

## Annex B

### NOTES TO APPLICANTS WISHING TO APPLY FOR SELECTION AS QUEEN'S COUNSEL

The purpose of this guidance is to explain the Queen's Counsel selection process. It outlines the eligibility requirements, the application form and the procedure before the Advisory Committee. The guidance consists of the following parts:

- General Information: which sets out the information that you need to take into account when making an application and completing the application form.
- Evidence of the history and nature of your practice, which relates specifically to identifying you as a practitioner, and your competencies, areas of practice and specializations and attempts to undertake a more forensic examination of your contribution to the legal profession of your jurisdiction.
- Guidance on the handling of issues of character or professional conduct. This will help you to decide whether an issue is material to your application and needs to be disclosed.

#### A **General Information**

1. Any legal practitioner wishing to apply for appointment as Queen's Counsel must do so by completing an application form and sending it to the Eastern Caribbean Supreme Court [ECSC] together with curriculum vitae by the 15<sup>th</sup> of January in the year of appointment.

The protocol provides as follows:-

- (i) Any person seeking to apply for appointment must ensure that a fully completed application form is submitted to the ECSC by the 1<sup>st</sup> of June in the year of appointment. Protocol 4.1 and 4.2 provide for the consideration of applications biennially of applications received on or before the 15<sup>th</sup> of January in the year of appointment. **All applications should be typed.**
- (ii) The applications are considered by the SILK Advisory Committee, the members of whom are to be appointed no later than the 15<sup>th</sup> of February in the year of appointment. The Chief Justice shall ensure the publication of the members of the committee as soon as possible after their appointment. (See Protocol 6.3)
- (iii) Should you wish to have a member of the committee recuse him or herself, you must do so within 14 days after the publication of the committee on the website of the Eastern Caribbean Supreme Court providing sound justification for your request. There is no obligation by the Chief Justice to grant the request.
- (iv) The committee's shall on conclusion of its deliberations submit its report to the Chief Justice for consideration.
- (v) The Chief Justice shall announce at the opening of the law year in the year of appointment those applicants appointed as Queen's Counsel. The Chief Justice shall further cause the names of those appointed as Queens Counsel to be posted on the Supreme Court website,
- (vi) The application fee is \$6000.00 made payable to the Eastern Caribbean Supreme Court. On a successful application, a further fee of \$4000.00 is payable.

## **B PROVIDING EVIDENCE OF YOUR HISTORY AND PRACTICE**

1. This part of the form is to provide the Advisory Committee with a concise overview of your practice.
2. The Advisory Committee would expect to see mention, in the summary description of practice section (b) (c) (d), the area of law in which you regularly practice and where you think you have developed knowledge as a specialist. You may wish to identify case law that you were involved in that identifies that specialist capacity. You should set out the most important cases in the past five years. 'Important' here refers to the weight you attach to the cases, bearing in mind their significance, how recent or substantial they were, the extent of your involvement, and the degree to which others involved in the case will be able to comment effectively on your demonstration of the competencies. If you need to go back further than the last five years you may.
3. The information provided here should be factual and not evaluative.
4. Include in your summary at (a)
  - What you consider are your specialism(s) and what proportion of your professional time these represent
  - What is your practice area and in which court or jurisdiction do you regularly appear?
  - If your practice extends outside your jurisdiction or the OECS, please detail.
  - An overview of the main types of cases you have been involved with in the last two years.
  - The frequency with which you attend court as an advocate.
  - How often you lead or are led.

- If you normally appear in a particular role - e.g. Prosecution/ Defence.
- Indicate if appropriate your typical client
- Any reasons why your practice in the last few years may have been atypical.
- Any other relevant factual information. .

5. You should omit from your summary:

- References to you in legal directories or elsewhere.
- Assertions about your standing or reputation in the profession.
- Details of your earnings.

6. The references you name in your application form should overwhelmingly be those who can speak to your demonstration of the competencies in the cases you have named in the summary description of practice. [N.B. referees named should be persons who can be relied on to provide a report which will assist the committee in their assessment]

7. The Advisory Committee is also looking for evidence of your demonstration of competence in cases of substance, complexity, or particular difficulty or sensitivity, generally in relation to the law of your jurisdiction. The part of the form is also intended to help you present this effectively and succinctly. It does this by inviting you to provide:

- A summary description of your practice;
- Your self-assessment of your demonstration of each of the competencies in such cases; [N. B. self-assessment should provide examples of your performance in each category of the qualities specified as essential criteria.]

8. The summary description of practice is your opportunity to speak directly to the Advisory Committee who has no knowledge of your

experience, to ensure that they have a clear picture of your practice and to show how well you meet the competencies.

9. To merit recommendation for appointment your competence as a practitioner must be demonstrated to a standard of excellence. In general, the selection committee is looking for the demonstration of the competence in cases of substance, complexity, or particular difficulty or sensitivity. Therefore, you will find it helpful to identify such cases which you have been involved in before beginning to fill in the application form.

10. The question whether a case is one of substance, complexity or particular difficulty or sensitivity involves the use of judgment, and the considerations may vary from practice area to practice area. Some examples may be but are not limited to :-

- A case that the judge described as important or complex, or as involving matters of substance, difficulty or sensitivity;
- A case that has been reported in a law reports;
- A substantive appeal before the Court of Appeal;
- A test case on a point of law, or one that sets a precedent;
- A planning or other public inquiry of national importance or raising complex issues of law;
- A case that has attracted detailed press interest.

11. You should also be aware that simply participating effectively in such a case does not of necessity denote excellence. In considering excellence the selection committee will have regard to the nature of the case, and your role in it, and the degree of challenge the circumstances presented and how you dealt with them.
12. You are also required in that part of the form to demonstrate contribution you have made to the overall jurisprudence of your jurisdiction, and to show what contribution you have made to the social advancement of your profession and community.

### **C Character and Professional Conduct**

1. The Advisory Committee will consider an issue of character only where it would affect the decision whether or not to recommend an applicant for appointment. In other words, the committee will assess your application based on the history and nature of practice including career history, summary description of practice, and self assessment alone, without regard to any matter disclosed under the section "Character and Professional Conduct". Only if it appears that you meet the required standard of excellence and should be recommended for appointment will the committee consider whether there is any issue of character sufficiently serious to have a bearing on such a recommendation.
2. **Professional conduct and integrity checks**
  - (i) In accordance with the process, the secretary will send lists of all applicants to senior members of the judiciary and to the relevant professional body with responsibility for professional conduct of the profession and for criminal record history.

- (ii) If any matters of concern are identified that you had not disclosed, you will be contacted and these issues put to you, so that you have an opportunity to provide an explanation to the committee. If a finding or complaint is disclosed which you have not disclosed in your application form, the secretary will write to you to give you an opportunity to address in writing (a) the question of non-disclosure and (b) the materiality of the finding or complaint to your application.
  
- (iii) You should disclose any other matters not covered by the categories but which a reasonable person would regard as material to your application, having regard to the general criteria mentioned above. An example of such a matter would be a foreign criminal conviction or an order of a court or tribunal outside of the OECS.

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Hon. Hugh Rawlins  
Chief Justice  
Eastern Caribbean Supreme Court