
JUDICIAL APPOINTMENTS
COMMITTEE – RULES AND
GUIDELINES

Rules and Guidelines

Approved by the Judicial
Appointments Committee on the 10
November 2020

JUDICIAL APPOINTMENTS COMMITTEE – RULES AND GUIDELINES

November 2020 Edition

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1. Introduction

The Judicial Appointments Committee

1. Article 96A of the Constitution establishes the Judicial Appointments Committee (the “JAC” or “Committee”), and regulates its composition, powers, and duties.
2. The JAC has an important advisory role in the selection process of all persons who are appointed to a judicial office, as the body which is bound by the Constitution to advise the President of the Republic on appointments to judicial office.
3. Any person who satisfies the criteria of having practiced law for the period established in article 96 of the Constitution may express an interest in occupying judicial office and may therefore apply for such office. An application is evaluated by the JAC and a list is then maintained of those persons who are “recommended” by the JAC in a register maintained by the Secretary, Judicial Appointments – the Judicial Appointments Register. The Judicial Appointments Register is accessible only to the members of the JAC.
4. The JAC’s principal role and duty is to evaluate all candidates for judicial office and to make recommendations to the President, through a report on three candidates for each appointment. Pursuant to the provisions of article 96A (8) of the Constitution, and to ensure transparency in the evaluation process, the JAC has established the following rules and guidelines that shall regulate the manner in which it shall conduct the process; the criteria for evaluation of candidates for judicial office; and the deliberations it considers relevant in making its evaluation and subsequent recommendations to the President. The JAC has also developed guidelines entitled “Guidance on Good Character - Suitability and Integrity” that further set out the nature of the assessment of any character issues declared by an applicant in his applications form. The JAC will consider any relevant character issues by applying that guidance and their own discretion and judgement. That Guidance is to be considered an integral part of the overall guidance to applicants and any references in this document to this Guide shall be construed as a reference to this document and any other guidance provided from time to time by the JAC.
5. The JAC shall at all times be guided by the provisions of Article 96B (2) of the Constitution in evaluating candidates for judicial office.
6. These rules and guidelines shall continue to be revised on the basis of ongoing operational experience and statutory changes. This Guide describes the process with revisions to date and is intended for those interested in submitting their candidacies for appointment, or in nominating others as candidates.
7. This Guide applies to the appointment of judges to the superior courts and magistrates in the inferior courts of Malta. Candidates applying for such offices are to carefully read this document and familiarize themselves with its contents and the contents of the 2020 Questionnaire and the guide to completing that questionnaire.

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IMPORTANT:

8. The application process and required documentation were recently updated in November 2020.
9. All candidates seeking a judicial appointment MUST submit their application either for eligibility as a magistrate or a judge but not both at the same call for applications using the 2020 Questionnaire, Authorization Form, and Background Check Consent Form pursuant to the new application process. **Those candidates whose application has already been approved under the old committee prior to that date have to reapply if they wish to be considered for a judicial vacancy.**
10. No letters of reference or separate *curriculum vitae* are to be furnished.
11. For the convenience of prospective candidates, and until the JAC develops its own website it has made available on the website of the Ministry for Justice, Equality and Governance and of the Chamber of Advocates, the necessary forms to assist candidates in submitting their candidacy. Before completing and returning these forms, a prospective candidate should familiarize himself/herself with all the sections in this Guide and any other guidance that may be published by the JAC from time to time
12. Application Packages will be reviewed by the JAC in order of receipt. It is the responsibility of the candidate to ensure that his or her Application Package is complete and that all materials have been successfully delivered to the JAC. Incomplete Application Packages may not be considered by the JAC.
13. In order to respond to the urgent needs of a court and to ensure the proper administration of justice, the order in which applications are assessed may be changed in exceptional circumstances.
14. Any inquiries for additional information should be addressed to:

The Secretary,
Judicial Appointments Committee
The Law Courts
Republic Street
Valletta - MALTA
Tel. 00 356 25902217

2. Important notice to candidates

1. Anyone considering a judicial appointment should have as much information as possible on what becoming a judge or a magistrate entails, and should enter upon the responsibilities of judicial office only if he or she is fully prepared to accept the substantial changes which it will bring, not just to the judge's own life, but to the lives of the members of his or her family.
2. The decision to seek and to accept a judicial appointment should be taken only after full consultation with all those who will be intimately affected by the changes it will bring. As well, while some training will be provided to new judges or magistrates, and continuing

professional development is available, judges and magistrates are by and large on their own.

