



Eligibility Policy and Procedure

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

Policy Statement

1. Introduction

- 1.1 Statutory eligibility requirements for appointment to judicial office are set out in governing legislation for the particular judicial office under recruitment. NIJAC may only appoint or recommend for appointment to judicial office those who meet the eligibility requirements.
- 1.2 Firstly, it is therefore necessary to set out a clear policy and procedure outlining the policy arrangements and their implementation as to how applicants are sifted against the eligibility criteria. Secondly, it is essential to set out a process whereby any issues or doubts regarding eligibility issues can be dealt with in a fair and transparent way that demonstrates adherence to the statutory Codes of Practice and NIJAC's principles.
- 1.3 This policy relates solely to a statutory eligibility criterion concerning a period of standing, post qualification experience or nationality.
- 1.4 The Issues and Character Cte (ICC) may refer an eligibility criterion which relates to knowledge and/or experience to a Selection Cte for assessment.

2. Policy Objectives

- 2.1 NIJAC is committed to:
 - 2.1.1 implementing a fair, accountable and transparent initial screening process to sift applicants against advertised statutory eligibility criteria,
 - 2.1.2 continuing to review the eligibility criteria where possible in advance of a competition to ensure it provides for equality of opportunity, is appropriate to the role and assists NIJAC to meet its statutory remit, and
 - 2.1.3 ensuring that a fair, accountable and transparent process is in place to handle issues and queries that arise regarding statutory eligibility criteria.

3. Scope

3.1 This policy and procedure will apply to all applicants for judicial office and:

- Commissioners,
- Committees (ad hoc or otherwise),
- NIJAC staff,
- Co-opted Selection Committee members

4. Key Principles

4.1 The statutory eligibility requirements set out in the governing legislation form part of the terms and conditions of service. NIJAC will review the statutory eligibility criteria and will highlight where necessary to the sponsoring department where there are potential issues of inequality in accordance with its statutory remit, and, where better criteria may enhance recruitment from a wider talented pool. These include areas such as professional standing and nationality requirements.

5. Roles and Responsibilities

5.1 It is the responsibility of each applicant to demonstrate how s/he meets the eligibility requirements for each competition for which they apply.

5.2 Eligibility sifting will form part of an initial screening process and those applicants who meet the statutory eligibility requirements will proceed to the next stage.

5.3 NIJAC staff will carry out an initial administrative screening process to identify applicants who do not meet the advertised eligibility requirements set out in the Applicant information Booklet for each competition.

5.4 Eligibility in relation to Nationality will be considered immediately after the closing date and time for applications and all applicants must be in a position to establish eligibility as at that date and time. Other aspects of eligibility including, for example, number of years standing as a barrister or solicitor will be considered and determined (at the appropriate stage) in relation to all applicants on the basis of the first anticipated date of appointment rather than at any subsequent date in relation to potential appointment(s) from a reserve list.

- 5.5 NIJAC will also ensure that where there are doubts as to whether an applicant will meet the eligibility requirements, applicants will have an opportunity to provide any supporting evidence so this can be considered by NIJAC.
- 5.6 The ICC will deal with issues and disputes regarding eligibility but has discretion as set out in paragraph 1.4.
- 5.7 The ICC will normally comprise one Nominated Commissioner. If the Nominated Commissioner is a member of a Selection Committee for a scheme then a different Nominated Commissioner will be appointed by the Chairman of the Commission in relation to that scheme. If the Nominated Commissioner considers that the likely determination will be to exclude an applicant from a scheme then the Nominated Commissioner may request the Chairman of the Commission to appoint and the Chairman of the Commission may appoint a Lay Commissioner as an additional temporary member of the ICC to consider the issues and disputes regarding eligibility in relation to that applicant.
- 5.8 Staff will support the ICC independently of the Selection Committee. This arrangement will ensure that the Selection Committee is neither aware of, nor tainted by eligibility issues and will work independently focusing on assessing applicants in the selection process. The Chief Executive and/or Chairman may be consulted if required.
- 5.9 In providing administrative support to the ICC, staff's specific role is in the provision of reports containing factual information and supporting evidence received by NIJAC regarding issues related to eligibility. NIJAC staff does not have any decision making role. Advice on good practice and selection and previous precedents can be sought from NIJAC staff.
- 5.10 In line with our principle of transparency, NIJAC will ensure that applicants are informed of the decisions of NIJAC regarding eligibility. All decisions and their rationale will be recorded.
- 5.11 In accordance with our core principle of fairness and accountability, the Selection Committee shall not be informed at any stage of the assessment and selection

process, of the details of an eligibility issue, should the decision be made to admit the application. Selection Committees are trained at the outset to apply the core principle of fairness by applying an objective approach at all times.

- 5.12 In relation to any conflict of interest which arises the Chairman of NIJAC may nominate another judicial member of NIJAC (“an Appropriate Person”) to make the final determination and decide the appropriate action to be taken.

6. Monitoring and Review

- 6.1 NIJAC will establish and maintain appropriate information and monitoring systems to assist the effective implementation of our Eligibility Policy and Procedure. This will include an oversight arm to ensure that policies are being applied and adhered to within the organisation.
- 6.2 The Eligibility Policy and Procedure will be reviewed in three years from the date of approval by Plenary.

7. Variation to Policy

- 7.1 NIJAC may, at any time and at its discretion, vary, amend or make reasonable adjustments to this policy or to its procedures and practices implementing this policy, if it considers that this is reasonably necessary to undertake its statutory responsibilities.

8. Complaints

- 8.1 All complaints will be diligently considered, dealt with or investigated promptly and confidentially, in accordance with NIJAC’s Complaints Policy and Procedure which is available on the website.

9. Procedure

- 9.1 Appendix 1 details a flowchart of the initial screening procedure once the vacancy is advertised.
- 9.2 NIJAC staff will highlight any issues to the sponsoring department regarding eligibility in pursuit of its statutory remit prior to the competition being advertised.

- 9.3 Where eligibility issues arise, staff will submit a report of issues and evidence to the Issues and Character Committee (ICC).
- 9.4 The ICC will consider the issues and the supporting evidence arising after the closing date of the competition.
- 9.5 The ICC shall consider (on an anonymous basis) the known circumstances, supporting evidence and any precedents in relation to the eligibility issues raised, and make a determination, on the individual merits of the particular circumstances, whether or not to admit the application.
- 9.6 Where required, further information/evidence or legal advice will be sought from the relevant service providers, to provide advice or further evidence to assist the ICC to reach its decision fairly and in an accountable way.
- 9.7 The ICC will record its decision with regard to the eligibility issue, query or dispute and the specific reasons for it. NIJAC staff will communicate the determination to the applicant on behalf of NIJAC.
- 9.8 If the ICC takes the view that the application should be admitted to the competition then the application will be permitted to progress through the assessment and selection process.

