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**Information Pack:**

00386:Fee Paid Legal Chairman of the  
Employment Tribunals (England and Wales)

00387:Salaried Legal Chairman of the  
Employment Tribunals (England and Wales)

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# CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
<b>ARE YOU ELIGIBLE? .....</b>	<b>2</b>
<b>REASONABLE ADJUSTMENTS .....</b>	<b>5</b>
<b>JOB DESCRIPTION .....</b>	<b>5</b>
<b>THE SELECTION PROCESS.....</b>	<b>10</b>
<b>CONTACTS AND FURTHER INFORMATION .....</b>	<b>12</b>
<b>JAC NOMINATED REFEREES.....</b>	<b>13</b>
<b>JAC COMMISSIONERS .....</b>	<b>14</b>

## INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the positions of Salaried and Fee Paid Legal Chairman of the Employment Tribunals (ET). The closing date for applications is 6 January 2009. The JAC has been asked to create a list of 20 people suitable for the position of Salaried Legal Chairman and 34 people suitable for the position of Fee Paid Legal Chairman. There are no immediate vacancies and appointments will be made as the vacancies arise.

The fee paid vacancies are spread across all 12 Regions in England and Wales, namely: Birmingham, Bristol, Cardiff, Leeds, London Central, London East, London North West, London South, Manchester, Newcastle, Nottingham and Southampton.

The salaried vacancies are in 8 regions namely Birmingham, Cardiff, London Central, London East, London North West, London South, Manchester, Newcastle. Salaried part-time working is available in any of these regions. An example of an acceptable pattern of working would be at least two and half to three days a week. There is also a part time salaried vacancy in the Bristol region, at the Exeter office.

You may apply for both the Salaried and Fee Paid Legal Chairman positions if you wish. However, as outlined in the position descriptions, the two posts do have different levels of responsibility and the successful Salaried Chairmen will be expected to act as mentors to their fee paid colleagues.

You should indicate in the application form whether you are applying for more than one location and, if so, any order of priority.

This pack contains the information that you need about both the appointments. It includes eligibility criteria and the job description. It also describes the selection process that the JAC will follow, with relevant dates and advice on how to prepare for the various stages of this process.

Before you can be considered for appointment, there are eligibility requirements that you must meet. The JAC is also required to assess your character. Before applying you should read these requirements and the guidelines that the JAC uses to assess character. These can be found on our website ([www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk)) along with outline terms and conditions of service and terms of appointment for these posts. You will also need to demonstrate the qualities and abilities required for this office.

The independent JAC selects candidates for judicial office. It does so on merit, through fair and open competition, from the widest range of eligible candidates.

# ARE YOU ELIGIBLE?

To be eligible for appointment as Salaried or Fee Paid Legal Chairman of the Employment Tribunals you must meet the following requirements.

## **Statutory requirement**

The Tribunals Courts and Enforcement Act (TCE) 2007 has introduced the '**judicial-appointment eligibility condition**'. Where this applies, eligibility for judicial office is no longer based on possession of rights of audience for a specified period. You will have to show that:

- you have possessed a relevant legal qualification;
- for the requisite period; and
- that whilst holding that qualification you have been gaining legal experience.

The following are not the only criteria and candidates will need to demonstrate the qualities and abilities required for this office.

Under Regulation 8(1) and (2) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004, as amended by the 2008 Regulations, there shall be three panels of members of Employment Tribunals (England and Wales).

Under Regulation 8(3)(a), a panel of full-time and part-time chairmen should consist of persons—

- (i) who satisfy the judicial-appointment eligibility condition within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007 on a 5-year basis;
- (ii) being an advocate or solicitor admitted in Scotland of at least five years' standing; or
- (iii) being a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least five years' standing;

Under Schedule 1 of Statutory Instrument 2008 No. 2995, persons who are Fellows of the Institute of Legal Executives for the required length of time who can meet all other eligibility requirements will be able to apply for this position.

In order to meet the statutory qualifications for appointment, a solicitor (or a salaried judicial office holder who was formerly a solicitor) must appear on the Roll.

## Relevant Qualification

You have a relevant qualification if you are a solicitor or barrister or a Fellow of the Institute of Legal Executives.

