and the diversity of new appointments to the bench.

JUDICIARY

17. All judicial biographical data currently available to the public should be reviewed and refreshed with a view to better representing the current diversity that is to be found in the judicial family as a collective entity.

18. The Judges' Council should create either a standing committee or a working party on equality and diversity with lesbian and gay judicial representation. Annual reports of its work, or summaries, should be made public.

19. The judiciary should participate in the Stonewall Equality workplace index exercise.

EDUCATION

20. The Ministry of Justice, the Lord Chief Justice, the JAC and legal profession stakeholders (the Legal Services Board, the Legal Studies Board, The Law Society and The Bar Council) should review the incorporation of judicial studies and judicial diversity within the law curriculum and in legal professional training and present proposals for reform.

INTERLAW DIVERSITY FORUM

21. It should develop and strengthen links with the Ministry of Justice, the judiciary, the JAC and legal professional stakeholders to raise awareness of the findings and recommendations in this report.

22. Enter into ongoing dialogue with and offer support to the JAC to assist them in the goal of encouraging a more diverse pool of applicants for judicial appointment.

23. Work together with other equality and diversity organisations such as the US Equal Justice Initiative, to raise awareness of judicial equality and diversity issues.

24. Promote and undertake alone or in partnership further research into LGBT perceptions and experiences of judicial career opportunities as part of a legal career, of the judicial appointments process, judicial culture and

APPENDIX:

METHODOLOGY AND DEMOGRAPHIC DATA

METHODOLOGY

This research was conducted under the auspices of the InterLaw Diversity Forum with the support of the Equality and Diversity Committee of the Bar Council, and of The Law Society, and with the express consent of the JAC.

The questionnaire was prepared and modelled after the *JAC Barriers Report* questionnaire with their consent, with some modifications and additional questions. The final questionnaire was then prepared electronically on Survey Monkey⁴ with the branding of the InterLaw Diversity Forum, The Law Society and The Bar Council.

The questionnaire was accessed via the internet through Survey Monkey on an anonymous basis. There were 188 respondents to the questionnaire. Within this sample there is some variation in the response rate to individual questions. Details of the response rate to individual questions are included in the following analysis.

SAMPLE DESIGN

The objective was to generate data from respondents who identified themselves as LGBT. To ensure success, details of the survey were circulated via email through existing LGBT legal professional networks, including the InterLaw Diversity Forum, the Bar Lesbian and Gay Group (“BLAGG”) and the Lesbian and Gay Lawyers Association (“LAGLA”). To widen the pool of LGBT respondents outside of these groups information was circulated to all solicitors by The Law Society via their Professional Update newsletter. The Bar Council also circulated details of the survey through the Council’s Equality and Diversity Committee, via Chambers’ Equal Opportunities Officers.

FIELDWORK

The questionnaire was accessible via Survey Monkey from the beginning of December 2009 and continued until the end of January 2010. The fieldwork had two stages:

1. In early December 2009 the link containing the questionnaire was distributed via e-mail and other forms of electronic communication, including websites, by the InterLaw Diversity Forum, the Law Society and the Equality and Diversity Committee of the Bar Council via BLAGG. LAGLA circulated details of the questionnaire to its members via e-mail.

2. E-mail reminders containing the link were also sent to the members of the InterLaw Diversity Forum in mid-December 2009 and again in just early January 2010.

The InterLaw Diversity Forum had at that time just over 800 members and supporters from over 60 law firms and 40 corporates and financial institutions.

The majority of respondents (76%) indicated that they were involved in an LGBT legal professional organisation. Half of those respondents (50%) indicated involvement in an LGBT employee network or employee resource group. Sixty-three per cent reported involvement in the InterLaw Diversity Forum.

QUESTIONNAIRE DESIGN

The InterLaw Diversity Forum questionnaire closely followed that used in the *JAC Barriers Report*. Unlike the *JAC Barriers Report*, no corrective weightings were used in the *InterLaw Diversity Forum Report* to compensate for the over-representation of respondents from particular subgroups.

