

Queen's Counsel Branch
Courts Policy Division, Legal and Judicial Services Group
Department for Constitutional Affairs
2nd Floor
Selborne House
54-60 Victoria Street
London
SW1E 6QW

6 November 2003

Dear Madam/Sir,

RE: Constitutional Reform: the Future of Queen's Counsel

Rights of Women is grateful for the opportunity to participate in the Department of Constitutional Affairs' consultation on the future of Queen's Counsel, and welcomes the review.

We believe that meaningful access to and administration of justice is dependent on having a diverse and representative legal profession, at all levels. Women are underrepresented in the legal profession as a whole, and particularly at the higher levels, including among Queen's Counsel. Women from disadvantaged or socially excluded backgrounds are seriously underrepresented within the profession, to the detriment of the justice system.

As a guiding principle, any future strategy on promotional ranks (whether Queen's Counsel or any other form of distinction) must be thoroughly equality proofed. This means checking the impact of proposals on people within the six equality strands: gender, ethnic background, disability, sexuality, age and religion. In the context of the future of Queen's Counsel, we would also argue that the social and economic background of such applicants should be taken into account in measures intended to result in an appropriately diverse profession. Particular attention must therefore be paid to addressing obstacles facing Black women and women from minority ethnic communities, disabled women, lesbian, bisexual, transsexual and transgender women, older women and women experiencing social exclusion.

Rights of Women believes that the QC system in its current form perpetuates the under-representation of particular groups at the highest levels of the profession, and that the system therefore needs to be replaced by a quality mark standard involving ongoing quality assurance checks. We believe that such a system would better enable clients to make informed choices about

counsel, would increase diversity and accountability at the most senior levels of the Bar, and would consequently make significant improvements to women's access to justice in the United Kingdom.

We agree with the concerns raised by the Legal Action Group in their response to the Lord Chancellor's Department paper *In the Public Interest?* in November 2002 about the transparency and accountability of the QC system. The application and appointment process inappropriately mixes the power of the Executive with the higher echelons of the legal profession and is worryingly opaque. Moreover we agree with the argument of Karon Monaghan of Matrix Chambers that:

...a requirement to be 'known' by the consultees (who include, for example, the Lord Chief Justice; Heads of the Divisions; Chair of the Bar Council etc) is likely to disadvantage women and Black people who are outside the formal networks through which becoming 'known' is achieved (same chambers, dinners, clubs etc). The proportion of successful women and Black candidates *when measured against applications* for silk has increased over the years and are now not disproportionately low. However such a statistic conceals the fact that many women and Black people do not apply because of the belief that they will not satisfy the criteria including the criteria to be 'known'. Thus, for so long as the requirement is applied to the pool of persons otherwise qualified (the senior Bar), it disadvantages women and Black people (*The Association of Women Barristers Newsletter*, available at www.womenbarristers.co.uk/doc/k_monaghan.doc).

Background: Rights of Women

Rights of Women is an industrial and provident society, which was founded in 1975 to promote the interests of women in relation to the law. We run a free, national confidential telephone legal advice help line for women. We specialise in advising in family law, especially domestic violence and Children Act matters. Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights. We are a membership organisation and our activities include producing publications, organising conferences and training courses, and doing policy and research work.

Please do not hesitate to contact me if you have any queries regarding our response. I look forward to seeing the results of the consultation process.

Yours sincerely,

Ranjit Kaur
Director