## Legal Experience

In order to be eligible for judicial appointment, you must not only be in possession of the relevant qualification, but must also have been engaged in 'law related activity' whilst holding that qualification.

An activity is considered to be a law related activity whether or not it is undertaken for remuneration, and whether or not it is undertaken on a full or part-time basis.

## Meaning of Law Related Activity

Each of the following is a relevant law related activity:

- a) The carrying out of judicial functions of any court or tribunal
- b) Acting as an arbitrator
- c) Practice or employment as a lawyer
- d) Advising (whether or not in the course of practice or employment as a lawyer) on the application of the law
- e) Assisting (whether or not in the course of such practice) persons involved in proceedings for the resolution of issues arising under the law
- f) Acting (whether or not on the course of such practice) as mediator in connection with attempts to resolve issues that are, or if not resolved could be, the subject of proceedings
- g) Drafting (whether or not in the course of such practice) documents intended to affect persons' rights or obligations
- h) Teaching or researching law
- i) Any activity that in the relevant decision makers opinion is of a broadly similar nature to an activity within paragraphs (a) to (h)

The JAC has been advised by the Ministry of Justice that:

Category b) is intended to cover arbitrations where legal disputes are resolved on a reasonably formal, structured basis. For example, it would cover arbitrations governed by the Arbitration Act 1996, and carried out by a person who is accredited by a body such as CEDR (Centre for Effective Dispute Resolution).

Categories d) – g) are also intended to cover activities which are carried out on a reasonably formal, structured basis, for example volunteers who give legal advice in a law centre, or citizens advice bureau. However, it is not intended to cover (say) a person who gives informal advice to friends and neighbours.

Category (e) is intended to cover legal assistance, rather than other kinds of support.

Category (g) is intended to cover drafting which involves legal judgment and skill, such as drafting contracts and leases. It is not intended to cover drafting which may affect rights or obligations, but are essentially administrative tasks, e.g. filling in enforcement orders, or penalty notices.

The purpose of (i) is to cover the possibility of some kinds of law-related activity that might not quite fit within (a) – (h).

Your engagement in law-related activities during a period will be disregarded if the engagement is 'negligible in terms of the amount of time engaged'.

### **Previous service in a judicial office (salaried posts only)**

The Lord Chancellor expects that, before being considered for salaried appointments, individuals must normally have served as a fee paid judicial office holder for at least two years, or to have completed 30 sitting days since appointment in a fee paid capacity.

## Age

There is no upper or lower age limit for candidates for this post apart from the statutory retirement age of 70 for all judges. The age at which someone is appointed must allow for a reasonable length of service before retirement usually about three years.

## Nationality

You must complete a declaration of your nationality in the Application Form. In order to qualify for this post, you must be a citizen of:

- the United Kingdom; or
- another Commonwealth country; or
- the Republic of Ireland.

## Salaried part-time working

The Employment Tribunals have confirmed that salaried part-time working is available. An example of an acceptable pattern of working would be a two and a half to three days per week. Final working patterns will need to be discussed and agreed between the successful candidate and the Employment Tribunals at the time of appointment.

## Character

The JAC is required by statute to appoint only persons of good character. In order to make these assessments we have developed Good Character Guidance which you can find on our website at [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk). You can also write to us to request a copy (see the 'Contacts and Further Information' section of this Information Pack for our contact details).

The Good Character Guidance gives you some indication as to whether anything in your past conduct or present circumstances might affect your application for judicial appointment. You should read it carefully before completing the Application Form.

### Good character questions and declarations

You are required to answer a number of questions related to good character in the Application Form and must make appropriate declarations as requested.

Applicants for judicial appointments are not protected by sections 4(2) and 4(3) of the Rehabilitation of Offenders Act 1974. Any convictions which would normally be regarded as having expired under that Act should therefore be declared in writing (Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975). You must provide details of all offences for which you have been convicted or cautioned. Details should include the nature of each offence, date of conviction or caution and the penalty imposed.

Where proceedings of any kind are pending, you should give details of the offence with which you have been charged or the disciplinary process you are subject to and, if known, the date when the case or action may be heard. It is important that you inform us of the outcome of any case or action concluded while your application is under consideration. Similarly, if you are charged with any offence or any action is brought against you after submitting your application you should inform us immediately (see the 'Contacts and Further Information' section of this Information Pack).

