



Judicial and Legal Services Commission Policies and Procedures Manual

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Preface

The purpose of this manual is to act as an operational guide for the Judicial and Legal Services Commission (the “JLSC” or the “Commission”).

It sets out the internal procedures, rules and processes that the Commission has established to govern its operation. It is published on the Commission’s website to assist members of the public to understand the operation of the Commission, and includes procedures necessary to file a complaint under the Constitution.

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Part A: Constitutional Provisions

The constitutional provisions relating to the JLSC, namely Sections 105 and 106 of the Cayman Islands Constitution Order 2009 (the “Constitution Order”) and the Cayman Islands Constitution (Amendment) Order 2016 (the “Amendment Order”), are as follows:

1.1 Section 105 - Judicial and Legal Services Commission

(1) There shall be in and for the Cayman Islands a Judicial and Legal Services Commission which shall consist of –

- (a) a Chairman and one other member, neither of whom shall be a lawyer, appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition;
- (b) the President of the Court of Appeal, *ex officio*;
- (c) a person appointed by the Governor, acting in his or her discretion, who holds or has held high judicial office in the Cayman Islands and has recent personal knowledge of the courts in the Cayman Islands;
- (d) two persons appointed by the Governor, acting in his or her discretion, who hold or have held high judicial office in a Commonwealth country or Ireland, but do not currently hold such office in the Cayman Islands; and
- (e) two attorneys-at-law qualified to practise in the Cayman Islands, one with experience in Government service and one with experience in private practice, appointed by the Governor, acting after consultation with representatives of legal professional organisations in the Cayman Islands and, where appropriate, the Attorney General.

(2) No person shall be qualified to be appointed to the Judicial and Legal Services Commission if he or she is a member of, or a candidate for election to, the Legislative Assembly or (except for appointment under subsection (1)(e)) holds or is acting in any public office.

(3) The office of a member of the Judicial and Legal Services Commission shall become vacant -

- (a) at the expiration of five years from the date of his or her appointment or such earlier time as may be specified in the instrument by which he or she was appointed;
- (b) if he or she resigns office by writing under his or her hand addressed to the Governor;
- (c) if he or she becomes a member of, or a candidate for election to, the Legislative Assembly, or (except for a member appointed under subsection (1)(e)) is appointed to or to act in any public office; or
- (d) if the Governor, acting in his or her discretion, directs that he or she shall be removed from office for inability to discharge the functions of that office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) If the office of a member of the Judicial and Legal Services Commission becomes vacant or if such a member is for any reason unable to perform the functions of that office, the Governor, acting in accordance with subsection (1) for the appointment of that member, may appoint another suitably qualified person to that office for the unexpired term of the previous holder of the office or until the holder of the office is able to resume his or her functions.

- (5) Any decision of the Judicial and Legal Services Commission shall require the concurrence of not less than five members of the Commission, and the Commission shall take its decisions in such form and manner as it may determine; but any decision relating to the appointment of the President of the Court of Appeal or the Chief Justice shall require the concurrence of at least two members of the Commission who have judicial experience.
- (6) In the exercise of their functions, the Judicial and Legal Services Commission and its members shall not be subject to the direction or control of any other person or authority.
- (7) The Judicial and Legal Services Commission may regulate its own procedure, which may include meeting by teleconference or other electronic means of communication.

1.2 Section 106 - Functions of Judicial and Legal Services Commission

- (1) Power to make appointments to the offices to which this section applies, and to remove persons holding or acting in such offices, shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission; but the Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service.
- (1A) Power to exercise disciplinary control over persons holding or acting in any offices mentioned in subsection (4)(c), (d) or (f) shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission; but the Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service.
- (1B) Power to exercise disciplinary control over any person holding or acting in the office of—
- (a) magistrate or judge of the Grand Court, other than the Chief Justice, shall vest in the Chief Justice; and
 - (b) judge of the Court of Appeal, other than the President, shall vest in the President of the Court of Appeal.
- (2) Before exercising the powers vested in the Governor by subsection (1) the Governor may, acting in his or her discretion, once refer the advice of the Judicial and Legal Services Commission back to the Commission for reconsideration by it.
- (3) If the Judicial and Legal Services Commission, having reconsidered its original advice under subsection (2), substitutes for it different advice, subsection (2) shall apply to that different advice as it applies to the original advice.
- (4) This section applies to the offices of—
- (a) Chief Justice and other judge of the Grand Court;
 - (b) President of the Court of Appeal and other judge of the Court of Appeal;
 - (c) Attorney General;
 - (d) Director of Public Prosecutions;
 - (e) Magistrate;

- (f) such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law enacted by the Legislature.
- (5) No member of the Judicial and Legal Services Commission shall participate in any proceedings of the Commission which affect him or her personally.
- (6) In cases where the Judicial and Legal Services Commission conducts an inquiry under section 96(4) or 101(4), the President of the Court of Appeal and any current judge of the Grand Court who is a member of the Commission shall not participate in that inquiry other than as a witness.
- (7) A person holding the office of Attorney General, Director of Public Prosecutions or Magistrate may only be removed from office for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- (8) Where the issue of the removal from office of any person holding one of the offices mentioned in subsection (4)(c), (d), (e) or (f) has been referred to the Judicial and Legal Services Commission, the Governor may, acting after consultation with the Commission, suspend that person from performing the functions of his or her office pending the outcome of the referral.
- (9) Any suspension, removal or disciplinary action taken under this section shall be carried out in accordance with the highest appropriate standards of procedural fairness.
- (10) The Judicial and Legal Services Commission shall –
 - (a) draw up a code of conduct for the judiciary and a procedure for dealing with complaints; and
 - (b) have such other functions as may be conferred on it by a law enacted by the Legislature.
- (11) Subject to subsection (6), this section is without prejudice to sections 96 and 101.

The JLSC is also referred to in the Constitution in the following Sections:

1.3 Section 96 – Tenure and Offices of Judges of the Grand Court

- (2)(1) Subject to this section and section 95(4), a judge of the Grand Court shall vacate his or her office when he or she attains the age of 70 years; but a judge who has attained the age of 70 years may continue in office for such period as may be necessary to enable him or her to deliver judgment or to do any other thing in relation to any proceeding commenced before him or her before he or she attained that age. A judge of the Grand Court may be removed from office only for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3).
- (3) A judge of the Grand Court shall be removed from office by the Governor by instrument under the public seal if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4), been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833 or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.
- (4) If the Governor considers that the question of removing a judge of the Grand Court from office for inability as aforesaid or misbehaviour ought to be investigated, then-

- (a) the Governor shall refer the matter to the Judicial and Legal Services Commission;
 - (b) the Judicial and Legal Services Commission shall inquire into the matter and report on the facts of it to the Governor and advise the Governor whether he or she should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
 - (c) if the Judicial and Legal Services Commission so advises, the Governor shall request that the question should be referred accordingly.
- (5) The Commissions of Inquiry Law as in force on the appointed day shall, subject to this section, apply as nearly as may be in relation to the Judicial and Legal Services Commission conducting inquiries under subsection (4) or, as the context may require, to the members of that Commission as it applies in relation to Commissions or Commissioners appointed under that Law.
- (6) If the question of removing a judge of the Grand Court from office has been referred to the Judicial and Legal Services Commission under subsection (4), the Governor may suspend the judge from performing the functions of his or her office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect –
- (a) if the Judicial and Legal Services Commission advises the Governor that he or she should not request that the question of the removal of the judge be referred by Her Majesty to the Judicial Committee; or
 - (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.
- (7) The powers conferred on the Governor by this section shall be exercised by the Governor acting in his or her discretion.

