



## GUIDANCE FOR ASSESSORS 2020

Guidance on assessments on applicants for appointment as Queen's Counsel

### Summary

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We treat assessments as wholly confidential. They will not be shown to the applicant or to other third parties. Information held for the purposes of the QC appointment system is exempt from the subject access provisions of the Data Protection Act

The Selection Panel wants your frank, discriminating and succinct views on the applicant's demonstration of the competencies, supported by evidence from your recent professional contact with him or her.

It is important that your views are supported by evidence. A bare comment, even of "excellent", is of limited value to the Panel.

We do not need lengthy descriptions of cases. Please do not describe a case in detail unless that is essential to explain your comments on a particular competency.

Please draw on all the cases in which you have seen an applicant in preparing your assessment even if the case is not one which has been listed by the applicant.

Whilst we would welcome evidence from you on every competency, we entirely understand that many assessors will not have relevant evidence on every competency. If you have no relevant evidence on a particular competency, please say so. This will not be held against the applicant.

In respect of integrity (Competency E), the Panel assumes that advocates meet the standard required unless there is evidence to the contrary. Accordingly, the Panel only needs information from assessors about that competency if you have any relevant negative evidence.

Please do not share your assessment with the applicant

If you are unable to give an assessment on an applicant, please tell us as soon as possible.

We can usually accommodate requests for more time, but if you need more time please contact us as soon as possible.

Assessments can be completed on-line at <http://assessor.qcappointments.org> or on assessment forms which can be downloaded from the QCA website [www.qcappointments.org](http://www.qcappointments.org).

## Background

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1. The award of Queen's Counsel is intended to recognise excellence in written and oral advocacy in cases of substance in the higher courts of England and Wales. Although applicants whose practice is primarily outside the higher courts of England and Wales are entitled to apply, provided they hold rights of audience in the higher courts of England and Wales, no applicant can be recommended for appointment unless the Selection Panel is satisfied that they are or would be excellent in relation to advocacy in cases of substance in the higher courts of England and Wales.
2. To be appointed, an applicant must demonstrate each of the competencies to a standard of excellence. The Competency Framework applicable to the competition for 2020 is attached at Annex A.
3. The successful operation of the QC appointment system depends to a large extent on the information which is provided by assessors who have recent professional experience of seeing the applicant in practice. Assessments are taken from three categories of assessor who can speak to the applicant's abilities from different perspectives: (a) judicial, (b) practitioner (i.e. fellow advocate) and (c) (usually professional) client.
4. All applicants have been asked to list a judge or arbitrator and a practitioner in respect of each of their 12 listed cases, and to list at least six professional clients drawn from those cases. The Panel does not approach all those mentioned in the application form, nor does it approach anyone who has not been listed by the applicant concerned.

## Contact with applicants

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5. If an applicant has approached you as a potential assessor before completing their application, please do not feel in any way compromised by that – the Panel wants honest and frank views about the applicant. Equally, please do not take it amiss if an applicant did not seek your agreement to act as an assessor. Applicants are required to list a judicial and a practitioner assessor for each listed case and we advise applicants that they do not need to seek advance consent before listing a potential assessor, not least because applicants are required to list a judicial and a practitioner assessor from each case even if they believe the potential assessor to be unwilling to provide an assessment.
6. We encourage applicants to send those they list as potential assessors copies of any written work the applicant did in the case as an aide-memoire. If you do not receive copies of any such written work when you had expected to do so, please feel free to contact the applicant direct.
7. Applicants are told that they should not lobby for support, and in particular that they should not send material to prospective assessors intended to be used as a draft of an assessment from that assessor. Please notify the QCA Chief Executive ([russell.wallman@qcappointments.org](mailto:russell.wallman@qcappointments.org)) if you should receive an approach of that nature.

## Confidentiality

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8. Assessments will be seen only by QCA and by members of the Panel. Assessments will *not* be made available to the applicant or to other assessors, during or after the competition. Exceptionally, as part of an investigation arising from a complaint from an applicant, an assessment may be sought by the QC Complaints Committee. We will not supply assessments even to the QC Complaints Committee without obtaining your consent in advance. Assessments will not be shared with anyone else.
  9. Assessors are asked not to share their assessment with the applicant, whether or not the applicant asks to see it. It is important that assessments should be frank and if some assessors allowed applicants to see what had been said about them, it would become more difficult for other assessors to decline to do so.
  10. Generalised feedback will be provided to unsuccessful applicants in order to help identify the areas in which the applicant needs to demonstrate more evidence or further improvement. This may reflect comments given in your assessment, but care will be taken to ensure so far as possible that the source of any comments cannot be identified from the feedback given to the applicant.
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## Completing the assessment form

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11. The Panel appreciates that most assessors will not be in a position to comment on every competency. You are asked to provide evidence only on those competencies where you have useful information for the Panel. If you have not had an opportunity to observe an applicant demonstrating a particular competency, please say so.
12. The Panel wants your frank and discriminating views, supported by examples drawn from your recent professional contact with the applicant. The Panel relies on what assessors tell us. We therefore encourage all assessors to be as frank as they can.
13. The examples listed in the competency framework are intended to illustrate the kinds of behaviour the Panel has in mind. Short statements such as 'excellent advocate', without supporting evidence, are not helpful to the Panel. Please comment on each competency that you can, indicating, with examples, how well and to what extent that competency is or is not demonstrated.
14. The Panel is looking for succinct evidence, sufficient for it to be able to understand your view on the applicant's demonstration of each competency, and your reasons. Around 10 lines of typed text on a particular competency is generally ample. Lengthy description of cases is unnecessary and is not likely to be helpful to the Panel.
15. In summary, the Panel would like to know what the applicant did; how well or how badly the applicant did it; what the circumstances were – especially if these presented a particular challenge for the applicant; and what the outcome was. The Panel would also value your view as to whether the applicant merits appointment.
16. The Panel is looking for recent evidence. It should in general relate to substantial cases which occurred in the last three years. If you have relevant evidence relating to an earlier case, that is welcome, but it would be helpful if you could indicate when comments relate to an earlier case. Please do not confine your assessment to the cases referred to by the applicant: evidence drawn from other cases in which you have first-hand experience of the applicant is equally welcome.
17. The Panel considers each applicant on the evidence of his or her demonstration of each competency, without regard to age, disability (including mental health), gender, ethnic or national origins, sexual orientation or any other extraneous factor such as educational background, political affiliation, or earnings. Assessors are asked to consider each applicant on the same basis.
18. Following requests from a number of assessors in response to our annual survey of assessors, we have prepared some examples of helpful assessments, which are included as an annex to this guidance. The assessments are based on actual assessments provided in the 2018 competition, redacted to preserve confidentiality.