In all cases, please provide as much detail as you can and indicate if there are any mitigating factors that you think the JAC should take into account in assessing your good character.

### Good character checks

The JAC will also carry out checks on all candidates whom it intends to recommend for appointment. Further information about these checks will be provided separately to relevant candidates.

Failure to have declared any matters that come to light from these checks may prejudice the outcome of your application.

You should note that the House of Commons Disqualification Act 1975 applies to this office.

## REASONABLE ADJUSTMENTS

The JAC is committed to considering any reasonable adjustments needed to ensure that you can participate in the selection process fairly. The Application Form asks you to identify any arrangements and adjustments you may require. Requests will be considered on a case-by-case basis and the information given will not be used in selection decisions.

If you are recommended for appointment, reasonable adjustments will be considered if you have a disability under the meaning of the Disability Discrimination Act. Any reasonable adjustments to enable you to take up appointment will be discussed separately with you by the Employment Tribunals after the JAC has made its recommendation.

## JOB DESCRIPTIONS

The Ministry of Justice has provided the following information. Below the sections entitled "Purpose of office" and "General Information" have been combined for both salaried and fee-paid posts however the job descriptions are headed separately.

### **OFFICE OF SALARIED LEGAL CHAIRMAN AND FEE PAID JUDGE OF THE EMPLOYMENT TRIBUNALS**

#### **PURPOSE OF OFFICE**

The purpose of this judicial office is to administer justice in the Employment Tribunals in accordance with the laws of England and Wales.

Employment Judges sit throughout England and Wales, currently in 12 Regional Offices, 9 ancillary offices and 12 or more hearing centres. They will be assigned by the President to sit in a particular Region. They may sit principally at one office in the region but must sit anywhere in the region when called upon to do so.

They may also be required, from time to time, to sit outside the assigned Region by the President when such a need arises. In the larger offices, 12 or more Tribunals will be sitting daily whilst in the smaller or rural offices, two or three Tribunals may be sitting daily. There are currently 12 Regional Employment Judges who are responsible to the President for the administration of justice in Tribunals in the area to which they are appointed.

Employment Judges may be appointed on a salaried (either full time or part-time) or Fee Paid basis. These advertised posts are for salaried Employment Judges. All Employment Judges will be expected to undertake the full range of judicial duties.

## **GENERAL**

The jurisdiction of an Employment Tribunal is summarised in the annex to this job description below. Tribunal panels normally consist of the Employment Judge and two members, representing industry, selected from panels approved by the Secretary of State, one after consultation with organisations representative of employers and the other after consultation with organisations representative of employees. From time to time, Employment Judges sit without Members to decide matters of law and fact. The length of hearings varies considerably; the longest cases may take many days. Appeals from Employment Tribunals normally lie to the Employment Appeal Tribunal.

The provision of administrative support for Employment Tribunals is the responsibility of the Tribunals Service, which is part of the Ministry of Justice.

## **SALARIED LEGAL CHAIRMAN (JUDGE)**

### **MAIN ACTIVITIES**

The main activities of the Salaried Employment Judge represent a significant change from the duties of a Fee Paid Employment Judge, and reflect the more demanding nature of the appointment and the exercise of a high level of judicial skill and experience in dealing with cases of legal and factual complexity, including the whole range of discrimination cases.

#### **A. Case Management and preparation for Hearings**

Reading and assimilating papers in a case before the case management discussion or hearing commences.

- Identifying the claims and issues in a case.
- Undertaking interlocutory work, which may include:
  - Initiating or considering requests for further and better particulars of claims and responses;
  - Initiating or considering requests for discovery of documents;
  - Drafting relevant questions for the parties to answer;
  - Requests for Witness Orders;
  - Giving directions for the future conduct of cases
- Preparing time estimates for hearings;
- Granting extensions of time where appropriate;
- Initiating or considering requests for amendments of claims or responses;
- Identifying the correct parties to proceedings and considering requests for joinder of parties;
- Considering applications to strike-out;

- Deciding whether sample or test cases are appropriate and whether proceedings should be stayed;
- Deciding requests for postponements and adjournments;
- Offering advice to the administrative staff of the Tribunals on correspondence generally.

Overseeing, in liaison with Tribunal staff, the progress of cases towards hearing and disposal so as to secure the most efficient dispatch of business compatible with the interests of justice.

