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**Information Pack:**

00467: High Court 2010

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## INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the post of High Court Judge. The closing date for receipt of applications is noon on 25 March 2010. The JAC has been asked to select 10 candidates for appointment to the High Court from about October 2010. This selection exercise is to provide eight candidates for the Queen's Bench Division and two candidates for the Family Division. All posts will be based at the Royal Courts of Justice in London.

<b>Division</b>	<b>Specialism</b>
Queen's Bench	Crime – 2 vacancies
Queen's Bench	TCC – 1 vacancy
Queen's Bench	Commercial – 1 vacancy
Queen's Bench	Administrative – 1 vacancy
Queen's Bench	Employment – 1 vacancy
Queen's Bench	General QB – 1 vacancy
Queen's Bench	Defamation – 1 vacancy
Family	2 vacancies

The Lord Chancellor has agreed that all successful applicants will be guaranteed an offer of appointment. However, candidates are asked to note that the timing of any offer will be dependent on when posts become available. Those successful in this exercise are currently expected to be appointed from about October 2010 to 2012.

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 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.

## ARE YOU ELIGIBLE?

To be eligible for appointment as a High Court Judge you must meet the following requirements.

### **Statutory requirement**

Under section 10(3)(c) of the Senior Courts Act 1981, as amended by paragraph 13 of Schedule 10 to the Tribunals, Courts and Enforcement Act (TCE) 2007, no person shall be qualified for appointment as a puisne judge of the High Court unless that person -

- (i) satisfies the judicial-appointment eligibility condition on a 7-year basis; or
- (ii) is a Circuit Judge who has held that office for at least 2 years.

The Ministry of Justice has advised the JAC that in order to meet the statutory qualifications for appointment, a solicitor (or a salaried judicial office holder who was formerly a solicitor) must appear on the Roll.

The 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'.

### **Previous service in a judicial office**

The Lord Chancellor expects that, before being considered for salaried appointment, individuals must normally have served as a fee paid judicial office holder for at least two years or to have completed 30 sitting days since appointment in a fee paid capacity.

The JAC recognises that experience as a judicial office holder can provide a valuable insight into judicial life and help candidates for salaried posts decide whether a full time appointment is likely to suit them. This is particularly useful as by convention salaried judges do not return to practice.

The JAC therefore regards fee paid experience as a desirable, but not essential, criterion for salaried judicial office and this is consistent with the Lord Chancellor's policy.

### **Age**

There is no upper or lower age limit for candidates apart from the statutory retirement age of 70. It is the Lord Chancellor's policy that the age at which someone is appointed to the Office of the High Court must allow for a reasonable length of service before retirement, usually about five 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 recommend 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.

### **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 1995, 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 Lord Chancellor has accepted the recommendation made by the JAC.

## 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.

### **General**

2. The structure and jurisdiction of the High Court are governed broadly by the provisions of the Senior Courts Act 1981. There are three High Court Divisions – the Queen's Bench Division, the Chancery Division and the Family Division. It should be noted, however, that the jurisdiction of the High Court is indivisible in law and belongs to all Divisions alike.
3. Irrespective of the Division to which they are assigned, all Judges of the High Court possess equal power, authority and jurisdiction. Judges may be required to sit in a Division other than that to which they are assigned, as the business of the court demands. (The formal transfer of a Judge from one Division to another, however, requires the

consent of that Judge and a direction made by the Lord Chief Justice with the consent of the Head of the High Court Division which the Judge concerned is leaving).

4. The original jurisdiction of the High Court is usually exercised by a single Judge, sitting without a jury. Juries are occasionally summoned for certain classes of case, mainly defamation actions.
5. The High Court sits at the Royal Courts of Justice and at a number of provincial centres. High Court Judges of the **Queen's Bench** Division also sit in the Crown Court, at the Central Criminal Court and in normal circumstances can spend up to half their time sitting on Circuit; Family Division Judges also spend some time on Circuit. Such sittings can have an impact upon their working patterns. High Court Judges sitting in the **Queen's Bench Division** are routinely asked to sit in the Court of Appeal Criminal Division, determining applications for leave to appeal as the single Judge or as a member of the full court and determining appeals as a member of the full court.
6. Appointments to the **Family Division** may give a High Court Judge the opportunity to sit in a broad range of jurisdictions, for example criminal, civil, and the administrative court. Judges also carry out duties such as acting as Family Division Liaison Judges for Circuits, directing family training programmes at the Judicial Studies Board, Family Justice Council and Family Procedure Rules' Committee and sitting on a variety of government working parties and committees. Family Division Judges do not normally sit in the Crown Court.

### **Main Activities**

7. The main activities of a High Court Judge are as follows:

### **Preparing for Trial and Case Management**

- Reading and assimilating case papers before a hearing, or a trial, commences.
- The court is required to further the overriding objective of the case management procedures by actively managing cases. 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 any particular step 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 use of technology
  - ◆ Giving directions to ensure that the trial of a case proceeds quickly and efficiently.

### **Queen's Bench Division Judges sitting in the Crown Court**

- Conducting preliminary hearings to identify and to determine procedural issues
- Determining bail applications
- Playing an active role in determining the way in which the case is to be handled and, as appropriate, managing its progress from committal to sentence.