### **Cases of substance, complexity, or particular difficulty or sensitivity (Part 2, Q.3)**

19. Precisely what constitutes a case of substance, complexity, or particular difficulty or sensitivity is a matter for your own judgement, but please explain briefly why you consider a case falls into such a category.

### **Competency A – Understanding and Using the Law**

20. It is particularly useful for the Panel to have any evidence assessors may have about applicants' ability to deal with "new law", that is, either law in an area outside the applicant's usual specialism, or new developments in law. Experience shows that there is often a shortage of evidence on this aspect from assessors.

#### *Other jurisdictions*

21. If the law applied in a case to which your evidence relates was not that of England and Wales, or included elements of law from any jurisdiction other than England and Wales (including any other jurisdiction in the British Isles), then please make this clear on the form.

### **Competency C – Working with Others**

22. The "working with others" competency requires applicants to "uphold the standards of behaviour expected of advocates." It encompasses working constructively with the judge or arbitrator and court staff, as well as with fellow advocates and clients.
23. It is particularly useful for the Panel to have any evidence assessors may have about the extent to which applicants demonstrate leadership of the sort expected of silks. This is another area where there is often a shortage of evidence from assessors.

### **Competency D – Diversity**

24. The Panel understands that many assessors, especially judicial assessors, may not be well-placed to comment on the diversity competency. It is perfectly acceptable to leave that section blank in those circumstances. However, where there **is** relevant evidence – such as the way in which an applicant dealt with the particular needs of an individual party or witness in court – it is useful to the Panel to have it.

### **Overall rating – (Part 4)**

25. You are asked to give an overall rating that best reflects the applicant's suitability for appointment as silk, based on their demonstration of those of the competencies on which you are able to comment. There is no need to give the applicant a lower rating simply on the grounds that your own knowledge of them is limited. The opposite is also unhelpful. We have found in previous years that assessors give extremely positive gradings to applicants. While in 2019 the Panel recommended 44% of all applicants, 86% of assessments rated the applicant as 'Excellent' or 'Very Good' (in other words suitable for appointment).
26. The "Excellent" rating should be reserved for applicants who are in the assessor's view well fitted for immediate appointment as silk. "Very Good" should be used for those who, whilst not quite reaching that standard, nevertheless meet the standard for appointment now. Applicants who are not yet ready for appointment, but seem likely to be suitable in future, should be rated as "Good".
27. In order to assist assessors to focus on suitability for appointment as silk, designation of the overall ratings now includes a specific reference in each case to suitability for appointment as silk, alongside the one or two word descriptions formerly used.

**Explanation of Overall Rating (Part 5)**

28. Please briefly summarise the reason for your overall rating of the applicant. It would be particularly helpful if you could in this section indicate approximately how much (if any) exposure you have had to the applicant's oral advocacy.

**Views of others (Part 6)**

29. It is important that the Selection Panel bases its decisions on first-hand evidence relating to each applicant. You are therefore asked to give your assessment based solely on your experience of the applicant in their professional life, rather than reflecting the "general view" of an applicant in any particular community. However, if you have consulted others in preparing your assessment, please state in the box in Part 6 whom you have consulted, the nature and extent of their experience of the applicant, and how far their experience coincides with or differs from your own.

## Comparisons with other applicants

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30. There are no quotas for appointment, either in particular specialisms or in particular regions of the country. All those applicants, and only those applicants, who meet the competencies to the required standard will be recommended for appointment. Each applicant is thus considered on their own merits, rather than in comparison with others. It is important that assessments likewise deal only with the individual applicant concerned, rather than comparing him or her with other applicants in the same competition. Material comparing an applicant with others, including material based on the collective view of a group of assessors, will be redacted before the papers are passed to members of the Selection Panel for grading.

## Assessors from outside England and Wales

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31. The Panel welcomes assessments from judicial, practitioner and client assessors outside England and Wales where appropriate, and is grateful to those assessors for their help with the process. However, it is important to remember that the scheme for appointing QCs in England and Wales is designed primarily to identify advocates who are excellent in relation to cases of substance before the higher courts of England and Wales. Accordingly, it would be particularly helpful if assessors from outside England and Wales could include in their assessment a sentence on the assessor's own familiarity with what is expected of QCs in England and Wales. A comment on the extent to which the requirements of oral advocacy in the forum from which the assessment arises are comparable with the requirements in the higher courts of England and Wales would also be helpful, if the assessor is in a position to comment on that matter.

## Unable to give an assessment on a particular applicant

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32. If you are unable to give an assessment on any applicant, please tell us as soon as possible so that we can approach another assessor in your place. The Panel recognises that an assessor named by an applicant will not always be in a position to provide an assessment. The Selection Panel will not be aware of whether an individual assessor was unable to or chose not to give an assessment of an applicant, and so not giving an assessment will not influence the Panel's view of an applicant.

## Provided an assessment in a previous competition

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33. If you have seen an applicant since any assessment provided for a previous QC competition, we will ask you to complete a new assessment, and the Panel will not take the previous assessment into account (although we can send you a copy of it if you wish to refresh your memory). However, if you do not have any more recent experience of the applicant, the Panel will be happy to rely on the previous assessment if you wish them to do so.
34. Because each competition is self-contained, it is preferable that Panel members should not be aware of whether an applicant has applied before, or of the reasons why any such previous application was unsuccessful. Accordingly, you are asked not to comment in your assessment on any previous applications which the applicant may have made, whether or not you were an assessor in respect of the earlier application.

