

## **Chapter 3 - Information provided to LegCo on judicial nominees**

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### **Introduction**

3.1 A major concern of the Panel is that the information provided by the Administration to LegCo in the last two appointment exercises was sketchy and inadequate. The Consultation Paper has invited views on whether more information on a judicial nominee should be made available to LegCo to enable it to exercise its power of endorsement under BL 73(7). The US Senate Questionnaire, the application form for appointment to Justice of the High Court in the UK and the application form for judicial vacancies in the District Court and below in Hong Kong are attached to the Consultation Paper for reference.

### **Responses received**

3.2 The Bar Association takes the view that LegCo should be provided with sufficient information about the personal and professional background of the candidates to enable LegCo to reach an informed decision based on the candidate's experience and integrity. The Bar Association also considers that the information contained in the application form for appointment to Justice of the High Court in the UK, apart from information on personal gross income from practice, could serve as a useful reference for Hong Kong.

3.3 The Law Society considers that more information on a judicial nominee should be provided by the Administration to LegCo to enable it to discharge its function under BL 73(7). It supports that all candidates for judicial appointment should be required to complete a detailed application form which would include a detailed description of their legal experience and expertise.

3.4 The Judiciary advises that in any future exercises, JORC will be asked to consider the appropriate information that should be supplied to CE, to enable CE to supply sufficient information to LegCo. When considering this matter, the

experience of previous exercises and the information given by applicants in application forms for various judicial posts in Hong Kong and other jurisdictions will be borne in mind. In this connection, careful consideration will have to be given to whether any distinction should be drawn between proposed appointments as CFA non-permanent judges, particularly those from common law jurisdictions, and proposed appointment to the senior positions which are permanent posts.

### **Recommendation of the Panel**

3.5 The Panel recommends that in seeking LegCo's endorsement of a judicial appointment under BL 73(7), the information provided to LegCo by the Administration should include as many as possible of the items contained in the questionnaire set by the US Senate Judiciary Committee (**Appendix VII**) and the application form for appointment as Justice of the High Court in the UK (**Appendix VIII**).

**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

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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.

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**Section A - Personal details**

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Title (tick as applicable)

Mr  Mrs  Miss  Ms  Other (please state)

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Professional surname

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Private surname (if different from professional surname)

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

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Date of birth

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Decorations/honours

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Professional address

Postcode  
Telephone  
Email

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Private address

Postcode  
Telephone  
Email

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

Professional  Private

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

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

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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

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Nationality

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**Section B - Educational and professional history**

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**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

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**Section C - Judicial experience**

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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)

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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.

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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.

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## Section D - General

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### 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')

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**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.)

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**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.

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

Signature

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Date

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