3. The independence of the judiciary both isolates the individual judge and/or magistrate from former associations to avoid the possibility of conflict of interests and imposes upon a judge and/or magistrate the highest standards in performing the duties and responsibilities of judicial office. It requires that each judge or magistrate devotes himself or herself exclusively to the duties of the judicial office, and not engage in any outside business or activity. The range of activities that are available to a practicing lawyer is therefore severely curtailed upon appointment to the bench. It is accordingly essential that any person wishing to apply for judicial office should be and be seen to be, free of any political or other affiliations that may cause the applicant to be perceived as having any form of bias or potential conflict of interest. Moreover, it is important that to avoid, or at least mitigate the possibility or perception of conflict of interest and further promote judicial independence a cooling off period ought to be allowed between the date when affiliations are severed and the date when a recommendation to take-up judicial office is made. **No Applicant shall be recommended for judicial office by the Committee unless at least 12 months would have lapsed from the date when all political and other affiliations have been severed and the date of the report to the President making a recommendation.**
4. Once appointed, judges and magistrates are expected to comport themselves so that no criticism attaches to their office. The judge or magistrate is not permitted to engage in public debate on any of his or her decisions and should avoid expressing personal opinions on major social issues which might lead to an apprehension of bias when such issues come to be adjudicated by the courts. When a judge or magistrate performs his or her duties in a way that falls short of the standards expected of the Bench, or where the personal life of the judge or magistrate intrudes upon his or her judicial duties, a complaint may be made to the Commission for the Administration of Justice. The Commission has a statutory mandate to investigate all complaints and allegations of misconduct on the part of appointed judges and magistrates and to recommend whether there are grounds for removing a judge or magistrate from office.
5. All who aspire to judicial office should, first and foremost, show the respect that the office to which they aspire deserves and which they would expect the general public to manifest towards that office. They should also be aware that their responsibilities will include not only the fair and just application of the law but the maintenance of the high reputation of the judiciary as a whole. Candidates should therefore be prepared to make full disclosure of any matter that would reflect upon their ability to perform the functions of judicial office, or upon the credibility and repute of the judiciary as a whole.

3. Ethical Standards

Prospective candidates are to be familiar with the provisions of The Code of Ethics for Members of the Judiciary drawn up by the Commission for the Administration of Justice in terms of paragraph (d) of sub-article (11) of Article 101A of the Constitution of Malta.

4. Expression of interest and eligibility

1. Any person having the appropriate qualifications and who wishes to be considered for appointment as a judge of a superior court or a magistrate must apply to the JAC by completing the following:

1.1 Questionnaire - this provides the basic data for the subsequent assessment of the candidate by the JAC. Candidates should ensure that this form is completed in full and in accordance with the instructions provided. All information received is treated confidentially.

- (a) The Questionnaire is designed to provide the basic data for the Committee's assessment of a candidate for judicial appointment. In addition to the usual information which is found in a *curriculum vitae*, it includes information on both the candidate's legal and non-legal work history, other professional responsibilities, community and civic activities, a description of the qualifications for appointment, essay questions and personal matters such as the candidate's health and financial situation. Candidates are also asked to provide any other information which is relevant to the application, and which might assist the Committee in its assessment.
- (b) The Questionnaire for Judicial Appointments must be completed in full by each candidate.
- (c) Particular attention must be paid to the "Personal and Other Matters" section of the Questionnaire which will be treated as strictly confidential. Any matter listed there by the candidate which raises concern should be investigated fully as part of the Committee's assessment. If additional information is required from the candidate, the Secretary should be asked to obtain it.

