



Information Pack:

00449: Taxing Master of the Senior Courts (known
as Costs Judge)

CONTENTS

INTRODUCTION.....	2
ELIGIBILITY	3
REASONABLE ADJUSTMENTS	6
JOB DESCRIPTION	6
THE SELECTION PROCESS.....	9
CONTACTS AND FURTHER INFORMATION	11
JAC NOMINATED REFEREES	12
JAC COMMISSIONERS	13

INTRODUCTION

The Judicial Appointments Commission (JAC) is now inviting applications for the posts of Taxing Master of the Senior Courts. The JAC has been asked to provide two candidates for immediate appointment. The closing date for applications is **noon on 7 January 2010**.

These are full time salaried posts although salaried part time working could be considered provided a suitable working pattern can be devised to enable judicial continuity. Her Majesty's Courts Service has indicated that flexible patterns such as two months at a time may be considered subject to business needs; part-day sittings cannot be accommodated. Final working patterns will need to be discussed and agreed between the successful candidates and HMCS at the time of appointment.

The posts of Taxing Master of the Senior Courts are based at Clifford's Inn, London EC4. A Taxing Master is responsible for assessing legal costs between the parties and between solicitor and client in order to determine a fair valuation for the services rendered. A Taxing Master is also required to decide upon complex points of law and principle in relation to costs.

As well as preparing for and hearing detailed assessments, a Taxing Master may be asked to sit with High Court Judges as an assessor on costs appeals, or with Circuit Judges in County Court matters. A Taxing Master may also be asked to sit on a number of committees which make recommendations for the improvement of the current and evolving practice of the assessment of costs. A Taxing Master is appointed as a Deputy District Judge of the County Court and the Principal Registry of the Family Division to deal with costs matters in those courts.

This pack contains the information that you need about the appointments. It includes eligibility criteria and the job description. It also describes the selection process that the JAC will follow, with relevant dates and advice on how to prepare for the various stages of this process.

Before you can be considered for appointment, there are eligibility requirements that you must meet. The JAC is also required to assess your character. Before applying you should read these requirements and the guidelines that the JAC uses to assess character. These can be found on our website (www.judicialappointments.gov.uk) along with outline terms and conditions of service and terms of appointment for these posts. You will also need to demonstrate the qualities and abilities required for this office.

The independent JAC selects candidates for judicial office. It does so on merit, through fair and open competition, from the widest range of eligible candidates.

ELIGIBILITY

To be eligible for appointment as Taxing Master of the Senior Courts you must meet the following requirements.

Statutory requirement

Under section 89(1) and Part II of Schedule 2 to the Senior Courts Act 1981, as amended, the statutory requirement for appointment as a Taxing Master of the Senior Courts is to satisfy the judicial-appointment eligibility condition on a 5-year basis.

The Tribunals Courts and Enforcement Act (TCE) 2007 has introduced the '**judicial-appointment eligibility condition**'. Where this applies, eligibility for judicial office is no longer based on possession of rights of audience for a specified period. You will have to show that:

- you have possessed a relevant legal qualification;
- for the requisite period; and
- whilst holding that qualification, you have been gaining legal experience.

The meaning of "gain experience in the law" is set out in section 52(2) to (5) of the TCE Act 2007 and relates to a period engaged in law related activities. "Relevant qualification" means a barrister or a solicitor.

In order to meet the statutory qualifications for appointment as Taxing Master of the Senior Courts, a solicitor (or a salaried judicial office holder who was formerly a solicitor) must appear on the Roll of Solicitors in England and Wales.

Relevant Qualification in England and Wales

You will be considered eligible as a solicitor when your name is first entered on the roll kept under section 6 of the Solicitors Act 1974.

You will be considered eligible as a barrister:

- a) when you have completed pupillage in connection with becoming a barrister or
- b) if you are not required to undertake pupillage in connection with becoming a barrister, when you are called to the Bar of England and Wales.

When applying for a judicial appointment under (b) you will need to provide details in the Application Form of why you are not required to undertake pupillage.

Legal Experience

In order to be eligible for judicial appointment, you must not only be in possession of the relevant qualification, but must also have been engaged in 'law related activity' whilst holding that qualification.

Meaning of Law Related Activity

An activity is considered to be a law related activity whether or not it is undertaken for remuneration, and whether or not it is undertaken on a full or part-time basis.

