

Protocol for Judicial Appointments

The appointment of judicial officers is a prerogative of the Crown to be exercised by the Executive Council through Cabinet. Nothing that follows should be regarded as diminishing this prerogative.

This protocol is to be applied in making the following appointments unless otherwise specified or directed by the Attorney-General in a particular case:

- Chief Justice under the *Charter of Justice*.
- Puisne Judge under section 5 of the *Supreme Court Act 1887*.
- Associate Judge under section 4 of the *Supreme Court Act 1959*.
- Chief Magistrate under section 5 of the *Magistrates Court Act 1987*.
- Deputy Chief Magistrate under section 6 of the *Magistrates Court Act 1987*.
- Permanent full time Magistrate under section 4(1) of the *Magistrates Court Act 1987*.
- Permanent part time Magistrate under section 4(1) of the *Magistrates Court Act 1987*.
- Temporary Magistrate under section 4(4) of the *Magistrates Court Act 1987*.
- Such further appointments as considered necessary by the Attorney-General.

Unless otherwise specified or directed by the Attorney-General in a particular case, this protocol does not apply to:

- The appointment of a person to an acting role as Chief Justice, Chief Magistrate or Deputy Chief Magistrate.
- The appointment of an Acting Associate Judge under section 4 of the *Supreme Court Act 1959*.
- The appointment of an acting judge under section 3 of the *Supreme Court Act 1887*.
- The conversion of a permanent full time Magistrate to a permanent part time Magistrate under s. 4 (1D) of the *Magistrates Court Act 1987*.
- The appointment of a temporary Magistrate from outside Tasmania to preside over a case in circumstances where it would not be possible, expedient in the interests of justice or appropriate for the current members of the Magistrates Court to hear the matter.

Call for Expressions of Interest

The Attorney-General will call for expressions of interest in an appointment by advertisement in three (3) Tasmanian daily newspapers, in one (1) national newspaper and on the Department of Justice website.

The Attorney-General may invite any such suitably qualified persons to submit an expression of interest.

While experience as a judicial officer (including experience gained in an acting or temporary role) will add to an applicant's personal level of skills and attributes, no assumption will be made that candidates who have this experience are better qualified than those who do not.

Responses are to be lodged with the Secretary of the Justice Department and must contain a curriculum vitae and should contain the names of three (3) professional and confidential referees. Applicants may refer to the published selection criteria when completing their expression of interest. Assessments will be made against these criteria as a minimum for all judicial appointments but where additional criteria apply for specific vacancies they will be published at the time of calling for expressions of interest.

Where a vacancy exists in the role of Chief Justice, Chief Magistrate or Deputy Chief Magistrate, the current members of the court in which the vacancy exists who wish to be considered for appointment are not obliged to lodge an expression of interest but may choose to do so. These existing judicial officers will be automatically considered by the assessment panel.

Unless exceptional circumstances apply, no less than three (3) weeks will be allowed for the lodgement of responses.

Assessment Panel

An assessment panel shall consist of the following persons:

Supreme Court Vacancy

- A representative of a professional legal body chosen by the Attorney General
- Secretary of the Department of Justice or their nominee
- Attorney-General's nominee.

Magistrates Court Vacancy

- Chief Magistrate or their nominee.
- Secretary of the Department of Justice or their nominee.
- Attorney-General's nominee.

Should the Chief Magistrate decline to become a panel member or to nominate a replacement, the Attorney-General will appoint a replacement who preferably has had experience as a member of the Court in which the appointment is to take place or who possesses significant legal experience.

In the case of a vacancy for Chief Magistrate, the Attorney General will nominate a current or former senior legal practitioner to sit in place of the retiring or acting Chief Magistrate or their nominee.

The assessment panel may make any appropriate inquiries of referees and may seek the views of third parties as to the suitability of any person for appointment.

Applicants will be recommended as suitable for appointment or not suitable for appointment. A statement of reasons for the recommendations will be provided to the Attorney-General.

Other Consultation

After receiving the assessment panel's recommendations, the Attorney-General may consult on a strictly confidential basis with whoever the Attorney-General sees fit.

Once the Attorney-General has identified a preferred candidate the Secretary of the Department of Justice will contact the Executive Director of the Law Society of Tasmania, President of the Tasmanian Bar Association and Chair of the Legal Profession Board (or their successors in title) on a confidential basis seeking their comment on whether there is any reason (including impending disciplinary action) why the appointment should not proceed.

If the proposed appointee is a practitioner from another jurisdiction a further check will also be made with the equivalent professional bodies from their home jurisdiction.

The proposed appointee must also consent to a criminal history check being carried out.

All judicial appointments, whether permanent or temporary, must be considered by Cabinet prior to submission to the Executive Council in compliance with government policy on senior appointments.

Recommendation to Executive Council

Following consideration of the matter by Cabinet the Attorney-General will recommend an appointment to the Governor-in-Council. Once the Executive Council has issued letters patent in the case of a Judge or an instrument of appointment in the case of a Magistrate, the appointment may be announced by the Attorney-General.

Best endeavours will be made to contact the Opposition Spokespersons and the various major bodies representing the interests of the legal profession to advise of the appointment before it is announced.

Selection Criteria for Judicial Appointments

Suitable candidates should be:

- an experienced legal practitioner with a high record of professional achievement coupled with a knowledge and understanding of the law consistent with judicial office.
- an excellent conceptual and analytical thinker, displaying independence and clarity of thought.
- an effective oral and verbal communicator in dealing with legal professionals, litigants and witnesses and able to explain technical issues to non-specialists.
- highly organised, able to demonstrate or develop sound court management skills and work well under pressure.
- capable of making fair, balanced and consistent decisions according to law without undue delay.
- a person of maturity, discretion, patience and integrity who inspires respect and confidence.
- committed to the proper administration of justice and continuous improvement in court practice, working collegially with judicial colleagues and effectively with court officers to those ends.