1.2 Authorization Form - this allows the Secretary to obtain a statement of the applicants' current and past standing and whether the candidate has any past or current disciplinary proceedings in front of the competent authorities.

1.3 Background Check Consent Form - allows the JAC, through the Secretary, to conduct personal and professional background checks.

2. An original and seven (7) copies of the completed forms should be sent to:

The Secretary,
Judicial Appointments Committee
The Law Courts
Republic Street
Valletta - MALTA
Tel. 00 356 25902217

3. In addition to candidates themselves, members of the legal community and all other interested persons and organizations are invited to identify persons they consider qualified for judicial office. This can be done in writing to the address above to the

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attention of the Secretary, Judicial Appointments Committee. Nominees will be contacted by the Secretary to ascertain whether they wish to be considered for a judicial appointment. If so, they will be invited to submit an application package including the Questionnaire and all necessary supporting documents.

4. The statutory qualifications for appointment are set out in the Constitution. As a basic requirement the Constitution requires at least 12 years of practice at the Bar for an appointment as Judge of the Superior Courts and at least 7 years of practice at the Bar for appointment as a magistrate of the inferior courts. Appointments are accordingly open to all persons who meet these minimum qualifications for appointment. **The JAC emphasises that these are the minimum criteria that a candidate must satisfy for an application to be considered at all, but they do not automatically render an applicant eligible for a judicial appointment.**
5. In this respect before applying candidates should be aware of the provisions of article 96B(2) of the Constitution which sets out the fundamental criteria that ought to be satisfied for any person to be recommended for judicial office by the JAC:

No person shall be entitled to be appointed to the office of judge or magistrate unless that person:

- (a) has the number of years of practice of the profession of advocate in Malta as established in articles 96 or 100 of the Constitution as the case may be;*
- (b) at the time of application be in possession of a valid warrant to practice as an advocate in Malta and must not be precluded from appointment as a member of the judiciary by any legal impediment;*
- (c) can express oneself in the Maltese and English language and able to communicate in a clear and concise manner;*
- (d) possesses integrity, correctness and honesty in public and private life;*
- (e) has knowledge of the law, of court procedures and professional experience;*
- (f) is industrious, able to work under pressure, diligent, analytical and able to make decisions;*
- (g) is impartial and independent;*
- (h) is not involved in any commercial or business activity and does not have a financial situation which raises doubt about the ability to perform judicial duties in a proper manner;*
- (i) can work in a collegial environment; and*
- (j) possesses knowledge of the Code of Ethics for members of the Judiciary and is willing to undertake continuing professional development*

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6. Upon determining that a candidate meets the basic threshold of constitutional and statutory criteria for a judicial appointment, the Secretary will forward the candidate's file to the JAC for assessment. This file shall include a copy of the Questionnaire submitted by the candidate and the report by the Commission for the Administration of Justice in connection with the candidate's current or past standing.

