

Judicial Appointments Commission Selection Process

I Background and Overview of Selection Processes January to July 2025

The purpose of this report is to provide an overview of the processes of the Judicial Appointments Commission and insights from the first round of competitions with a view to assisting applicants in future judicial selection processes.

The Judicial Appointments Commission (“the Commission”) was established pursuant to the Judicial Appointments Commission Act 2023 (“the 2023 Act”), with effect from the 1st January, 2025. At that point there were already two vacancies outstanding, and a number of additional vacancies anticipated. In the period between January and July, 2025, the Commission completed four selection schemes (District Court, Circuit Court, High Court and Court of Appeal) and provided nominees to fill ten vacancies. In total, the Commission considered 221 applications, 617 references and conducted 37 interviews. The period between receipt of a ministerial request and the nomination of candidates varied between 8 and 12 weeks.

Between January and July, the Commission met formally on eleven occasions. There were further meetings of sub-groups in respect of individual competitions and strategic issues such as governance and risk. During this period and in order to be in a position to conduct the selection processes, the Commission produced:

- A draft indicative statement of selection procedures;
- A draft indicative statement of knowledge, skills and attributes; and
- Guidance for referees.

In addition, the Commission prepared application forms, and a detailed information booklet for the selection process for each Court.

II General Reflections and Approach to Feedback

The Commission conducted a review of its processes once the selection processes had concluded and it is anticipated that, while the basic structure of the selection process will remain the same, some of the documents will be revised in the light of experience.

The Commission wishes to acknowledge the significant volume of applications it received and is grateful for the interest shown by applicants in a judicial career. The Commission is also conscious that this is a novel process both for applicants seeking appointment to the judiciary for the first time, and for judges applying for positions within the judiciary.

The Commission appreciates the desire for feedback but considers it cannot do so on an individual basis, given the number of applicants and the nature of the process, including the fact that the Commission will, of necessity, change composition from year to year.

However, the Commission takes this opportunity to offer feedback which it hopes will be of assistance to all candidates and future candidates. Insofar as possible, therefore, more detailed information about the competitions held to date, both in terms of the process and the content of candidates' forms, is set out below. The Commission is required to carry out the selection process on the basis of merit and merit in this context contains a relative component in that candidates are necessarily compared with other candidates for the same position. Furthermore, it is normally the case that practitioners and judges will gain experience over time. Accordingly, an applicant who is unsuccessful in one process may succeed in a later application, whether because the applicant has more experience or simply has a stronger application than others in a later competition.

It is important that the reform of the judicial appointments process should not discourage suitable applicants and the Commission considers it important that candidates continue to apply, particularly if they have been shortlisted for interview in a previous competition.

III Procedure of the Commission

The Commission considers that it is a fundamental principle consistent with the structure of the Act, that the Commission (composed in each case in accordance with the terms of s. 9 of the 2023 Act) should make any decision collectively, and that all members of the Commission as so composed, should participate in the decision. Accordingly, the process adopted by the Commission involved the following steps:

- (i) the President of the Court in which the vacancy or vacancies arose, provided an overview of the work of the Court, and any particular considerations in relation to the vacancies arising;
- (ii) each individual Commissioner separately assessed both the application and the references, and gave a preliminary marking which was to represent 80% of the total marks;
- (iii) the Commission met in person or in a hybrid meeting, to discuss the assessment of the candidates. There was a discussion about each individual applicant with a particular focus on those cases where there were any outlier results (where one or two Commissioners took a markedly different view to the other members of the Commission), or on those marginal cases, where a candidate may or may not be shortlisted. The discussion of the candidates was led by a different Commissioner in rotation. If a member of the Commission felt they knew a candidate personally and particularly well, they disclosed that fact and spoke last. The factors the Commission considered included:
 - the experience of the candidate, the length of time in practice and nature and extent of practice or, where relevant, as a judge;
 - knowledge and familiarity with the practice of the court to which appointment was sought; and
 - the extent to which this was supported by reliable references;
 - consideration of the applicant's personal attributes.

The Commissioners considered whether or not to revise their individual marks, and thereafter, the Commission agreed on a shortlist for interview;

- (iv) the shortlisted candidates were interviewed by a panel of the Commission composed as follows:

- District Court: Dr. Eleanor O'Higgins (Chair), President Paul Kelly, Judge Alan Mitchell;
 - Circuit Court: Dr. Terry McWade (Chair), President Patricia Ryan, Ms. Justice Mary Rose Gearty;
 - High Court: Dr. Rónán Kennedy (Chair), President David Barniville, Ms. Justice Mary Rose Gearty;
 - Court of Appeal: Ms. Bernie Gray (Chair), Chief Justice Donal O'Donnell, President Caroline Costello.
- (v) Finally, the Commission met again in person or, if necessary, in a hybrid session, to consider the report of the interview panel and their marks comprising 20% of the total. The Commission then considered the indicative outcome. While the panel's view was important, it was not determinative and required discussion and adoption by the Commission in each case. Under s. 39(1) of the 2023 Act, the Commission is obliged to carry out its function based on merit. The Commission considered the factors identified at s. 39(2) of the 2023 Act at the point of shortlisting and selection of nomination for government. The Commission then finalised the list of candidates to be recommended to the Government.