Each of the following is a relevant law related activity:

- a) The carrying out of judicial functions of any court or tribunal

- b) Acting as an arbitrator
- c) Practice or employment as a lawyer
- d) Advising (whether or not in the course of practice or employment as a lawyer) on the application of the law
- e) Assisting (whether or not in the course of such practice) persons involved in proceedings for the resolution of issues arising under the law
- f) Acting (whether or not in the course of such practice) as mediator in connection with attempts to resolve issues that are, or if not resolved could be, the subject of proceedings
- g) Drafting (whether or not in the course of such practice) documents intended to affect persons' rights or obligations
- h) Teaching or researching law
- i) Any activity that in the relevant decision makers opinion is of a broadly similar nature to an activity within paragraphs (a) to (h)

The Ministry of Justice has provided the following guidance

Category (b) is intended to cover arbitration where legal disputes are resolved on a reasonably formal, structured basis. For example, it would cover arbitration governed by the Arbitration Act 1996, and carried out by a person who is accredited by a body such as CEDR (Centre for Effective Dispute Resolution).

Categories (d) – (g) are also intended to cover activities which are carried out on a reasonably formal, structured basis, for example volunteers who give legal advice in a law centre, or citizens advice bureau. However, as an example, it is not intended to cover a person who gives informal advice to friends and neighbours.

Category (e) is intended to cover legal assistance, rather than other kinds of support.

Category (g) is intended to cover drafting which involves legal judgment and skill, such as drafting contracts and leases. It is not intended to cover drafting which may affect rights or obligations, but are essentially administrative tasks, e.g. filling in enforcement orders, or penalty notices.

The purpose of (i) is to cover the possibility of some kinds of law-related activity that might not quite fit within (a) – (h).

Your engagement in law-related activities during a period will be disregarded if the engagement is 'negligible in terms of the amount of time engaged'.

Previous service in a judicial office

The Lord Chancellor expects candidates to have normally served in a judicial office in a fee paid or salaried capacity for at least two years or to have completed 30 sitting days before the closing date for applications.

Age

There is no upper or lower age limit for candidates apart from the statutory retirement age of 70. The age at which someone is appointed must allow for a reasonable length of service before retirement, usually about three years.

Nationality

You must complete a declaration of your nationality in the Application Form. In order to qualify for this post, you must be a citizen of:

- the United Kingdom; or
- another Commonwealth country; or
- the Republic of Ireland.

Character

The JAC is required by statute to appoint only persons of good character. In order to make these assessments we have developed Good Character Guidance which you can find on our website at www.judicialappointments.gov.uk. You can also write to us to request a copy (see the 'Contacts and Further Information' section of this Information Pack for our contact details).

The Good Character Guidance gives you some indication as to whether anything in your past conduct or present circumstances might affect your application for judicial appointment. You should read it carefully before completing the Application Form.

Good character questions and declarations

You are required to answer a number of questions related to good character in the Application Form and must make appropriate declarations as requested.

Candidates for judicial appointments are not protected by sections 4(2) and 4(3) of the Rehabilitation of Offenders Act 1974. Any convictions which would normally be regarded as having expired under that Act should therefore be declared in writing (Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975). You must provide details of all offences for which you have been convicted or cautioned. Details should include the nature of each offence, date of conviction or caution and the penalty imposed.

Where proceedings of any kind are pending, you should give details of the offence with which you have been charged or the disciplinary process you are subject to and, if known, the date when the case or action may be heard. It is important that you inform us of the outcome of any case or action concluded while your application is under consideration. Similarly, if you are charged with any offence or any action is brought against you after submitting your application you should inform us immediately (see the 'Contacts and Further Information' section of this Information Pack).

In all cases, please provide as much detail as you can and indicate if there are any mitigating factors that you think the JAC should take into account in assessing your good character.

Good character checks

The JAC will also carry out checks on all candidates whom it intends to recommend for appointment. Further information about these checks will be provided separately to relevant candidates.

Failure to have declared any matters that come to light from these checks may prejudice the outcome of your application.

Conflict of Interest

The Judicial Appointments Commissioners are listed at the back of this pack. You should not nominate a Commissioner as a referee. You should also state in the Application Form if you are in any way related to, or known to, any of the Commissioners and give details.