## **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 fairly as possible
- Promoting in each case the most expeditious dispatch of business which is compatible with the interests of justice
- Dealing with the case in ways which are proportionate:
  - ◆ to the amount of money involved;
  - ◆ to the importance of the case;
  - ◆ to the complexity of the issues; and
  - ◆ to the financial position of each party, and allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.
- Maintaining the authority and dignity of the Court
- Taking an accurate note of the relevant parts of the evidence
- Deciding issues of law and procedure which may arise during a case
- Summing up and directing a jury.

## **Sentencing**

### **Queen's Bench Division Judges sitting in the Crown Court**

- Sentencing convicted defendants according to the law and the circumstances of the case.

## **Judgment**

### **In the High Court**

- Deciding actions by finding facts, applying the relevant law to them and giving a reasoned judgment (which may be reserved, if necessary)
- 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, making possession orders and punishing for contempt or breach of court orders
- Supervising the wording of the judgments and orders of the Court.

## **Appeals and Applications**

### **Queen's Bench Division**

- **In the High Court:**
  - ◆ Hearing some appeals from Circuit Judges and appeals from Masters and District Judges
  - ◆ In Administrative Court cases, hearing applications for judicial review, appeals from lower courts by case stated, and appeals from tribunals.
- **In the Court of Appeal (Criminal Division):**
  - ◆ Determining applications for leave to appeal as the single Judge or as a member of the full court
  - ◆ Determining appeals as a member of the full court.

## Family Division

- **In the High Court:**
  - ◆ Hearing appeals from lower courts and tribunals, either alone or as a member of a Divisional Court of the Family Division.

## Other Work

Other duties may include, for example:

- **In the High Court:**
  - ◆ Determining applications for permission to appeal.

## Other Responsibilities

### Keeping abreast of legal developments

- High Court Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases which they are trying
- High Court Judges attend Judicial Studies Board refresher seminars and similar events.

### Other judicial and public duties may include:

- Some High Court Judges sit from time to time in the Employment Appeal Tribunal (and one High Court Judge serves as President of the Tribunal). In addition, Judges of the **Queen's Bench Division** serve as Presidents of the Immigration and Asylum Chamber and the Administrative Appeals Chamber in the new unified Tribunal structure
- High Court Judges may, if so requested by the Master of the Rolls with the agreement of their Head of Division, sit in the Court of Appeal (Civil Division) as additional Judges of that Court. **Queen's Bench and Family Division** Judges may also, if so requested by the Lord Chief Justice, sit in the Court of Appeal (Criminal Division)
- High Court Judges may from time to time serve on committees, inquiries and other bodies where the services of a senior member of the judiciary are required (e.g. the Parole Board, Judicial Studies Board, etc).

## Queen's Bench Division

- Under s.72(1)(3) of the Courts and Legal Services Act 1990, some High Court Judges are appointed by the Lord Chief Justice (with the agreement of the Lord Chancellor) to serve as Presiding Judges. The responsibilities of Presiding Judges include the exercise of broad supervision over the running of the courts on the Circuit to which they are assigned, the deployment of High Court and Circuit Judges in the Circuit and attending to the well-being of the Circuit judiciary.

## Family Division

- One Family Division Liaison Judge is appointed for each Circuit (with three for the London and the South East) to advise and assist in the proper listing and hearing of Family Division work on Circuit and to liaise with Family Judges and Magistrates concerned with family and domestic proceedings. Some Family High Court Judges may also be appointed to serve as Presiding Judges.

## Further Information

Further information relating to the jurisdiction of High Court Judges in the Queen's Bench and Family Divisions and their Terms and Conditions of Service is available on the JAC website ([www.judicialappointments.gov.uk](http://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 receipt of applications	Noon on 25 March 2010
Provisional period for selection days	8 to 21 June 2010

## 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 at selection day and will be available to Commissioners at the final selection decision stage.

### Candidate nominated

You are invited to nominate up to six 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.

## 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.

## 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 interview, which may include a short presentation. You will be assessed by the panel, augmented by senior judiciary with experience from the Division(s) you have indicated you wish to apply for in your Application Form.

Further details about the interview and any presentation will be sent with invitations 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 consultees will be the President of the Queen's Bench Division and the President of the Family Division.

## **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 these recommendations, or ask the Commission to reconsider. The Lord Chancellor may not select alternative candidates.

## **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 20 working days.

## **Medical examination**

You may be asked to undergo a medical examination before taking up appointment.

## **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 CRA 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'. Alternatively, you may submit a hand-written application form by post to the JAAS address below.

## Acknowledgement of your application

When you submit your application by our secure online application process you will receive an acknowledgement on your computer screen. Depending on your internet service provider or computer equipment this could take anything between a few seconds to several minutes. We recommend that you allow up to 5 minutes. You may also request an auto generated e-mail confirming successful receipt, by entering your e-mail address on the Application Form Submission page of the online application.

If you choose to submit your application by post you should receive an acknowledgement of your application within five working days of receipt.

In either case, if you do not receive an acknowledgement within the specified time periods stated above, it is essential that you contact the JAAS team by telephone or e-mail without delay.

You must retain a copy of the acknowledgement of your application.

## Contact details

### 1. JAAS

**Reference:** 00467 (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:** 020 3334 0123



# 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 are a Tribunal President, the Senior President.

If you sit on a 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.

If you are a Circuit Judge, the relevant Presiding Judge.

If a Deputy High Court Judge, the relevant Head of Division.

## 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