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Information Pack:

00390: Recorder (South Eastern Circuit) 2009

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INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the post of Recorder on the South Eastern Circuit. The closing date for applications is 29 January 2009. There are 128 vacancies, of which 118 are in the Crime jurisdiction and 10 in the Public Family Law jurisdiction.

This pack contains the information that you need about the appointments. It includes eligibility criteria and the job descriptions for the two jurisdictions. 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 along with outline terms and conditions of service and terms of appointment for this post. 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 Recorder you must meet the following requirements.

Statutory requirement

Under section 21(2) of the Courts Act 1971, as amended by paragraph 9, Schedule 10 of the Tribunals, Courts and Enforcement Act 2007, no person shall be qualified to be appointed a Recorder unless he satisfies the judicial-appointment eligibility condition on a 7-year basis.

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.

Relevant Qualification

You have the relevant qualification if you are a solicitor or barrister. In order to meet the statutory qualifications for appointment as a Recorder, a solicitor (or a salaried judicial office holder who was formerly a solicitor) must appear on the Roll.

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 Bureaux. However, it is not intended to cover (say) a person who gives informal advice to friends and neighbours.

Category i) (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'.

Non-Statutory requirement

Candidates applying for the Public Family Law posts will need to demonstrate suitability, at selection day, for early authorisation to hear Public Law cases. Authorisation is given by the President of the Family Division.

Age

There is no upper or lower age limit for candidates for these posts 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, 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.

Place of residence

The Terms and Conditions of the office of Recorder state that an offer of appointment after 1 January 2008 is conditional on the Lord Chancellor being satisfied that a person will reside, when appointment has been taken up, in a place which is usually reasonably convenient for daily

access to the courts at which he/she will normally sit (please see paragraph 50 of the Terms and Conditions which are reproduced on the JAC website at www.judicialappointments.gov.uk).

The following information has been provided by the Ministry of Justice:

Should you consider applying for a Recordership outside the Circuit in which you live and/or practice, please note that you will be expected to sit anywhere on that Circuit as the business needs require and that a transfer will not usually be considered within five years of appointment. You should also note that there is a finite limit to the travel and subsistence that you will be able to claim for these sittings.

Further information relating to the Terms and Conditions can be obtained from Helen Williams at the Ministry of Justice (020 3334 3487).

Crown Prosecution Service, Serious Fraud Office and Government Legal Service Lawyers

Lawyers working in the Crown Prosecution Service (CPS), Serious Fraud Office (SFO) and Government Legal Service (GLS) are eligible to apply. Such applications will be considered on merit alongside other applications. The Lord Chancellor's policy relating to the deployment of such lawyers who are appointed Recorders is set out in the 'Deployment' section on page 7.

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. 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 invites to the selection days. 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.

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, as they are for serving judges. Any reasonable adjustments to enable you to take up appointment will be discussed separately with you by Her Majesty's Courts Service after the JAC has made its recommendation.

JOB DESCRIPTION

The following information has been provided by the Ministry of Justice:

MAIN ACTIVITIES

The main duties of Recorders are as follows:-

Preparing for trial and case management

In the Crime Jurisdiction

- Reading and assimilating papers before a case commences, including the indictment, witness statements, documentary exhibits and (in respect of known guilty pleas) pre-sentence reports
- Playing an active role as appropriate in determining the way in which a case is to be handled from commencement to sentence

In the Civil and Family Jurisdictions

- Reading and assimilating case papers before a hearing, or the trial, commences
- Furthering the overriding objective of the Civil Procedure Rules by actively managing cases to a conclusion. Active case management includes:-
 - i. Encouraging the parties to co-operate with each other in the conduct of the proceedings
 - ii. Identifying the issues at an early stage
 - iii. Deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others
 - iv. Deciding the order in which issues are to be resolved

- v. Encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure
- vi. Helping the parties to settle the whole or part of the case
- vii. Fixing timetables or otherwise controlling the progress of the case
- viii. Considering whether the likely benefits of taking a particular step would justify the cost of taking it
- ix. Dealing with as many aspects of the case as possible on the same occasion
- x. Dealing with the case without the parties needing to attend at court
- xi. Making full use of technology
- xii. Giving directions to ensure that the trial of a case proceeds quickly and efficiently

Presiding over court proceedings

In all Jurisdictions

- Controlling (in accordance with the relevant law and practice) the manner in which cases are conducted
- Ensuring that parties are on an equal footing, and that, whether represented or not, they are enabled to have their cases presented, and have them considered, as fully and as fairly as possible
- Promoting in each case the most expeditious dispatch of business compatible with the interests of justice
- Maintaining the authority and dignity of the Court
- Deciding issues of law and procedure which may arise during a case

In the Crime Jurisdiction

- Taking an accurate note of the relevant parts of the evidence
- Summing up to a jury
- Sentencing convicted defendants according to the law and the circumstances of the case
- Other duties include, for example:-
 - i. Deciding issues of costs (including wasted costs orders)
 - ii. Dealing with bench warrants
 - iii. Hearing bail applications

In the Civil and Family Jurisdictions

- Dealing with the case in ways which are proportionate and allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases as follows:-

Civil Jurisdiction

- i. to the amount of money involved;

- ii. to the importance of the case;
- iii. to the complexity of the issues; and
- iv. to the financial position of each party

