

Explain how judges are appointed and how the courts and legal service act 1990 along with other acts have affected the selection and training, also discuss the argument that judges are old white and mainly male who are out of touch with society.

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Plan

Explain criteria of System of Solicitors, Barristers to judges.

Secret Soundings?

What is the Legal service act?

Who and how do they set them up?

What is contained in the 1990 legal service act?

What other acts are there which has affected training and selection?

Why are judges' old white males? 87% are male.

What are the trends in the past/future?

Why are they out of touch with society?

What has made them become out of touch?

What reforms should be taken to keep them in touch with society?

In the English Legal system, there are two classifications of judge. The superior judge and an inferior judge. Inferior judges consist of District judges, Circuit judges and Stipendiary judges. These types of judges, are all the starting point in becoming a superior judge.

An inferior judge applies for their position through newspaper advertisements. The minimum period that you must have been a solicitor or barrister is ten years. You must also fit the right qualities given out by the Lord Chancellors office. Before an inferior judge sits on a case, they must have permission to do so by the Lord Chancellor. Because the Lord Chancellor still has direct control over the inferior judges, sometimes they can easily be persuaded to swing a case a particular way in cases that is governmentally orientated. This is because their position as an inferior judge is very unstable; they can easily be dismissed from the bench if they do anything wrong to upset the government.

To become a superior justice there are certain qualifications and specific opinions that you must have. Firstly again, you must be a solicitor or barrister for a minimum of ten years; therefore, you must have the *rights of audience*. You must have also sat on the bench for a minimum period. Then you must conform to views of the particular political party elected at that time. This is because the Lord Chancellor is a person elected by the Prime Minister, therefore the government at the time has say in who they want to become the judges of the future. If a person has views that heavily contradict the governments' standpoint then the government will not employ them as a judge. If after a certain amount of time you want to become a superior judge, you have to be selected. A particular judge is chosen over another judge because of their views. This is because a superior judge is very difficult to dismiss. In fact the only way to dismiss a superior judge is if they retire, misbehaviour, persistent failure to comply with sitting requirements without good reason, failure to comply with training requirements or sustained failure to observe standards reasonably expected from a judge.

These standpoints are found out using a process called *secret soundings*. They occur deep in the chambers of other leading judges, who criticise or praise the upcoming barristers and solicitors, and feed this information back to the Lord Chancellors offices. There, files are compiled on particular candidates and the Lord Chancellor chooses which ones are suitable to employ. The Lord Chancellor then takes these names and gives them to the Prime Minister, who has to ask the Queen whether or not he can let them sit as Supreme judges.

Although this system is very informative, there are several problems with it. One of these is the fact that no one is aloud to see the *secret soundings* apart from the Lord Chancellor. This means that if they were incorrect, then the person who's file it is would not know about it. In order to stop this kind of situation happening the government passed a new act, called *CLSA 1990*. These acts also lead to the employment of solicitors to sit on the bench. Another organisation set up when the *CLSA 1990* was passed, this was the Lord Chancellors Advisory Committee. It is the job of this committee today to help maintain and develop the standards of education, training and performance of the bench. It also regulates the new applicants for the rights of audience in the higher courts. In the year 2000 *ALEC* was disbanded and a smaller less powerful council was set up by the *Access to justice act 1999*. The main overall role of the legal service act was to give equal powers to the solicitors and barristers.

Other examples of changes in training of judges has been the implementation of *Children's Act 1989*, and *the Human Rights Act 1998*. Most judges before this time were said to be racist and out of touch with society, therefore the ALEC introduced training course that it was mandatory for all judges to complete. This was seen to re-educate judges that were old white males. Is it therefore the system we need to improve or is there a need for more women to apply for the role of judges?

At present, 87% of judges are male. It is very difficult to discuss what the current legal systems training needs at present, and what it needs in the future. If you look at the top of the legal system, you have the judges; this is a very simplistic view of what the legal profession looked like 10 years ago. The hugely dominant old, conservative males show a very old fashioned look at the legal system, but this shows us what the pattern of solicitors and barristers looked like in the 1990's. We know this because the way lawyers are selected for the judiciary. The Lord Chancellor selects them, by 'secret soundings' and they are chosen from 'high flying' lawyers. Therefore, the solicitors and barristers of that time will show what range of people we will have on the judiciary, at present.

Nevertheless, with the new intake of law students to become solicitors and barrister, this shows a good spread of ethnic minorities and sexes. In 5 to 10 years time the legal systems judges will be multi-ethnic and multi-sex. We just need to give the solicitors and barristers time to work up to be those judges. This would create the lawyers that this country needs in the future.