REASONABLE ADJUSTMENTS

The JAC is committed to considering any reasonable adjustments needed to ensure that you can participate in the selection process fairly. The Application Form asks you to identify any arrangements and adjustments you may require. Requests will be considered on a case-by-case basis and the information given will not be used in selection decisions.

If you are recommended for appointment, reasonable adjustments will be considered if you have a disability under the meaning of the Disability Discrimination Act, as they are for serving judges. Any reasonable adjustments to enable you to take up appointment will be discussed separately with you by the Her Majesty's Courts Service after the JAC has made its recommendation.

JOB DESCRIPTION

The Ministry of Justice has provided the following information.

TAXING MASTERS OF THE SENIOR COURTS (known as Costs Judges)

Purpose of Office

1. The purpose of judicial office is to administer justice in accordance with the laws of England and Wales.
2. Taxing Masters (Costs Judges) of the Senior Courts of England and Wales (Senior Courts) swear the judicial oath (or affirm) that they "will well and truly serve our Sovereign Lady Queen Elizabeth the Second in the Office of a Costs Judge of the Senior Courts and do right to all manner of people after the laws and usages of this Realm without fear or favour, affection or ill will".

Jurisdiction

3. Costs Judges of the Senior Courts are appointed by the Lord Chancellor under Section 89(1) of, and Schedule 2 to, the Senior Courts Act 1981 as amended by Schedule 10 to the Courts and Legal Services Act 1990. They are officers of the Senior Courts under section 88 of the Supreme Court Act 1981. They sit at Clifford's Inn, Fetter Lane, London EC2 and the allocation of their work and the regularity of their sittings are under the day-to-day control of the Senior Costs Judge. The statutory title is 'Master'.
4. Costs Judges of the Senior Courts have power to assess the costs of, or arising out of, any cause or matter in the Senior Courts, and/or any other costs the assessment of which is referred to them. They exercise an appellate jurisdiction in respect of costs in criminal proceedings. The jurisdiction of a Costs Judge of the Senior Courts is summarised in the following pages.
5. All Costs Judges are also appointed Deputy District Judges of the County Courts and Deputy District Judges of the Principal Registry of the Family Division in order to be able to exercise their jurisdiction to assess costs in county court cases and PRFD cases as required.
6. This job description is intended to describe only the main activities and responsibilities of a Costs Judge.

Main Activities

7. The main duties of a Costs Judge are as follows:

a. Preparing for and hearing detailed assessments

- Reading and assimilating papers lodged in respect of detailed assessment (possibly 20 or more boxes), extracting and considering relevant material.
- Controlling (in accordance with the relevant law and rules of procedure) the manner in which all assessments and applications are conducted with a view to:
 - ensuring that the parties, whether represented or litigants in person, are enabled to have their cases presented and considered as fully and fairly as possible;
 - promoting in each case the most expeditious dispatch of business compatible with the interests of justice;
 - maintaining the authority and dignity of the proceedings.
- Taking a direct role in eliciting the facts and issues from the parties, and from the papers lodged in support of the bill. (Proceedings before the Costs Judge are adversarial save in respect of costs out of the Community Legal Service Fund, when the procedure is inquisitorial.)
- Overseeing in liaison with court staff the progress of cases towards assessment and disposal so as to secure the most efficient disposal of business compatible with the interests of justice.
- Costs Judges from time to time when nominated by the Senior Costs Judge sit as Assessors with the Judge in Chambers on Appeals relating to costs, and on applications for security for costs.

b. Applications in the course of proceedings

- Hearing Part 8 and interim applications where appropriate, ensuring that directions are given to prepare cases for assessment or for trial of a preliminary point in order that the issues between the parties are identified, and relevant documents and evidence filed; hearing applications for, and if appropriate, granting Interim Certificates from time to time; hearing applications to set aside default Costs Certificates.
- Hearing and deciding applications under Part III of the Solicitors' Act 1974.
- Determining contested applications and other issues by consideration of the papers and evidence (both written and oral) presented at any hearing, and making findings of fact, applying the relevant law and giving a reasoned judgment.
- Assessing and awarding costs in respect of all assessments and applications before the Costs Judge, by summary or detailed assessment.
- Dealing with Part 36 offers and offers made without prejudice, save as to the costs of the assessment (Calderbank Offers) under CPR 47.19.

c. Determining applications on paper

- Dealing with assessments on a provisional basis in the absence of the parties, by considering the papers and applying the law and the relevant Regulations to the facts of the case.
- Dealing with criminal fee appeals ex parte at the request of the appellants, by considering the original claim and applying the law and appropriate regulations to the facts of the case.

