



The Law Society

King's Counsel Complaints Committee

REPORT OF THE KING'S COUNSEL COMPLAINTS COMMITTEE 2025

1. This is the annual report of the King's Counsel (KC) Complaints Committee ('the Committee/KCCC') in respect of the KC Competition which took place in 2024. The names of the successful candidates were published in January 2025. This report also serves as a redacted version of the Committee's decision on the complaint, which a complainant is entitled to request under the Complaints Procedure.
2. One complaint was received in relation to the KC Competition, and we report on this below. At a very late stage in preparing this report the Committee received a complaint relating to the 2023 competition. It is considering that complaint and will report on it in its next annual report. No other matters arose in the year which required the Committee's attention.
3. Lady Justice Geraldine Andrews served as chair for the year. The other Committee members were Lisa Ball, Robin Allen KC, and Paul Cummins for the Law Society. Mark Harris of the Law Society's Governance team was secretary to the Committee for the year.

THE COMPLAINT

4. A candidate ('C') with the protected characteristic of disability complained about the handling of a disability discrimination issue by King's Counsel Appointments ('KCA'). C had first raised the issue with KCA in December 2024 and received a response which C considered inadequate on 31 January 2025. After further correspondence on 11 March 2025 KCA responded to C's questions about the issue of disability and how they addressed it during the application process. In response to the explanation offered by KCA, C lodged a complaint about KCA's approach to addressing the issue of disability in the assessment process.

5. KCCC members confirmed that they did not know C and therefore did not need to recuse themselves from considering the complaint. KCCC then met to consider the initial complaint and determined that further information was required in order to consider the complaint fairly and in full. This included the full application, correspondence between C and the KCA, and C's assessors' reports on the application for silk. KCCC acknowledges with thanks the consent of C's assessors to release their assessments.
6. The KCCC sought further information from C as to the nature of the disability and whether C required the Committee to make any adjustments to enable the complaint to be made fully and fairly, and for KCCC to handle it appropriately. C did not at that time require any particular adjustment from KCCC.
7. The KCCC identified four broad issues from the correspondence, namely –
 - A general complaint that the KCA's application process discriminates against persons with the protected characteristic of physical disability;
 - A complaint that C suffered disability discrimination in the 2024 competition;
 - A complaint that C suffered disability discrimination in other competitions;and
 - An issue as to whether the Public Sector Equality Duty (PSED) applied to the KCA.
8. The KCCC understood that C's overarching complaint was that KCA did not comply with the Equality Act 2010 in dealing with C's application in the 2024 competition. It considered that the appropriate course would be for it to address that specific complaint first, before considering whether any of the other matters it had identified fell within its remit and, if they did, how it should address them.
9. The KCCC reached an early conclusion on three of the four broad issues identified. Subject to any further relevant submissions (of which there were in fact none) the KCCC did not propose to conduct a general investigation into whether the KCA's application process discriminated against persons with the protected characteristic of physical disability, nor to investigate the treatment of C in earlier competitions, which would be outside the normal time limits of the Complaints Procedure. The KCCC considered that it did not have the forensic powers necessary for proper consideration of these issues. The KCCC was also of the view that the PSED may provide some useful guidance for the KCA in some circumstances. In subsequent correspondence with the KCCC, C developed the issues concerning C's treatment by KCA in the 2024 competition about which C was complaining. These issues extended to C's treatment by KCA in responding to C's complaints to them before the complaint was made to the KCCC. These issues were (i) a complaint of unjustified less favourable treatment, (ii) delay by KCA in responding to communications, (iii) the guidance provided by the KCA to assessors, and (iv) confidentiality and an alleged "appeal".