## **B. Presiding over hearings**

- Having conduct and responsibility of the full range of cases including those raising complex issues of law and fact.
- Controlling (in accordance with the relevant law and practice) the manner in which cases are conducted.
- Giving guidance to Members on the relevant legal principle.
- Ensuring that all parties are enabled to have their cases presented, and have them considered, as fully and fairly as possible. Parties may be represented by a wide variety of representatives, including solicitors and barristers (including Queen's Counsel), Citizen's Advice Bureau representatives, personnel officers, Trades Union officials and personnel consultants; or they may be unrepresented.
- Promoting in each case the most expeditious dispatch of business compatible with the interests of justice.
- Maintaining the authority and dignity of the Tribunal.
- Taking an accurate note of the evidence and the proceedings generally.
- Deciding issues of law and procedure which may arise during a case.
- Ensuring that there is a level playing field in accordance with the Overriding Objective.
- Treating parties and witnesses with courtesy and respect whilst being firm when necessary.

## **C. Determination of applications with, if applicable, members**

- Determining claims by finding facts from the evidence presented, applying the relevant law to the facts found and giving, where appropriate, a full oral Decision (which may subsequently be produced as the written Judgment and Reasons of the Tribunal).
- Assessing and making awards and deciding the amount and manner of payment.
- Giving any directions necessary to give effect to the Judgment.
- Promulgating Judgments, and Reasons, timeously.

## **D. Other work**

- Reviewing previous Judgments.
- Producing written Notes of Evidence if requested by the Employment Appeal Tribunal.
- Providing information and explanations in relation to the investigation of complaints.

## **OTHER RESPONSIBILITIES**

### **A. Keeping abreast of legal developments**

- Employment Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases, which they are hearing. A Salaried Employment Judge will need to keep abreast of the rapidly developing caselaw especially on complex cases including all discrimination jurisdictions and European jurisprudence.
- Employment Judges will be expected to become familiar with and to use the Employment Tribunals' computer system.
- All Employment Judges are required to attend training courses and undertake other training as appropriate.

### **B. Other judicial and public duties**

- Salaried Employment Judges are expected to assist from time to time when requested in training of other judicial colleagues and generally in meeting the judicial needs of the tribunal and assisting the Regional Employment Judge in improving the delivery of service to tribunal users in accordance with the Overriding Objective.
- Attending meetings of the User Group.

## **FEE PAID CHAIRMAN (JUDGE)**

## **MAIN DUTIES**

In the first two years of appointment, Fee Paid Employment Judges are assigned cases that are less complex in terms of fact and law to those cases assigned to Salaried Judges.

The main activities of an Employment Judge are as follows:

### **A. Preparing for hearing**

- Reading and assimilating papers in a case before the hearing commences.
- Discussing the claims and issues with Members, where applicable, before the Hearing starts – giving appropriate guidance.

### **B. Presiding over Hearings**

- Controlling (in accordance with the relevant law and procedures) the manner in which cases are conducted.
- Ensuring that all parties are enabled to have their cases presented, and have them considered, as fully and fairly as possible. Parties may be represented by a wide variety of representatives, including solicitors and barristers (including Queen's Counsel), Citizen's Advice Bureau representatives, personnel officers, Trades Union officials and personnel consultants; or they may be unrepresented.
- Promoting in each case the most expeditious dispatch of business compatible with the interests of justice.
- Maintaining the authority and dignity of the Tribunal.
- Taking an accurate note of the evidence and the proceedings generally.

- Deciding issues of law and procedure which may arise during a case.
- Ensuring that there is a level playing field.
- Treating parties with courtesy and respect whilst being firm when necessary.

### **C. Determination of claims with, if applicable, members**

- Determining applications by finding facts from the evidence presented, applying the relevant law to the facts found and giving, where appropriate a full oral Judgement on the day (which may subsequently be produced as the written Judgement and Reasons of the Tribunal).
- Assessing and making awards and deciding the amount and manner of payment.
- Giving any directions necessary to give effect to the determination.
- Promulgating Judgements, and Reasons, timeously.

### **D. Other work**

- Reviewing Judgements.
- Producing written Notes of Evidence if requested by the Employment Appeal Tribunal.
- Assisting the Regional Employment Judge and the President in dealing with complaints comprehensively and promptly.