IV Assessment weighting

While the Commission considered that this process worked well, it intends, in future, to alter the division of marks to 75%/25% as between assessment of the application and references (75%) and interview (25%). This reflects the helpful information which emerged from each interview, a process that the Commission found highlighted the strengths of particular applicants. The interviews, while important, rarely changed the ranking of the candidate based on the application form but they were vital to confirm the impression created by an applicant who was strong on paper. Hence the decision to increase the weight afforded to the interview but by a relatively small value as the application form and the references usually give a very good indication as to whether or not an applicant will be shortlisted or recommended in due course.

The decisions of the Commission have been made, to date, by consensus. Having a robust discussion and affording each member an opportunity to express a view and adhere to that view in the event of disagreement has been the method of selection.

As it happened, there was no significant difference of views in terms of those names who were recommended for appointment by the Commission in the competitions to date. While individual assessments of candidates differed, the Commission adopted an overall mark reflecting the cumulative marks of each candidate.

V General Comments

In general, the Commission considered that many of the candidates for each judicial position were excellent; there was a surfeit of qualified candidates in each case. While the comments below are intended to assist with future applications, they should not be read as a criticism of the general quality of candidates which was high and, in some cases, extremely high, and the Commission wishes to encourage such applicants to continue to apply for future vacancies.

a. Application Forms

One area in which many candidates failed to present themselves to best effect was consideration of the indicative statement of requisite knowledge, skills and attributes. The attention of applicants and referees was drawn to this document, but only limited use was made of it, and it is apparent that some applicants considered that the individual questions in relation to knowledge, skills and attributes were repetitive and, accordingly, provided much the same responses to each question. Other candidates did not answer the questions asked. As a result, some candidates missed the opportunity to present their application in the most effective way. Having reviewed its experience in this respect, the Commission proposes to adjust the application forms somewhat, but candidates should be aware that the categories identified by the 2023 Act, namely, knowledge, skills and attributes provide a helpful structure for a consideration of the candidate suitable for the office sought.

b. References

i. Evaluation of references and reference guidance

A key consideration for the Commission was the provision of three references in the case of an applicant for appointment to the judiciary, and one reference in the case of a sitting judge. The Commission had regard to the identity and experience of the referee, the content of the reference, and the extent to which it complemented the application or expanded upon it. In both the indicative statement of selection

procedures, and the guidance to referees, the Commission emphasised the importance it placed upon references, that referees were expected to assess the applicant objectively and candidly, and that references which provided an endorsement of the applicant expressed in general terms, even if enthusiastic, would not assist the Commission.

Some references received could not be afforded much weight for this reason. For instance, it was not always clear if a referee had any experience of the candidate's professional ability and, even if so, how they might rate the candidate in relation to other professionals. The most helpful references were from very experienced or highly qualified referees who were not personally connected with the candidate and who ranked the candidate very highly in comparison with similarly qualified practitioners or judges of comparable experience.

In the light of its experience, the Commission proposes to give further guidance with a view to ensuring that references assist the Commission in obtaining a full and reliable assessment of a candidate's qualities, thereby assisting the Commission in performing its function. In general, the Commission considered that the more independent the referee is from the candidate, the more reliable the assessment. Those who had observed candidates in their professional capacity, particularly in the year of their applications, usually carried more weight.

The Commission is grateful for the general feedback it received from referees, largely to the effect that the process was cumbersome, particularly for those providing two or more references. Multiple references present difficulties not only for the referees but, unless the referee clearly distinguishes between candidates in terms of their relative merit, also for the Commission. It was necessary to compare references from the same referees so as to assess the level of merit being ascribed to the candidate.

Finally, some referees did not answer the questions asked. This affected the weight of the reference.

ii. Timing of References

The programme used by the Commission facilitates online application, provision of references, and assessment by the Commission. However, a request for a reference is only generated when a completed application is received. In some cases, this put

unnecessary pressure on referees to provide references, particularly when the process was unfamiliar to them. Candidates should be aware that it is desirable to provide referees with as much time as possible to provide a comprehensive reference. In the early selection processes, the Commission took account of the fact that these processes were the first under the aegis of the Commission, and involved steps with which applicants and referees were unfamiliar and accordingly, where necessary, adjusted time limits to ensure that all information necessary to permit an assessment of the applicant was received. That, however, is neither desirable, nor feasible on an ongoing basis, and the Commission will move to strictly enforce time limits and refuse to consider any applications which are incomplete as of the advertised closing date. Candidates are encouraged therefore to complete their applications as early as possible, and to liaise with their referees. Forms are available on www.judicialappointments.ie which allow for familiarisation of applicants and referees with the process in advance of any vacancy being advertised.

VI Future Selection Processes

The Commission proposes to issue a short report on the conclusion of each future selection process. Further, the Commission hopes to facilitate referees by maintaining a bank of references, where appropriate and feasible.