*95(4) It shall be lawful for a person qualified for appointment as a judge of the Grand Court to be so appointed (regardless of his or her age) for such term as may be specified in the instrument of appointment, and section 96 shall have effect in relation to any person so appointed as if he or she would attain the retiring age applicable to that office on the day on which the specified term expires.

1.4 Section 101 – Tenure of Offices of Judges of the Court of Appeal

- (1) The judges of the Court of Appeal shall be appointed for such period as may be specified in their respective instruments of appointment; but a person whose appointment as a judge of the Court of Appeal has expired may, with the permission of the Governor, acting in his or her discretion, continue in office for such period as may be necessary to enable him or her to deliver judgment or to do any other thing in relation to any proceeding previously commenced before him or her.
- (2) A judge of the Court of Appeal may be removed from office only for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3).
- (3) A judge of the Court of Appeal shall be removed from office by the Governor by instrument under the public seal if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of subsection (4), been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act 1833 or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge

ought to be removed from office for inability as aforesaid or misbehaviour.

(4) If the Governor considers that the question of removing a judge of the Court of Appeal from office for inability as aforesaid or misbehaviour ought to be investigated, then –

- (a) the Governor shall refer the matter to the Judicial and Legal Services Commission;
- (b) the Judicial and Legal Services Commission shall inquire into the matter and report on the facts of it to the Governor and advise the Governor whether he or she should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the Judicial and Legal Services Commission so advises, the Governor shall request that the question should be referred accordingly.

(5) The Commissions of Inquiry Law as in force on the appointed day shall, subject to this section, apply as nearly as may be in relation to the Judicial and Legal Services Commission conducting inquiries under subsection (4) or, as the context may require, to the members of that Commission as it applies to Commissions or Commissioners appointed under that Law.

(6) If the question of removing a judge of the Court of Appeal from office has been referred to the Judicial and Legal Services Commission under subsection (4), the Governor may suspend the judge from performing the functions of his or her office, and any such suspension may at any time be revoked by the Governor, and shall in any case cease to have effect –

- (a) if the Judicial and Legal Services Commission advises the Governor that he or she should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(7) The powers conferred on the Governor by this section shall be exercised by the Governor acting in his or her discretion.

Part B: Composition, Appointments, Powers and Functions of the JLSC

2.1 Composition

The JLSC consists of –

- (a) a Chairman and one other member, neither of whom shall be a lawyer, appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition;
- (b) the President of the Court of Appeal, *ex officio*;
- (c) a person appointed by the Governor, acting in his or her discretion, who holds or has held high judicial office in the Cayman Islands and has recent personal knowledge of the courts in the Cayman Islands;
- (d) two persons appointed by the Governor, acting in his or her discretion, who hold or have held high judicial office in a Commonwealth country or Ireland, but do not currently hold such office in the Cayman Islands; and
- (e) two attorneys-at-law qualified to practise in the Cayman Islands, one with experience in Government service and one with experience in private practice, appointed by the Governor, acting after consultation with representatives of legal professional organisations in the Cayman Islands and, where appropriate, the Attorney General.

2.2 Qualifications

No person is qualified to be appointed to the JSLC if he or she is a member of, or a candidate for election to, the Legislative Assembly or (except for appointment under paragraph (e) in 2.1 above) holds or is acting in any public office.

2.3 Appointments

All Commissioners are appointed by the Governor, with the Chairman and one other non-lawyer member being appointed after consultation with the Premier and Leader of the Opposition.

2.4 Vacancies

The office of a member of the JLSC becomes vacant -

- (a) at the expiration of five years from the date of his or her appointment or such earlier time as may be specified in the instrument by which he or she was appointed;
- (b) if he or she resigns office by writing under his or her hand addressed to the Governor;
- (c) if he or she becomes a member of, or a candidate for election to, the Legislative Assembly, or (except for a member appointed under paragraph (e) in 2.1 above) is appointed to or to act in any public office; or
- (a) if the Governor, acting in his or her discretion, directs that he or she shall be removed from office for inability to discharge the functions of that office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

If the office of a member of the JLSC becomes vacant or if such member is for any reason unable to perform the functions of that office, the Governor, acting in accordance with 2.1 above for the

appointment of that member, may appoint another suitably qualified person to that office for the unexpired term of the previous holder of the office or until the holder of the office is able to resume his or her functions.

2.5 Power to make Appointments, to Remove and to Exercise Disciplinary Control

The power to make appointments to the offices of Chief Justice and other judges of the Grand Court; President of the Court of Appeal and other judges of the Court of Appeal; Attorney General; Director of Public Prosecutions; Magistrate; and such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law enacted by the Legislature and the power to remove persons holding or acting in such offices, shall vest in the Governor, acting in accordance with the advice of the JLSC. The Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service.

Before exercising the powers vested in the Governor, the Governor may, acting in his or her discretion, once refer the advice of the JLSC back to the Commission for reconsideration by it. If the JSLC, having reconsidered its original advice, substitutes for it different advice, the same procedure shall apply to that different advice as it applies to the original advice.

In cases where the JLSC conducts an inquiry under sections 96(4) or 101(4) of the Constitution, then neither any current judge of the Grand Court who is a member of the Commission nor the President of the Court of Appeal, respectively, may participate in that inquiry other than as a witness.

A person holding the office of Attorney General, Director of Public Prosecutions or Magistrate may only be removed from office for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

Where the issue of the removal from office of any person holding one of the following offices: Attorney General, Director of Public Prosecutions, or such other offices in the public service, for appointment to which persons are required to possess legal qualifications has been referred to the JLSC, the Governor may, acting after consultation with the Commission, suspend that person from performing the functions of his or her office pending the outcome of the referral.

Any suspension, removal or disciplinary action taken under this section shall be carried out in accordance with the highest appropriate standards of procedural fairness.

Power to exercise disciplinary control over persons holding or acting in the office of Attorney General, Director of Public Prosecutions or such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law enacted by the Legislature, shall vest in the Governor, acting in accordance with the advice of the Judicial and Legal Services Commission; but the

Governor, acting in his or her discretion, may act otherwise than in accordance with that advice if he or she determines that compliance with that advice would prejudice Her Majesty's service. Power to exercise disciplinary control over any person holding or acting in the office of— (a) magistrate or judge of the Grand Court, other than the Chief Justice, shall vest in the Chief Justice; and (b) judge of the Court of Appeal, other than the President, shall vest in the President of the Court of Appeal.

2.6 Other Functions

The JLSC is also required to –

- (a) draw up a code of conduct for the judiciary and a procedure for dealing with complaints (see 2.7 below); and
- (b) have such other functions as may be conferred on it by law enacted by the Legislature.

2.7 Code of Conduct

The JLSC has adopted a Code of Conduct for the Cayman Islands judiciary, including magistrates, which can be found on the JLSC's website. That Code of Conduct may be revised or amended by the JLSC from time to time.

The Attorney General, Director of Public Prosecutions, and such other offices in the public service, for appointment to which persons are required to possess legal qualifications are bound by the Public Servants Code of Conduct and should additionally comply with the Public Service Values stated in the Public Service Management Law (2007 Revision). The Public Service Values and the Public Servants Code of Conduct are found in appendices 7.4 and 7.5 respectively of this document.

Part C: Administrative Matters

3.1 Calling of Meetings

The Chairman of the Commission (the “Chairman”) may call meetings of the Commission on reasonable notice.

Commission members may waive notice of any meeting before, during or after that meeting.

3.2 Agenda and Chairman

The agenda for a meeting shall be in such form as the Chairman may determine, provided it sets out the items for discussion at that meeting.

The agenda for a meeting shall be distributed to Commission members by e-mail or fax a reasonable time prior to that meeting.

