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**Information Pack:**

00453: Recorder (Civil) 2009

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## INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the post of Recorder to sit in the Civil jurisdiction. There are 40 vacancies. Candidates who are appointed as a result of this selection exercise will be required to sit in county courts according to business need. Successful candidates may be considered for authorisation under s9(1) of the Supreme Court Act 1981 to sit as Deputy High Court Judges in the Chancery and Queen’s Bench Divisions. Successful candidates who go on to be authorised will sit in the Royal Courts of Justice or county courts (specialist civil jurisdiction) according to business need.

Before being authorised to sit in the specialist jurisdictions of the High Court and county court, successful candidates will be required to complete a civil induction programme organised by the Judicial Studies Board as agreed by the President of the Queen’s Bench Division and the Chancellor.

The closing date for applications is 29 October 2009.

This pack contains the information that you need about 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 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 a 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 (TCE) Act 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 meaning of 'gain experience in the law' is set out in sections 52(2) to (5) of the TCE Act 2007 and relates to a period engaged in law related activities.

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.

## **Relevant Qualification**

You have a relevant qualification if you are a solicitor or barrister.

You will be considered eligible as a solicitor when your name is first entered on the roll kept under section 6 of the Solicitors Act 1974. You will be considered eligible as a barrister:

- a) when you have completed pupillage in connection with becoming a barrister or
- b) if you are not required to undertake pupillage in connection with becoming a barrister, when you are called to the Bar of England and Wales.

When applying for a judicial appointment under (b) you will need to provide details in the Application Form of why you are not required to undertake pupillage.

## **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.

## **Meaning of Law Related Activity**

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.

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 in 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 Ministry of Justice has provided the following guidance:

Category b) is intended to cover arbitration where legal disputes are resolved on a reasonably formal, structured basis. For example, it would cover arbitration 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'.

### **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. However, a minimum age for appointments will be determined in part by the requirement to have qualified as a barrister or a solicitor for appointment for the number of years required by statute. 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.

## 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.

Candidates 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.

## 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 Ministry of Justice has provided the following information.

### **PURPOSE OF OFFICE**

1. The purpose of judicial office is to administer justice in accordance with the laws of England and Wales without fear or favour, affection or ill will.

### **JURISDICTION AND SITTING**

2. Section 21 of the Courts Act 1971, as amended, provides that the Lord Chancellor may recommend to The Queen for appointment as a Recorder a person who meets the statutory qualification for appointment, to act as part-time judge of the Crown Court or county courts. (Some Recorders are authorised to exercise specialist civil jurisdictions, e.g. in the Technology and Construction Court and the Patents Court.) Save as may be otherwise indicated, the statutory jurisdiction of a Recorder is in general formally identical to that of a Circuit Judge. Notes on the jurisdiction of a Circuit Judge are available on the Judicial Appointments Commission website at [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk). You will need to navigate to the page for the Recorder (Civil) selection exercise via the 'Selection Exercises – Open for applications' link.
3. Recorders sitting in the Civil jurisdiction appointed from this exercise will be authorised to sit in the county court. However, candidates must demonstrate experience in the issues dealt with at High Court level, in the Chancery and Queen's Bench Divisions. Those selected for appointment as Recorders, may be considered for authorisation to sit as deputy High Court Judges, in accordance with the provisions of section 9(1) of the Supreme Court Act 1981. However, authorisation to sit as a Deputy High Court judge is not guaranteed, as this is a decision for the relevant Head of Division.
4. Recorders sitting in the Civil jurisdiction may also be required to deputise for specialist civil Circuit Judges in the District Registries of the High Court and other specialist centres, particularly in the Chancery Division, the Mercantile Court and the Technology and Construction Court.
5. Sitting arrangements, which are determined by the Director of the High Court Group in consultation with the President of Queen's Bench Division and the Chancellor, will vary from time to time depending on the needs of the business. There is no minimum sitting requirement for Civil Recorders, although they will not normally be required to sit more than 30 days.

### **MAIN ACTIVITIES**

The main duties of Recorders sitting in the Civil jurisdiction are as follows:-

#### **a. Preparing for trial and case management**

- 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:
  - encouraging the parties to co-operate with each other in the conduct of the proceedings;
  - identifying the issues at an early stage;
  - deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
  - deciding the order in which issues are to be resolved;
  - encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
  - helping the parties to settle the whole or part of the case;
  - fixing timetables or otherwise controlling the progress of the case;
  - considering whether the likely benefits of taking a particular step would justify the cost of taking it;
  - dealing with as many aspects of the case as possible on the same occasion;
  - dealing with the case without the parties needing to attend at court;
  - making full use of technology; and
  - giving directions to ensure that the trial of a case proceeds quickly and efficiently.

#### **b. Presiding over court proceedings**

- 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.
- Dealing with the case in ways which are proportionate to the:
  - amount of money involved;
  - importance of the case;
  - complexity of the issues; and
  - financial position of each party.
- Allotting to the case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases and dealing with the case in ways which are proportionate to:
  - the amount of money involved;
  - the importance of the case;
  - the complexity of the issues; and
  - the financial position of each party.
- Maintaining the authority and dignity of the Court.
- Deciding issues of law and procedure which may arise during a case.

