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Information Pack:

00457: Deputy Judge of the Upper Tribunal
(Immigration and Asylum)

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INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the post of Deputy Judge of the Upper Tribunal (Immigration and Asylum). From 15 February 2010 the first-instance work of the Asylum and Immigration Tribunal will be transferred to the First-tier Tribunal and it will be known as the Immigration and Asylum Chamber. Immigration and Asylum is an important jurisdiction and the main role of a Deputy Judge of the Upper Tribunal is to review specialist questions of law in cases where the first-instance decision has been made by an Immigration Judge. You will also preside over appeal hearings and determine paper applications.

Deputy Judges of the Upper Tribunal are expected to be available for at least 15 days per year but the level of sittings offered will be dependent on workload. All Deputy Judges of the Upper Tribunal are (or, if already appointed, remain) judges of the First-tier Tribunal and may be deployed to undertake work there in suitable cases.

The jurisdiction of the Upper Tribunal covers the whole of the United Kingdom but its main base is in London. All appointees must be prepared to sit in London but may also be asked to sit in other locations. Travelling expenses and in certain circumstances night subsistence allowances may be payable in connection with sittings and attendance at training courses. The JAC has been asked to recommend 40 candidates for immediate appointment. 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) along with outline terms and conditions of service and terms of appointment for these posts. 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.

The closing date for applications is **17 December 2009**.

The closing time for applications will be 12:00pm (noon) on this date and applications must be received at JAC by that deadline. Late applications will only be accepted “exceptionally.”

ARE YOU ELIGIBLE?

Judges of the Upper Tribunal are appointed by the Lord Chancellor under section 5 and paragraph 7 of schedule 3 of the Tribunals, Courts and Enforcement Act (TCE) 2007. To be eligible for appointment as Deputy Judge of the Upper Tribunal you must meet the following requirements.

Statutory requirement

A person is eligible for appointment under paragraph 7 of the TCE Act 2007 only if the person:

- a) Satisfies the judicial-appointment eligibility condition on a 7-year basis;
- b) Is an advocate or solicitor in Scotland of at least seven years' standing,
- c) Is a barrister or solicitor in Northern Ireland of a least seven years' standing, or
- d) In the Lord Chancellor's opinion, has gained experience in law which makes the person suitable for appointment as if the person satisfied any of the paragraphs (a) to (c).

In order to meet the statutory qualifications for appointment, a solicitor (or a salaried judicial office holder who was formally a solicitor) must appear on the Roll.

For those qualified in England and Wales, 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 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 apart from the statutory retirement age of 70 for all judges. The age at which someone is appointed as a Deputy Judge for the Upper Tribunal must allow for a reasonable length of service before retirement, usually about two 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.

Non Statutory requirement

The Lord Chancellor expects candidates to have normally served a minimum of two years or at least 40 days sitting as an Immigration Judge (either salaried or fee paid) before the closing date for applications.

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.

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.

Disqualification

You should note that the House of Commons Disqualification Act 1975 applies to this office.

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 the tribunal service after the JAC has made its recommendation.

JOB DESCRIPTION

The Ministry of Justice has provided the following information.

Deputy Judge of the Upper Tribunal

Office and jurisdiction

The Upper Tribunal was created by the Tribunals, Courts and Enforcement Act 2007. Its main jurisdiction is to hear applications and appeals on questions of law from the First-tier Tribunal created by the Act. Its Judges are appointed under Schedule 3 of the 2007 Act and Deputy Judges are appointed under paragraph 7 of that schedule. Deputy Judges have all the powers of a full judge of the tribunal but are appointed primarily to assist in the disposal of cases which could not otherwise be dealt with by the full judges. Deputy Judges are expected to be available for at least 15 days per year but whether any sittings will be offered depends largely on workload.

From early 2010 the first-instance work of the Asylum and Immigration Tribunal will be transferred to the First-tier Tribunal. This selection exercise is for Deputy Judges of the Upper Tribunal to deal with work arising from the right of appeal to the Upper Tribunal on asylum and immigration cases. The main activities of Judges of the Upper Tribunal are set out below and Deputy Judges may expect to be allocated work drawn from this list; however, it should be noted that the allocation of work to individual members or classes of member of the Tribunal is a matter for the Senior President and the activities of Deputy Judges may not include all those listed. All Deputy Judges of the Upper Tribunal are (or, if already appointed, remain) Judges of the First-tier Tribunal and may be deployed to undertake work there in suitable cases.

Main Activities:

Determining applications and giving case management directions

- Reading and assimilating papers and identifying the legal issues that arise.
- Giving succinct reasons for determinations of applications for leave.
- Giving guidance and directions for the efficient disposal of appeals, bearing in mind the extent of representation available to the parties.
- Promoting the most expeditious dispatch of business compatible with the interests of justice.

Determining appeals

- Researching (if necessary) and applying the relevant law.
- Determining questions of fact where necessary.
- Giving a reasoned written judgment.
- Giving any directions necessary to give effect to the judgment.

Oral hearings

- Controlling (in accordance with the relevant law and practice) the manner in which hearings are conducted.
- Ensuring that parties who lack professional representation are enabled to present their cases and have them considered as fully and fairly as possible.
- Maintaining the authority and dignity of proceedings.
- Taking a full and accurate note of the submissions of the parties and any oral evidence.
- Deciding any issues of procedure that may arise during the hearing.