5. Assessment of Candidates

1. The JAC, as part of the assessment, may conduct consultations in both the legal and non-legal community in respect of each candidate.
2. **Professional competence, integrity and overall merit** are the principal qualifications for any judicial appointment. In this respect, the JAC has established the main Assessment Criteria – see Appendix One - for evaluating fitness and properness to be appointed to the bench. These relate to professional competence and experience, personal characteristics, and potential impediments to appointment.
3. Along with this assessment of professional competence and overall merit, the JAC shall strive to create a pool of candidates that has the right level and mix of skills and experience that is gender-balanced, and reflective of the diversity of society which any successful candidate will be expected to judge. In doing so, the JAC shall give due consideration to all legal knowledge and experience, including that outside of mainstream legal practice. Broad consultations by the JAC, within the professional community and society generally, but particularly in those communities where a candidate has been known or reputed to be involved are important elements of the process.
4. The JAC shall at the end of its assessment of a candidate: (i) prepare a report of its assessment on each candidate in accordance with the provisions of section 166 of this document. All candidates who are assessed by the Committee as recommended shall be duly placed in a register to be maintained by the Secretary (in this document referred to as the “**Judicial Appointments Register**”).
5. Candidates are notified of the date they were assessed by the Committee and of the outcome of that assessment. The report prepared by the JAC shall be retained by the Secretary and shall not be accessible except to members of the JAC.
6. The JAC takes its duty to make recommendations of persons who are reputed of good character to judicial office very seriously. Candidates should therefore read the guidance of what this means in further guidance published and entitled “Guidance on Good Character - Suitability and Integrity” and in particular the below.
 - (a) Maintenance of public confidence in the judiciary is the overriding consideration in any recommendation made by the JAC. The principles the JAC adopts in determining good character are therefore based on this overriding consideration. Public confidence will only be maintained if judicial office holders and those who aspire to such office maintain the highest standards of behaviour in their professional, public and private lives.
 - (b) The principles of this guidance apply equally to legal professionals, and existing judicial office holders applying for a judicial office. The JAC will consider the

whole picture of a candidate's character when deciding whether to recommend a candidate for judicial appointment. The JAC will not reject a candidate because of issues it considers minor – but all potentially relevant issues must be declared, as the Commission will assess recurring themes in addition to isolated incidents.

7. Assessments are valid for a period of two (2) years. Before the lapse of the first two (2) years a candidate shall be required to confirm whether he/she remains interested in being appointed to judicial office and to complete the Confirmation Form (**Appendix B**). A new Questionnaire must be submitted prior to the expiry of the fourth year from the original application if a candidate continues to be interested in a judicial appointment after the expiry date. In that case a new assessment is undertaken by the Committee and a prior "recommended" assessment remains valid until the new assessment is completed. If the new assessment is different than the previous one, supporting comments must be provided by the Committee.

6. Communication with Candidates

The Secretary of the JAC shall be the sole conduit for all communications between the JAC and the candidates. Except during candidate interviews, members of the JAC must address any inquiries to candidates through the Secretary. JAC members must not discuss with a candidate formally or otherwise, by whatever means, that person's candidacy. Candidates wishing to communicate additional information to JAC must invariably do so through the Secretary.

7. Confidentiality

1. The evaluation process seeks and is designed to safeguard the reputation and privacy of candidates to the maximum extent possible while also providing accurate and thorough assessments by the Committee to the President.
2. All Committee discussions and proceedings must be treated as strictly confidential and must not be disclosed to persons outside the Committee.
3. All documents and information submitted as part of an application for appointment are to be treated as personal and strictly confidential. The contents of such documents are not to be disclosed except, and only where necessary, to those consulted by the Committee¹.
4. When no longer required for assessment purposes, all copies of documents received in connection with the appointments process by members of the JAC, other than those intended for public education on the process, must be shredded. One original shall be retained for a period of 4 years by the Secretary. The Secretary shall be responsible for ensuring that all documentation is shredded and disposed of in a secure and confidential manner.

¹ Partial disclosure to references, or to others consulted, must only occur after receipt of a verbal undertaking to maintain confidentiality and must only be to the extent necessary to allay concerns raised by the application.

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5. The information obtained through the consultation of references and other sources is also personal and strictly confidential and is subject to the same stringent confidentiality requirements as information contained in the candidate's application itself.
6. The obligation of Committee members to maintain the confidentiality of applications, discussions, and assessments made during a Committee's tenure does not end with service on the JAC. The obligation of confidentiality is enduring.
7. Applicants shall be informed of the date and of the result of their assessments and whether they are eligible for a recommendation to the President to take up the judicial office for which they would have applied.

