

The Rt Hon Sir Terence Etherton  
Master of the Rolls  
Room E214  
Royal Courts of Justice  
Strand  
London WC2A 2LL



Legal Services Board  
3<sup>rd</sup> Floor, The Rookery  
2 Dyott Street  
London  
WC1A 1DE

T 020 7271 0050

[www.legalservicesboard.org.uk](http://www.legalservicesboard.org.uk)

21 September 2020

Dear Sir Terence

### **Appointments to the Solicitors Disciplinary Tribunal**

Thank you for your letter of 17<sup>th</sup> July inviting comment on a revised protocol governing the appointment of Solicitors Disciplinary Tribunal (SDT) panel members.

I welcome the changes made to the protocol since commenting on the previous draft in November 2018. This includes limiting the bar on LSB Board members applying to become SDT panel members to two years after expiration of their terms rather than five years as previously proposed. I consider this is now consistent with conventions on appointments in the public sector.

Ensuring that SDT panel members reflect the diversity of the solicitors' profession and the communities it serves is of critical importance both to ensuring high quality decisions and sustaining public confidence in the Tribunal's decisions. It is welcome that diversity considerations feature more prominently throughout the protocol. However, I support the need to go further by using an equal merit tipping point test analogous to that used by the Judicial Appointments Commission (JAC). Consistent with practice by the JAC, I suggest there are provisions to ensure transparency on use of the test and its effectiveness should be kept under regular review.

Outside of the protocol, there is much that the SDT could and should do to improve diversity and this is an ongoing topic of discussion in our engagement with them.

I have no strong view on whether responsibility for making appointments to the SDT should remain with the Master of the Rolls or be transferred to the JAC. However, if responsibility is to be transferred to another body, I agree that the JAC would be a suitable candidate because SDT panel members perform a quasi-judicial role.

In your letter, you indicate that some of the changes that you wish to make, including the equal merit tipping point test and transferring responsibility for appointments to the JAC, would

require legislative change. I support this in principle while being mindful that it may prove challenging to find the necessary parliamentary time.

It has become matter of some urgency to begin a recruitment exercise for new panel members. Although the existing protocol could be used, this would be less than ideal given its deficiencies in relation to diversity. Therefore, I would encourage you to put in place a temporary solution that goes as far as it can to enhance the diversity elements of the protocol within the boundaries of existing legislative frameworks.

Finally, I am aware that you have just a few months remaining in your role before retiring. In case we do not have the opportunity to meet before then, either in person or virtually, I would like to express my sincere gratitude for your long and distinguished service in the law and wish you well for the future.

Yours sincerely

A handwritten signature in cursive script that reads "Helen Phillips".

Dr Helen Phillips  
**Chair**