- Where required, sitting as a non-presiding member of a panel of the Upper Tribunal or First-tier Tribunal

Keeping abreast of legal developments

- Participating in training events
- Reading

Other judicial duties

- Contributing to the development of a body of law by circulating decisions of interest.
- Commenting on decisions circulated by other judges
- Developing working relationships with all judicial colleagues in order to promote consistency and excellence of decision-making throughout the Tribunal.
- Attending meetings of judges and serving on committees concerned with judicial administration.

Further Information

Judges appointed to these posts on a fee paid basis, will be paid according to where they sit on any given day. The rate for a judge of the Upper Tribunal will be aligned to 1/220th of salary group 6.1 (currently £128 296). Please note the fee does not apply to existing salaried judges who are appointed.

Further information about the Asylum and Immigration Tribunal and the Tribunal Service can be found on the Tribunals website www.tribunals.gov.uk.

The terms and conditions for this post can be found on the JAC website www.judicialappointments.gov.uk.

THE SELECTION PROCESS

Application form

Details of the qualities and abilities against which you will be assessed are set out here and reproduced 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.

Qualities and Abilities

1. Intellectual Capacity

- Expertise in your chosen area.
- Ability quickly to absorb and analyse information.
- Appropriate knowledge of the law and its underlying principles, or the ability to acquire this knowledge where necessary.

2. Personal Qualities

- Integrity and independence of mind.
- Sound judgement.
- Decisiveness.
- Objectivity.
- Ability and willingness to learn and develop professionally.

3. An Ability to Understand and Deal Fairly

- Ability to treat everyone with respect and sensitivity whatever their background.
- Willingness to listen with patience and courtesy.
- Ability to enable parties to present their case.

4. Authority and Communication Skills

- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved.
- Ability to inspire respect and confidence.
- Ability to maintain authority when challenged.

5. Efficiency

- Ability to work at speed and under pressure.
- Ability to organise time effectively and produce clear reasoned judgments expeditiously (if required).
- Ability to work constructively with others including leadership and managerial skills where appropriate

Timetable

Closing date for applications	17 December 2009
Provisional dates for selection days	7– 16 April 2010

Shortlisting

The next step in the process is a sift. A selection panel will consider the information provided in your Application Form and any references received. If you are shortlisted, you will be invited to the next stage. 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 sift 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 sift and selection day and will be available to Commissioners at the final selection decision stage. We encourage typed references to enable legible reproduction for the selection process.

Any candidate who is a member of the Asylum and Immigration Tribunal should not nominate the Deputy Presidents, Mark Ockelton or Libby Arfon-Jones, as a referee. Neither will be providing references for this selection exercise. You may wish however, to nominate the Resident Senior Immigration Judge.

Candidate nominated referees

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 referees

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.

Selection days

If you are shortlisted you will be invited to a selection day. The selection day for this exercise will consist of a panel assessment to include an interview. 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 (CRA), the Commission must consult the Lord Chief Justice and a second person, who has held the office or has other relevant experience, about those candidates it is minded to select. For this exercise the second consultee will be Lord Justice Carnwath, Senior President of Tribunals.

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.

Outcome of the selection exercise

You will be advised of the outcome of your application in writing.

If you are unsuccessful at the interview 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 20 working days.

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.

Training

Newly appointed fee-paid office holders are not eligible to sit until they have attended and satisfactorily completed the initial induction course. During the course of their appointment, judicial office holders are required to undertake such further ongoing training as may be arranged and required by the Chamber President.

Further information

For further information about the selection process and the requirements of the CRA please consult our website www.judicialappointments.gov.uk

CONTACTS AND FURTHER INFORMATION

Obtaining an application form

All the information about applying for this selection exercise, including the application form which can be obtained electronically and downloaded, is available at 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 (contact details overleaf).

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 and selecting 'Submit your Application'.

The closing time for applications will be 12:00pm (noon) 17 December 2009 and applications must be received at JAC by that deadline. Late applications will only be accepted "exceptionally."

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 receive an acknowledgement, please contact the JAAS team by telephone or e-mail.

Contact details

1. JAAS

Reference: 00457 (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 Le-Bigot

0203 334 0321

Deputy Selection Exercise Manager

Jagdish Gandam

0203 334 0111

Selection Exercise Team Leader

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

Fax: 0203 334 0133

3. Director:

Sarah Gane

0203 334 0567

Tribunals Appointments &
Corporate Accounting and Planning

JAC NOMINATED REFEREES

In addition to candidate 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 the Asylum and Immigration Tribunal, the Resident Senior Immigration Judge.

If you sit on another Tribunal, the Tribunal President or equivalent.

If you are a Recorder, the Resident Judge, the Designated Civil Judge or the Designated Family Judge in the court(s) where you sit most often.

Professional referee

If you are a solicitor or an attorney, your managing partner or relevant equity partner.

If you are a barrister, your Head of Chambers or, if in Northern Ireland, your senior member of the Bar Library.

If you are an advocate, the Dean of the Faculty of Advocates (Scotland only).

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