### **E. Other Responsibilities**

#### **Keeping abreast of legal developments**

- Employment Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases, which they are hearing.
- Judges will be expected to become familiar with and to use the Employment Tribunals' computer system.
- All Employment Judges are required to attend training courses and undertake other training as required by the Regional Employment Judge and President.

#### **Other judicial and public duties**

- Judges are expected to assist the Regional Employment Judge in improving the delivery of service to tribunal users in accordance with the Overriding Objective.
- Attending meetings of the User Group.

### **NOTE ON THE JURISDICTION OF THE JUDGE OF EMPLOYMENT TRIBUNALS (ENGLAND AND WALES)**

Employment Judges preside over Employment Tribunals, whose jurisdiction involves the hearing of a wide range of employment-based disputes or issues. The largest number of cases concerns unfair dismissal. A substantial number of claims include allegations of discrimination, breach of contract, unlawful deductions from wages, transfer of undertakings and public interest disclosure. The hearings may serve to determine a case, or may be restricted to a preliminary issue or a pre-Hearing review. Cases may involve one applicant or several. This note is intended to give a flavour of the jurisdiction exercised by Employment Tribunals. It is not a comprehensive list.

The Employment Tribunals have a well developed programme of judicial career development which is designed to impart the necessary judicial skills but also to build up expertise through a series of training modules towards ensuring that fee paid judges could, in time, progress to a salaried appointment dealing with more complex cases. Fee paid employment judges will not be permitted to sit in discrimination cases or complex multi-day cases in the first two years of appointment. Thereafter, they are required to attend further specialised training before being permitted to sit on discrimination cases.

Salaried employment judges are required to do the more demanding cases in terms of legal and judicial complexity and duration of Hearings. They may be invited to participate in training targeted to meet the special needs of the tribunal, for example handling equal pay cases and conducting judicial mediation.

Salaried employment judges will be expected to act as mentor to fee paid judges, particularly in the first two years of their appointments, as part of the programme of structured judicial career development.

Fee paid employment judges will not be assigned equal pay cases nor will they be asked to conduct judicial mediation. Training on equal pay and mediation is offered to a certain number of Salaried Judges in keeping with a recognition of the complexity of these judicial tasks, and the tribunals need to train judges to meet existing demands.

Fee paid employment judges will be assigned a salaried judge as mentor, and they are expected to cooperate and participate fully in the mentoring arrangements which constitute an important part of the programme of structured judicial career development.

## THE SELECTION PROCESS

### Application form

Details of the qualities and abilities against which you will be assessed are set out in the Application Form. You can draw on your full range of work and personal experience to demonstrate these qualities and abilities including, for example, voluntary work or any publication to which you have contributed. Please be specific in giving information.

### Timetable

Closing date for applications	6 January 2009
Provisional date for qualifying tests	16 February
Provisional dates for selection days	
Salaried	1 – 8 April 2009
Fee paid	14 – 24 April 2009

### Shortlisting

The next step in the process is a qualifying test. The qualifying test will be the sole method used to shortlist applicants for selection days for this selection exercise. Depending on your previous

knowledge of the jurisdiction, you may need to prepare in advance. Further details about the test will be provided in due course.

All eligible applicants assessed to be of good character will be invited to a written qualifying test, provisionally set for **16 February 2009**.

### **Outcome of the qualifying test**

Following the test, if you are shortlisted, you will be invited to a selection day. The selection of applicants for selection day will be based solely on the results of the qualifying test. All of the qualities and abilities set out in the Application Form will be assessed at the selection day stage. Further details will be sent with your invitation to attend. We are sorry that we are not able to provide written explanations to candidates who are not shortlisted.

### **References**

We may seek information from people who are well placed to provide recent examples on how you meet the qualities and abilities. Referees are usually approached before the selection day takes place and will be encouraged to draw on appraisal material if it is available. The material provided by referees will usually inform decisions at selection day, and final selection decisions by Commissioners.

#### Candidate nominated

You are invited to nominate up to three referees who know you well either personally or professionally. **We strongly recommend that you check with your referee that they are not conflicted.**

#### JAC nominated

The JAC may also request references from those identified in the section of this pack titled 'JAC nominated referees'.

