

SCOTTISH CIVIL JUSTICE COUNCIL
STATEMENT OF APPOINTMENT PRACTICE
ISSUED BY THE LORD PRESIDENT¹

Purpose

1. In accordance with the requirements of The Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 (“the 2013 Act”), this Statement of Appointment Practice sets out the process which will be followed when making appointments to the Scottish Civil Justice Council (“the Council”) in respect of:
 - 1.1. advocate members;
 - 1.2. solicitor members;
 - 1.3. consumer representative members; and
 - 1.4. LP members².

Guiding Principles

2. This Statement of Appointment Practice has been prepared with regard to:
 - 2.1. the principles that appointments should be made fairly and openly, and so far as reasonably practicable, all eligible persons should be afforded an opportunity to be considered for appointment³;
 - 2.2. the functions of the Council⁴;
 - 2.3. the principles the Council must have regard to when carrying out its functions⁵;
 - 2.4. the requirements of the Equality Act 2010⁶;

¹ This Statement of Appointment Practice was issued by Lord Gill on 11 March 2013 and revised by Lord Carloway on 12 July 2016.

² Section 6 of the 2013 Act allows for the appointment of up to 6 persons (“LP members” considered by the Lord President to be suitable to be members of the Council.

³ As required by section 7(3) of the Act.

⁴ Set out at section 2 of the 2013 Act.

⁵ Set out at subsection 2(3) of the 2013 Act.

- 2.5. the diverse nature of Scotland’s population and geography; and
- 2.6. the principles contained in the Code of Practice for Ministerial appointments set out by the Commission for Ethical Standards in Public Life in Scotland (“the Code”)⁷.

Appointments Process

3. Appointments to the Council (except in relation to any members of staff of the Scottish Administration) must be applied for.
4. Applications will be encouraged from all eligible candidates and from a range of applicants regardless of gender, ethnic or social background, sexual orientation, political affiliation, religion or disability. Details of all recruitment exercises will be made publicly available.
5. All applicants who meet the eligibility criteria will be considered for appointment.
6. Candidates will be assessed on individual merit, and appointments will be made with a view to ensuring the Council has the most appropriate range of skills and expertise to fulfil its functions effectively.
7. Application forms will be made available in accessible formats on request.

Selection Process

Eligibility

8. To be considered for appointment as a Council member, applicants must not be disqualified from holding office as a member⁸ and must meet the following minimum eligibility criteria:

⁶ The Equality Act 2010, among other things, makes it unlawful for public authorities to discriminate against, harass or victimise employees and people who use services; requires them to make reasonable adjustments; and places a duty on them to have due regard to the need to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

⁷ While the Code does not apply to these appointments to the Council, it has, as an example of best practice, been taken into account in preparing the appointments process.

⁸ Section 9 of the 2013 Act specifies that the following office holders are disqualified from appointments as judicial, advocate, solicitor, consumer representative or LP members of the Council: MSPs, MPs, MEPs, councillors of any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; members of the Scottish Government; and Ministers of the Crown.

Advocate members

8.1. To be considered for appointment, applicants must be practising Advocates of at least 5 years' standing and have experience of litigating in the Court of Session or in civil proceedings in the sheriff court.

Solicitor members

8.2. To be considered for appointment, applicants must hold a practising certificate and have at least 5 years' experience of litigating in the Court of Session or in civil proceedings in the sheriff court.

Consumer Representative members

8.3. To be considered for appointment, applicants must have at least one of the following:

- experience and knowledge of consumer affairs;
- knowledge of the non-commercial legal advice sector; or
- an awareness of the interests of litigants in the civil courts.

LP members

8.4. It will be open to anyone, whether as an individual in their own personal capacity or as a representative of an organisation, to apply as an LP member.

8.5. However, members of staff of the Scottish Administration (such as Scottish Courts and Tribunals Service employees) may be appointed as LP members by virtue of the position they hold and as such do not require to apply under this appointments process.

Criteria for Selection

9. Candidates will be assessed on their merits and with a view to achieving a suitable range of skills and expertise across the membership to enable the Council to fulfil its functions effectively.
10. Assessments will be based on the candidate's written application. Where more than one candidate is successful at the application stage, candidates may be invited to interview by an appropriate selection panel, at the discretion of the Lord President.

11. Criteria for selection will include the following:

Legal knowledge and skills

- Knowledge and experience of civil law and the civil justice system, including any specialist areas
- Ability to interpret and apply laws and regulations
- Knowledge and experience of sheriff court civil procedure and sheriff court rules
- Knowledge and experience of Court of Session procedure and Court of Session rules

Understanding of people and society

- Knowledge of issues affecting individual users of the justice system, including in relation to accessibility for equalities groups and rural or island communities
- Knowledge of issues affecting businesses and other organisations which use the civil justice system
- Awareness of the interests of litigants in the civil courts
- Knowledge of the voluntary sector, particularly in an organisation with links to the civil justice system
- Experience and knowledge of consumer affairs

Knowledge and understanding of the wider justice system and issues affecting it

- Knowledge of the non-commercial legal advice sector
- Awareness of alternative methods of dispute resolution
- Awareness of developments in civil justice policy and policy initiatives with implications for the civil justice system
- Knowledge and understanding of the effects of the criminal justice system on the civil justice system

Personal qualities

- Integrity and objectivity

- Commitment to developing the Scottish civil justice system and the law of Scotland
- Ability to work as part of a team
- Commitment to public office

Consultation

12. Suitable candidates having been selected, consultation must take place before appointing members as follows⁹:

- The Lord President will consult the Faculty of Advocates before appointing an advocate member;
- The Lord President will consult The Council of the Law Society of Scotland before appointing a solicitor member; and
- The Lord President will consult the Scottish Ministers before appointing a consumer representative or a LP member.

Lord President

Edinburgh

October 2020

⁹ As required by subsection 7(5) of the 2013 Act.