CONFIDENTIALITY AND AN ALLEGED “APPEAL”

10. On 29 May 2025 C wrote to the KCCC and to the Chief Executive of KCA, to advise that it had been brought to C's attention via a previous assessor in the 2024 competition, that they had been informed that C was “appealing” the decision from the 2024 competition. C found this highly embarrassing, both personally and professionally, and said that it had caused C considerable concern as to how their personal data, their privacy and the nature of their complaint was being managed and/or explained to third parties. C was not ‘appealing’ the decision but had engaged with the complaints process.
11. KCCC discussed the release of C's confidential information and agreed that C would find it distressing. Members emphasised in a letter to C the importance they placed on confidentiality and confirmed that they had not discussed C's case with anyone. At the same time, they pointed out that KCA's own guidance to judicial assessors stated that KCA would not supply assessments to KCCC without the prior consent of the assessor(s) involved. Therefore, assessors would inevitably become aware that a complaint had been made, and probably by whom, as soon as their consent was sought to supply the assessments to the KCCC. The inference can be drawn that this is what happened, albeit that the complaint was mischaracterised as an “appeal”.

THE ISSUE OF COMPETENCY D – DIVERSITY ACTION AND UNDERSTANDING

12. The KCCC was particularly concerned about the message conveyed to C regarding C's apparent failure in the eyes of the assessors to meet Competency D. It reviewed this conclusion by considering: the description of the Competency and the examples given in the Framework; the guidance to assessors; the example assessments given in relation to Competency D; and the evidence before it as to how the scoring of the assessments was carried out in C's case.
13. The KCCC explained to KCA in some detail by reference to all these matters why it was presently unable to understand how an overall score of “0” (the score which is given where there is no or insufficient evidence of excellence in a particular competency) was given to C in respect of Competency D. It concluded by saying that it was concerned about the message conveyed by KCA in the Feedback Letter to C for the following reasons-
 - It appeared to be based on an erroneous overall assessment within the KCA;
 - It would have conveyed a wrong impression as to the extent of the evidence of compliance with Competency D;
 - It was likely to have been a significant cause of C's feeling that they had not been treated appropriately by KCA.

14. The consensus of the KCCC was that it should have before it everything that KCA wished to say to explain the conclusion that there was “little evidence” of excellence in relation to Competency D. The KCCC also wished to ensure that it fully understood how Competency D was approached. It wished to understand what value there was in the grading of that competency prior to interview if a person who scored “0” (through lack of evidence of excellence in Competency D) would be interviewed if they reached the threshold for interview in the other competencies.
15. The KCCC thought that, given that a candidate’s own self-assessment is regarded as useful background information but is not considered when deciding if they meet the grade for interview (that is based entirely on the evidence of the independent assessors), the KCA appeared to be saying that in practice Competency D would only be assessed once a candidate got through to interview.
16. Accordingly, a further letter was sent to KCA on 11 July seeking clarification on that matter. The letter also invited KCA to review the correspondence between C and the KCA from 3 December 2024 onwards in the context of C’s points about the quality and speed of the communications from KCA. The KCCC further invited KCA to comment more generally on the way in which it seeks to manage expectations and ensures that correspondence which raises complaints and similar inquiries are dealt with timeously.
17. The response from KCA was received on 22 July. It provided greater clarification about the process. It explained that –
- As with all Competencies, a score of 0 indicates a lack of evidence, scores of between 1 and 3 reflect poor or adverse evidence of excellence, 4 limited evidence of excellence, and 5 and 6 good or strong evidence of excellence.
 - To ensure that no applicant is disadvantaged by limited evidence provided on Competency D, so long as the applicant receives a score of 0 or of 4 and above, they may be invited to interview if their scores on the remaining competencies meet the threshold for interview.
 - No competency is finally assessed until after interview; all candidates who are interviewed will be interviewed across all competencies.
 - The interview panel will spend sufficient time on Competency D at interview with all applicants, particularly as the minimum required score at pre-interview stage is lower for this competency than for the others.
 - As with other competencies, the post interview scores on Competency D can be confirmed, upgraded or downgraded depending on the candidate’s performance at interview.