Please provide the name, title, position and address of your relevant judicial and professional referees. You may also tell us if you do not wish us to approach the relevant professional referee now, but you must give reasons. If you do not currently hold a judicial office and have excluded your relevant professional referee, you must suggest an alternative referee who is familiar with your work.

### **Conflict of interest**

The Judicial Appointments Commissioners are listed at the back of this pack. You should not nominate a Commissioner as a referee. You should also state in the Application Form if you are in any way related to, or known to, any of the Commissioners and give details.

### **Outcome of the selection exercise**

You will be advised of the outcome of your application in writing.

If you are unsuccessful at the selection day stage of the process, you can request a written explanation. You should make this request within six weeks of the date of the letter informing you that you have not been successful. We will aim to respond to your request within four working weeks.

### **Complaints procedure**

If you are dissatisfied with any aspect of the way your application has been handled, please refer to the JAC's published complaints procedure, which is available from our website, or in writing on request.

# CONTACTS AND FURTHER INFORMATION

## Obtaining an application form

All the information about applying for this selection exercise is available at [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk) (current selection exercises).

The Application Form for this selection exercise can be obtained electronically by downloading it from the website.

Please contact the Judicial Appointments Applications Service (JAAS) team at the JAC if you wish to request a hard copy of the Application Form or Information Pack, or if you have any questions about submitting your application.

If you need the form and/or pack in a different format, for example Braille, please contact the JAAS team.

## Acknowledgement of your application

You should receive an acknowledgement of your application within five working days of receipt. If you do not, please contact the JAAS team by telephone or e-mail.

## Contact details

### 1. JAAS

**Reference:** 00386(Fee Paid Legal Chairman) and 00387 (Salaried Legal Chairman). (Please use these references on all communications)

Judicial Appointments Commission  
2nd Floor, Steel House  
11 Tothill Street  
London  
SW1H 9LH

DX 149822 WESTMINSTER 6

**E-mail:** jaas@jac.gsi.gov.uk

**Telephone:** 0203 334 0123

### 2. Selection Exercise Team:

Claire Troughton	020 3334 0093	Acting Assistant Director
Shanaz Hayat	020 3334 0350	Team Manager
Vesna Davies	020 3334 0097	Team Leader

E-mail: [clairetroughton@jac.gsi.gov.uk](mailto:clairetroughton@jac.gsi.gov.uk)

Fax: 0203 334 0300

### 3. Director:

Sue Bush 0203 334 0567

# JAC NOMINATED REFEREES

The JAC may also request references from those categories listed below.

## Judicial referees

If you hold a judicial office not in this list, please contact the JAC so that we can consider who should be nominated as your judicial referee.

If you sit on a Tribunal, the Tribunal President or equivalent.

If you are a Recorder, the Resident Judge, the Designated Civil Judge or the Designated Family Judge in the court(s) where you sit most often.

If you are a District Judge or Deputy District Judge, the local Designated Civil Judge.

If you are a District Judge of the Principal Registry of the Family Division or Deputy District (PRFD), the Senior District Judge (PRFD).

If you are a District Judge (Magistrates' Courts) or Deputy District Judge (Magistrates' Courts), the Senior District Judge (Magistrates' Courts).

If you are a Sheriff, the Sheriff Principal (*Scotland only*)

## Professional referee

If you are a solicitor, your managing partner or relevant equity partner.

If you are a barrister, your Head of Chambers.

If you are employed, your line manager or equivalent.

If you are an advocate, the Dean of the Faculty of Advocates (*Scotland only*).

If you are a barrister, your senior member of the Bar Library (*Northern Ireland only*)

# JAC COMMISSIONERS

## **Chairman of the JAC**

Baroness Usha Prashar CBE

## **Members**

Mrs Justice Jill Black DBE

Dame Lorna Boreland-Kelly DBE

Professor Dame Hazel Genn DBE QC

Lady Justice Heather Hallett DBE

Her Honour Judge Frances Kirkham

Sir Geoffrey Inkin OBE

Mr Edward Nally

Ms Sara Nathan OBE

District Judge Charles Newman

His Honour Judge David Pearl

Mr Francis Plowden

Ms Harriet Spicer

Mr Jonathan Sumption OBE QC

Lord Justice Roger Toulson