- Deciding assessments by finding facts, applying the relevant law to them and giving a reasoned judgment, including written judgments.
- Supervising the wording of Orders and Certificates of the Court.
- Exercising the penal jurisdiction in relation to wasted costs, misconduct, neglect and delay.

d. Acting as Sitting Master

- All Costs Judges are required on a rota basis to act as Sitting Master, who is available throughout the day to deal with all questions of law and practice which may arise. Queries can range from an enquiry from a member of the Court of Appeal to one from a member of the general public. In addition, the Sitting Master deals with applications made during his or her period as Sitting Master.

Other Responsibilities

Keeping abreast of legal developments

- Costs Judges need to keep abreast of all legal developments in all fields of law, since these developments are ultimately reflected in claims for costs. This entails a substantial amount of reading not directly connected with the cases which they are trying.
- Costs Judges meet regularly to discuss matters of law and practice, and where major changes in the law take place (for example the introduction of the Civil Procedure Rules and Legal Service Commission Funding) prepare and present training courses for colleagues, deputy Costs Judges, Regional Costs Judges and authorised Court Officers.

Other Duties

- Sitting on Committees (such as the Costs Practitioners' Group, and several others) and, at the request of the Senior Costs Judge, the Civil Procedure Costs Rules Sub-Committee and the Criminal Costs Practice Direction Sub-Committee.
- Costs Judges will be appointed as Deputy District Judges of the County Court and the PRFD to deal with costs matters in those Courts.

Further Information

Further information about this post, including Terms & Conditions and Note on Jurisdiction can be found on the JAC website (www.judicialappointments.gov.uk):

THE SELECTION PROCESS

Application form

Details of the qualities and abilities against which you will be assessed are set out in the Application Form. You can draw on your full range of work and personal experience to demonstrate these qualities and abilities including, for example, voluntary work or any publication to which you have contributed. Please be specific in giving information.

Timetable

Closing date for applications	12.00 (noon) 7 January 2010
Provisional dates for interview	8 – 9 April 2010

Shortlisting

The next step in the process is a sift. A selection panel will consider the information provided in your Application Form and any references received. If you are shortlisted, you will be invited to the next stage. We are sorry that we are not able to provide written explanations to candidates who are not shortlisted.

References

We may seek information from people who are well placed to comment on how you meet the qualities and abilities. Referees are usually approached before the sift takes place and will be encouraged to draw on appraisal material if it is available. The material provided by referees will usually inform decisions at sift and at selection day and will be available to Commissioners at the final selection decision stage.

Please note that the **Senior Costs Judge, Peter Hurst**, is unable to provide references as he will be on the Sift and Interview Panel. If you would normally have sought him as a referee you should instead consider nominating **Master John O'Hare**.

Candidate nominated

You are invited to nominate up to three referees who know you well either personally or professionally. **We strongly recommend that you check with your referee that they are not conflicted.**

JAC nominated

The JAC may also request references from those identified in the section of this pack titled 'JAC nominated referees'.

Please provide the name, title, position and address of your relevant judicial and professional referees. You may also tell us if you do not wish us to approach the relevant professional referee now, but you must give reasons. If you do not currently hold a judicial office and have excluded your relevant professional referee, you must suggest an alternative referee who is familiar with your work.

Selection days

If you are shortlisted you will be invited to a selection day. The selection day for this exercise will consist of a panel interview. Further details will be sent with any invitation to attend. The overall assessments made by the panel are provided to Commissioners when they make their selection decisions.

Statutory consultation

As required by the Constitutional Reform Act 2005 (CRA), the Commission must consult the Lord Chief Justice and a second person, who has held the office or has other relevant experience, about those candidates it is minded to select. For this exercise the second consultee will be the President of the Queen's Bench Division, The Right Honourable Sir Anthony May.

Character checks

The JAC is required to select only persons of good character. The JAC will carry out checks on all candidates likely to be considered for selection and the results of these checks, together with information declared by candidates in the Application Form, will be assessed.