## Concerns about Unsatisfactory Behaviour

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35. A concern expressed by an assessor amounting to an allegation of professional misconduct cannot be taken into account by the Panel unless, with the consent of the assessor, it has been put to the applicant, who will be given the opportunity to provide the Panel with an explanation. Accordingly, if you do need to refer to a matter of that sort, it would be helpful if you could do so in terms which you are willing for us to put to the applicant. The QCA Secretariat obtains from the Bar Standards Board and the Solicitors Regulation Authority details of professional disciplinary matters concerning all applicants.
36. However, concern about behaviour by an applicant which does not amount to an allegation of professional misconduct may properly be referred to under the written and oral advocacy, working with others, or diversity competencies as appropriate. Such comments remain confidential and are not put to the applicant for a response.

## Information for Assessors

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37. For each applicant on whom the Panel is seeking an assessment you will have been sent an email or letter containing their details and a link to the assessor site. This contains details of the case(s) extracted from the application form, as provided by the applicant. The applicant's name appears in the email and in the site once entered, your details will also appear.
38. You can complete the assessment form by logging into our assessor portal at <https://assessor.qcappointments.org/> with the details provided to you in the request email. If you would prefer to complete a Word version of the form, please contact the Secretariat. You may also complete the form in typescript or by hand. It would greatly assist the Panel if you would complete the form on a computer or in typescript.

## Returning completed assessment forms

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39. Please return your assessments by the date specified in the letter. If you need more time, please contact us as soon as possible.
40. On-line forms will be received automatically when you click Submit on completion of your assessment. Assessment forms completed on the Microsoft Word form can then be emailed to [assessments@qcappointments.org](mailto:assessments@qcappointments.org).
41. Completed hard copy or printed out assessments may be sent by post.
42. Forms submitted electronically will receive an automated response. We will acknowledge forms received through other channels unless you ask us not to do so.

## Feedback

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43. We value feedback on all aspects of the process at any time. Such feedback will not affect the consideration of any application. We will also conduct a survey of assessors soon after we have concluded the process of assessment collection.



## Contacting us

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44. Further information or assistance is available on the Queen's Counsel Appointments website - [www.qcappointments.org](http://www.qcappointments.org). If you wish to contact us please use the details below. If your enquiry relates to a particular applicant, please give the applicant's name and ID.

### **Queen's Counsel Appointments**

3<sup>rd</sup> Floor, 73 Farringdon Road, London EC1M 3JQ

Telephone: 0207 831 0020

Email: [assessments@qcappointments.org](mailto:assessments@qcappointments.org)

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**April 2020**



The Panel will judge how far an applicant meets the competencies as described by the passage in italics. The examples provided are intended to assist applicants, assessors and others. Consideration of the demonstration of the competency is not limited to the examples quoted.

To merit recommendation for appointment all competencies must be demonstrated to a standard of excellence in the applicant's professional life. In general the Selection Panel will be looking for the demonstration of the competencies in cases of substance, complexity, or particular difficulty or sensitivity. Competency B (Written and Oral Advocacy) *must* be demonstrated in such cases.

<p><b>A. Understanding and using the law</b>  <i>Has expert, up-to-date legal knowledge and uses it accurately and relevantly, and becomes familiar with new areas of law quickly and reliably.</i>          Examples:  <ul style="list-style-type: none"> <li>✓ Is up to date with law and precedent relevant to each case dealt with, or will quickly and reliably make self familiar with new areas of law.</li> <li>✓ Draws on law accurately for case points and applies relevant legal principles to particular facts of case.</li> </ul> </p> <p><b>B. Written and oral advocacy</b>  <i>Subject to the advocate's duty to the court, develops and advances client's case to secure the best outcome for the client by gaining a rapid, incisive overview of complex material, identifying the best course of action, communicating the case persuasively, and rapidly assimilating the implications of new evidence and argument and responding appropriately.</i>          The Panel will be looking both at the written and oral aspects of advocacy. Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation.          Examples (Written advocacy):  <ul style="list-style-type: none"> <li>✓ Writes arguments accurately, coherently and simply, and in an accessible style.</li> <li>✓ Presents facts and structures arguments in a coherent, balanced and focused manner.</li> <li>✓ Deals effectively with necessary preliminary stages of legal disputes.</li> <li>✓ Gains and gives an accurate understanding of complex and voluminous case material.</li> <li>✓ Appreciates aspects of the case that are particularly important, sensitive or difficult and appreciates the relative importance of each item of evidence.</li> <li>✓ Prepares thoroughly for the case by identifying the best arguments to pursue and preparing alternative strategies.</li> </ul> </p>	<ul style="list-style-type: none"> <li>✓ Helps the client focus on relevant points and is candid with the client.</li> <li>✓ Explains law and court procedure to client and ensures the client understands and can decide the best action.</li> <li>✓ Keeps lay and professional clients informed of progress.</li> <li>✓ Is prepared to advance an argument that might not be popular and to stand up to the judge.</li> <li>✓ Responds to the needs and circumstances of client (including client's means and importance of case to client and bearing in mind duty to legal aid fund) and advises client accordingly.</li> <li>✓ Meets commitments and appointments.</li> <li>✓ Accepts ultimate responsibility for case when leading the team.</li> <li>✓ Motivates, listens to and works with other members of own team.</li> <li>✓ Aware of own limitations and seeks to ensure that they are compensated for by others in team.</li> <li>✓ Able to take key decisions with authority and after listening to views.</li> <li>✓ Identifies priorities and allocates tasks and roles when leading the team.</li> </ul> <p><b>D. Diversity</b>  <i>Demonstrates an understanding of diversity and cultural issues, respects the needs and cultural wishes of others and is proactive in addressing the needs of people from all backgrounds and promoting diversity and equality of opportunity</i>          Examples:  <ul style="list-style-type: none"> <li>✓ Is aware of the diverse needs of individuals resulting from differences in gender, sexual orientation, ethnic origin, age and educational attainment and physical or mental disability or other reason, and responds appropriately and sensitively.</li> </ul> </p>
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<ul style="list-style-type: none"> <li>✓ Anticipates points that will challenge an argument</li> </ul> <p><b>Examples (Oral advocacy)</b></p> <ul style="list-style-type: none"> <li>✓ Deals responsibly with difficult points of case management and disclosure.</li> <li>✓ Presents facts and structures arguments in a coherent, balanced and focused manner.</li> <li>✓ Assimilates new information and arguments rapidly and accurately.</li> <li>✓ Immediately sees implications of answers by witness and responds appropriately.</li> <li>✓ Listens attentively to what is said paying keen attention to others' understanding and reactions.</li> <li>✓ Accurately sees the point of questions from the tribunal and answers effectively.</li> <li>✓ Gives priority to non-court resolution throughout the case where appropriate, identifies possible bases for settlement and takes effective action.</li> <li>✓ Prepared and able to change tack or to persist, as appropriate.</li> <li>✓ Deals effectively with points which challenge an argument.</li> </ul> <p><b>C. Working with others</b></p> <p>Uphold the standards of behaviour expected of advocates and establishes productive working relationships with all, including professional and lay clients, the judge and other parties' representatives and members of own team; is involved in the preparation of the case and leads the team before the court or other tribunal</p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> <li>✓ Behaves in a consistent and open way in all professional dealings.</li> <li>✓ Establishes an appropriate rapport with all others in court and in conference.</li> <li>✓ Advances arguments in way that reflects appropriate consideration of perspective of everyone involved in the case.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Is aware of the impact of diversity and cultural issues on witnesses, parties to proceedings and others as well as on own client, and adjusts own behaviour accordingly.</li> <li>✓ Takes positive action to promote diversity and equality of opportunity.</li> <li>✓ Understands needs and circumstances of others and acts accordingly.</li> <li>✓ Confronts discrimination and prejudice when observed in others; does not let it pass unchecked.</li> <li>✓ Acts as a role model for others in handling diversity and cultural issues.</li> </ul> <p><b>E. Integrity</b></p> <p><i>Is honest and straightforward in professional dealings, including with the court and all parties</i></p> <p><i>Examples:</i></p> <ul style="list-style-type: none"> <li>✓ Does not mislead, conceal or create a false impression.</li> <li>✓ Honours professional codes of conduct.</li> <li>✓ Where appropriate refers to authorities adverse to the client's case.</li> <li>✓ Always behaves so as to command the confidence of the tribunal and others involved in the case, as well as client.</li> <li>✓ Acts in professional life in such a way as to maintain the high reputation of advocates and Queen's Counsel.</li> </ul> <p><b>QC Secretariat</b></p>
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**2018-19 - Approved Assessment - Knowledge of the Applicant**