8. Conflicts of Interest & Abstentions

Conflicts of Interest

1. Given the objectives of a neutral and fair process and the appearance of a neutral and fair process, the following principles shall guide the conduct of members of the JAC with a view to avoid, and if unavoidable, properly manage a conflict of interest or the appearance of one.
2. Committee members must not participate in the appointments process other than through the exercise of their recognized responsibilities as members of the JAC.
3. The role of the JAC is to evaluate applications. Committee members shall not act as references to any candidate. Committee members who wish to nominate a candidate may only bring the potential candidate to the attention of the JAC and not the candidate.
4. The potential candidate will then be contacted and asked whether they wish to apply in the normal course.
5. Committee members must apprise the Committee of any real or apparent conflict of interest regarding the assessment of a candidate.
6. Committee members must avoid expressing opinions or voting on the candidacy of any applicant with whom they may have a real or apparent conflict of interest such as a close business or personal relationship, most especially partners in a law practice, partners in some other venture, spouses or ex-spouses, relatives, or close friends, since a Committee member's opinion might either have, or be perceived to have, a disproportionate influence, positive or negative, upon the assessment of such candidates.
7. Similarly, Committee members who have acted for or against a candidate as a party in legal proceedings should declare that fact to the Committee.
8. Committee members shall not accept gifts or other consideration from candidates or close family or associates of a candidate.

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9. Committee members must not comment outside meetings of the Committee on individual applications or appointments.

Abstentions

10. The proper course of action for a Committee member who finds herself, or himself, in a position of conflict of interest, real or apprehended, is to declare the conflict to the Chair, provide comments on the candidate if the member so chooses, but withdraw from discussions by leaving the room, and abstain from voting on the assessment of any applicant where such a conflict exists, or where such a conflict might reasonably be perceived to exist.
11. Abstentions shall be formally recorded. If there are questions on the desirability of abstaining in each circumstance, the issue can be put to the Committee for view.

9. Health (Candidates)

Any information related to the health of a candidate that could affect suitability for the Bench must be reported to the Committee when assessing the candidate. Care must be taken to ensure that such information is reliable. The Committee may request further clarification from the candidate through the Secretary.

10. Immunity

The Committee exercises an advisory function only and cannot make binding recommendations. Moreover, there is no entitlement to a judicial appointment. The question of liability is unlikely to arise in this context. Should any issue of this nature arise, it should be referred immediately to the Secretary, who shall call a meeting of the Committee so that appropriate action can be taken.

11. Impediments to Appointment

A Committee member who learns of information that would render a candidate ineligible for appointment under the provisions of article 96B(2) of the Constitution or concerning any criminal or other offences, breaches of professional conduct, questionable financial dealings, failure to meet a family support obligation, wrongdoing or other possible impediment to appointment, involving a candidate must immediately advise the Committee and the Secretary. In an emergency, the Committee member must advise the Committee Chair and seek guidance regarding the appropriate investigations to be undertaken. This disclosure requirement applies whether the information relates to a candidate who is to be evaluated or one who has already been evaluated.

Information of this nature, whether it relates to past or current conduct, must be closely reviewed by the Committee. Care must be taken to ensure this review is comprehensive and based on information which is reliable.

12. Interviews

The Committee shall in the ordinary course of its assessment interview candidates whenever they deem it necessary. Where the Committee is unanimous in its assessment and evaluation of a particular candidate on the basis of the written submissions made by a candidate and determines that it is in position to make a recommendation on the basis of such written submissions, the Committee may dispense with the need for an interview.

13. Quorum

The Committee shall be chaired by the Chief Justice. Five (5) Committee members (other than the Secretary) constitute a quorum, without which Committee business cannot proceed. The Committee should however strive to ensure full or near full attendance by all Committee members whenever feasible.

There are no fixed rules concerning the composition of a quorum except that it should include the Committee Chair, or another member designated to act as interim Chair if the Chair is unable to attend.

14. Re-assessments

Exceptionally, the Committee may initiate a re-assessment when it believes it has important new information which is contrary to the information on which that same Committee's previous assessment was made.

