

References Policy

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***“Selecting the Best Applicants and
Promoting Diversity”***

1. Rationale

- 1.1 The aim of this policy is to outline the arrangements for the use of References in the recruitment of individuals for senior judicial office.

2. Policy Objectives

- 2.1 NIJAC will obtain references for senior appointments to judicial office to assist with ensuring NIJAC meets its statutory requirement of appointing the most meritorious applicant to judicial office.

3. Scope

- 3.1 References will only be utilised in County Court Judge and High Court Judge appointments.

4. General Principles and Governance Arrangements

- 4.1 References are used primarily for validation. They are not scored and are assessed qualitatively as part of the assessment process for senior judicial office.
- 4.2 Applicants will nominate their own Referees.
- 4.3 References will be requested after shortlisting for those applicants proceeding to the final assessment stage.
- 4.4 Applicants are advised to nominate Referees who are most familiar with the work they choose to rely on in their application.
- 4.5 An individual cannot act as a Referee for an applicant if they:
- 4.5.1 are an applicant in the same recruitment scheme;
 - 4.5.2 are related to the applicant;
 - 4.5.3 have a close personal relationship with the applicant which is considered as raising a conflict of interest therefore preventing the provision of a reference;

- 4.5.4 do not have sufficient knowledge of the applicant to provide a fair and accurate appraisal of their ability to undertake the judicial office; and/or
- 4.5.5 are a NIJAC Commissioner or a member of NIJAC staff.
- 4.6 References are required to be completed electronically, unless a reasonable adjustment is required.
- 4.7 All applicants and Referees must adhere to the timeframes required in relation to the requests for Referee nominees and submission of References. The onus is on the applicant to ensure that their Referees are available to provide a reference within the specified timeframes. If, in exceptional circumstances, a Reference is not returned within the allocated timeframe, a substitute Referee will be permitted as long as the Reference is submitted within a specified timeframe.
- 4.8 County Court Judge applicants will be required to nominate two (2) Referees who can provide objective information with clear examples of the applicant's work.
- 4.9 High Court Judge applicants will be required to nominate three (3) Referees who can provide objective information with clear examples of the applicants work.
- 4.10 Referees are required to carefully consider if there is, or may be a conflict of interest in providing the reference. Should it be considered an actual, potential or perceived conflict of interest arises they must advise NIJAC so it can be established if an alternative Referee needs to be identified.
- 4.11 All Referee comments are considered equally. Referees are asked to provide evidence with factual examples regarding the strengths and areas for development of the applicant, focusing on those aspects most relevant to the judicial office to which they are applying.

4.12 Should adverse information of a serious nature be disclosed in a Reference, it will be investigated further and the applicant may be given the opportunity to comment on that information.

4.13 NIJAC will ensure that, in line with our Equal Opportunities Policy, no one is treated less favourably in the application of this policy.

5. Confidentiality

5.1 All References will be treated confidentially by NIJAC and not disclosed, unless required to do so.

5.2 NIJAC will emphasise to all Referees that they are bound by the confidentiality requirements in respect of judicial appointments.

5.3 A breach of confidentiality is unlawful; Section 91 of the Justice (Northern Ireland) Act 2002, as amended sets out the legislative position.

In short:

“Information is confidential if it relates to an identified or identifiable individual (a subject).”

“A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.”

5.4 Therefore an individual should not disclose that a person has applied for judicial office or share any aspect of their involvement with anyone other than a member of NIJAC staff and the applicant for whom the Reference is being provided.

6. Data Protection

6.1 The Data Protection Act 2018 (DPA) sets out the statutory right of access to personal data and the duty to protect personal information relating to identifiable

individuals. It also sets out the exemption applying to data processed for the purposes of assessing suitability for judicial office. NIJAC is committed to the application of Data Protection principles and will hold and process all documentation (manual and electronic) in relation to its appointment processes in accordance with the Act.

7. Implementation

7.1 In order to implement this policy NIJAC will communicate the Policy to applicants, Commissioners, staff, Referees and relevant others (such as those members co-opted to Selection Committees).

8. Variation

8.1 This policy, or the arrangements under it, may be varied, amended or adjusted at any time.

9. Review

9.1 The References Policy will be reviewed tri-annually and action taken as necessary.

10. Complaints

10.1 All complaints relating to References will be considered, dealt with or investigated promptly and confidentially, in accordance with NIJAC's Complaints Policy and Procedure which is available at www.nijac.gov.uk

Signed

Tonya McCormac