

KING'S COUNSEL – GUIDELINES FOR CANDIDATES 2024

Introduction

The rank of King's Counsel is awarded to barristers sole who have demonstrated excellence in their careers. The standard is high and will not be reached merely by completing a certain number of years in practice. Candidates are encouraged to consider these Guidelines carefully and to consult with senior colleagues before submitting an application.

These Guidelines are issued by the Attorney-General and Chief Justice pursuant to regulation 5 of the Lawyers and Conveyancers Act (Lawyers: King's Counsel) Regulations 2012.

These Guidelines outline the criteria for appointment and provide information on the qualifications and experience that should be possessed by lawyers seeking appointment as King's Counsel and the process by which candidates will be recommended for appointment.

Appointments

Appointments to King's Counsel are made by the Governor-General, by Letters Patent, under the Royal prerogative. Pursuant to regulation 4 of the King's Counsel Regulations 2012 appointments are made on the recommendation of the Attorney-General and with the concurrence of the Chief Justice of New Zealand.

To be considered for appointment candidates must be barristers sole. King's Counsel are required to continue to practise independently, as barristers sole.

Applications

Counsel seeking appointment as King's Counsel should write to the Solicitor-General, at kc@crownlaw.govt.nz by **29 March 2024**. The letter of application must be accompanied by a completed application form. The form provided reflects the requirements of the Regulations and these Guidelines. Additional copies of these Guidelines and the application form may be found on Crown Law's website: www.crownlaw.govt.nz.

Qualifications and experience

Criteria for the recommendation of candidates for King's Counsel are set out below. They reflect the position of the office as the top echelon of barristers in New Zealand.

Candidates should give serious consideration to these criteria when considering whether to apply for King's Counsel status.

Excellence: this is the overarching requirement. The standard for appointment is high and in most cases requires considerable length and depth of experience.

Knowledge of the law: expert, up to date, legal knowledge.

Commitment to improving access to justice: a history of making a personal contribution to advancing better access to justice for those who need it, for example by undertaking criminal/civil legal aid work, supporting community-based law centres, or through honorary positions or *pro bono* work.

Oral and/or written advocacy: superior skill in oral and/or written persuasive argument, including presentation and testing of litigants' cases.

Independence: the ability to devote him or herself to the client's interests, free of other influences.

Integrity and honesty in all dealings with clients, the judiciary and fellow practitioners.

Leadership in setting and maintaining the standards of the profession.

Completing the application form

The purpose of the application form is to assist candidates to provide evidence they demonstrate the criteria to standards of excellence.

Professional information

The form requires information about the candidate's professional details, career history and any publications.

The form also requires a brief description of your current practice, including any areas of specialism and an overview of the main types of matters you have been involved in over the past five years.

In another section you are asked to identify up to ten matters you consider most significant in the past three years. These matters may also be referred to as evidence of your attainment of the criteria. Ordinarily these would be substantive trials or appeals. By way of example, a major or significant matter may have the following features:

- referred to by the Judge as important, complex, significant or similar term;
- is a test case or set a precedent;
- has been reported or has been the subject of academic comment;
- a serious fraud or criminal case;
- a complex commercial or civil case (including family law cases).

Addressing the appointment criteria

In this section of the application form you must set out your assessment of how you meet the criteria. To the extent possible you should refer to particular instances which demonstrate your attainment of the criteria. You may draw examples from the matters you have identified in the summary description of your practice or from your work generally.

Candidates are allowed approximately 450 words to address each criterion. This limit should be closely observed.

Other factors that may affect suitability for appointment

In this section candidates are asked to disclose any other details that may affect appointment.

You are also required to provide consent for the New Zealand Law Society to provide information about any complaints that have been made relating to you, the outcome of the complaints and any disciplinary proceedings and whether there are any outstanding complaints.

Referees

Candidates often ask whether they should nominate referees to support their applications. Candidates may provide the names of referees but are not required to do so. Members of the judiciary are not to be named as referees.

If the Solicitor-General or a delegate contacts a referee it will be to obtain comments on how the candidate meets the selection criteria.

Selection procedure

On behalf of the Attorney-General, the Solicitor-General will consult the New Zealand Law Society and the New Zealand Bar Association, as required by regulation 8 of the Lawyers and Conveyancers Act (Lawyers: King's Counsel) Regulations 2012, and convey their views to the Attorney-General.

The Attorney-General will consult with the Chief Justice on the candidates whose appointment is to be recommended to the Governor-General.

Notification

The Solicitor-General will, in confidence, notify all candidates of the result of their applications.

The Attorney-General will as soon as possible after notification, publish a list of counsel appointed to be King's Counsel. It is intended to conclude the selection process by 14 June 2024. Only the names of successful applicants will be announced.

Feedback

Unsuccessful applicants may wish to obtain some feedback on the additional experience they may require before an appointment can be considered. Such feedback may be provided by the Solicitor-General on behalf of the Attorney-General. Providing feedback is entirely at their discretion.

Other appointments

Nothing in the regulations or these Guidelines removes the Governor-General's discretion to appoint as King's Counsel, from time to time, other lawyers in recognition of their extraordinary contributions to the field of law.

Appointments can be drawn from members of the legal profession practising in other spheres including academia and public service.

Appointment in this category does not require an application or nomination to be made.

Further information

Applicants needing further information should contact Crown Law by emailing kc@crownlaw.govt.nz.