



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

THE RIGHT HONOURABLE THE LORD BURNETT OF MALDON

By email: All judges of the High Court
Key Interested Parties

16 November 2018

Selection for Appointment to the Court of Appeal 2019

On **19 November 2018**, an exercise will be launched to select new members of the Court of Appeal to take up appointment from Summer 2019 onwards.

This email is to alert you to the exercise should you wish to apply and to outline the eligibility requirements. If you do not intend to apply but know of potential candidates, the panel asks for you to pass on this information as you see fit. Please note that applications will close on **3 December**.

Candidates are qualified for appointment as Lord or Lady Justices of Appeal if they satisfy the judicial appointment eligibility condition on a seven-year basis, or they are judges of the High Court.

Candidates for the Court of Appeal must be of outstanding ability and will be expected to have directly relevant previous judicial experience, save in exceptional circumstances. The meaning of "directly relevant experience" is sitting as a judge in a higher court, with substantial experience of hearing complex and demanding cases.

In this exercise, the panel expects to fill up to **5** vacancies. It may be advantageous for applicants to have expertise in one or more of the following areas: Crime, Public Law, Business Law and Intellectual Property, but there is no guarantee that a candidate with one of those specialisms will be appointed.

Candidates will be expected to demonstrate:

- Being an outstanding lawyer;
- The ability to deliver excellent ex tempore and written judgments expeditiously;
- An understanding of the diverse communities using the CA;
- An understanding of the impact of law on society;
- The ability to shape and develop the law;
- The ability to work efficiently and effectively in and out of court;
- The ability to work well with colleagues, officials, court users and staff.

Some candidates will also be expected to show ability to take on leadership roles.

The job description is attached at **Annex A** and applicants should read this alongside the criteria outlined above when writing their letter of application.

I will chair the selection panel which will comprise Sir Terence Etherton, Master of the Rolls; Professor Lord Kakkar, Chairman of the Judicial Appointments Commission (JAC); Ms Jane Furniss CBE, Lay Commissioner of the JAC and Professor Emily Jackson OBE, Professor of Law and former JAC Lay Commissioner.

Candidates who wish to apply should visit the JAC website <https://www.judicialappointments.gov.uk> from 13:00 on 19 November. Full details of the process, eligibility criteria, information pack and how to apply will be available to download from the JAC website once the exercise has launched.

Thereafter, in outline:

- As soon as possible and by **23 November**, candidates should email their intent to apply to the JAC. After this date, further applications can be accepted but the panel cannot guarantee it will have their assessments in time for shortlisting.
- By **3 December**, candidates should submit to the JAC their letter of application and a consent form for agency checks.

Please do not hesitate to get in touch with the Panel Secretary on 0203 334 6376 if you require further information or wish to discuss any matter in confidence.

A handwritten signature in black ink, appearing to read 'Lord Burnett of Maldon', written in a cursive style.

LORD BURNETT OF MALDON



JUDICIAL OFFICE

Lord/Lady Justice of the Court of Appeal

Job Description

Purpose of Office

1. The purpose of judicial office is to administer justice in accordance with the laws of England and Wales.
2. Court of Appeal Judges swear the judicial oath (or affirm) that they "will well and truly serve our Sovereign Lady Queen Elizabeth the Second in the Office of a Justice of Her Majesty's Court of Appeal ... and do right to all manner of people after the laws and usages of this Realm without fear or favour, affection or ill will".

General

3. The structure and jurisdiction of the Court are governed broadly by the provisions of the Senior Courts Act 1981. There are two Divisions of the Court of Appeal – Civil and Criminal – family cases are heard in the Civil Division. The Civil Division hears appeals from all three Divisions of the High Court, the County Court, the Family Court, the Upper Tribunal and the EAT. The Criminal Division hears appeals from the Crown Court.
4. All Judges of the Court of Appeal possess equal power, authority and jurisdiction. Lord/Lady Justices normally sit in panels of three, and the decision of each judge carries equal weight so that a dissenting judgment may be issued (though they are almost unknown in criminal appeals). Court of Appeal Judges will often sit with High Court and Circuit Judges in the Criminal Division and with High Court Judges in the Divisional Court. They may, less frequently, sit with High Court Judges in the Civil Division.
5. The jurisdiction of the Court of Appeal is usually exercised by three judges, with the most senior judge presiding.
6. The Court of Appeal Civil Division sits at the Royal Courts of Justice, for at least two weeks of the year in Cardiff and from time to time in other major regional centres. The Court of Appeal Criminal Division sits at some major cities out of London from time to time.