15. Financial Stability and Business Interests

1. Candidates shall submit as part of the Questionnaire a statement of financial affairs and any interest which they may have in any business venture.
2. No member of the judiciary ought to retain any active interest in any business and accordingly ought to relinquish any business interests prior to taking up office.
3. In the event that a candidate occupies directorships or other executive functions in any business enterprise, he/she is to resign from any directorships in any company or executive positions held in any entity that manages or conducts business of any kind. The nature of judicial office requires full time commitment and any activity which does not allow a candidate full and unfettered focus on his or her judicial post shall be considered as an impediment to taking up office.
4. It is important to distinguish between conducting business and investments. Members of the Judiciary are entitled to hold passive investments as opposed to being involved in business. Any passive investments held by a candidate shall be disclosed to the JAC as part of the application process. There may be instances when the line of demarcation between a passive investment and a business interest is blurred and in such instances discretion is to be exercised by the JAC in evaluating whether such a position could hinder a candidate from exercising independence of judgement with integrity and whether retaining such position could give rise to a material adverse public perception. This could well be the case where a candidate inherits business interests from his/her

family and wishes to hold on to such interests as a passive investment. In such instances the JAC would not consider the retention of the investment negatively, provided that the candidate would relinquish any active participation in management and financial decisions and merely deals with the investment passively.

16. Report to the President

1. The JAC shall after the evaluation of each candidate compile a report setting out its assessment of the candidate in enough detail to be able to make a recommendation to the President as and when the need arises.
2. The Committee Report is used as a record of the JAC's evaluation and ultimately to transmit the Committee's assessment and commentary to the President of Malta as required by the Constitution. For all recommended candidates, the Report shall also include a statement supporting the Committee's assessment or commentary.
3. The Report itself is confidential and is not available to the candidate. The Report is completed and signed by the Chair and at least two members of the Committee; and forwarded to the President, whenever there is the need for a person to be appointed to the bench, whether as a judge or a magistrate.
4. All candidates are advised of the date their assessment was completed, and the outcome of that assessment.

17. Votes

1. Committee decisions are normally arrived at through a consensus of the Committee members present, without recourse to a recorded vote. Where consensus is not possible the Chair must request that a decision be made by majority vote of the members present. The report sent to the President should only contain the recommendation.
2. The Chair, as a Committee member also casts one vote. Where a formal vote is necessary this ought to be recorded in the minutes of the meeting. Where a vote results in a tie due to the absence of one or more Committee members, the decision must be deferred to a second meeting where all members are present. All efforts ought to be made that all members of the Committee are present at the second meeting. However, in the event that not all members are present at the second meeting and difficulty is still experienced in arriving at a decision, the Chair shall be entitled to exercise a second or casting vote.

18. Appointing Magistrates to Judgeship

1. Where a sitting Magistrate wishes to be considered for appointment as a judge, the same process shall be conducted as for all other candidates applying for the office of judge.

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2. Accordingly, a magistrate who expresses an interest in being considered for office of a judge of the superior courts shall express such interest and shall complete all applicable forms that should accompany such expression of interest.
3. A magistrate shall only be eligible for consideration by the JAC if he/she has in aggregate completed 12 years conducting the profession of advocate and Magistrate.
4. The JAC shall in its assessment of a Magistrate conduct its evaluation of the candidate on the basis of the performance of that person both as an advocate as well as in his/her office of magistrate, with more emphasis being made on the latter, and shall seek such information from the individual concerned and from such other quarters, particularly the Court Agency to evaluate the merit of that candidate and his/her industrious tendencies. In the absence of compelling reasons that would suggest otherwise, the JAC shall in such instances consider:
 - (a) the time spent by a candidate in office as a magistrate and;
 - (b) the effect which the nomination of a magistrate to a judge of the superior courts may have on other magistrates, who may have seniority of office;
 - (c) As a general rule, the Committee considers that *ceteris paribus*, in matters of competence, technical knowledge, industriousness, and over-all performance it should be a senior magistrate (by time spent in office) that ought to be appointed as judge.
5. The Committee however is aware that there may be instances when this general rule ought to give way, and that circumstances may arise where a junior magistrate, would have distinguished himself/herself in the office of magistrate by virtue of his/her work in such office, his/her industriousness, his/her overall performance, in which case the merit of such junior magistrate shall be taken into account and shall be given additional weight to the seniority of other magistrates. Seniority in these cases shall only prevail in instances where all other factors are equivalent or at least comparable to an appreciable degree. The JAC shall give advice to the President in line with the foregoing considerations.
6. Where the Magistrate sitting on the JAC has him/herself expressed an interest in an appointment to judgeship, he/she shall not participate in the process leading to the evaluation and decision of his/her eligibility for appointment.
7. Whenever the JAC is asked to make recommendations to the President for the appointment of one or more judges to the Superior Courts and the JAC is deliberating on the candidates who are best suited for recommendation, a Magistrate whose name is already on the Judicial Appointments Register shall not be involved in any such deliberations even if it means that the JAC shall in those circumstances act without a magistrate present.