**1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

As per application.

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

No.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

This was a multi-handed case of substance involving an allegation of trafficking for the purposes of sexual exploitation. There were issues of extreme sensitivity in that the principal witness was a vulnerable trafficked sex worker. There were extremely complex issues of disclosure which ultimately led to the prosecution case collapsing.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

The trial involved an applications to dismiss, an abuse of process argument, numerous s.8 applications for disclosure and a s.41 application to cross-examine a complainant on her previous sexual behaviour. The applicant was completely on top of the law in relation to each specific argument and was able to deploy it in legal argument to their client's advantage. Their forceful submissions in relation to disclosure applying a careful analysis of the law and the facts were instrumental in the prosecution ultimately offering no evidence.

It is perhaps significant that in a multi-handed case in which one other defendant was represented by a silk, the applicant took the lead in all legal arguments with what appeared to be to agreement of all other parties in the case.

### B1. Written advocacy

The applicant submitted detailed skeleton arguments in support of their application to dismiss, their applications for disclosure and a s.41 application.

The quality of their written work was consistently excellent notwithstanding the fact that they were able to produce them extremely quickly. The applicant's written submissions were always clear, concise, forcefully argued and ultimately very persuasive.

In relation to disclosure the applicant's written submissions assisted in clearly identifying a large number of items which fell to be disclosed with a succinct yet persuasive explanation of why in each case. In many cases the prosecution conceded points without argument on the basis of their written argument.

In the case of a s.41 application the submissions were so well set out that nothing more needed to be said in open court and I allowed the applicant's application.

## **B2. Oral advocacy** Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

The applicant's oral advocacy was extremely impressive. During the first few days of the trial the prosecution disclosed an extremely large amount of unused material in the form of social media messages between the complainant and others (this included, amongst other items, over 60,000 separate messages). Much of this material significantly undermined the complainant's claim to have been trafficked and exploited. I allowed a three day adjournment for counsel to digest the material before cross-examining the complainant.

The applicant took the lead in cross-examining the complainant on the material that had been disclosed. Their cross-examination was extremely thorough and lasted for several days but was devastatingly effective. They systematically took apart almost every aspect of the witness' account and showed by careful cross-referencing to the unused material how almost every part of her account was untrue. The applicant was tenacious and forceful but never lost sight of the fact that the witness was, on one view, a vulnerable young woman. By the end of their cross-examination the prosecution reviewed their case and ultimately took the decision (after several weeks of trial) to offer no evidence on all defendants. This was as a direct result of the effectiveness of the applicant's cross-examination.

## **C. Working with others**

As a result of the late disclosure of such a large quantity of highly relevant material relations between the defence teams (four in total, each with a leader and a junior) and the prosecution team (also represented by two counsel supported by a team of police officers) was extremely poor. This occasionally spilled out into court. The applicant assumed the role of unofficial liaison between the prosecution and defence teams. They managed to keep calm and focused and not let frustration get the better of them. The applicant also appeared to maintain a good working relationship between all parties in the case. Their ability to work with everyone was instrumental in keeping the trial moving forward.

The applicant also appeared to maintain an effective working relationship with their client notwithstanding the fact that their client had recently given birth in prison and was participating in the entire trial via a video link from the prison's mother and baby unit.

The applicant's preparation was deeply impressive. They managed to get on top of a high quantity of late disclosure extremely quickly with limited fuss. Within a matter of days they also managed the impressive feat of instructing an expert to go take the messages they had considered relevant and put them into a professional A3 schedule for the jury. It was of note that whilst other counsel were arguing that the trial ought to be aborted to allow them to assimilate all the relevant material the applicant had been through it (all 60,000 messages), selected what was relevant and had overseen the production of professionally produced schedules ready for cross-examination.

## D. Diversity

This was not a case which presented any significant diversity issues.

## E. Integrity

N/A.

