

第3章 —— 向立法會提供有關司法職位提名人的資料

引言

3.1 事務委員會主要關注到，政府當局在上兩次法官任命中，所提供給立法會的資料未見具體，亦有所不足。諮詢文件曾就當局是否應向立法會提供更多有關司法職位提名人的資料，以便立法會根據《基本法》第七十三(七)條行使同意法官任命的權力。諮詢文件載有美國參議院問卷、英國高等法院法官職位申請表及香港區域法院和以下級別法院司法職位申請表等表格，以供參考。

接獲的回應

3.2 大律師公會認為，當局應向立法會提供足夠資料，包括候選人的個人及專業背景，讓立法會可在知情的情況下，根據候選人的經驗及品格作出決定。大律師公會亦認為，英國高等法院法官職位申請表內，除個人執業時的總收入外，其他資料可用作香港的參考資料。

3.3 律師會認為，政府當局應向立法會提供更多有關司法職位提名人的資料，以便立法會履行《基本法》第七十三(七)條所賦予的職能。該會亦支持要求所有司法職位候選人填寫詳盡的申請表，提供有關其法律專業經驗及專長的詳情。

3.4 司法機構表示會要求推薦委員會在日後作出推薦時，考慮向行政長官提交適當資料，以便行政長官能向立法會提供足夠的資料。在考慮此方面的事宜時，司法機構將參考以前徵求立法會同意法官任命的經驗，以及香港與其他司法管轄區所要求不同司法職位的申請人在申請表內提供的資料。同時，司法機構須仔細考慮，就終審法院非常任法官(特別是來自其他普通法管轄區的法官)的任命建議所提供的資料，是否應與就其他高級法院常任法官的任命建議所提供的有所區別。

事務委員會的建議

3.5 事務委員會建議，政府當局在徵求立法會根據《基本法》第七十三(七)條同意司法人員的任命時，應盡可能提供美國參議院司法委員會擬訂的問卷(附錄VII)和英國高等法院法官職位申請表(附錄VIII)中所載的資料。

附錄 VII
Appendix VII

Questionnaire set by the Senate Judiciary Committee in the United States

**(Extract from "Report of the Commission on the Selection of Federal Judges
1996, Miller Center Commission No. 7, May 1996")**

A. GENERAL PERSONAL QUESTIONS

- I.1. Full name and any former names used.
IV.1

- I.2. Address (current residence and office).
IV.2

- I.3. Date and place of birth.

- I.4. Marital status and spouse's name/maiden name (if applicable), occupation
and employer's name/address.

- I.5. Education (list each college, law school and date of degree).

- I.6. Employment record (list by year each business or other enterprise since
college).

- I.7. Military service (list dates, service, rank, serial number and type of
discharge).

- I.8. Honors and Awards of interest to the Committee.

- I.13 What is present state of your health and when was your last physical exam?

B. LEGAL EXPERIENCE AND BACKGROUND

- I.9. Bar Associations (list all legal or judicial committees or conferences with
titles and dates).

- I.10 Other memberships in organizations which lobby public bodies.

- I.11 All courts in which admitted to practice with dates and list any lapses.
Same information for administrative bodies requiring special admission.

- I.12 List of all publications with copies of material not readily available and speeches on constitutional law or legal policy with readily available press reports about such speeches.
- I.14 State chronologically any judicial offices held with description.
- I.15 Provide citations for your ten most important opinions (if applicable), same for all appellate opinions reversing or criticizing your rulings, and your significant opinions on state or federal constitutional issues with related appellate rulings (if not readily available, provide copies of these).
- I.16 State any other public offices held with terms of service and descriptions, and list chronologically other candidacies.
- II.6. Ever play a role in a political campaign? If so, identify particulars, including candidate, dates, and your title/responsibilities.
- I.17 Describe chronologically your legal career including :
- a.1 - Clerkships.
 - a.2 - Solo practice.
 - a.3 - Law firms, companies, and government agencies.
 - b.1 - Describe general character of your practice.
 - b.2 - Describe former clients and specialities.
 - c.1 - Frequency of appearances in court? If this varied, give by date.
 - c.2 - Percentage of appearances in (a) federal, (b) state, and (c) other courts.
 - c.3 - Percentage of (a) civil and (b) criminal.
 - c.4 - Number of cases tried to conclusion and state your role.
 - c.5 - Percentage of cases (a) jury and (b) non-jury.

C. FINANCIAL DATA AND CONFLICT OF INTEREST

- II.1. Sources, amounts and dates of all anticipated receipts from business relationships. Describe arrangements for any future compensation.
- II.2. Explain how you will resolve potential conflicts of interest and identify likely areas which may initially pose conflicts.

I.18 Describe ten most significant litigated matters you personally handled. Give citation, summary, identify client, detail nature of your participation. Also : (a) date of representation. (b) name of court and judge. (c) names, addresses and phone numbers of co-counsel and principal counsel for other parties.

I.19 Describe the most significant legal activities you pursued (non-trial or non-litigation). Describe the nature of your participation (unless privileged).

II.3. Do you have plans to pursue outside employment with or without pay if confirmed? If so, explain.

II.4. List all sources of income received in the calendar year prior to nomination.

II.5. FINANCIAL STATEMENT REQUIRED

D. INVOLVEMENT IN LEGAL PROCEEDINGS/TAX AUDITS/OTHER CONFIDENTIAL

IV.3. Ever been discharged or resigned due to impending discharge?

IV.4. Have you and your spouse paid all back taxes? Any tax payments made prior to your nomination? If so, detail.

IV.5. Tax lien or collection procedure ever instituted against you? If so, detail.

IV.6. You or spouse ever subject of any tax audit or inquiry? If so, detail.

IV.7. You or spouse ever declared bankruptcy? If so, give particulars.

IV.8. Have you or any organization you belonged to ever been under investigation for violating any law or regulation? If so, detail.

IV.9. Have you ever been the subject of a complaint to any group, agency or court for breach of ethics or rule of conduct? If so, give particulars.

IV.10 Ever been a party to any litigation?

IV.11 Please advise the Committee of any other adverse information that may affect your nomination.

E. GENERAL/OTHER

III.1. Describe your work to provide those disadvantaged with legal services.

- III.2. Any membership in a discriminatory organization? If so, what efforts did you make to try to change such policies?
- III.3. Selection committee in your jurisdiction to recommend nominations? If so, did they recommend you? Describe the entire process you underwent.
- III.4. Did anyone involved in your selection discuss any legal case or issue seeking to learn how you might rule? If so, explain fully.
- III.5. Discuss your views on a criticism of judicial activism.

LORD CHANCELLOR

Application for appointment as
Justice of the High Court

Restricted - Appointments

Please complete this form in type or write clearly in **black ink**. If there is insufficient space on the form please feel free to continue on a separate sheet. **You should complete all parts of this form, even if you have previously supplied some of the details requested.** This will help to ensure that our records are up to date.

Please read the guidance notes before completing this form.

Section A - Personal details

Title (tick as applicable) Mr Mrs Miss Ms Other (please state)

Professional surname

Private surname (if different from professional surname)

Forenames in full
(please underline the name by which you prefer to be known)

Date of birth

Decorations/honours

Professional address

Postcode
Telephone
Email

Private address

Postcode
Telephone
Email

Please indicate which address is to be used for correspondence relating to this application

Professional Private

Please tick one or more as appropriate to indicate whether you are a :

Barrister Solicitor Queen's Counsel
 Holder of full-time judicial office

Please indicate with a tick the Division(s) of the High Court to which you would prefer to be assigned, if appointed :

Queen's Bench Chancery Family

Nationality

Section B - Educational and professional history

1 Further and/or Higher Education

Dates	Colleges and/or Universities attended	Degrees/diplomas/certificates Awarded (please state class of Any degrees)

2 Legal training**Barristers**

Month and year of call to the Bar _____

Inn of Court _____

Circuit membership (if any) _____

Specialist Bar Association (if any) _____

Year Silk taken (if applicable) _____

Solicitors

Month and year of admission as a solicitor _____

Specialist Solicitors' Association (if any) _____

Higher courts (Civil) Date granted _____

Higher courts (Criminal) Date granted _____

Higher courts (All Proceedings) Date granted _____

Year Silk taken (if applicable) _____

All applicants

Please give dates of pupillage and name(s) and address(es) of pupil-master(s) and/or dates of articles and name(s) and address(es) of principal(s) and firm(s) or other organisation(s) (eg local authorities) with whom articles were undertaken, **starting with the earliest.**

Dates	Name of pupil-master or principal and firm or other organisation	Address

All applicants

Please give details of your professional experience since completing pupillage or articles, **starting with the earliest.** Please include dates, addresses (including where appropriate, the name of the Head of Chambers). Please include under 'Particulars' the type of work done.

Dates	Chambers, firm or other organisation and address	Particulars

Barristers and Solicitors

Please give a general indication of the type of your present practice by entering, against each appropriate category below, the approximate percentage of your working time that you spend on that type of work.

%	Administrative and Public Law (including Judicial Review)
	Arbitration
	Banking and Financial Services
	Chancery
	Commercial and Admiralty
	Common Law - Contract, Sale of Goods
	Common Law - Personal Injury
	Common Law - Product Liability
	Common Law - Professional Negligence
	Common Law - Other
	Company Law
	Conveyancing
	Criminal
	Defamation
	Disciplinary
	Employment and industrial relations
	European and International
	Family
	Housing
	Human Rights
	Immigration
	Insolvency
	Intellectual Property
	Landlord and Tenant
	Parliamentary, Planning and Local Government (including Rating)
	Practice Management
	Restrictive practice and monopolies
	Revenue
	Technology and Construction
	Other (please specify):

If you are no longer in active practice as a barrister or a solicitor, on what date and in what circumstances did you cease to practise?

3 Fees

	Income	Accounting year ending
Please state your personal gross income from practice (exclusive of VAT) in each of the last three completed accounting years, beginning with the most recent (to the nearest £1,000)	£	to
	£	to
	£	to

If you consider that the level of your fees or earnings have been affected by the nature of your or your firm's practice or extraneous factors, please give details in this section

Section C - Judicial experience

Do you now hold, or have you held in the past,
any judicial appointment?
(including part-time appointment)

No

Yes (please state which and give the
date(s) of appointment in the
space below)

If you currently hold a judicial appointment,
please state where you now sit, naming the
court(s) or hearing centre(s).

Please state any locations at which you have
sat in the last 3 years and the court(s) or
hearing centre(s) at which you have sat in that
time.

If you hold or have held any judicial appointment, please describe the work you have done as a holder of
judicial office, including the number of sitting days completed and the jurisdictions exercised.

Section D - General

Character

Have you ever been convicted of, or cautioned for, any criminal offence, other than a minor road traffic offence such as parking, or are any such proceedings pending? No Yes (please give details, including dates, below)

Please note that applicants for judicial appointment are not protected by sections 4(2) and 4(3) of the Rehabilitation of Offenders Act 1974, and convictions which would normally be regarded as 'spent' within the meaning of the Act should therefore be declared. [Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975]

Have you ever been adjudged bankrupt, made a composition with your creditors, or been sued to judgement for any debt, or are any such proceedings pending? No Yes (please give details, including dates, below)

Have you ever had proceedings brought against you, or paid a penalty, or made a composition in respect of failure to pay, or any other default relating to, VAT or any other form of tax or rates, or are any such proceedings pending? No Yes (please give details, including dates, below)

Have you ever had an action brought against you for professional negligence without the matter being dismissed, or are any such proceedings pending? If you are a solicitor and such an action has been brought or is pending against your firm in respect of a matter under your supervision, answer 'yes'. No Yes (please give details, including dates, below)

Are you, or have you ever been, subject to the disciplinary proceedings of the Bar or The Law Society (including the Bar's and The Law Society's procedures in respect of complaints about inadequate professional services or "shoddy work") in respect of a matter involving you personally or under your supervision, without the matter having been dismissed, or are any such proceedings pending? No Yes (please give details, including dates, below)

Are you aware of anything in your private or professional life which would be a source of embarrassment to yourself or the Lord Chancellor if it became known in the event of your appointment as a High Court Judge? No Yes (please give details below or, if you prefer, contact a member of Judicial Group staff as mentioned in the 'Guide for Applicants')

Consultation

You may include here the name(s) and address(es) of up to three members of the judiciary and/or profession who you consider will be able to comment on your qualities and experience. (The arrangements for consultation are outlined in the 'Guide for Applicants': this is an opportunity to name those who would not otherwise be consulted.)

Further information

Please provide any other information which you consider may be relevant to your application, including any matters you wish the Lord Chancellor to be aware of in considering your application. Please assess your own suitability for appointment to the High Court Bench, against the criteria (legal knowledge and experience, skills and abilities, and personal qualities; these are described in more detail in the Guide). You should provide examples of significant achievements to support your assessments. Continue on a separate sheet if necessary.

I declare that the information which I have given on this form is true to the best of my knowledge and belief.

Signature

Date
