

United Kingdom Association of Women Judges

**Response to the Draft Guidance on Salaried Part-Time Working issued by the
Department for Constitutional Affairs, 22 November 2004**

The UKAWJ welcomes the move to encourage part-time working for the judiciary below High Court Judge level, and strongly believes that this could make a major contribution towards increasing the diversity of the judiciary. We also welcome the fact that the paper seeks to formalise the arrangements for some judges to work part-time (which are presently made on an ad hoc basis in certain jurisdictions) thus making the scheme more transparent and fair. The UKAWJ looks forward to the day when all judicial posts could be opened up to those who wish to work part-time.

The UKAWJ welcomes the fact that there will be a presumption in favour of part-time working where a business case can support it. (Paragraph 12). We also welcome the fact that the opportunity to work part-time is not reserved for those with particular responsibilities, but is open to all (Para 12).

Paragraph 30 of the Paper sets out the factors which will need to be considered when an application to work part-time is made. We would prefer to see “the impact on the diversity of the judiciary” as being given greater prominence in this list, rather than just one of many factors. It should not be forgotten that the reason for the introduction of SPT W is to increase diversity amongst the judiciary. We are anxious that the desire of those already in post to “wind down” towards retirement does not take precedence over new applicants who may otherwise not be willing to apply for the post. If a decision has to be made between allowing an existing office-holder to reduce their days or allowing a new judge to take up an appointment, the issue of diversity should be at the forefront of the decision making process.

We notice the fact that the reason for an applicant wishing to work part-time will not be a relevant consideration in the list of factors to consider contained in Paragraph 30. However, if there are two candidates competing for a part-time position, who are otherwise equal in terms of satisfying a “business case”, we consider that the reason for their wishing to work part-time should be taken into consideration, bearing in mind that the purpose of introducing part-time working is to increase the diversity in the judiciary.

The UKAWJ urges strict monitoring of the application of the scheme to allow SPTW so as to ensure that it is fairly and consistently applied. It would undermine the scheme if it were found that no judge trying crime, or no resident judge was able to work part-time because that task was considered unsuitable for a part-time worker. There should be no blanket exceptions: the scheme is designed to apply to all those below High Court judge level, and local practices should not be permitted to “get round” the scheme by pleading local conditions. We hope that after an appropriate period (1 year?) a study should examine whether the scheme has favoured those in post or those new applicants, and whether certain types of judge or applicants in certain geographical areas are more successful than others at applying for part-time working.

Judicial Competitions: It is noted that in recent District Judge competition, an applicant has had to state in the application whether he/she wishes to work part-time. We consider that this information should not appear as part of the main form, but should be removed and treated as a discrete document. The issue only arises if the candidate is considered suitable for appointment: at that stage, their requirements can be looked at and a suitable post and sitting pattern can be negotiated. This removes the danger of any prejudice in judging a candidate’s suitability for the office against those who wish to work part-time.

It is noted that in each case a delicate balance will have to be struck to find the right proportion of full and part time workers. It is hoped that the DCA will ensure that there is good and meaningful dialogue with an applicant for part-time working so that every reasonable

effort is made to come to an agreement as to the suitability of the arrangements. It must be remembered that those who are not yet appointed are probably unaware of the business needs in a particular area or the specific requirements of a particular post in a particular court. They can not be expected to make a realistic and detailed proposal about working arrangements without assistance from the Group Managers about what arrangements may find favour with a local business need.

It is hoped that the DCA will recognise that certain positions may be able to be filled by a "job share" arrangement: not that the responsibilities of the judge would be shared, but that two people may fill one vacancy: perhaps both agreeing to work half the required number of days, one covering for the other's leave, and possibly arranging matters flexibly between them depending on the local business need. This may be an ideal arrangement between two new applicants, or may allow one existing judge nearing retirement to share the number of days for a full-time post with a new applicant perhaps with child-care commitments. The flexibility of such an arrangement will have much to recommend it.

The Association dislikes the connotations associated with the phrase "part-time working" which is frequently used in a pejorative sense, and is inappropriate to those who are working full days but fewer in number. Could the phrase "limited day working" appointments be used instead?

Committee of UKAWJ

9th December 2004