Family Jurisdiction

- i. to the importance of the case; and
- ii. to the complexity of the issues

Judgment

In all Jurisdictions

- Deciding actions by finding facts, applying the relevant law to them and giving a reasoned judgment
- Determining contested applications and other issues by consideration of the papers and evidence presented at any hearing and making findings of fact, applying the relevant law and, where appropriate, giving a reasoned judgment
- Supervising the wording of the judgments and orders of the Court

Civil Jurisdiction

- Assessing and awarding damages and costs, deciding the amount and manner of payment and making possession orders

Other Responsibilities

- Recorders need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases that they are trying
- Newly-appointed Recorders will have to attend a Judicial Studies Board residential induction course in either criminal, civil or family procedure (each four days) before receiving a Royal Warrant which will enable them to sit in those jurisdictions. They also attend periodical continuation courses and one-day region-based events such as sentencing conferences

Other Information

The following information has been provided by the Ministry of Justice:

- Candidates appointed to Public Family Law posts may be required, on occasion, to hear cases in the Civil jurisdiction. They will, therefore, be required to attend Civil jurisdiction training in addition to Public Family Law training
- Recorders appointed on or after 1 July 2008 will participate in a mentoring scheme provided by the Judicial Studies Board. The scheme has the objectives of enabling Recorders to receive confidential advice, support and guidance from a mentor judge; and of helping them develop the confidence necessary to preside in court

DEPLOYMENT

It is the Lord Chancellor's policy that lawyers working in the Crown Prosecution Service (CPS), Serious Fraud Office (SFO) and Government Legal Service (GLS) are not able to sit as Recorders in Crime work (or in any matter involving their own Government department). If

appointed, opportunities for CPS, SFO and GLS lawyers to sit as Recorders may be severely limited.

Further Information

Further information relating to the jurisdiction of Recorders and the Terms and Conditions of the office of Recorder is available on the JAC website at www.judicialappointments.gov.uk.

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	29 January 2009
Provisional date for qualifying test	6 April 2009
Provisional dates for selection days	20 May – 3 June 2009

Shortlisting

The first step in the process is shortlisting by a qualifying test. The qualifying test will be the sole method used to shortlist applicants for selection days for this selection exercise. All applicants will be invited to the written test, provisionally set for 6 April 2009. Eligibility and character declarations will be reviewed separately. If the Commission concludes that there are issues arising that mean that an application cannot proceed, we will normally let applicants know before the test.

The qualifying test will be held on a single day, at a number of test sessions, in the London area. Candidates will be contacted and invited to express a preference for which session in the day to sit the test. Other than for exceptional reasons, all candidates will sit the test on a single day. It is intended that in every venue a candidate will have the choice to complete the test either in manuscript or using a word processing package (MS Word) on a laptop supplied by us, depending on what you indicate in the Application Form.

The test will be set in the hypothetical jurisdiction used in the tests for the previous exercises in the 2008/2009 round of JAC selection exercises for Recorder. You will be put in the position of a Recorder dealing with issues that might arise in this jurisdiction. You will be required to analyse the information provided, identify issues and apply the hypothetical statute and case-law to reach a reasoned decision. Not all of the qualities and abilities set out in the Application Form will be assessed at the qualifying test stage - some will only be assessed at the selection day stage if you are shortlisted.

The relevant statute and case law you will be expected to consider as part of the test will be provided at the test itself. You will be required to read and assimilate a small number of papers and apply - as appropriate - the information contained in them.

A description of the qualifying test, together the tests and supporting materials used in the tests for the previous exercises in the 2008/2009 round of exercises for Recorder can be found on our website at www.judicialappointments.gov.uk. This material is provided by way of an illustrative example of the structure and format of the test a candidate may expect to face. However, applicants should note that the test you sit may vary from this example. The quantity of supporting material might differ and the number of questions to be answered may also be different.

Outcome of the qualifying test

Following the test, if you are shortlisted, you will be invited to a selection day in London. 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. You will be assessed on your first choice of jurisdiction, in accordance with the preferences for post that you have indicated in your Application Form. Further details will be sent with your invitation to attend. We are sorry that we are not able to provide candidates with written explanations or the marks from the test.

References

We may seek information from people who are well placed to comment 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. If you appear regularly before a court or tribunal, one of your referees must be the Resident Judge or equivalent at the court or tribunal before which you appear most often. **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

Separate lists will be drawn up for each of the two jurisdictions and recommendations for appointment will be made on merit drawing on those separate lists.

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 (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: 00390 (Please use this reference 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: 020 3334 0123

2. Selection Exercise Team:

Andrew Digby	020 3334 0341	Selection Exercise Manager
Gerri Clement	020 3334 0194	Deputy Selection Exercise Manager
Ashlee Brett	020 3334 0515	Team Leader

E-mail: CourtsTeamA@jac.gsi.gov.uk

Fax: 0203 334 0300

3. Director:

Jane Andrews 020 3334 0508

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 Master or Registrar of the High Court, or a Deputy Master or Registrar, the relevant Senior Master or Registrar.

If you are a Costs Judge or Deputy Costs Judge, the Senior Costs Judge.

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).

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.

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

Sir Geoffrey Inkin OBE

Her Honour Judge Frances Kirkham

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