The InterLaw Diversity Forum added a small number of questions to explore sexual equality issues in relation to the application process and in the context of questions relating to perceptions of judicial office.

SKIPPED QUESTIONS

The responses to the substantive questions included a number of ‘skipped question’ responses. Unless specified these have not been included in the data analysis.

⁴ www.surveymonkey.com

⁵ Respondents who were interested in participating in further research were invited to provide their contact details.

DEMOGRAPHIC PROFILE

The central objective of this research was to generate data about the experiences of a population of legal professionals — gay women/lesbians, gay men, bisexuals and transgender — previously not included by researchers and policymakers.

The questionnaire generated 188 responses. The following analysis segments these responses according to different criteria. Given the small proportions of some groups in the legal profession, e.g. BME layers, and the size of this survey's sample, some groups are represented by limited numbers of responses. This does not undermine the validity of this research, but sample size is an important factor to bear in mind when considering its findings.

Just under three-quarters of respondents (73%) identify as gay men. Around a fifth of respondents (22%) identify as a gay woman or lesbian. The remaining respondents identify themselves as bisexual (3%) or other (2%).

Table 10a
SEXUAL ORIENTATION

InterLaw Diversity Forum Questionnaire
(139 total respondents)

Sexual orientation InterLaw Diversity Forum Questionnaire (185 total respondents) JAC Questionnaire (no data collected)	
% of ALL Respondents	
Gay man	74%
Lesbian/ gay woman	21%
Bisexual	3%
Prefer your own term	2%

Almost one in five from the *InterLaw Diversity Forum Report* population is female (23%). This is a smaller percentage of female respondents than in the *JAC Barriers Report*.

Table 10b
GENDER FIGURES

InterLaw Diversity Forum
Questionnaire
JAC Questionnaire

Male	77% 64%
Female	23% 36%

The demographic section of the questionnaire also included a question about changes in gender identity. Although all respondents claim they are living the gender identity they were assigned at birth, one respondent self-identifies as 'transgender' in the 'other' category when asked in a different question about sexual orientation.

Respondents were also asked about the openness of their sexual orientation status at work. The majority of respondents (87%) say they are 'out' at work. Table 10.3 below breaks this down by reference to sexual orientation, ethnicity and professional difference.

Almost nine out of 10 respondents are 'out' at work. There was little variation between subgroups. The one exception to this is levels of sexual orientation self-disclosure by BME LGBT respondents. One in four BME LGBT respondents (25%) is not 'out' at work.

The age profile of the *InterLaw Diversity Forum Report* sample differs from that of the *JAC Barriers Report* population. In general, the *InterLaw Diversity Forum Report* sample is a younger population (see Table 10d below).

The *InterLaw Diversity Forum Report* sample includes a small percentage (3%) of people under 24. No JAC respondents were within this age range. The JAC questionnaire was limited to solicitors and barristers eligible for judicial appointment under the terms of the TCE Act, that is to say, restricted to those who had been qualified for seven years or more. The *InterLaw Diversity Forum Report* sample was not limited in this way. This is

a factor influencing the number of respondents between 25 and 34 years of age (40%). Some of this group are likely to be under the judicial appointment seven years post-qualified requirement. Only 6% of *JAC Barriers Report* sample fell into this category.

A smaller percentage of the *InterLaw Diversity Forum Report* sample (4%) is 55 or above, in contrast to 22% of the *JAC Barriers Report* sample.

The professional profile of LGBT respondents is similar to that of the JAC respondents.

Sixteen per cent of the *InterLaw Diversity Forum Report* sample describe themselves as 'Solicitor – partner'. In the *JAC Barriers Report* this figure is 31%. The different age profile of the *InterLaw Diversity Forum Report* sample may be a factor. When the *InterLaw Diversity Forum Report* data set is limited to those who are over 35 years of age the percentage of respondents who are partners increases to just over one in four (26%) — still less than the *JAC Barriers Report* demographic profile in which almost one in three (31%) report being a partner.

The majority of LGBT respondents (95%) work full-time while 5% work part-time. This is a higher proportion of respondents in full-time work than in the *JAC Barriers Report*, where the sample is 82% full-time and

15% part-time. A larger percentage of women respondents in the *InterLaw Diversity Forum Report* work full-time (92%) than in the *JAC Barriers Report* (69%). A slightly larger number of gay women/lesbians (8%) than gay men (3%) work part-time.

Solicitors were asked if they are members of an accreditation scheme. Forty-five per cent of *InterLaw Diversity Forum Report* respondents say they are members. This is higher than for respondents to the JAC questionnaire, in which 28% of solicitors indicate that they are members and 66% indicate that they are not members.

Similarly, barristers were asked whether they are members of a specialist bar association. Sixty-seven per cent of *InterLaw Diversity Forum Report* respondents indicate that they are members. Seventy-one per cent of JAC respondents indicate that they are members.

Almost one in 10 (9%) LGBT respondents consider themselves to have a disability or long-term health condition while 91% say they do not. One in 20 (5%) JAC respondents consider themselves disabled.

Respondents were asked to give their ethnicity (see Table 10f below). The majority of respondents (93%) are of white ethnicity, with 3% being of Chinese ethnicity.

Table 10c
'OUT' AT WORK

InterLaw Diversity Forum Questionnaire

% of ALL Respondents		By Respondent Sub-groups						
		Gay Men	Gay Women/ Lesbians	White LGBT	BME LGBT	LGBT Solicitors	LGBT Barristers	LGBT 7 Years PQ
Yes	86%	87%	87%	87%	67%	87%	87%	88%
No	12%	11%	13%	11%	25%	11%	13%	10%
Rather not say	2%	2%	0%	2%	8%	1%	0%	2%

Table 10d
AGE OF RESPONDENTS

InterLaw Diversity Forum Questionnaire
JAC Questionnaire

18-24	4% 0%
25-34	40% 6%
35-44	39% 35%
45-54	13% 32%
55-64	3% 21%
65+	1% 1%

Table 10e
PROFESSIONAL STATUS

InterLaw Diversity Forum Questionnaire
JAC Questionnaire

Solicitor – private practice	46% 49%
Solicitor – employed	27% 24%
Solicitor – partner	16% 31%
Barrister – self-employed	8% 11%
Barrister – employed	2% 3%
QC Academic CPS	5% 5%

Table 10f
ETHNICITY

InterLaw Diversity Forum Questionnaire
JAC Questionnaire

White	93% 89%
Chinese	3% 1%
Asian	2% 4%
Mixed	1% 1%
Black	1% 1%
Not stated	0% 1%

BIBLIOGRAPHY

Allen, Anthony. 2009. *Barriers to application for judicial appointment research*. London: British Market Research Bureau, Judicial Appointments Commission.

Neuberger, Baroness Julia. 2010. *The Report of the Advisory Panel on Judicial Diversity report*. London: Ministry of Justice.

FURTHER READING

Chittenden, Tara. 2006. *Career experiences of gay and lesbian solicitors*. London: The Law Society.

Hunt, R. and Dick, S. 2008 *Serves you right: Lesbian and gay people's expectations of discrimination*. London: Stonewall.

InterLaw Diversity Forum. 2010. "Law Society survey of LGB solicitors 2009: The career experiences of LGB solicitors". London: Law Society (available at <http://www.lawsociety.org.uk/aboutlawsociety/whatwedo/researchandtrends/researchpubs/view=researchpubsarticle.law?PUBLICATIONID=433055>).

Moran, Leslie J. 2006. "Judicial diversity and the challenge of sexuality: Some preliminary findings", *Sydney Law Review* 28(4): 565-98.

Moran, Leslie J. 2010. "The judicial virtue of sexuality" in K Brookes and R. Leckey (eds) *Queer Theory: Law, culture, Empire*. Toronto: Routledge.

Robertson, Bill and Robertson, Greg. 2006. *Equality and Diversity in the Legal Profession in Scotland*. Edinburgh: Law Society of Scotland.