18. The KCCC understands from this explanation that in practice a candidate would not receive a score of 1-3 unless there was adverse evidence, i.e. evidence that they had behaved in a manner which, for example, demonstrated a lack of awareness of the diverse needs of individuals or dealt inappropriately with diverse clients or witnesses. If there was at least some evidence of excellence, albeit limited, then they would receive a grade of 4. That is something which KCCC considers needs to be more clearly spelled out in the information provided to applicants. The way in which the system works is insufficiently transparent.
19. The KCCC considered it should assess this process overall. It accepts that, so far as making the grade for interview is concerned, a person with a grade of 0 for Competency D is not disadvantaged by the lack of sufficient evidence. That is not though the end of the matter. If the pre-interview grades in this competency are to have any value at all, they must count for something when it comes to interview, so that a person who has already been assessed as having provided good or strong evidence of excellence will necessarily be in a better position going into the interview than a person who has provided limited or no evidence. Put bluntly they will, or are very likely to be, afforded greater opportunities to demonstrate their other competencies because it will not be necessary for the interviewers to look more deeply into compliance with Competency D. So, whilst it is understood and accepted that the pre-interview grading will not represent the final position, even if the evidence is very strong, it does mean that an overall score of "0" is not neutral in the overall process.
20. The KCCC accepts that it would have made no difference to the outcome of C's application in the 2024 Competition whether they received a grade of "0" or 4 or above in Competency D. This is because, for the reasons explained to C in the Feedback Letter, they did not reach the threshold for interview in the other Competencies. If C had reached the threshold for interview in the other Competencies, the grade of "0" would not have been an impediment to interview. However, as noted above, it would have placed C at a relative disadvantage going into the interview compared with someone with a grading of 4 or above.
21. While therefore this was no disadvantage for C in the 2024 Competition, the investigation of C's complaint has shown that, if repeated in a future competition, it would be. The KCCC considers this must be recognised and steps taken to address it before it becomes an issue in another competition.
22. KCA appears to have followed its own procedures in relation to C's grading on Competency D, in the sense that the grading process described to KCCC was followed before the Panel reached its conclusion that the overall grade should be "0". Nevertheless KCCC cannot understand how, having seen the assessors' assessments and the internal documents, if the process, as now explained to KCCC, had been properly followed, and the evaluation of the evidence provided by the assessors in their assessments carried out as it should have been, in accordance with the published scoring criteria and methodology, KCA could rationally have found that there was no evidence of excellence on Competency D, which would justify a grading of anything less than a 4 or higher.

23. The question whether evidence exists or does not exist is binary. Whilst the evaluation of the strength or quality of the evidence is a matter of judgement for KCA, that judgement must be exercised rationally, and where an overall assessment is made, exercised in a manner which is either compatible with the internal assessments or, if it is not, the reason for departing from those assessments should be apparent and justifiable. In C's case, despite the KCA's attempts to explain it, and bearing in mind everything the KCCC has been told and has seen, the grading outcome on Competency D simply makes no sense.
24. It is understandable in these circumstances why C (who would have had a fair idea of the sort of evidence their assessors might have been able to put before KCA) did not understand why they received a Feedback Letter couched in such infelicitous terms, why they felt the sense of grievance that they did on its receipt, and why C began to query whether the procedure was inherently discriminatory. C did not understand the feedback when they received it, and the KCCC does not understand it having had the opportunity under the Complaints Procedure to see the relevant documents and to seek explanations from the KCA.
25. The KCCC is neither a court nor a tribunal, but a complaints committee. As such, it does not have the forensic powers of a court or a tribunal and there are real and significant limits to the extent to which it could reach decisions as to the extent of any unlawful discrimination. For that reason, the KCCC did not reach any further conclusions as to C's treatment in respect of Competency D, save to say that it saw no evidence of discrimination in the assessors' assessments.
26. C's complaints, though, went to the overall procedure and made allegations that they seemed to be likely to be inherently discriminatory in relation to disabilities. So far as that aspect of the complaint is concerned, KCCC has found no evidence that the KCA's procedure places those with a disability such as C's at a disadvantage compared with other candidates when it comes to demonstrating excellence in Competency D. A person whose assessors are unable to provide evidence of excellence in Competency D is in no different a position from someone who provides limited evidence or strong evidence when it comes to selection for interview.

CONCLUSIONS, DIRECTIONS AND RECOMMENDATIONS

27. The KCCC concluded that all other matters being equal C was entitled to a much more timely response from the KCA to their correspondence. Long and unexplained delay in dealing with complaints will only aggravate a sense of grievance and can cause complainants to suspect or believe that the delay is intentional. Certainly, it will work against a successful restoration of a relationship.

