



Applying for Silk Event: 22 November 2023

Accompanying Notes

These notes should be read alongside the presentation, to support and provide further detail to the information within the slides.

The KCA Secretariat are always happy to speak to applicants and answer questions on any part of the process; do contact us at any time at enquiries@KCappointments.org or on 0207 831 0020.

Slide 3 – Excellence

Successful applicants must demonstrate **consistent excellence** (rather than sparks of brilliance).

Applicants must ensure they provide evidence in cases of '*substance, complexity or particular difficulty or sensitivity*', Such examples of cases can be found in Section H of the Applicant Guidance.

Slide 4 – List of Cases

The Panel recognises that applicants who, for example, have taken parental leave or who work part-time may not be able to list **12 cases of substance over the last three years**. They also appreciate that in some practice areas it is difficult to provide 12 cases over the past three years. Applicants who need to list fewer than 12 cases or who go back further than three years should explain why. However, when listing older cases applicants should bear in mind that the further back they go the higher the likelihood that assessors' memories may have faded.

On '**cases of substance**' - as per the guidance, cases should not be 'run of the mill' cases (which may have important consequences for the immediate client but may present limited legal or other professional challenge) but those which present unusual, novel, or unforeseen complexities or have consequences beyond the case.

The panel are looking for **breadth and depth** of practice. Successful applicants are those who have built evidence to demonstrate this breadth and depth. Both the case and the applicant's role must have been substantial – the Panel needs to understand the individual's role and not just the importance of the case.

Applicants should also bear in mind the need for **consistent evidence** – listing fewer than 12 cases can make that more difficult if there are not good reasons given for providing fewer.

Slide 5 – Assessments

Judicial Assessors

- Includes High Court or more senior judges
- Arbitrators and tribunal chairs are acceptable if there was no Judge involved (eg settlement negotiations) and **if** they have had enough exposure to the applicant's work to assess against all of the competencies.

Practitioner Assessors

- Fellow Barristers – either leading or opposing counsel (KCs if possible)

Professional Client Assessors

- Applicants should provide 'at least six' and includes instructing solicitors; legal counsel; client proxies; government legal department

The panel are aware that CPS may offer a slightly different style of client assessment to others, and this is taken into account.

Slide 6 – Other Information

Description of Practice

The panel would like to know here if, for example, an applicant sits on the Attorney General's Panel Counsel; they have experience of appearing in the higher courts; they have changed streams, or there are other, substantive cases that may not have been listed but which are important in their career. This type of information should be included.

Consultants and Coaches

There is more information on the use of coaching under the 'Mythbusting' slide (12).

Slide 7 – Competencies

Competency A – Understanding and Using the Law

As examples, the panel would like to know if: an applicant has had to become familiar with a new area of law outside of their normal area of practice or researched a new and developing area of the law and applied it creatively; an applicant's case has been argued in the appeal court (whether they appeared or not) and their argument was successful. Law from other jurisdictions is also relevant here.

Competency B – Written and Oral Advocacy

Evidence for this competency could come from arbitration, court determination, settlement agreement or oral advocacy in a court or from a tribunal, arbitration or in negotiation. An example of good written advocacy could be that a case was won purely on the strength of an applicant's written evidence. On oral advocacy, it might be that the applicant encountered a tricky situation and dealt with it on their feet.

The panel must have some evidence of excellence in oral advocacy, which can be built and demonstrated in other ways away from court, for example by taking on pro bono work or within a new area of law.

Competency C – Working with Others

On Competency C the panel are seeking evidence wider than, for example, leading a junior. Examples could be taking charge of a difficult situation; moving a case forward in trying circumstances; motivating others and supporting morale within a team or offering development opportunities to younger colleagues.

Competency D – Diversity Action and Understanding

Applicants do not have to rely on cases for this competency and can bring in evidence from other areas of their life and work, to include in their self-assessment. This competency is not about reeling off stats but is about understanding challenges that groups may face in accessing the law both as a profession and as the user and demonstrating what the applicant has done personally to widen access and participation.

Slide 9 – Competency Based Process

Some examples of competency-based answers might be:

- “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”

We know that some applicants may downplay their actions and to use ‘we’ in their evidence. The panel are looking for specific information about what the applicant did in a particular situation.

Slide 11 – The Interview

The interview is not determinative but is one part of the process that builds on evidence from the self-assessment and from assessors.

It is not like a cross-examination in style and the panel will make the applicant as comfortable as possible.

Slide 12 – Mythbusting

The panel understands that there are reasons why applicants may not be able to provide **twelve cases in the past three years** and do not wish to disadvantage those who, for example, have taken a career break, parental leave or have been in long Inquiries over the previous three years. Having fewer than twelve cases is not a bar to application, although it is possible that fewer cases may not cover the breadth of evidence required. Applicants should make clear in their application why they are unable to provide twelve cases and it

may be worth them considering whether there are any cases from slightly outside of the three-year window that could be included. However, it should be remembered that the further back applicants go, the less assessors are likely to remember of the case.

There are **no quotas** used within the KC competition. Decisions on who to recommend for appointment are based entirely on evidence of excellence provided by applicants in their self-assessment and at interview, and from assessors. It is therefore important that applicants carefully consider who to list as their assessors so that the panel can obtain sufficient evidence and give applicants the best chance of success.

Every application is considered afresh by the Selection Panel and there is no guarantee that an applicant will get to the same stage as a previous application. It is important to remember that the panel will be seeking new evidence from assessors in each competition and those assessors may be different.

Feedback from some applicants has been that they genuinely feel they need **coaching** to succeed in the KC competition. We understand that there is a need for additional guidance and are producing extra resources, which will provide the same information and help level the playing field. There should be no need to pay for a coach to help with an application; the panel have seen that it certainly does not guarantee a successful outcome and can usually tell when one has been involved. The best way an applicant can prepare is to spend time thinking about the examples from their cases (listed and unlisted).

There is already a wealth of information and guidance on the website, which is being updated in time for the 2024 competition to address common concerns and 'mythbust' misconceptions – some of which have hopefully been covered by this presentation.

Slide 13 – There is no barrier to reapplication

The panel know that many people will reapply for Silk over the course of their career and makes no judgement whatsoever on applicants who have reapplied. As set out above, each application is considered afresh by the Panel and every effort is made to ensure that different Panel members both grade and interview an applicant in subsequent applications. Moreover, the panel does not question any applicant's motivation to apply; they are simply interested in the evidence provided. Applicants do not need to explain or justify why they have applied for Silk.