### 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Excellent

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

Over the course of several weeks the applicant impressed on every level. Their preparation was second to none, their written and oral advocacy was uniformly excellent and their ability to work with everyone was instrumental in keeping the trial moving forward. They dealt with an extremely difficult case in a calm and yet highly focused manner in such a way as left the prosecution with little choice but to offer no evidence. The applicant presents as a highly able all rounder.

### 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

N/A.

**2018-19 - Approved Assessment - Knowledge of the Applicant**

**1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

Only on the occasion mentioned by the applicant.

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

I do not otherwise know the applicant.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

The case on which the applicant appeared before me included a number of significant and challenging features. The claimant was bringing a (seven figure sum) personal injury claim against both her employer and the occupier of the premises on which the accident occurred. No decided cases on the effect of a recent change in the law were cited to me, or appeared to be available. The liability of the employer therefore was a novel legal issue which had to be argued from first principles. Because the respective liabilities of employer and occupier, and questions of contribution and indemnity as between them, were (potentially) in issue, this required the applicant to master the novel legal situation also, and make some fine judgments about the balance between their principal submissions (no liability to the claimant at all) and their secondary submissions (any liability to be borne by the employer). The fact that there was considerable uncertainty and dispute about most of the evidence added to the complexity.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

The applicant gave authoritative evidence of expert knowledge of occupiers' and employers' liability, was able to deploy it with clarity and agility in a novel context, and was able to respond to technical challenge from the other parties and from the bench quickly, relevantly and persuasively. I had confidence in their expertise, understanding and analysis of both the legal technicalities and the wider legal context, and in their sound application of the law to the circumstances before us.

### B1. Written advocacy

The applicant's skeleton argument was a model - timely, concise, comprehensive and clear. It was an invaluable resource for me - in reading into the case, managing the hearing, and preparing the judgment. They presented their client's case attractively and persuasively, bringing to the fore relevant factual and contextual circumstances as well as a thoughtful application of the statutory and precedent law in so far as it offered relevant guidance.

### B2. Oral advocacy Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

The applicant's oral advocacy before me was first class. It was well structured and articulate. It was clear, analytical and contextualised. And it was excellently judged, in my view, as to tone. Their clients were inexperienced in litigation and evidently in a position of some jeopardy in this case. The applicant balanced what was a robust technical defence of their clients' position and interests with an attractive portrayal of the public policy considerations inherent in the law as it applied to their circumstances. It is hard to think how the clients could have been better served. At the same time, the applicant was a model of professional and personal respect for the positions and interests of the other parties. The applicant addressed the bench in a spirit of constructive assistance, and responded resiliently, relevantly and good-humouredly to challenge and question. This is by no means a universal experience, and it was a pleasure to encounter. If, as I infer, this was a choice of style made with the circumstances of this case particularly in mind, it was shrewdly done and executed with considerable accomplishment.

### C. Working with others

On the evidence before me, this was a real strength. As I said above, the applicant's demeanour and tone on behalf of their clients was respectfully and sympathetically chosen and executed with skill. They were professional and constructive with the other parties and their representatives without in any way compromising the clarity and persuasiveness of their own case, which was robust in content. They examined and cross-examined the witnesses, including the claimant with an assured and impressive combination of forensic precision and empathy. I repeat what I have said about their manner towards the bench - constructive, helpful, resilient and apposite - a professional pleasure to experience, and memorable for the technical assistance it provided and the sense of teamwork and problem-solving they brought to the litigation. That is unusual and has a great deal to commend it, as to both the efficiency and the human experience of litigation. The applicant gave clear evidence of potential to lead the profession in this respect.

### D. Diversity

The applicant's cross-examination of the claimant was impressive for its respectfulness and empathy, without in any way compromising its forensic effectiveness on behalf of the defendants. Their advocacy in general in the case before me was well judged for the support, clarity and context it provided for their lay clients from a modest background.

### E. Integrity

## 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Very Good

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

On the evidence of the single case in which I have encountered the applicant, they stood out for combining forensic clarity and crispness, and legal agility, with highly developed skills and judgment in what might be described as the problem-solving, human, transactional and interactive elements of litigation. They were uncompromisingly effective on behalf of their clients without descending to some of the unhelpful adversarial behaviours that our system can encourage. That was not only a pleasure to encounter from the bench, but also of considerable assistance to me in resolving this litigation in as fair and contextualised a way as possible. I would be pleased to see this encouraged and supported through the QC appointment system as a marker of professional leadership and role modelling.

## 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

I have not consulted others.

**2018-19 - Approved Assessment - Knowledge of the Applicant**

**1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

The applicant has mentioned all the occasions.

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

As stated by the applicant I led them in the [NAMED CASE]. I have met them regularly at Bar conferences but had no other contact.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

One case involved a sophisticated scheme which had been operated incorrectly giving rise to intractable problems of unravelling it.

Another case involved very substantial assets and a case of great sensitivity as the deceased had been cared for by the applicant.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

Very good. [CASE] required the applicant to master complex areas of law (outside their usual practice area) which they did with apparent ease. The applicant showed a clear and firm grasp of the law, and how it might be deployed. They prepared a skeleton argument in draft for permission to appeal which comprehensively covered all the cases (including some I had not been aware of before).

### B1. Written advocacy

The applicant's written advocacy is very good. In [CASE] the applicant did the first draft of the skeleton for permission to appeal and I changed little. They set out the facts concisely when they were complex and set out the arguments on the law in a short, punchy way which was designed to grab the attention of the Court of Appeal. In [CASE] the applicant's position statement was clear and persuasive. They put the case so well, that the parties on the other side realised for the first time that they would have to make a substantial offer to the applicant's clients.

### B2. Oral advocacy Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

Very good, although I have not seen the applicant on their feet in court. However at the [CASE] mediation, they were very persuasive in advancing their clients' case in the plenary session. They dealt particularly well with the aggressive reaction they got from the other party, pointing out the way in which the Court would deal with the matter, and never losing their calm and controlled manner.

### C. Working with others

Excellent. The applicant is very easy to work with. In [CASE] we had little time after being instructed to appeal to lodge the grounds of appeal and the skeleton argument. We divided the work between us and then reviewed what we had done. The client in that case was particularly difficult to deal with but the applicant had gained his complete trust and they listened to what he said in consultation. In [CASE] the applicant, while fighting their client's corner hard, was calm, polite and easy to deal with.