#### **c. Judgment**

- 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.
- Assessing and awarding damages and costs, deciding the amount and manner of payment and making possession orders.
- Supervising the wording of the judgments and orders of the Court.

### **OTHER RESPONSIBILITIES**

6. 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.
7. Before being authorised to sit in the specialist jurisdictions of the High Court and county court, successful candidates will be required to complete a civil induction programme organised by the Judicial Studies Board as agreed by the President of the Queen’s Bench Division and the Chancellor.

### **AUTHORISATION AS A DEPUTY HIGH COURT JUDGE**

Recorders sitting in the High Court under section 9(1) of the Supreme Court Act 1981 are entitled to exercise the same jurisdiction as a High Court Judge save that they are not able to sit in the Court of Appeal. In practice they will hear civil cases at the first instance.

### **FURTHER INFORMATION**

Notes on the jurisdiction of a Circuit Judge; and on the main duties of a judge sitting in the Chancery Division, and in the Queen’s Bench Division; and on the jurisdiction of the two Divisions are available on the Judicial Appointments Commission website at [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk). Terms and Conditions for the post can also be found on the JAC website. For both documents you will need to navigate to the page for the Recorder (Civil) selection exercise via the ‘Selection Exercise – Open for applications’ link.

# 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 October 2009
Provisional date for qualifying test	8 December 2009
Provisional dates for selection days	2 – 17 March 2010

## Shortlisting

The next step in the process is a qualifying test. The qualifying test will be the sole method used to shortlist candidates for selection days for this selection exercise. All candidates will be invited to a written test, provisionally set for 8 December 2009. Eligibility will be reviewed separately. If the Commission concludes that there are issues arising that mean that an application cannot proceed, we will let candidates know before they sit the test.

The test will be based on two scenarios. The first requires candidates to answer questions relating to a hypothetical statute. The second, questions relating to an actual statute. The answers will be assessed against the qualities of Outstanding Intellectual Capacity and Authority and Communication Skills. That is, 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 skills the test has been designed to allow candidates to demonstrate are basic legal knowledge and reasoning, and case-handling skills.

Examples of tests set in a hypothetical jurisdiction used for previous selection exercises for Recorders can be found on the JAC website at the following address: [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk). You will need to navigate to the pages for the Recorder (Midland) and Recorder (South Eastern) selection exercises via the link to 'Selection Exercises – Past Selection Exercises'.

Please note that the hypothetical statute used in the test for this exercise may not be the same as that used in previous selection exercises.

## Outcome of the qualifying test

The selection of candidates for the next stage 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 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. **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.

### **Selection day**

If you are shortlisted you will be invited to a selection day. The selection day for this exercise will consist of a panel interview and role-play. Further details will be sent with any invitation to attend. The overall assessments made by the panel are provided to Commissioners when they make their selection decisions.

### **Statutory consultation**

As required by the Constitutional Reform Act 2005, the overall panel assessments of candidates likely to be considered for selection by the Commission will be sent to the Lord Chief Justice and a second person who has held the office or has other relevant experience. For this exercise the second consultees will be the Chancellor of the High Court, Sir Andrew Morritt, and the President of the Queen's Bench Division, Sir Anthony May.

### **Character checks**

The JAC is required to select only persons of good character. The JAC will carry out checks on all candidates likely to be considered for selection and the results of these checks, together with information declared by candidates in the Application Form, will be assessed.

### **Selection decisions**

The Commission, sitting as a committee, will consider the information gathered about candidates, which includes the overall assessment report from the selection day panel, to select those candidates to recommend to the Lord Chancellor.

### **Report to the Lord Chancellor**

The Commission reports its final selections to the Lord Chancellor. The Lord Chancellor can accept or reject this recommendation, or ask the Commission to reconsider it. The Lord Chancellor may not select an alternative candidate.

### **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.

### **Further Information**

For further information about the selection process and the requirements of the Constitutional Reform Act 2005 please consult our website [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk)

## **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) .

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.

### **Submitting your application**

Once completed your Application Form should be submitted via our secure online process by going to [www.judicialappointments.gov.uk](http://www.judicialappointments.gov.uk) and selecting 'Submit your Application'.

### **Acknowledgement of your application**

When you submit your application by our secure online application process you will receive an immediate acknowledgement. You may also request an auto generated e-mail confirming

successful receipt. If you choose to submit your application by post, 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: 00453** (Please use this reference on all communications)

Judicial Appointments Commission  
3rd 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:**

Andrew Digby	0203 334 0341	Selection Exercise Manager
Gerri Clement	0203 334 0194	Deputy Selection Exercise Manager
Ashlee Brett	0203 334 0515	Selection Exercise Team Leader

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

Fax: 0203 334 0300

### **3. Director:**

Jane Andrews 0203 334 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 (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.

If you are not able to identify a relevant referee contact the Selection Exercise Manager, Andrew Digby, on 020 3334 0341

# 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