Selection decisions

The Commission, sitting as a committee, will consider the information gathered about candidates, which includes the overall assessment report from the selection day panel, to select those candidates to recommend to the Lord Chancellor.

Report to the Lord Chancellor

The Commission reports its final selections to the Lord Chancellor. The Lord Chancellor can accept or reject this recommendation, or ask the Commission to reconsider it. The Lord Chancellor may not select an alternative candidate.

Conflict of interest

The Judicial Appointments Commissioners are listed at the back of this pack. You should not nominate a Commissioner as a referee. You should also state in the Application Form if you are in any way related to, or known to, any of the Commissioners and give details.

Outcome of the selection exercise

You will be advised of the outcome of your application in writing.

If you are unsuccessful at the selection day stage of the process, you can request a written explanation. You should make this request within six weeks of the date of the letter informing you that you have not been successful. We will aim to respond to your request within 20 working days.

Complaints procedure

If you are dissatisfied with any aspect of the way your application has been handled, please refer to the JAC's published complaints procedure, which is available from our website, or in writing on request.

Further information

For further information about the selection process and the requirements of the CRA please consult our website www.judicialappointments.gov.uk

CONTACTS AND FURTHER INFORMATION

Obtaining an application form

All the information about applying for this selection exercise is available at www.judicialappointments.gov.uk.

Please contact the Judicial Appointments Applications Service (JAAS) team at the JAC if you wish to request a hard copy of the Application Form or Information Pack, or if you have any questions about submitting your application.

If you need the form and/or pack in a different format, for example Braille, please contact the JAAS team.

Submitting your application

Once completed your Application Form should be submitted via our secure online process by going to www.judicialappointments.gov.uk and selecting 'Submit your Application'.

Acknowledgement of your application

When you submit your application by our secure online application process you will receive an immediate acknowledgement. You may also request an auto generated e-mail confirming successful receipt.

If you choose to submit your application by post, you should receive an acknowledgement of your application within five working days of receipt. If you do not, please contact the JAAS team by telephone or e-mail.

Contact details

1. JAAS

Reference: 00449 (Please use this reference on all communications)

Judicial Appointments Commission
3rd Floor, Steel House
11 Tothill Street
London
SW1H 9LH

DX 149822 WESTMINSTER 6

E-mail: jaas@jac.gsi.gov.uk

Telephone: 0203 334 0123

2. Selection Exercise Team:

Chris D'Souza	0203 334 0548	Selection Exercise Manager
Kastur Patel	0203 334 0199	Deputy Selection Exercise Manager
Val Robbins	0203 334 0320	Selection Exercise Team Leader

E-mail: district.benches@jac.gsi.gov.uk

Fax: 0203 334 0300

3. Director:

Ms Jane Andrews 0203 334 0508

JAC NOMINATED REFEREES

The JAC may also request references from those categories listed below.

Judicial referees

If you hold a judicial office not in this list, please contact the JAC so that we can consider who should be nominated as your judicial referee.

If you sit on a Tribunal, the Tribunal President or equivalent.

If you are a Recorder, the Resident Judge, the Designated Civil Judge or the Designated Family Judge in the court(s) where you sit most often.

If you are a Deputy Master or Registrar, the relevant Senior Master or Registrar.

If you are a Deputy Costs Judge, the Senior Costs Judge.

If you are a District Judge the local Designated Civil Judge.

If you are a District Judge of the Principal Registry of the Family Division, the Senior District Judge (PRFD).

If you are a District Judge (Magistrates' Courts), the Senior District Judge (Magistrates' Courts).

Professional referee

If you are a solicitor, your managing partner or relevant equity partner.

If you are a barrister, your Head of Chambers.

If you are employed, your line manager or equivalent.

JAC COMMISSIONERS

Chairman of the JAC

Baroness Usha Prashar CBE

Members

Mrs Justice Jill Black DBE

Dame Lorna Boreland-Kelly DBE

Professor Dame Hazel Genn DBE QC

Lady Justice Heather Hallett DBE

Sir Geoffrey Inkin OBE

Her Honour Judge Frances Kirkham

Mr Edward Nally

Ms Sara Nathan OBE

District Judge Charles Newman

His Honour Judge David Pearl

Mr Francis Plowden

Ms Harriet Spicer

Mr Jonathan Sumption OBE QC

Lord Justice Roger Toulson