The Chairman shall be the chairman of any meeting of the Commission, provided that if the Chairman is unable to attend a meeting, the members present at it may choose the chairman of that meeting.

3.3 Meetings

The Commission may meet in person or by teleconference or any other electronic means of communication by which each member can hear and be heard by all the other members.

All meetings of the Commission will be held in private unless the Chairman determines otherwise.

3.4 Sub-Committees

The Commission may create sub-committees, including interview panels (“subcommittees”), consisting of a minimum of at least one member of the Commission plus any other member or members, or non-members, as the Commission chooses, to assist in or determine whatever aspects of the work of the Commission it may determine (provided it does so in accordance with the Constitution). The Commission may also determine the rules, procedural or otherwise, pursuant to which a sub-committee will operate.

A sub-committee will be chaired by a member of the Commission and will act within such terms of reference as may be determined by the Commission. In the event that there is a deadlock of votes on a sub-committee, its chairman shall have a casting vote.

No sub-committee will make statements or issue reports on behalf of the Commission without the written permission of the Commission.

All minutes of a sub-committee’s meeting shall be circulated to Commission members once approved by the chairman of the sub-committee. 3.1, 3.2 and 3.3 above will apply *mutatis mutandis* to meetings of sub-committees.

3.5 Quorum

The quorum for any meeting of the Commission is five members.

3.6 Reports

The Commission will prepare and submit to the Governor an annual report reviewing the work it has carried out in the previous year. The report will also be published on the JLSC website.

3.7 Decision-Making

Any decision of the Commission shall require the concurrence of not fewer than five members of the Commission, and the Commission shall make its decisions in such form and manner as it may determine, provided that any decision relating to the appointment of the President of the Court of Appeal or the Chief Justice shall require the concurrence of at least two members of the Commission who have judicial experience.

All members of the Commission will be given adequate opportunity to offer input on the matter at hand. Any dissenting members may have such dissent recorded in the minutes of the meeting.

3.8 Spokesperson

The Chairman, and nobody else without his permission, will act as the official spokesperson for the Commission. He may delegate that role, whether generally or on a case-by-case basis, to any other Commission member or representative of the Commissions Secretariat as he determines.

3.9 Confidentiality

No matters relating to the business of the Commission or any sub-committee or interview panel shall be discussed outside meetings of the Commission or sub-committee or interview panel, as the case may be.

If the Governor and/or Chairman so determines, members of the Commission or any sub-committee or interview panel will sign a confidentiality agreement on such terms as he or she sees fit.

3.10 Concerns

If a member of the public has concerns regarding the behaviour of a member of the Commission as such, then those concerns should be directed to the Governor. If a member of the Commission has concerns regarding the behaviour of another member of the Commission as such, then those concerns should be directed to the Chairman, who shall inform the Governor. If a member of the Commission has concerns regarding the behaviour of the Chairman, then those concerns should be directed to the Governor.

3.11 Conflicts of Interest

Section 106 (5) of the Constitution provides that “no member shall participate in any proceedings of the Commission which affects him or her personally.”

3.12 Independence

The Commission is a wholly independent body that is not subject to the direction or control of any other person or authority.

3.13 Analytical/Administrative Support

Analytical and administrative support for the Commission is provided by the Commissions Secretariat.

Part D: Recruitment and Appointment Processes

Pursuant to Section 106 (1) of the Cayman Islands Constitution Order 2009 (the “Constitution Order”), the Appointing Officer (“AO”) for all posts stipulated in that section is HE the Governor. The AO makes appointments under that Section on the advice of the Commission in the manner required by the Constitution and in the procedures in the following pages.

These procedures are managed by the manager of the Commissions Secretariat (the “Manager”)

The following policies and procedures apply to the recruitment of all appointments to which Section 106 of the Constitution Order applies, including, but not limited to, new office-holders from within the Cayman Islands, new office-holders from overseas, existing office-holders to new positions and acting office-holders. The procedures cover all appointments and are based on good practice as well as the law and regulations in force for the Cayman Islands civil service from time to time.

The Commission is an advisory body to the Governor and no member of it may participate in any proceedings which affect him or her personally.

The Commission and the Manager will endeavour to ensure that all steps required to be taken by them under these policies and procedures are taken within a reasonable time.

All or any of the procedures in the following pages may be altered, either generally or on a case-by-case basis and either in whole or in one or more detail and following consultation with the Commission, by the Chairman, where in good faith he sees it as administratively convenient to do so and is satisfied that nobody is treated unfairly as a result.

4.1 Recruitment and Appointment (Except Acting Positions)

General

For the purpose of recruitment to any position hereunder (a “Position”), where the Commission identifies, within three months from the date on which it submitted a recommendation to the AO, a person who, from the recruitment steps and interviews undertaken by it to enable it to make that recommendation, the Commission is already satisfied is duly qualified for and otherwise meets the requirements of the Position, the Commission may advise the AO to offer the Position to such person instead of following the procedure set out below. If the person declines the Position, then the process to fill it will resume from 4.1.3 below.

Subject to the foregoing, for all appointments made to offices within Section 106 (4) (a), (b) and/or (e) of the Constitution, whether on an individual basis or to a panel (as referred to in paras 4.2.1 and 4.2.3 below), the following procedure shall be followed:

4.1.1 Identify Vacant Position, Confirm Funding, Prepare or Update Job Description. Request Remuneration Banding

- 4.1.1.1 In the case of a Grand Court Judge or a Magistrate, the Chief Justice identifies the vacant (or impending vacant) position.
- 4.1.1.2 In the case of a Court of Appeal Judge, the President of the Court of Appeal identifies the vacant (or impending vacant) position.
- 4.1.1.3 In all other cases, the Manager identifies the vacant (or impending vacant) position.
- 4.1.1.4 In each case, the relevant person completes a Recruitment Request Form (“RRF”) and attaches to it the following documents and sends them to the Commission:-
 - (a) Job Description on prescribed template, including the evaluated grade by the Portfolio of the Civil Service (except as regards judges, whose remuneration is prescribed by law); and
 - (b) proposals as to advertisement (with draft text).

4.1.2 Approval to Recruit

- 4.1.2.1 The Commission reviews and recommends any changes to those documents.
- 4.1.2.2 The Manager sends the recommendations of the Commission, and any supporting documentation, to the AO for approval.
- 4.1.2.3 The AO accepts or rejects the recommendations of the Commission. If the AO does not accept the recommendations, he or she sends the RRF back to the Commission for reconsideration.
- 4.1.2.4 In the event the AO does not approve the filling of the post, he or she provides reasons.

4.1.3 Advertise Vacancy

- 4.1.3.1 The Manager places the advertisement as approved by the AO.
- 4.1.3.2 The time between the appearance of the advertisement and the closing date for applications must allow candidates a reasonable time to see it and submit their applications.
- 4.1.3.3 Applicants submit their applications to the Manager.

4.1.4 Receipt & Acknowledge Applications

The Manager provides applicants with written acknowledgements of their applications.

4.1.5 Collation of Applications and Formulation of Short List

- 4.1.5.1 The Manager collates applications and prepares a summary spreadsheet containing key information about them.
- 4.1.5.2 For all appointments that fall under Sections 106(4)(a) and (e) (with the exception of the post of Chief Justice):
 - (a) Application forms and a summary spreadsheet are sent to the Commission following the closing date. The Commission prepares a shortlist of candidates for interview.

- (b) The Manager forwards the summary spreadsheet containing the Commission's shortlist to the Chief Justice. The Chief Justice has the opportunity to comment on it within ten business days or such longer period as the Chairman may agree. ~~If~~ the Chief Justice chooses to comment on the list, the Commission is informed and gives those comments due consideration.
 - (c) The Manager forwards the shortlist to the AO for approval.
- 4.1.5.3 For all appointments that fall under Section 106(4)(b) (with the exception of the post of President of the Court of Appeal):
 - (a) Application forms and summary spreadsheet are sent to the Commission following the closing date. The Commission prepares a shortlist of candidates for interview.
 - (b) The Manager forwards the shortlist to the AO for approval.
- 4.1.5.4 For all appointments that fall under Section 106(4)(a) (post of Chief Justice only), (b) (post of President of the Court of Appeal only), (c) and (d):
 - (a) Application forms and the summary spreadsheet are sent to the Commission following the closing date. The Commission prepares a shortlist of candidates for interview.
 - (b) The Manager forwards the Commission's shortlist to the AO for approval.
- 4.1.5.5 For all appointments (except those that fall under Sections 106(4)(a) and (b)) the procedure should comply with the Public Service Management Law to the extent applicable.
- 4.1.5.6 If there are no (or insufficient) suitable applications, then return to 4.1.3.
- 4.1.5.7 The Manager notifies unsuccessful candidates in writing.

4.1.6 Appoint Interview Panel

- 4.1.6.1 The Commission appoints a minimum of three of its members to the interview panel, with one of those members serving as its chairman.
- 4.1.6.2 The Commission may co-opt, in addition, up to one other person (who does not have to be a Commission member) to the interview panel, provided, if he or she is not a Commission member, he or she agrees in advance to keep its deliberations and conclusions and the identity of the candidates confidential on such terms as the Chairman determines.
- 4.1.6.3 The AO may, if he or she so chooses, co-opt one further person to the interview panel, provided, if such person is not a Commission member, he or she agrees in advance to keep its deliberations and conclusions and the identity of the candidates confidential on such terms as the AO determines.
- 4.1.6.4 In the case of the appointments of President of the Court of Appeal or Chief Justice or any judges of the Court of Appeal or the Grand Court or any magistrates, at least two Commission members of the interview panel must have judicial experience.

4.1.7 Arrange Interviews

- 4.1.7.1 The Manager establishes the date and place for interviews to be held, in consultation with the interview panel.
- 4.1.7.2 The Manager settles interview times and dates with the interview panel and candidates.

- 4.1.7.3 The Manager organises interview logistics, including venue, refreshments and travel.
- 4.1.7.4 Wherever possible, interviews are held in Grand Cayman. Where it is more convenient for interviews to be held elsewhere, another location may be established, subject to the approval of the AO.
- 4.1.7.5 Video or audio conferencing or Skype or its equivalent may be used for interviews.

4.1.8 Prepare Interview Panel

- 4.1.8.1 The Manager prepares suggested criteria for assessment and a scoring matrix where appropriate. Proposed interview questions shall be prepared by the chairman of the interview panel.
- 4.1.8.2 The interview panel agrees the interview approach.

4.1.9 Conduct Interviews

The interview panel, when coordinating interviews, will keep in mind the desirability of adopting a consistent approach for each candidate.

4.1.10 Select Preferred Candidate & Prepare Interview Report

- 4.1.10.1 The interview panel selects the first- and (where possible) second-choice candidates.
- 4.1.10.2 An interview report is prepared by the interview panel.
- 4.1.10.3 The interview report contains for each short-listed candidate:
 - (a) brief biographical details
 - (b) a summary of responses to questions
 - (c) an assessment of qualifications, skills, knowledge and experience compared to job description
 - (d) a recommendation for appointment of first- and second-choice candidates (if possible)
 - (e) signatures of the interview panel members
- 4.1.10.4 the interview report may recommend that the vacancy be re-advertised if no candidate is deemed suitable

4.1.11 Commission to consider the Interview Report

- 4.1.11.1 The Manager circulates the interview report to all members of the Commission for the purpose of reaching the required concurrence regarding the recommendation to be given to the AO.
- 4.1.11.2 The interview report and final recommendation of the Commission are forwarded by the Manager to the AO.

4.1.12 Decision of the Governor

The AO considers the advice of the Commission and if-

- 4.1.12.1 the AO accepts the advice of the Commission that there is not a successful candidate, the process returns to 4.1.3; or

- 4.1.12.2 the AO accepts the advice of the Commission for appointing a candidate, the Manager notifies that candidate and takes the steps necessary to engage him or her to the relevant position on behalf of the AO; or
- 4.1.12.3 the AO does not accept the advice of the Commission and instead refers it back to the Commission for reconsideration, the AO will send the report and advice to the Manager with a note stating that the Commission should reconsider its original advice and the process proceeds to 4.1.13.

4.1.13 Commission reconsiders original advice

- 4.1.13.1 The Manager arranges for the report, original advice and note from the AO to be circulated to Commission members.
- 4.1.13.2 The Commission reconsiders its original advice and determines either–
 - (a) to substitute the original advice with different advice; or
 - (b) not to substitute the original advice with different advice.
- 4.1.13.3 The Manager forwards the Commission’s determination to the AO.
- 4.1.13.4 If, after having been instructed to reconsider its original advice, the Commission decides not to change its original advice, the AO can act otherwise than in accordance with that advice if he or she determines that compliance with it would prejudice Her Majesty’s service.

4.2 Appointments to Acting Positions

4.2.1 Judges of the Grand Court

- 4.2.1.1 A list has been established of persons approved by the JLSC who may be invited to sit as Acting Grand Court judges in accordance with section 97(2) of the Constitution (“Acting Panel Judges”).
- 4.2.1.2 The list of Acting Panel Judges shall be reviewed by the JLSC regularly.
- 4.2.1.3 Acting Panel Judges of the Grand Court to be appointed pursuant to Section 97(2) of the Constitution may be recommended to the JLSC by the Chief Justice from the list. The JLSC will consider this recommendation and determine whether the candidate is suitable. If the JLSC determines the candidate is suitable, they will recommend the appointment of the individual to the Governor. If the JLSC determines the candidate is not suitable, they may recommend another Acting Panel Judge from the list. In cases where none of the Acting Panel Judges is available for appointment at the time needed, or none of the Acting Panel has the necessary experience and/or expertise in relation to the matter for which appointment is sought (“Acting Panel Judge Exceptional Cases”), the same procedure shall apply for appointment as is set out in Section 4.1 of this Manual as it relates to Grand Court judges, save that the Chief Justice shall certify why it is a Panel Judge Exceptional Case.
- 4.2.1.4 (a) In Panel Judge Exceptional Cases of urgency arising from causes beyond the control of Judicial Administration, the Chief Justice may, instead of following the foregoing procedure, suggest to the JLSC the name of an otherwise qualified judge whom he or

she regards as a suitable alternative candidate for appointment as an Acting Judge, as the case may be. The JLSC, having considered such information from the Chief Justice on that candidate as it requires, shall then determine whether or not to advise the Governor to approve his or her appointment.

- (b) If the JLSC determines to advise the Governor to appoint that candidate, then paragraphs 4.1.12 and if relevant 4.1.13 of this Manual shall apply in relation to his or her appointment.
- (c) If the JLSC determines to advise the Governor not to appoint that candidate, it will notify the Governor of such and the Governor will forward that notification to the Chief Justice, who shall then be at liberty to suggest another candidate and the procedure in 4.2.1.4(a) will apply again.

4.2.2 Judges of the Court of Appeal

- 4.2.2.1 The President of the Court of Appeal may suggest to the Governor the name of an otherwise qualified judge whom he regards as a suitable candidate for appointment as an acting judge of the Court of Appeal. The Governor shall refer the matter to the JLSC, which, having considered such information from the President of the Court of Appeal on that candidate as it requires, shall then determine whether or not to advise the Governor to approve his or her appointment pursuant to Section 4.1 of this Manual. Although a member of the JLSC, the President of the Court of Appeal shall not vote on such determination.
- 4.2.2.2 If the JLSC determines to advise the Governor to appoint that candidate, then paragraphs 4.1.12 and if relevant 4.1.13 of this Manual shall apply in relation to his or her appointment.
- 4.2.2.3 If the JLSC determines to advise the Governor not to appoint that candidate, it will notify the Governor of such and the Governor will forward that notification to the President of the Court of Appeal, who shall then be at liberty to suggest another candidate and the procedure in 4.2.2.1 will apply again.

4.2.3 Magistrates

- 4.2.3.1 A list has been established of persons approved by the Governor on the advice of the JLSC and who may be invited to sit from time to time as acting magistrates (“Panel Magistrates”).
- 4.2.3.2 The same procedure applied and shall apply to the appointment of Panel Magistrates to that list as is set out in relation to the appointment of magistrates in Section 4.1 of this Manual.
- 4.2.3.3 The list of Panel Magistrates shall be reviewed by the JLSC every two years (commencing January 2016).
- 4.2.3.4 Acting magistrates may be selected by the Chief Justice from that list and appointed without further advice or recommendation from the JLSC.
- 4.2.3.5 In cases where none of the Panel Magistrates is available for appointment at the time needed or has the necessary experience and/or expertise in relation to the matter for which

appointment is sought (“Panel Magistrate Exceptional Cases”), the same procedure shall apply for appointment as is set out in Section 4.1 of this Manual as it relates to magistrates, save that the Chief Justice shall certify why it is a Panel Magistrate Exceptional Case.

- 4.2.3.6
- (a) In Panel Magistrate Exceptional Cases of urgency arising from causes beyond the control of Judicial Administration, the Chief Justice may, instead of following the foregoing procedure, suggest to the JLSC the name of an otherwise qualified individual whom he regards as a suitable alternative candidate for appointment as an acting magistrate. The JLSC, having considered such information from the Chief Justice on that candidate as it requires, shall then determine whether or not to advise the Governor to approve his or her appointment pursuant to Section 4.1 of this Manual.
 - (b) If the JLSC determines to advise the Governor to appoint that candidate as an acting magistrate, then paragraphs 4.1.12 and if relevant 4.1.13 of this Manual shall apply in relation to his or her appointment.
 - (c) If the JLSC determines to advise the Governor not to appoint that candidate, it will notify the Governor of such and the Governor will forward that notification to the Chief Justice, who shall then be at liberty to suggest another candidate and the procedure in 4.2.3.6(a) will apply again.

4.2.4 Other Acting Positions

As regards appointments to any other acting positions for which the Governor seeks the advice of the JLSC pursuant to Section 106 (4)(a), (b), (c) and (d) of the Constitution, the JLSC has provided, and shall when the need arises continue to provide, to the Governor standing written advice as to those appointments.

Part E: Disciplinary and Complaints Process

5.1 Breach of Adopted Codes of Conduct

The JSLC has drawn up a Code of Conduct for the Judiciary which can be found in appendix 6.1 of this document. This Code of Conduct affects all persons appointed under Section 106 (4) (a), (b) and (c) and any person acting in the capacity of one of the aforementioned positions.

Those persons appointed under Section 106 (4) (c), (d) and (f), and any person acting in the capacity of one of the aforementioned positions, are bound by the Public Servants Code of Conduct and they should operate in line with the Public Service Values as stated in the Public Service Management Law (2007 Revision) and found in appendices 7.4 and 7.5 of this document.

5.2 Making a Complaint about a Judicial Office-Holder

Complaints may be made by any member of the public regarding the conduct of any judicial office-holder. Any such complaints must be made by completing the appropriate form found in the appendices of this manual.

5.3 Accessibility of the JSLC

The JSLC may be contacted through the Secretariat in the following ways:

Phone: 244-3685

Fax: 945-8649

E-mail: info@judicialandlegalservicescommission.ky

Mailing Address: P.O. Box 391 KY1-1106

Physical Address:

4th Floor George Town Financial Center

#90 Fort Street, George Town

FOI requests: foi.cos@gov.ky.

5.4 Complaints Procedure

The JSLC has drawn up a Complaints Procedure for judicial office-holders, which follows.

JUDICIAL AND LEGAL SERVICES COMMISSION



Complaints Procedure in relation to the Cayman Islands judiciary

This procedure is drawn up by the Cayman Islands Judicial and Legal Services Commission pursuant to Section 106(10)(a) of the Cayman Islands Constitution Order 2009.

5.5 Complaints Procedure in Full

5.5.1 Definitions

In this Complaints Procedure –

“Complaints Committee” means a Committee of the JLSC appointed under paragraph 3(1); “JLSC” means the Judicial and Legal Services Commission;

“judicial office-holder” means a person holding or acting in the office of—

- a) judge of the Court of Appeal;
- b) judge of the Grand Court; or
- c) magistrate;

“Manager” means the Manager of the Commissions Secretariat;

“President” means the President of the Court of Appeal;

“Special Investigator” means the person to whom a complaint is referred under paragraph 4(1)(a), (b) or (c).

5.5.2 Form of Complaints

- (1) Complaints concerning a judicial office-holder shall be made to the Commissions Secretariat on the form in the Schedule.
- (2) Notwithstanding subparagraph (1), the Judicial and Legal Services Commission may of its own motion initiate a complaint against a judicial office-holder where the JLSC has reasonable cause to believe that the conduct of the judicial office-holder should be investigated.

5.5.3 Preliminary Consideration

- (1) Where a complaint has been initiated against a judicial officer, whether by the Commission on its own motion or by a Complainant on the prescribed form, the Manager shall refer the complaint to a Complaints Committee, comprised of the Chief Justice, the President of the Court of Appeal, and no fewer than two members appointed by the Chairman of the JLSC, for preliminary consideration; and the Manager may, if so directed by the Commission, serve the judicial office-holder who is the subject of the complaint, with a copy of the complaint.
- (2) Where a complaint is received directly by the Chief Justice, the President of the Court of Appeal, or any other judicial office holder, the recipient shall refer the complaint to the JLSC, accompanied by a brief note confirming the date of receipt and any relevant context (if applicable). Judicial office holders shall not undertake any preliminary assessment or action on the complaint prior to referral to the JLSC, except where immediate administrative action is required (e.g., recusal pending referral).

- (3) If the complaint is not submitted on the prescribed form, the JLSC shall notify the complainant and request resubmission on the prescribed form. If the complainant fails to resubmit, the JLSC may close the matter unless exceptional circumstances justify further action.
- (4) Unless there are reasons why it believes that a complaint should be investigated, the Complaints Committee may recommend dismissal of a complaint, or part of a complaint, to the JLSC if the complaint falls into any of the following categories—
- a) it is about a judicial decision or judicial case management, and raises no question of misconduct;
 - b) the action complained of was not done, or caused to be done, by a judicial office-holder;
 - c) it is vexatious, frivolous or unmeritorious;
 - d) it is without substance or, even if substantiated, would not require any disciplinary action to be taken;
 - e) it is manifestly untrue, mistaken or misconceived;
 - f) it raises a matter which has already been dealt with, whether under these regulations or otherwise, and does not present any material new evidence;
 - g) it is about a person who no longer holds any judicial office;
 - h) it is about the private life of a judicial office-holder and could not reasonably be considered to affect his or her suitability to hold judicial office;
 - i) it is about the professional conduct in a non-judicial capacity of a judicial office-holder and could not reasonably be considered to affect his or her suitability to hold judicial office;
 - j) for any other reason it does not relate to misconduct by a judicial office-holder.
- (5) Where a complaint is about a judicial decision or judicial case management, and raises a question of misconduct, the Complaints Committee shall defer consideration until the appeal process in the case is complete or the time for appealing has expired without an appeal being lodged; and the Complaints Committee shall then review the matter, and proceed in the light of any appellate ruling.
- (6) Where a complaint alleges criminal offences, including corruption, it should not be investigated by the Complaints Committee unless the complainant is first advised to report the matter to the police or other appropriate authority for investigation by them and the police or other such authority has failed to pursue the complaint within a reasonable time.
- (7) Judicial office-holders must report to the Chief Justice, President of the Court of Appeal, or Governor (as applicable) if they are convicted of any criminal offence—excluding minor traffic or parking offences without aggravating circumstances.
- (8) The Manager shall request a report on the matter from the Director of Public Prosecutions and, on receipt, shall refer it as follows:
- a) if the report concerns the President of the Court of Appeal or the Chief Justice, to the Governor;

- b) if the report concerns a judge of the Court of Appeal (other than the President), to the President;
 - c) if the report concerns a judge of the Grand Court (other than the Chief Justice) or a Magistrate, to the Chief Justice.
- (9) The Governor, President, or Chief Justice (as applicable) shall treat the report in the same manner as a report from a Special Investigator and proceed accordingly.
- (10) Judicial office-holders are not required to report minor infractions such as parking offences and non-court-issued fines such as minor speeding or traffic tickets. However, any conviction resulting from court proceedings must be reported.
- (11) Where the Committee is satisfied that a complaint requires further particulars from the Complainant, the Committee may seek the same from the Complainant.
- (12) Upon conclusion of its work the Committee shall issue a Report to the JLSC. The Report shall indicate whether the complaint should be dismissed and, if so, for what reasons; or shall provide the Committee's initial observations on the complaint including in particular whether there is need for the JLSC to a) refer the complaint to the Chief Justice or the President of the Court of Appeal for their consideration under Section 106(1B) of the Constitution, or b) employ a Special Investigator to investigate the complaint.

5.5.4 Referral For Inquiry and Report

- (1) Unless the Complaints Committee dismisses a complaint under paragraph 3, or the complaint is referred to the Chief Justice or the President of the Court of Appeal for their consideration (as outlined in paragraph 3(9)a) above), or the complaint alleges a criminal offence, the JLSC must refer the matter for investigation as follows:
 - a) in respect of complaints concerning the President or the Chief Justice, to a Special Investigator, to be appointed by the Governor;
 - b) in respect of complaints concerning judges of the Court of Appeal, to a Special Investigator, to be appointed by the President;
 - c) in respect of complaints concerning judges of the Grand Court and magistrates, to a Special Investigator, to be appointed by the Chief Justice.
- (2) For the purposes of subparagraph (1), any of the following persons shall be qualified to be appointed as a Special Investigator –
 - a) a retired Judge of the Court of Appeal or the Grand Court or a Judge of similar standing (retired or still sitting) from a Commonwealth country outside of the jurisdiction of the Cayman Islands;
 - b) a person qualified to practise as an attorney-at-law in the Cayman Islands or in a Commonwealth country and who has so practised for not less than fifteen years.
- (3) Complaints referred to the Chief Justice or the President of the Court of Appeal by the JLSC shall

be accompanied by all relevant documentation and a recommendation (if any). The Chief Justice or the President of the Court of Appeal shall determine whether disciplinary action is warranted and notify the JLSC of the outcome, unless further investigation is required.

5.5.5 Conduct of Inquiry

- (1) Upon receipt of a referral from the JLSC, the Special Investigator shall, as soon as practicable, notify the subject of the complaint, provide him or her with a copy (which may be an extract or summary in an appropriate case) of the report of the Complaints Committee and invite his or her comments in writing within fourteen calendar days or such longer period, not exceeding sixty calendar days, as the Special Investigator may specify.
- (2) Upon receipt of comments in writing from the subject of the complaint, or at the expiry of the fourteen-day period or the larger specified period, the Special Investigator must—
 - a) decide how to conduct the investigation;
 - b) notify the subject of the complaint and the complainant, or the representative of the JLSC (if the JLSC has initiated the complaint on its own motion), of the proposals for the conduct of the investigation, and whether oral evidence will be taken;
 - c) invite the subject of the complaint and the complainant to make representations about the procedure to be adopted in the case; and
 - d) record the representations on the proposals which those persons may make.
- (3) Any representations from the subject of the complaint or the complainant, or the representative of the JLSC, as the case may be, must be provided to the Special Investigator within ten business days or such longer period as the Special Investigator may direct of an invitation under subparagraph (2)(c).
- (4) The Special Investigator may invite the subject of the complaint, the complainant, a representative of the JLSC or any other person who may be able to assist the investigation to give evidence about the case.
- (5) The Special Investigator may take oral evidence if he or she considers it necessary to do so.
- (6) The Special Investigator must disclose any evidence obtained from the complainant or other person under subparagraph (4) to the subject of the complaint and must invite the subject of the complaint to make representations on that evidence.
- (7) Where the Special Investigator decides to take oral evidence, he or she must arrange for that evidence to be recorded electronically and transcribed.
- (8) The Special Investigator shall fix a date for taking the evidence and notice of such date shall be sent to the subject of the complaint and the complainant.
- (9) Where the Special Investigator considers that it is necessary to disclose evidence obtained during the course of an investigation to any person other than the subject of the complaint,

he or she must first invite—

- a) the person who provided the evidence; and
- b) the subject of the complaint,

to make representations about the proposed disclosure.

- (10) The subject of the complaint may seek legal advice and representation at all stages of the investigation.

5.5.6 Report

- (1) The report should be limited to the Special Investigator's findings of fact, and should not include recommendations as to disciplinary sanctions or the future conduct of the matter.
- (2) Where it falls to the Special Investigator to establish any fact, any question as to whether that fact is established must be decided on the balance of probabilities. At the conclusion of the investigation, the Special Investigator shall report –
 - a) to the Governor, in respect of a complaint concerning the President or the Chief Justice;
 - b) to the President, in respect of a complaint concerning a judge of the Court of Appeal (other than the President); or
 - c) to the Chief Justice, in respect of a complaint concerning a judge of the Grand Court (other than the Chief Justice) or a magistrate,
 - d) to the JLSC;
 - e) to the complainant;
 - f) to the subject of the complaint,

as to the facts of the case and whether the complaint is substantiated or not.

- (3) The Special Investigator may also send a copy of the final report to any other person who has been invited to make representations on a draft of his or her report.

5.5.7 Governor's Action

- (1) On receipt of the Special Investigator's report, the Governor may—
 - a) if he or she considers that further investigation is required, refer the case back to the Special Investigator to conduct such further investigation, or appoint an appropriate person to conduct it;
 - b) if he or she considers that no misconduct is involved, dismiss the complaint;
 - c) if he or she considers that, in the light of the report, the question of removing a judge of the Grand Court or a judge of the Court of Appeal from office for misbehaviour ought to be investigated, then he or she shall refer the report to the JLSC for further

investigation where necessary and advice under either section 96(4) or 101(4) of the Constitution as applicable; or

- d) if he or she considers that, in the light of the report, the question of removing a magistrate from office for misbehaviour ought to be investigated, then he or she shall refer the report to the JLSC for further investigation where necessary and advice under section 106(1) of the Constitution.

5.5.8 JLSC'S Consideration

- (1) Upon receipt of a referral from the Governor otherwise than under sections 96(4) or 101(4) of the Constitution or under paragraph 7(d), the JLSC shall consider the Special Investigator's report and, in the light of the report, advise whether or not the case calls for the exercise of the powers of removal from office conferred by section 106(1) of the Constitution.
- (2) Upon receipt of a referral from the Governor under sections 96(4) or 101(4) of the Constitution, the JLSC shall conduct the inquiry required by the Constitution, and report on the facts to the Governor and advise whether he or she should request that the question of the removal of the judge in question should be referred by His Majesty to the Judicial Committee of the Privy Council.
- (3) Upon receipt of a referral from the Governor under paragraph 7(d), the JLSC shall carry out its own investigation and report on the facts to the Governor and advise whether or not the magistrate should be removed from office for misbehaviour.
- (4) Before reporting or advising under subparagraphs (2) or (3), the JLSC shall afford the subject of the referral an opportunity to be heard or to make written representations.

5.5.9 Disciplinary Control

- (1) Where the President in respect of a judge of the Court of Appeal, or the Chief Justice in respect of a judge of the Grand Court or a magistrate, has a concern about the conduct or performance of such a person which the President or the Chief Justice, as the case may be, considers may merit the exercise of such powers of disciplinary control as may be conferred by section 106(1B) of the Constitution, he or she may:
 - a) refer the matter to the JLSC which shall then refer the matter for investigation and Paragraph 5 shall apply accordingly; or
 - b) conduct an internal investigation.
- (2) In the exercise of the powers referred to in subparagraph (1), the President in respect of a judge of the Court of Appeal or the Chief Justice in respect of a judge of the Grand Court or a magistrate, may –
 - a) determine that no disciplinary action is required; or

- b) determine that disciplinary action is required and specify the disciplinary sanction by which the case can be properly disposed of.
- (3) Notwithstanding subparagraph (1), the President or the Chief Justice may informally reprimand or warn a judicial office-holder without the need to follow this Complaints Procedure.

Schedule

(Pursuant to Para. 2(1))

Complaints Procedure Complaints Form

PLEASE READ BEFORE PROCEEDING FURTHER

1. Unless there are reasons why it believes that a complaint should be investigated, the Complaints Committee of the Judicial and Legal Services Commission (the JLSC) will dismiss a complaint, or part of a complaint, if it falls into any of the following categories –

- a) it is about a judicial decision or judicial case management, and raises no question of misconduct;
- b) the action complained of was not done, or caused to be done, by a judicial office-holder;
- c) it is vexatious, frivolous or unmeritorious;
- d) it is without substance or, even if substantiated, would not require any disciplinary action to be taken;
- e) it is manifestly untrue, mistaken or misconceived;
- f) it raises a matter which has already been dealt with, whether under these regulations or otherwise, and does not present any material new evidence;
- g) it is about a person who no longer holds any judicial office;
- h) it is about the private life of a judicial office-holder and could not reasonably be considered to affect his or her suitability to hold judicial office;
- i) it is about the professional conduct in a non-judicial capacity of a judicial office-holder and could not reasonably be considered to affect his or her suitability to hold judicial office;
- j) for any other reason it does not relate to misconduct by a judicial office-holder.

2. The Complaints Committee will not entertain any complaint which is anonymous and/or where the complainant provides no, or insufficient, contact information.

Part A – About you (the complainant)

1. Name: Mr/Mrs/Ms/Other_Full Name: _____
2. Physical Address: _____
3. Mailing Address: P.O. Box_____ Postal Code: KY - _____
4. Contact numbers: Home:_____Work:_____Cell:_____
5. Email Address:_____

Only fill out this box if someone is assisting you with the complaint – for example, a lawyer

Name of representative: _____

Organisation: _____

Physical Address: _____

Mailing Address: P.O. Box_____ Postal Code: KY - _____

Contact numbers: Work:_____Cell:_____Email:_____

[illegible]

Part C – Further information

Supporting evidence

Please attach copies of any documents that may help us investigate your complaint (for example, letters). If you cannot do this, please tell us about such documents or other evidence and how it, or they, can be obtained.

Have you made a complaint about this to anyone else? (For example, the office of the Ombudsman)

If so, please provide details of the complaint, to whom it was made and the outcome. Please also attach copies of any correspondence relating to the complaint.

I hereby declare that the above information is accurate to the best of my knowledge.

Signature: _____

Date: _____

Consent to Release Information

I understand that the Governor's Office and the Judicial and Legal Services Commission may have to work with various individuals and agencies to investigate my complaint. Therefore, I give my consent to the use and release of my complaint, any or all of its subject-matter and any additional information that the Governor's office, the Judicial and Legal Services Commission or any person investigating my complaint feels is necessary to complete that investigation. I also understand that they will have to be released to the person who is the subject of my complaint.

Signature: _____

Date: _____

Remember to:

- ☐ sign and date this document; and
- ☐ attach copies of any relevant documents.

FAILURE TO PROVIDE ALL INFORMATION AND DOCUMENTS
REQUESTED WILL DELAY CONSIDERATION OF YOUR
COMPLAINT

Send your completed form to:

The Manager, Commissions Secretariat,
4th Floor, George Town Financial
Center, 90 Fort Street, George Town,
Grand Cayman, Cayman Islands
info@judicialandlegalservicescommission
.ky
Tel +1 345 244-3687

Part F: Appendices

6.1 Request for Recruitment Form (RRF)



JUDICIAL AND LEGAL SERVICES COMMISSION

REQUEST FOR RECRUITMENT FORM

This form must be completed to request the recruitment of all posts covered by Section 106 (4) (a)-(f) of the Constitution.

**For Official Use
Only**

Date Form sent to
the Governor

Date Authorised by
the Governor:

1. Details of Post			
Post Title		Grade & Salary point of previous holder	
Name of previous post holder		Date Last evaluated by Portfolio of the Civil Service	
Proposed start date for new employee			
Proposed Length of Contract			
Reason for Vacancy			
Justification for filling the vacancy in terms of workload, quality and timeliness of delivery of service			

2. Advertising Details

Where to advertise (please tick appropriate box)	<input type="checkbox"/> Internally Only <input type="checkbox"/> Locally	Please state local media to use in addition to the Government Web Site	
	<input type="checkbox"/> Regionally <input type="checkbox"/> Internationally	If regionally and or internationally, state the country and media or publications to use.	
Advertising Budget		\$	

3. Remuneration and Benefits

Salary Grade (if applicable)		Please state the annual budgeted amount for this post.	
Annual Leave Entitlement		Sick Leave Entitlement	
Pension Contribution		Health Insurance	
Additional Benefits	Successful candidate (if overseas) will be entitled to: <ol style="list-style-type: none"> 1. return airfare for self and dependents; 2. up to 7 nights in a hotel upon arrival and up to 2 nights in a hotel at departure; 3. Up to 1000lbs of property shipped to the CI; and 4. One month's pay upon arrival for relocation expenses. 		

4. Contact Details

All costs related to the recruitment will be borne by the Ministry/Portfolio including advertising, transportation and accommodation of selection panel and candidates. Please provide contact details of the Finance person who will deal with these issues.							
Name					Position		
Postal Address				Street Address			
Fax Number		Tel Work		Tel Cell		E-mail	
Recruitment Budget							

5. Authorisation

Form Completed By		Position	
Signature		Date	
Recommendation of the JLSC	<input type="radio"/> Recruit <input type="radio"/> Do not recruit	Date	
Name of Authorizer		Position	HE the Governor
I approve the filling of this vacancy on the terms stated above		I do not approve the filling of this vacancy on the terms stated above	
Comments			
Signature		Date	

6.2 Employment Application Form

CONFIDENTIAL

Judicial and Legal Services Commission Employment Application

**THIS FORM MUST BE COMPLETED FULLY, USING BLACK INK OR TYPE.
ATTACH ADDITIONAL PAGES IF NEEDED. INCOMPLETE APPLICATION
FORMS OR APPLICATIONS RECEIVED AFTER THE CLOSING DATE MAY NOT
BE CONSIDERED.**

Post Applied For:	
Ministry/Portfolio:	

SECTION 1: Personal Details

Last Name:		First Name:	
Middle Name:		Maiden Name (if applicable):	
Any other names used:			
Mailing Address:			
Street Address:			
E-mail Address:			
Telephone Numbers:	Home:	Cell:	Work:
Date of Birth (dd/mm/yyyy):		Nationality:	

If you are not Caymanian, what is your immigration status in the Cayman Islands?

