

TECBAR

CHANCERY BAR 

combar
The Commercial Bar Association

THE SILK APPLICATION & LIFE AS A JUNIOR SILK

A Panel Discussion
1 February 2023

KC
King's Counsel

TODAY'S PANEL

Mrs Justice Joanna Smith DBE (Silk 2009) – Chancery, 2020

Monisha Shah – Chair of Selection Panel, KCA

Dame Anne Rafferty – KCA

Alex Troup KC Elect (Silk 2023) – St John's Chambers

Victoria Windle KC (Silk 2022) – Blackstone Chambers

Serena Cheng KC (Silk 2017) – Atkin Chambers

Chair: Nicola Rushton KC (Silk 2018) – Hailsham Chambers

THIS EVENING

- **Key resources**
- **Brief** overview of the key parts of application
- **Panel discussion – Q&A**
 - Deciding whether to apply
 - Do I have the cases?
 - Approaching assessors
 - Getting ready
 - Diversity
 - Life as a junior silk

KEY RESOURCES

<http://www.kcappointments.org/>

APPLICATION FORM

GUIDANCE ON: '12 cases' ; Assessments; Competencies

PROFILES OF NEWLY APPOINTED QCs: 2017 to 2021

REPORT ON PREVIOUS YEAR COMPETITION

SUCCESSFUL APPLICANTS' FORMS and CASE TABLE



OVERVIEW OF THE KING'S COUNSEL APPOINTMENTS PROCESS

- The process for appointment of KC's is carried out by a Selection Panel, supported by a secretariat.
- The framework within which the competition runs is set by the Bar Council and the Law Society.
- The Selection Panel currently comprises:
 - Two judicial members
 - Two barristers
 - Two solicitors
 - Five lay members, including the Chair of the Panel
- Further information on the Panel and its work can be found at www.kcappointments.org
- We expect the 2023 competition to open by mid February and be open for applications for six weeks.



“EXCELLENCE”

- The KC process is designed to appoint those who demonstrated excellence in advocacy.
- However, applicants must demonstrate excellence across all four competencies:
 - Competency A – Understanding and Using the Law
 - Competency B – Written and Oral Advocacy
 - Competency C – Working with Others
 - Competency D – Diversity Action and Understanding
- Assessment is competency based.
- Evidence must be drawn from cases of ‘substance, complexity or particular difficulty or sensitivity’.



LIST OF CASES

- 12 cases from the past three years.
- If you cannot provide 12 cases please explain why on your application form.
- If you need to go back further than three years, please explain why – bear in mind that the further back you go the higher the likelihood that your assessors' memories may have faded.
- Cases of substance – should be cases which present “unusual, novel or unforeseen complexities or have consequences beyond the case”.
- If you need to include less substantial cases, these may be given less weight by the Panel.



ASSESSMENTS

FROM THE 12 CASES:

- **12 JUDICIAL ASSESSORS**
 - Not just High Court or more senior judges, includes arbitrators / tribunal chairs
 - Panel takes 4 assessments including 1 nominated by applicant
 - Unless no judge involved (e.g. settlement negotiations)
- **12 PRACTITIONER ASSESSORS**
 - Barristers – leading or opposing counsel
 - Panel takes 3 assessments including 1 nominated by applicant
- **6 PROFESSIONAL CLIENT ASSESSORS**
 - “*at least six*” – instructing solicitors, legal counsel, client proxies, TSol
 - Panel takes 2 assessments including 1 nominated by applicant
- **DO** approach potential assessors and let them know that you plan to list them.
- **DON'T** draft something for them or ask if they've been approached.



OTHER INFORMATION REQUIRED

- **Self Assessment** – Your opportunity to speak directly to the Panel and advocate for yourself.
- **Description of Practice** – Helps the Panel to understand the context for your application.
- **Consultants and Coaches** – The application form is about you speaking to the Panel. We can tell when someone has filled it in on your behalf!



COMPETENCIES

The Selection Panel judges applications against five competencies:

- **Competency A: Understanding and Using the Law** – requires applicants to have up to date knowledge but also the ability to become familiar with new areas of law quickly and reliably.
- **Competency B: Written & Oral Advocacy** – requires evidence of developing or advancing a case to secure the best outcome in the dispute. Must have some evidence of oral advocacy.



- **Competency C: Working with Others** – requires evidence of establishing productive relationships and demonstrating expected behaviours.
- **Competency D: Diversity Action and Understanding** – requires a good understanding of diversity and inclusion issues as well as proactivity. Do not have to rely on cases for this competency, can bring in evidence from other areas of your life and work.
- **Competency E: Integrity** – considered satisfied unless there is evidence to the contrary.



COMPETENCY BASED PROCESSES

Both the application and interview are competency based.

The Panel is looking for evidence, not assertions or comparisons:

- “I demonstrated my ability to find novel ways of applying the law in X case where I was able to present a new interpretation of Y legislation, which was accepted by the judge who found in my client’s favour” **as opposed to** “I am able to find novel ways to use the law”,
- “I am experienced in going up against established silks, such as in the case of X where I...” **as opposed to** “I am more successful than X who is already a silk”



THE “STAR” APPROACH

The STAR approach can help applicants to formulate competency based answers:

- **Situation:** this is the background and context of the situation – the who, what, where and when. It is important to focus on a specific example. You do not need to go into full detail of the case or situation: focus on the elements which speak to the substance, difficulty or unusualness of the matter.
- **Task:** set out what your responsibility was in the situation and what was required, including (if applicable) taking responsibility on your own initiative
- **Action:** how you completed the task or tried to meet the challenge. Focus on what you did, rather than what others did. This is the more important part of your answer and should be about actions you took, focussed on the defined competence.
- **Result & Reflection:** outline what changed. Your focus should be on what you accomplished for your client or to advance justice, and what you learnt, rather than listing all the actions of other parties



THE INTERVIEW

- **WHO:** one lay and one legal member.
- **WHAT:** a 35-50 minute interview covering competencies A-D.
- **WHEN:** mid September to mid October.
- **WHERE:** Central London or Manchester.
- **REMEMBER:**
 - Ensure you know your case details and have refreshed your memory of all of the information on your form.
 - Make use of mock interviews.
 - Use the STAR technique.

DECIDING WHETHER TO APPLY

PANEL VIEWS

- TOO EARLY? TOO LATE?
- ARE YOU READY FOR THE ROLE?
- SPEAKING TO YOUR CLERK - BEST TIME FOR YOUR PRACTICE
- DO YOU HAVE THE 12 CASES?
- GENDER IMBALANCE / DIVERSITY FIGURES

MAKING THE APPLICATION

PANEL VIEWS

- BEGINS WITH GETTING SIGNIFICANT CASES
- EXPOSURE TO ASSESSORS – ADVOCACY
- MIX OF HIGH COURT AND ARBITRATION
- LED OUTSIDE CHAMBERS
- YOUR CLERK’S ROLE?
- GATHERING YOUR EVIDENCE – CASE TABLE (see example)
- USING A CONSULTANT
- SPEAKING TO PREVIOUS APPLICANTS
- APPROACH TO ASSESSORS
- TIME TO COMPLETE FORM – DAYS/WEEKS

DIVERSITY ACTION & UNDERSTANDING

(Competency D)

PANEL VIEWS

Demonstrates an understanding of diversity and cultural issues, respects the needs and cultural wishes of others and is proactive in addressing the needs of people from all backgrounds and promoting diversity and equality of opportunity.

Examples:

- Is aware of the diverse needs of individuals resulting from differences in gender, sexual orientation, ethnic origin, age and educational attainment and physical or mental disability or other reason, and responds appropriately and sensitively.
- Is aware of the impact of diversity and cultural issues on witnesses, parties to proceedings and others as well as on own client, and adjusts own behaviour accordingly.
- Takes positive action to promote diversity and equality of opportunity.
- Understands needs and circumstances of others and acts accordingly.
- Confronts discrimination and prejudice when observed in others; does not let it pass unchecked.
- Acts as a role model for others in handling diversity and cultural issues.

NOT CONFINED TO THE 12 CASES

LIFE AS A JUNIOR SILK

PANEL VIEWS

- RUN OFF OF LEGACY CASES
- IN COURT/HEARINGS / PAPERWORK
- 'THINKING TIME'
- LEADING JUNIORS
- FINANCIAL IMPLICATIONS OF APPLYING
- COMPETITION FOR WORK IN SILK

CHANCERY BAR 

combar
The Commercial Bar Association

TECBAR

KC
King's Counsel

Thank you

GOOD LUCK!