7. Occasionally Court of Appeal Judges will be asked by the Lord Chief Justice or the Master of the Rolls to sit in a first instance court to hear a particularly important or complex case.
8. Appointments to the Court of Appeal provide the opportunity to sit in a broad range of jurisdictions and legal disciplines. Court of Appeal judges are routinely expected to hear cases across the spectrum of the law, although they are often called on to sit and lead on cases in areas of law in which they have particular expertise. Many cases in the Court of Appeal involve complex questions of law – civil appeals often take a day or two, and exceptionally last for longer than a week. Criminal appeals tend to be disposed of more quickly-. For example, eight or more sentencing appeals may be determined in a single day, although there are occasionally long appeals against conviction.

Leadership responsibilities

9. All Court of Appeal Judges have responsibility for leadership by personal example and contributing to an effective use of judicial time and resources. Specifically Court of Appeal Judges are expected to:
 - Act as a judicial figurehead and build effective relationships with other branches of the judiciary and government;
 - Work to improve judicial performance to ensure it can meet existing and future needs; and
 - Maintain and improve efficiency.
10. Some Court of Appeal Judges will also carry out a wide range of administrative and judicial duties such as:
 - Vice-President of either Division of the Court;
 - Deputy Head of Civil, Criminal or Family Justice;
 - Chair of Committees or Councils;
 - Chair of the Judicial College;
 - Chair of the Law Commission;
 - Vice Chairman, Judicial Appointments Commission;
 - A Supervising Lord Justice, responsible for the work of the Court of Appeal (Civil Division) within a particular area of work;
 - Officially representing the Judiciary (or the Lord Chief Justice) on European or other international associations; and
 - Drafting consultation responses on behalf of the Heads of Division

Other judges are nominated for particular roles – e.g. helping to review complaints made against judges.

11. Court of Appeal Judges undertake representation of the judiciary at major conferences, including international representation. They will give lectures to professional audiences on questions of and developments in the law.

Main Activities

12. The main activities of a Court of Appeal Judge are as follows:

Pre-hearing and Case Management responsibilities

- Determining permission to appeal applications on paper in the Civil Division, or renewed applications in both Divisions for permission to appeal at oral hearings, at which ex tempore judgments are usually given.
- Giving case management directions on hearings, listing, timing, constitutions, linked appeals and test cases etc.
- Reading and assimilating case papers before a hearing commences.

Presiding over Court Proceedings

- Controlling (in accordance with the relevant law and practice) the manner in which cases are conducted
- Ensuring, insofar as is possible, 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
- Deciding issues of law and procedure which may arise during a case

Judgments

- Writing judgments on appeals (which are often complex) – usually one of the three judges in a constitution will be responsible for writing the lead judgment in an appeal in civil cases. Extensive discussions will be needed between judges on some cases and on draft judgments.
- Determining applications for permission to appeal.
- Supervising the wording of orders of the Court.
- In conviction appeals and significant sentence appeals, the judgment is often written by the Lord Justice who has presided.
- Ensuring, unless there are exceptional personal or case-related circumstances, that reserved judgments are completed within three months of the final hearing day.

Other Responsibilities

Keeping abreast of legal developments

- Court of Appeal Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases which they are hearing.
- Court of Appeal Judges are expected, from time to time, to attend Judicial College after-court seminars for the senior judiciary and similar external training events.

Other judicial and public duties may include:

- Some Court of Appeal Judges are asked to sit from time to time in first instance courts, most commonly the Administrative Court or the Upper Tribunal.
- Court of Appeal 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. This can include major public inquiries of very high profile matters of public interest.

October 2018