

## GUIDANCE FROM QC APPOINTMENTS

We have raised with QCA issues that concern a number of members considering applying for silk and the following informal guidance has been provided.

**1. Status of judicial assessors – are judicial referees below High Court standing treated as being of lesser weight?**

In the first place, it is important that the cases in respect of which assessments are sought are cases of substance or complexity. Secondly, the Panel are naturally likely to place a little more weight on assessments from assessors who have good experience of what is expected of silk than on assessments from those with little experience or knowledge of that. But that does not mean that applicants must have assessments from High Court or more senior judges to succeed. Last year, 15 of the recommended applicants had no assessments from judges who were or had been judges in the High Court or above.

**2. Written advocacy – how much weight is placed on this?**

The Panel considers written and oral advocacy separately before coming to a conclusion on advocacy overall. It is not necessary to achieve the highest grade on both written and oral advocacy in order to achieve the highest grade on advocacy overall, and nor is the mark on advocacy overall a simple averaging of the mark on the two aspects. The weight the Panel gives to written and to oral advocacy respectively varies with the nature of the applicant's practice. Although, as the guidance makes clear, some evidence of excellence in oral advocacy is required if an applicant is to be recommended for appointment, for applicants working in fields where there is comparatively little call for oral advocacy, written advocacy is likely to be given more weight than oral.

**3. Long running unfinished cases – are these suitable?**

There is no automatic disadvantage to using unfinished cases, although obviously assessors can only comment on what has been done, so an applicant would want to be sure that what they had already done in a case (or would have done by the time assessments are sought in May) would be of sufficient substance or complexity as to be of benefit to them. We have sometimes seen reluctance from judicial assessors from international tribunals to comment on unfinished cases, but that does not appear to be a problem in England and Wales.

**4. Assessments from Members of the same Chambers – are these always of lesser weight?**

It would not be right to say that assessments from members of the applicant's own chambers are automatically given less weight, but they may perhaps be treated with more caution. Having said that, the Panel recognises that in some areas of law there are comparatively few sets of chambers regularly involved, and that it may thus be difficult to avoid giving members of the applicant's own chambers as assessors. There is no prohibition on that, nor any fixed limit on the number of "same chambers" assessors

---

regarded as acceptable, but the Panel has instructed the office that when selecting assessors they should make sure wherever possible that at least two of the practitioner assessors selected are not from the applicant's own chambers.

Would-be applicants are reminded that the deadline for entries in this year's competition is **17:00 on Tuesday, 15 April 2014.**