19. Ethical Guidelines for JAC Members

1. The members of the JAC are to be held to the high standards required of their office and the assessments that they are entrusted to conduct. The following are the rules that should guide their conduct.

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2. A member of the Committee shall not discuss with a candidate, formally or otherwise, by whatever means, that person's candidacy, other than in the context of an interview arranged at the request of the Committee. All communications with candidates must be directed through the Secretary, Judicial Appointments Committee.
3. Members of the Committee shall not participate in the appointment process other than in the context of the Committee's work.
4. A member of the Committee must show discretion and neutrality in all aspects of Committee work. Questions must be directed only to the candidate's fitness for the bench. No questions concerning a candidate's political views; sexual orientation or religious beliefs are to be raised. If a candidate has mentioned active participation in a political party or religious affiliation as part of his or her social involvement, no inference, favourable or unfavourable, is to be drawn other than the indication of the candidate's capacity for social involvement.
5. A member shall not state his or her opinion of a candidate's suitability, nor participate in the Committee's deliberations or discussions concerning a candidate, if the member is in a position of conflict of interest, real or apparent, so as to raise an apprehension of bias either for or against the candidate.
6. A member of the Committee shall not agree to act as a referee for a candidate.
7. There shall be a conflict of interest for a member where that member is or has had a close business or personal relationship with the candidate, such as an associate, law partner or business partner of the candidate within the last ten years, is a spouse, ex-spouse or a relative of the candidate, or is a close friend of the candidate. Where a member is in a position which can give rise to a conflict of interest, real or apparent, the member must declare the potential conflict to the Chair for a ruling on whether a conflict of interest exists. The Chair may consult with other members of the Committee in giving a ruling. The ruling of the Chair shall be final. In the event that a conflict exists, real or apparent, the member may provide comments on the candidate if the member so chooses, but the member must withdraw from discussions by leaving the room and abstain from voting on the assessment of any candidate.
8. All Committee discussions and proceedings shall be treated as strictly confidential and must not be disclosed outside the Committee, except in the report to be prepared by the Committee. A member shall not communicate to a candidate or to any other person, during his or her term or thereafter, the substance or details of any interviews held, of discussions within the Committee nor of recommendations made.
9. A member of the Committee shall not receive an advantage, a reward or a gift in connection with his or her participation in the Committee's work.
10. A member of the Committee shall not be a candidate for a position within the judiciary until the expiry of a period of two (2) years following the end of his or her term of office as a Committee member. This rule does not apply to the member who is a magistrate and wishes to apply for judgeship.

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11. A member of the Committee who learns that a candidate has serious health concerns; has committed a criminal or other offence, has a breach of professional conduct; has been involved in questionable financial dealings; has failed to meet family support obligations; or has committed some other act likely to constitute a possible impediment to the appointment or likely to cast an unfavourable light on the exercise of the judicial function, must inform the Committee and, in an emergency, the Chair of the Committee and the Secretary, Judicial Appointments. This applies whether the information relates to a candidate who is to be evaluated or one who has already been evaluated.