28. The KCCC recognised two further important factors that must be taken into account when considering the impact of such delay. First in a context where an applicant is likely (or it may be suspected that they will be likely) to make a further application, delay in dealing with a complaint is likely to be very stressful. Secondly, it must be remembered that applicants pay a substantial sum for their application.
29. The KCCC considers that the KCA should –
- Publish a clear protocol which expresses the timetable within which it will normally reply to this kind of correspondence,
 - Adhere to that protocol as closely as possible,
 - Always explain, in advance if the timetable cannot be met, giving the reasons why not and what further time is thought to be necessary.
30. While it is for the KCA in the first instance to set the normal timetable, the KCCC considers that correspondence should normally receive a substantive reply within three weeks, even in times when the KCA is hard pressed because of the conclusion of a competition.
31. C asked the KCCC to consider whether the KC application process discriminated against persons with the protected characteristic of physical disability. The KCCC has not found that the process is in itself discriminatory. However, the KCCC has concluded that it cannot understand how the evidence of C's compliance with Competency D could have been scored as it was.
32. The KCCC has not reached any conclusion either way as to whether C was discriminated against on the ground of their protected characteristic in the 2024 competition or any other competition.
33. The KCCC concluded that C had been badly treated by KCA in relation to –
- The inconsistency in the wording of the Feedback Letter and its misleading and inaccurate statement as to the extent of the evidence of compliance with Competency D;
 - The delay in dealing with correspondence from C which raised important points about process and its substantive effects upon C;
 - The embarrassment C has suffered in the correspondence concerning the confidentiality of assessors' assessments.

34. Accordingly for formal purposes the KCCC concluded that –

- Insofar as C has complained that C was discriminated against, we have dismissed that complaint,
- But, to the extent that C claims that they were unfairly treated due to the way in which the process was applied, that C claims that KCA failed to deal timeously with C's concerns, and that the process was insufficiently transparent and the tone and content of the Feedback Letter was inappropriate, we uphold C's complaints.

35. For these reasons and taking into account the fact that the decision not to grant C an interview was nonetheless justified by the insufficiency of evidence of excellence in relation to the other competencies, KCCC directed that a proportion of the fee C had paid for the 2024 competition should be remitted to C.

36. The KCCC further directed that the grading pair whose evaluation led to the KCA Selection Panel's ultimate moderated score of 0 for C's evidence concerning Competency D must not be involved in any grading of assessments provided by assessors in any further applications by C, whether in the 2025 KC competition or any future KC competition.

37. The KCCC noted that the KCA had already said that the Chair of the Selection Panel who considered C's application would be recused from further considering any application from C, and KCCC commends this decision.

38. The KCCC welcomes KCA's proposals to focus closely on the consistency of the grading in respect of Competency D in the next audit of its work.

39. More generally the KCCC recommends the following changes are made for the 2025 and future competitions –

- The *pro forma* paragraphs of the Feedback Letter insofar as they relate to Competency D be changed to reflect fully the way that the grading of the evidence of compliance with it signifies before and during interview as set out above.
- That the KCA review the guidance it gives to assessors as to the form of their assessments when providing evidence in relation to Competency D. In this respect KCA should not cause assessors to think that using an example assessment, albeit altered to real facts, is likely to provide by itself sufficiently strong evidence of compliance, if that is not in fact the case.
- It should be more transparently explained to applicants how the grading scores operate, including what scores 1 - 3 signify and why a score of 0 is different.

- The KCA should review and remove the possibility in interview of disadvantage for those who score 0 in the pre-interview grading and moderation.
- Permission should be obtained from assessors at the outset that their assessments can be shared with the KCCC in the event of a complaint, thereby preventing the kind of embarrassment which occurred in this case.
- The KCA should adopt, publish, and adhere to the terms of a suitable protocol for responding to correspondence about issues arising in or from an application to it.

The Rt. Hon. Dame Geraldine Andrews
4 November 2025