## D. Diversity

I have no evidence on this competency.

## E. Integrity

### 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Very Good

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

I have not had the opportunity to see the applicant in court and hence my reservation. However, what oral advocacy I have seen was very good and their written advocacy is also very good. They also have a very good grasp of the law.

### 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

**2018-19 - Approved Assessment - Knowledge of the Applicant**

**During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

The primary contact with the applicant is as described by the applicant, i.e. during the course of the appeal in [CASE]. They emailed me subsequently to ask whether I would be able to provide an assessment for the QC competition.

Otherwise, I have had no contact with the applicant.

**Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

No.

**Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

This was a case of substance and complexity. The claim was for around £2m. The case involved consideration of a hypothetical chain of events, with a number of variables having an impact at each stage of the analysis.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

I think that the context of this case was not an area that the applicant had particular expertise in. They successfully identified the arguments that were necessary from their client's point of view in order to counter the judge's approach. In that respect I think that the applicant did well. However, there were areas of law relevant to this case that they had not got on top of. In particular, I do not think that the applicant had identified a relevant principle. The applicant also asserted what seemed to me to be the wrong test for the construction of an insurance policy.

### B1. Written advocacy

The principal piece of written advocacy that I saw was the skeleton argument for the appeal. This was well-laid out, and included a useful breakdown of the first instance judge's decision that drew out the points that the applicant wished to challenge without creating an unfair representation of what the judge had said. The submissions did well to make the best of a difficult situation; and the attempt to draw a parallel between what actually happened in relation to the claim brought against the respondent and what would have happened were persuasively and imaginatively deployed (albeit ultimately that approach did not find favour with the court).

There was a degree of lack of clarity in relation to some of the submissions. I felt that the submissions on the nature of the necessary causal relationship between the matters could have been explained more clearly. I found that I had to read these several times in order to understand what was being said, and even having done so, that I could not be wholly sure. It was also not very clear precisely what the appellant's submissions were on one point.

### B2. Oral advocacy Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

I did not see the applicant perform any advocacy. However, I did read the transcripts of some of their submissions and cross-examination in the court below. From those I formed the impression that they were an instinctive and highly competent cross-examiner, able to identify opportunities to progress their case and swiftly to exploit them. The applicant also took a robust position in relation to a judge who was challenging them in the light of the way that the evidence was emerging. To the extent that I am able to tell from a transcript, the applicant's oral advocacy was extremely good.

### C. Working with others

I do not have any material upon which to assess this competency.

### D. Diversity

I do not have any material upon which to assess this competency.

### E. Integrity

#### 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Good

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

Insofar as I am able to tell in relation to the work that I saw, and to the competencies that I was able to assess, I feel that the applicant is approaching the standard of excellence required, but not quite there yet, in particular in relation to the clarity of written submissions and the research required in relation to the area of law with which the case we were engaged on was concerned.

#### 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

Not applicable.

**2018-19 - Approved Assessment - Knowledge of the Applicant**

**1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

I have had professional contact with the applicant in relation to a single case when I led them in the Court of Appeal in [DATE]. I have had no other professional conduct with them, save for occasional social and professional contact at [BAR ASSOCIATION] events.

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

[CASE] was the first professional contact I have had with the applicant and I have not been involved in a case with them since [DATE], although our paths have crossed socially and professionally over the years at [BAR ASSOCIATION] events.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

I do not consider that [CASE] was a particularly complex or challenging case at first instance, involving simply a fairly straightforward application by the applicant's client. The applicant succeeded at first instance. However, the other party then sought permission to appeal. The matter was listed for a one day appeal hearing in the Court of Appeal to consider his application for permission to appeal, with any appeal to follow immediately.

The case can be regarded as one of substance in that it is an important development in the law; the case also required detailed analysis and defence of the trial judge's decision making which on closer scrutiny appeared to lack sufficient legal and factual rigour. The work required was detailed. However, I do not regard this case as being particularly complex, difficult or sensitive, not least because ultimately we agreed and supported the legal analysis proposed by the other party's team.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

In this case the existing law about the principles to be considered was already well established. The issue for the appeal was whether these principles had changed in any way following various recent decisions. Upon consideration of the law, we ultimately agreed the correct legal approach with the other party's legal representatives. The applicant certainly demonstrated up to date legal knowledge by providing me with a summary of all the relevant case law in relation to the relevant legal framework. However, these areas of law were well established and I would have expected any competent senior junior to be familiar with the key issues.

The primary issue in this case really related to whether the trial judge's analysis had been correct, rather than a detailed analysis of new or complex legal principles.

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### B1. Written advocacy

In this case the primary disputed issue really related to whether the trial judge's analysis had been correct in line with the legal framework that we agreed with the other party's legal representatives. The trial judge's decision making had been flawed and lacked detail, and it was therefore essential that we found ways of defending and justifying her decision in order to defeat the appeal.

At my direction the applicant carried out a detailed and thorough written analysis of every aspect of the judgment, almost on a line-by-line basis, which proved invaluable to me in drafting our defence to the father's challenge. I took the decision that their written document could be appended to our skeleton argument to demonstrate that the trial judge's decision had been in accordance with the correct legal principles in substance, if not form. This was a central and critical part of the preparation of our client's case.

## **B2. Oral advocacy** Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

I have absolutely no direct experience of the applicant's oral advocacy, as I did not observe them address the Court of Appeal. In preparing our case I did have an opportunity to read the transcripts of evidence and their cross-examination from the trial at which they had been successful. Insofar as I could judge, these demonstrated an adequate standard of advocacy that I would expect from any competent and experienced senior junior; however, I would not describe the advocacy that I read as falling into the standard of 'Excellent' or 'Outstanding', and I certainly do not regard it as sufficient evidence to enable to form a thorough opinion about the applicant's ability as an oral advocate.

## **C. Working with others**

The applicant was a pleasure to work with during [CASE] and their instructions and views about the approach we should take in preparing our defence to the appeal was invaluable. We worked closely together in preparing the skeleton argument and identifying the relevant authorities. At my direction the applicant also took responsibility for the preparation of a detailed schedule analysing the trial judge's decision making which we appended to our skeleton argument as a key element of our defence of the trial judge's decision.