Appendix A - Assessment criteria, candidates for Judicial Appointment

The following list of factors, though not exhaustive, is intended to provide a basis for assessing the suitability of candidates for judicial appointment.

Professional Competence & Experience

While courtroom experience and bilingualism are significant assets, there are other factors which may also be considered in assessing a candidate's suitability for the role of magistrate or judge. Candidates from traditional and non-traditional legal careers will be equally considered.

- general proficiency in the law
- intellectual ability
- analytical skills
- ability to listen
- ability to maintain an open mind while hearing all sides of an argument
- ability to make decisions
- capacity to exercise sound judgement
- reputation among professional peers and in the general community
- area(s) of professional specialization, specialized experience or special skills
- ability to manage time and workload without supervision
- capacity to handle heavy workload
- capacity to handle stress and pressures of the isolation of the judicial role
- interpersonal skills - with peers and the general public
- bilingual ability

Personal Characteristics

- Good Character – suitability and integrity [see separate guidance on this matter]
- demonstration of a commitment to public service
- an appreciation of social issues
- sensitivity to changes in social values
- receptiveness to new ideas that are constructive to the public good
- sense of ethics
- patience
- courtesy
- honesty
- common sense
- tact
- integrity
- humility
- punctuality
- fairness
- empathy
- reliability
- tolerance
- sense of responsibility
- consideration for others

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Potential Impediments to Appointment

- Any debilitating physical or mental medical condition, including drug or alcohol dependency, that would be likely to impair the candidate's ability to perform the duties of a judge
- Any past or current disciplinary actions or matters against the candidate
- Any current or past civil or criminal actions involving the candidate
- Financial difficulties including bankruptcy, tax arrears or arrears of child support payments
- Active participation in Business

Appendix B - CONFIRMATION DECLARATION

On this the [-] day of [-] of the year [-]

I, the undersigned solemnly declare and confirm the following:

1. that by virtue of an application dated [*insert date of original application*] I had intimated my willingness to occupy judicial office and I hereby confirm that it is still my intention to pursue my appointment to judicial office;
2. together with my application I had attached a number of documents the "Application Bundle" in which I had made certain declarations and provided the Judicial Appointments Committee (the "JAC") with information related to my professional life, my personal life and my financial condition, which information was intended to be relied upon by the JAC to make a determination whether I am eligible for and whether I am a fit and proper person to be appointed to judicial office.
3. That the information and all the details I provided in the Application Bundle as well as in any interview with the JAC and all other information made available to the JAC was and remains until this date correct in all material respects;
4. That there has been no material change in any information made available by me to the AC, and that had I to re-apply for judicial office today, I would re-submit the same documents and provide the same information or documents and information that would not be materially different from those already submitted with my original application;
5. That there is no information that I wish to add or supplement to the information already provided to the JAC, or any information which had to be disclosed to the JAC may cause the JAC to re-consider its original determination of my application for judicial office;
6. No events or circumstances have occurred from the date of my original application to the date of this declaration, which had they to be disclosed to the JAC would be likely to cause the JAC to re-consider its determination of my original application or my fitness and propriety to occupy judicial office;
7. That I acknowledge that in the event of any material change in circumstances, professional or personal details or information, including my financial condition, I am obliged to advise the JAC immediately with any such change;
8. That in the event that I would be called to occupy judicial office, my acceptance of such appointment signifies that as of the date of my acceptance of such appointment, I shall be deemed to be repeating with the same solemnity all the details and information disclosed to the JAC and on which the JAC would have relied in making its determination.

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I hereby solemnly confirm without reservation the truthfulness and accuracy of all declarations and representations made to the JAC and that I am aware of the importance and significance of this declaration and of the consequences if any information or declaration made by me whether in writing, orally or in any other manner are shown to be inaccurate in any material respect, and that I can be disqualified from occupying judicial office now or in the future.

Signed and executed on this the [-] day of [-] of the year [-]

Signature

Full Name: