

KING'S COUNSEL SELECTION PANEL

Appointment Information

This document summarises key information about the King's Counsel Appointments Scheme and the requirements of its Selection Panel members.

Background

The Process for the selection and appointment of King's Counsel in England and Wales was developed by the Bar Council and the Law Society, with support from the (then) Department for Constitutional Affairs (now Ministry of Justice). The first competition took place in 2005-06 and the Selection Panel is now dealing with the seventeenth competition, which opened February 2023.

The award of King's Counsel is made for excellence in advocacy in the higher courts. Applicants are judged against a competency framework. To recommend appointment the Selection Panel must conclude that the applicant demonstrates excellence in the competencies in cases of substance, complexity or particular difficulty or sensitivity.

"Advocacy" includes both oral and written advocacy before the higher courts, arbitrations and tribunals and equivalent bodies. There is no specific requirement as to the amount of in-court or written advocacy, so long as there is sufficient evidence for the Panel to reach a conclusion as to excellence in respect to each of the competencies.

Apart from regulatory checks to be undertaken by the respective professional bodies, evidence is gathered from those who have seen the applicant in action, the applicant's self-assessment and summary of practice, and their answers at interview (if called). There are three types of assessor: judicial, practitioner (fellow advocates) and client (usually instructing solicitors).

The scheme is self-funding through applicant fees. Responsibility for the management and financing of the appointment scheme rests with the KCA Company, the Directors of which are appointed by the Bar Council and Law Society.

The level of applications varies from year to year, as does the number of appointments made on the recommendation of the Selection Panel. In the last three years there have been between 276 and 284 applicants, although the number was about 250 in the preceding years. Over recent years, the number of applicants recommended for appointment has been between 95 and 119.

Selection Panel

The Process is overseen by a Selection Panel, which is supported by its own small Secretariat. The Selection Panel comprises a lay (non-legally qualified) chair, four other lay members and six legally qualified members.

Panel Members' Duties

The Panel works in a collegiate manner, with all Panel members playing a full and equal part in discussion and decision-making. Panel members share the work as equally as possible, subject to the specific requirement for the Panel members to work in pairs of legally qualified and lay members ('Panel pairs'). The key tasks are to:

- Settle the Guidance for Applicants and the Guidance for Assessors each year;
- Set the criteria for the selection of assessors, from amongst those proposed by applicants, who are best placed to comment on an applicant's performance against a published competency framework;
- Provisionally grade applicants as part of a Panel pair; that is assess evidence from an applicant's self-assessment, summary of practice and assessments against the competency framework, and reach a view as to whether the competencies are sufficiently demonstrated to justify interviewing the applicant; and, if so, identifying lines of questioning to be addressed at interview;
- Interview applicants as part of a Panel pair and reach a view as to whether the applicant should be recommended for appointment;
- Collectively, as a member of the Selection Panel, review the provisional gradings and decide which applicants should be invited to interview;
- (As part of the Panel pair) Interview applicants and prepare a full note following the interview and record evidence to justify your recommendations and present this evidence to the full Selection Panel;
- Collectively, as a member of the Selection Panel, review the conclusions on each applicant, and settle recommendations for King's Counsel, and agree the Report to the Lord Chancellor and Secretary of State for Justice;
- Approve written feedback for applicants who are unsuccessful at any stage; and

- Contribute to the work and decisions of the Selection Panel and, if requested, act as a member of any Sub-Committee (e.g. Character Issues Sub-Panel).

The Selection Panel must command public confidence and as such Panel Members must act at all times in a way that does not undermine this confidence. Panel Members are required to maintain and contribute to the integrity of the appointments system and, in particular to:

- a. Act competently and in good faith at all times;
- b. Working within the agreed Process established by the professional bodies, and abide by decisions of the full Panel, by Panel policies and the policies of KCA;
- c. Observe the confidentiality of the process and individual applications and assessments;
- d. Co-operate with any investigation by the KC Complaints Committee (which deals with any formal complaints from applicants);
- e. Disclose to the Chief Executive any conflict of interest or connection which might appear to give rise to such a conflict. Panel members must also make a full declaration of interests when requested to do so; and
- f. Ensure that the principles of equal opportunities are fully observed.

All Panel members are subject to an appraisal process conducted by the Chair of the Selection Panel.

Panel members are asked to undertake that they will not, whilst a member of the Selection Panel or within five years of leaving the Panel, provide on a commercial basis any training or advice for prospective applicants for appointment.

Panel members are named on the KCA website (with a short biography) and identified in the application form.

Time Commitment

Each competition takes about twelve months. The Panel and the professions seek to follow a settled timetable for the annual competitions. Panel Members may be required to provide slightly varying numbers of days of service depending upon such factors as their availability and the allocation of cases (agreed by the full Selection Panel). As a general guideline, and based upon recent levels of applications, Panel Members can expect to work 35- 42 days during any competition. However, this number can be higher or lower depending upon the number of applications received and number of interviews held. The time commitment is not evenly spread throughout the year. Individual dates for interviewing are agreed with the Secretariat and other Panel Members.

In 2024, it is expected that grading will take place from late June-late August 2023 , interviews in late September and October 2024 and final moderation in early November 2024. This involves around 15 days' concentrated consideration of papers by Panel members for initial grading, a pre-interview meeting of 3 days (needing around 2-3 days' preparation), 10-12 days of interviewing, and final moderation meeting of 2-3 days (needing around two more days' preparation).

The dates for 2024 are:

- Tuesday 27 February – Panel Meeting (half day)
- Monday 13 or Tuesday 21 May – Grading Training (half day), optional for existing Panel Members
- Tuesday 25 June – Benchmarking (half day)
- Monday 16, Tuesday 17 and Wednesday 18 September - Pre-Interview Moderation
- Tuesday 24 September- Interview Training (half day)
- Monday 4, Tuesday 5, and Wednesday 6 November - Final Moderation
- Tuesday 3 December (half day) - wash up from the competition and Christmas lunch

Panel Members are expected to make every effort to attend Panel meetings. In addition, new Panel members can also be expected to spend some time on training and induction.

Location

Selection Panel meetings and interviews with applicants will take place at fixed times and places, but the bulk of work examining applications and assessments can be done to an extent at the Panel Members' convenience in their own homes or offices. All papers are online, and all grading work is done online/electronically. All information (and any hard copies) must be kept completely confidential (and securely held when not in use).

The office of the Secretariat is in central London. Selection Panel meetings are also held in central London. Interviews of applicants for appointment as KC will be held predominately in London, but a small number will be in Manchester.

Tenure

Appointments will initially be made for two competitions, those of 2024 and 2025. Appointments are renewable for a further period (to be agreed at the time), subject to balancing the needs to refresh the Panel and to retain established expertise, and your performance on the Panel, and normally subject to an overall maximum of five years' continuous service. In this context, 'competition' means from the point of

opening for applications to the submission of the report to the Lord Chancellor and settling the feedback to unsuccessful applicants.

Membership of the Panel will end on:

- a. The expiry of your term of appointment, unless membership is renewed;
- b. The resignation of the Panel member (by giving three months' notice in writing to the KCA Directors);
- c. A decision being taken by the KCA Directors to terminate the appointment as a result of gross misconduct or serious, knowing or repeated breach of the expectations made of Panel members;
- d. Physical or mental incapacity to undertake the work; or
- e. A decision by the Bar Council and Law Society to bring to an end the current arrangements for appointing King's Counsel (including winding up of the company).

The role of Panel members is to make decisions from time to time in relation to applications for appointment as King's Counsel. Nothing in this agreement shall render you an employee, worker, or partner of King's Counsel Appointments Ltd, nor its agent for any other purpose.

Remuneration

The current rate of remuneration for Selection Panel members is £840 a day (£105/hour). Attendance at Panel meetings and interviews is paid on a full day or half day basis as appropriate. Grading work and preparation for moderation meetings is paid on an hourly rate basis, with standard fixed allowances for each applicant considered. Reading time for ordinary meetings and travelling time is included in this rate and is not remunerated separately. The rate of remuneration is reviewed periodically. Panel members are also paid reasonable travelling and other expenses incurred necessarily as a result of their work as a member of the Selection Panel. The Chief Executive, currently Hannah Miller, can provide a fuller note of payment arrangements.

November 2023