## **D. Diversity**

I have no relevant evidence on the applicant's demonstration of this competency.

## E. Integrity

### 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Good

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

The applicant is undoubtedly a skilled and experienced senior junior, and their understanding of the relevant legal principles in this case was well demonstrated. They also worked assiduously in helping me to analyse the trial judge's decision making and in the preparation of our skeleton argument for the Court of Appeal.

However, this case was not particularly difficult, challenging or complex. It is the combination of the lack of complexity of the case and my complete lack of direct experience of the applicant's oral advocacy that mean I am unable to provide an overall rating above GOOD.

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### 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

**2018-19 - Approved Assessment - Knowledge of the Applicant**

**1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

In the last three years, I have instructed the applicant in relation to the two cases they have included in their application. [CASE] was heard in the EAT in 2015. We are also currently dealing with the matter of [CASE].

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

I have known the applicant since 2001. I was impressed by their approach to cases and clients and have continued to instruct them throughout my career on appropriate cases.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

[CASE] is an ongoing matter. It involves a young and vulnerable woman who made an allegation to her employer of rape.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

In the case of [CASE], we are potentially going to be looking at uncharted territory due to the unique facts and position of the claimant. The applicant has applied their expertise to bring the claims within the Employment Tribunal, in order to have all allegations brought before one jurisdiction, rather than separate jurisdictions. For example, there is a potential civil claim for breach of confidentiality and breach of the Data Protection Act. However, the facts upon which those claims are based could also give rise to claims for victimisation and detriment for making protected disclosures. Counsel is therefore preparing the pleadings for the Tribunal claim to bring all matters within the same jurisdiction.

### B1. Written advocacy

The applicant's ability to grasp volumes of information and evidence in a case is impressive. The applicant absorbs the information and pours this into written submissions, which are clear and concise. During the case of [CASE], there was not a great deal of time for submissions to be prepared following the close of evidence. The matter was complex and looked at difficult issues. The claimant also had a personal background which made her vulnerable. Counsel ensured these points were clearly put across and the link between those matters and the claim were made clear in closing submissions.

Some of the evidence that had come out in the trial had been highly charged and supportive of the claimant's case. The applicant's submissions were persuasive, well reasoned and passionate.

The applicant prepared grounds of appeal and skeleton arguments before the EAT which were extensive, creative and well executed. They covered a difficult point of law looking at "detriment" for the purposes of a victimisation claim.

## **B2. Oral advocacy** Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

I was present for most of the hearing in the case of [CASE]. I was also present at the EAT hearing.

I observed the applicant's professional and passionate oral submissions in both forums. In the Tribunal, the applicant focussed on the evidence and the legal tests which needed to be met. In cross-examining witnesses, the applicant was punchy and unrelenting and I observed them obtain evidence from the alleged perpetrator which highlighted inconsistencies in his story and undermined his credibility.

The appeal was brought on behalf of the claimant in respect of those aspects of the case which had not been upheld. The applicant was professionally forceful in their submissions.

## **C. Working with others**

The applicant is incredibly professional and personable. Over the years, I have seen them act on behalf of individual claimants and businesses. The applicant adapts their approach as appropriate, depending on who they are dealing with.

In [CASE], the claimant is incredibly vulnerable and has some minor learning difficulties. The applicant has been incredibly empathetic and warm to the claimant and has explained complex legal issues so that the claimant can understand the issues in her case.

The applicant works collaboratively with instructing solicitors. The applicant is clear on what they want to achieve, and directs the case in an inclusive way. The applicant has worked with junior members of my team involved in the cases we have worked on together and I have had positive feedback.

In Tribunal, the applicant is forceful and persuasive. They are clear in their approach and draw the audience in.

## **D. Diversity**

As an experienced employment practitioner, the applicant is fully engaged in issues of diversity. They are mindful of who they are dealing with and how their approach may need to be adapted to the lay client e.g. the vulnerable claimant in [CASE].

## E. Integrity

### 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Excellent

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

The applicant has been practising for over 20 years and is an expert in the field of employment law, with a focus on discrimination. Having sat behind the applicant on several occasions over the years, I have witnessed first hand their persuasive and skilful advocacy. I have seen the Tribunal respond positively to them, and clients feel in good hands, which they are. I have had positive feedback from the clients they have represented, which is why I have repeatedly instructed them. The applicant's construction of legal arguments is clear and reasoned. They get to the nub of the issue, and clearly and logically demonstrates how they got there.

### 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

**2018-19 - Approved Assessment - Knowledge of the Applicant****1. During the last three years how often and on what occasions have you had professional contact with the applicant, in addition to the occasions mentioned by the applicant?** Please give dates

I have regularly instructed the applicant in respect of public law proceedings. However, I was the instructing solicitor of two particular clients that the applicant represented regularly throughout the proceedings.

When making enquiries as to what barristers are available to undertake a hearing, particularly for a vulnerable client, should the applicant be available, I would almost certainly instruct them. I have complete confidence in their instruction due to my previous knowledge and working relationship with them.

**2. Is there any further information about your professional contact with the applicant which may assist the Selection Panel:** e.g., how long or how well you have known the applicant?

I only know the applicant in a professional manner and since joining [CHAMBERS].

The applicant is approachable, and there has been an occasion where there was a professional conduct issue that did not involve them and a client that they had no previous knowledge of. I was able to contact the applicant to seek their advice in respect of this issue.

**3. Please confirm, with brief reasons, whether or not in your view each of the occasions mentioned by you or the applicant was a case of substance, complexity or particular difficulty or sensitivity.** Please indicate any that had unusual or challenging features.

Some of the cases the applicant was instructed on by the firm, in my view were more than the standard public law case. [CASE], I would say was a particularly complicated case which had complexities not just due to it being alleged non accidental injury in nature and the implications that can have, but also due to the client's own vulnerabilities.

In the case of [CASE], the applicant was required to balance the two sets of proceedings and the information that was shared within them to ensure that there was no detrimental effect upon one child or the other, together with the mother's position.

## 2018-19 - Approved Assessment - Evidence of the competencies

### A. Understanding and using the law

There is no situation that I have been aware of that the applicant has not had a good understanding of family law. In every case that I am aware of the applicant has always presented as having up-to-date understanding of the law and recent developments of law.

On occasions when the applicant has produced a skeleton argument or written submissions, I have noted that they will apply the law to the circumstances of the case and will have advised those instructing of the implications of any law or procedure that impacts our client and his or her position. The applicant will explain the implications and provide the relevant caselaw material.

In the case of [CASE] there was a difficult issue. The applicant outlined the relevant law to those instructing and then again to the client in conference, in a simple and coherent way to ensure that the client had a full understanding of the legal considerations.

### B1. Written advocacy

In my experience the applicant has always secured the best outcome for clients when I have instructed them, this is why I have no hesitation in instructing them time and time again. I have knowledge of them explaining the legal implications and considerations to clients and advising and persuading them of which 'battles that should be fought' and which should be conceded very effectively. The matters to be pursued are then very clearly documented in written documents filed at court.

I have viewed skeleton arguments written by the applicant, together with position statements or summary documents and written submissions. These documents have clearly set out the client's position together with the legal implications and procedural aspects that need to be taken into account. These documents have been formatted in a way that those instructing would understand but also that the client would understand and would approve of.

The applicant outlines the facts of the case, the client's position and the law. They anticipate points of opposition from the other parties and potential queries that the other parties or court may raise. The applicant would discuss these with those instructing and also with the clients, they develop answers or alternatives to those points of opposition. It is always clear from the applicant's written documents which points are being pursued, these are always supported by primary or secondary law, having applied the facts of the case to those.

## **B2. Oral advocacy** Oral advocacy includes advocacy in a court or tribunal, mediation, arbitration or negotiation

I have had the opportunity to sit behind the applicant when they have been representing a client instructed by me or the firm. I have witnessed them in terms of submissions and also whilst of undertaking live evidence.

I am aware that the applicant has represented clients in different courts over the country to include the combined family court, High Court and Court of Appeal.

In the case of [CASE], in particular, the applicant was required to think very much on their feet in light of the evidence that was given whilst they were cross-examining. In light of the new evidence and information they were required to advise mother to change her position in order to allow her to have the best overall chance of caring for her children and that neither would be placed outside of the family. The applicant put forward suggestions of adequate safeguards that would mean that the child could be cared for by his mother. The court was persuaded by this, as well as the advocates for the local authority and the children.

Although I have always viewed the applicant's written advocacy to be of an excellent standard in my personal view they become alive in oral advocacy. The applicant's passion and enthusiasm for family law and justice shines through. I have witnessed them representing clients against other advocates that may already have been appointed as Queen's Counsel or hold other titles also such as recorder.

The applicant is in no way easily intimidated by other advocates, they present with a collaborative approach as well as being very firm and clear in their position. Their arguments are always coherent, well thought out and focused. They do not equivocate.

## C. Working with others

The applicant has a solid working relationship with me and other instructing solicitors from [FIRM].

Both I and others at [FIRM] instruct the applicant because of their working relationship with those instructing and also how well they work with the clients. Clients have only ever given positive feedback on respect of the applicant.

Regardless of continued instruction the applicant does not represent a client as if they were just representing them for that one hearing, they build the case and advise on what information is required to gain the best position for the client. They will advise on what the client should do to assist their position and advise and lead the instructing solicitor as to what evidence should be gathered or enquiries made in order to support the client's position. The applicant sets the case up in a positive manner going forward.

It is not unknown for the applicant to provide a number of tasks for those instructing to complete, they will also list all that the client should do in order to better their position. The applicant does not look for an easy hearing, they will attempt to set the case up in a positive way for the client and those instructed going forward. The applicant easily leads and directs the client's legal team, they allocate tasks ensuring that each case and file is fully prepared even for what could be termed a standard hearing.

The applicant is never hostile to other advocates, although they are firm in their position. They have a collaborative approach and in the case of [CASE], this approach resulted in no findings being sought against our client. If the applicant did not have such an approach I do not believe this outcome would have been achieved. In the case of [CASE] the client was particularly vulnerable and the applicant had to work with intermediaries and the other advocates at court in order to achieve such a result.

I am aware the applicant represents a variety of individuals, however, they do particularly appear to be well suited to representing those particularly vulnerable. The applicant is able to put themselves in the position of the client, is able to sympathise and listen to their point of view. Although they provide sensible and robust advice, it is clear that they will always argue and persuade to the client's position and point of view.

## D. Diversity

I have witnessed the applicant represent a diverse range of clients in terms of personality and also background. In the case of [CASE], the mother is from an Afro-Caribbean background and the applicant was very aware of the implications of this when looking at hair strand testing and the difference that it could make in terms of the length of time and length of hair required when testing.

## E. Integrity

I have no reason to question the applicant's integrity.

## 2018-19 - Approved Assessment - Overall rating

**Overall rating** I believe this applicant's demonstration of the competencies to be:

Excellent

**Explanation of overall rating** Please use this section to give a brief justification of your overall rating in Part 4. You may also use this section of the form to give any additional information that will assist the Selection Panel.

I give a rating of excellent due to my experience of working with the applicant, the feedback from others at the firm I work and from the clients we represent. The applicant's legal knowledge in my view is second to none, they take ownership of each case they are instructed on and lead the legal team in a direct and focussed way.

The applicant has a clear and fresh passion for this area of law. They continually strive to achieve justice and the best result for clients. This may also involve pro bono work, one case [CASE] they worked pro bono and successfully appealed a decision which resulted in a child being returned to her mother's care.

The applicant works incredibly hard on each case they are instructed on, they go above and beyond in terms of their preparation whether that be of a trial or a one hour directions appointment.

The applicant truly is one of our go to barristers, all employed have complete faith and confidence in their ability.

## 2018-19 - Approved Assessment - Views of others

If you have consulted others in preparing this assessment, please state who you have consulted, the nature and extent of their experience of the applicant and how far their experience coincides with or differs from your own.

The majority of this reference is provided with my first hand knowledge of the applicant's work, however, I have previously consulted the views of others at my firm.