Permanent Resident:		Off Island:	
Work Permit Holder:		Expiry Date (dd/mm/yyyy):	
On Government Contract:		Expiry Date (dd/mm/yyyy):	
Other (please explain):			

Have you been previously employed within the Cayman Islands Civil Service?

Yes ☐ No ☐

If yes, please indicate post(s) held and dates of service

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Section 2: Present Employment/Last Employer (if unemployed)**Name of
Employer:****Department/Section:****Address:**

Post Title:**Date of****Appointment:****Salary:****Brief description of duties:**

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**Period of Notice
Required:****Last day of service** (if no longer
employed):**Reason for leaving** (if no longer
employed):**Section 3: Previous Employment (starting with most recent employer)****1. Name of Employer:****Address:**

Position Held:

	Period of Employment:	mm yyyy to mm yyyy
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**Summary of
Duties:**

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Reason for Leaving:

2. Name of Employer:

Address:

Position Held:		Period of	mm	yyyy	to	mm
		Employment:	yyyy			

Summary of Duties:

Reason for Leaving:

3. Name of Employer:

Address:

Position Held:		Period of	mm	yyyy	to	mm
		Employment:	yyyy			

Summary of Duties:

Reason for Leaving:

Section 4: Education

College or University	Course	Qualifications and grades obtained
School	Subjects	Qualifications and grades obtained

Continue on a separate sheet if necessary

Professional, Technical or Management Qualifications

Please give details:

Professional/Technical/Management Qualifications	Course Details
Current Membership in any Professional/Technical Associations – please state level of membership:	

Continue on a separate sheet if necessary

Section 5: Training and Development

Title of Training Programme or Course	Length of Course	Area (s) of Focus

Continue on a separate sheet if necessary

Section 6: Personal Statement

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Continue on a separate sheet if necessary

Section 7: Dependents *(i.e. Persons who will accompany you for the duration of your contract. Limited to your spouse and / or dependent children under the age of 18)*

Marital Status:		Spouse's Name:	
Names and ages of Dependents:			

Section 8: Convictions

Have you ever been convicted of a criminal offence (except minor road traffic offences)?

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If so, please provide details:	
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Section 9: Disciplinary Proceedings

Have you ever been the subject of any disciplinary proceedings?

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If so, please provide details:	
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Section 10: Other Issues

Have you ever been involved in any other issues that could cause embarrassment to the Cayman Islands Government if you are selected?

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If so, please provide details:	
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Are there any other matters which the Commission should be aware of which may be relevant to your appointment and which could affect a decision to employ you?

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If so, please provide details:	
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Section 11: References

Please give the names and details of two individuals who may be contacted as *work-related* referees, including your current or most recent employer. The Commission reserves the right to contact additional individual(s) and/or organization(s) it considers appropriate to help it complete its due diligence. If for some reason there is anyone whom you wish not to be contacted without your consent, please indicate this below, together with your reason.

	Reference 1		Reference 2
Name:	<input type="text"/>	Name:	<input type="text"/>
Position (job title):	<input type="text"/>	Position (job title):	<input type="text"/>
Work Relationship:	<input type="text"/>	Work Relationship:	<input type="text"/>
Organisation:	<input type="text"/>	Organisation:	<input type="text"/>
Address:	<input type="text"/>	Address:	<input type="text"/>
Telephone no.:	<input type="text"/>	Telephone no.:	<input type="text"/>
E-Mail:	<input type="text"/>	E-Mail:	<input type="text"/>

This referee may be contacted only with my consent: ☐

Reason: _____

This referee may be contacted only with my consent: ☐

Reason: -

A job offer will not be made without at least two satisfactory references.

Section 12: Declaration

Please complete and sign the following declaration

I hereby certify that:

- *the information I have provided on this form is correct to the best of my knowledge, and may be verified by the Cayman Islands Government prior to or after my appointment;*
- *all questions have been accurately and fully answered; and*
- *I possess all the qualifications which I claim to hold.*

Please initial

I understand and agree that, if offered employment, I will be required to:

- *undergo a pre-employment medical examination. Adverse results of such examination may result in the withdrawal of the offer of employment;*
- *provide proof of my qualifications; and*
- *provide a police clearance certificate from my country of residence and such other place as as requested by the Cayman Islands Government.*

The information you provide in your job application form will be treated confidentially at all times and will only be disclosed to personnel involved in the recruitment process. If you accept this post, your personal information will be held alongside your Employment Agreement.

By signing this application, you authorise the Cayman Islands Government to collect and/or verify any information that is considered relevant to your application.

Signed: _____

Date: _____

NOTE: FAILURE TO DISCLOSE RELEVANT DETAILS OR GIVING MISLEADING INFORMATION WILL CAUSE YOUR APPLICATION TO BE REJECTED OR IF YOU ARE ALREADY EMPLOYED IT COULD LEAD TO TERMINATION OF CONTRACT.

Candidates will receive written notification that their applications have been received. Candidates will normally be notified within one month if they have been selected for interview.

Thank you for your interest in working for the Cayman Islands Government.

Please submit completed form to:

**Manager | Commissions Secretariat | commissionssecretariat@gov.ky | P.O. Box 391 |
George Town | KY1-1106 | Grand Cayman | T +1 345 244-3687 | F +1 345 945-8649**

For Official Use Only

Reference Number:	
Closing Date:	
Date Application Received:	
Date Application Acknowledged:	
Selected for an interview:	
Date Notified of Outcome:	
Manager Signature:	

6.3 Policy for Appointments to the Court of Appeal

Background

1. This document outlines the JLSC's policy regarding appointments for Court of Appeal judges. The policy was agreed by the JLSC during a Commission meeting on 9 October 2024.
2. The retirement age for Grand Court judges is explicitly defined in the Cayman Islands Constitution Order 2009 and the Cayman Islands Constitution (Amendment) Order 2016. Grand Court judges are required to vacate office after they attain the age of 70 (S.96(1)), unless it is required for them to remain in post to finalise ongoing proceedings. The suggested tenures for judges in the Court of Appeal are not defined in the Constitution.
3. Tenures of Court of Appeal judges are determined by the instrument of appointment for each judge. As with the Grand Court, there is provision in the Constitution for judges to remain in office after their appointment has expired, in order to finalise any ongoing proceedings, subject to agreement from the Governor (S.101(1)).
4. The purpose of this policy is to establish a framework for the JLSC to recommend the appointment and tenure of Court of Appeal judges, ensuring a standardised approach that will retain flexibility while maintaining judicial quality and integrity. It aims to address the needs of the Cayman Islands' judiciary whilst aligning with international best practices.

Applicability

5. This policy applies to all existing and future appointments of Court of Appeal judges in the Cayman Islands.

Exceptions

6. Exceptions to this policy may be considered on a case-by-case basis, subject to the approval of the Governor, following advice from the JLSC.

Policy Statement

7. The Cayman Islands will adopt a flexible appointment policy for Court of Appeal judges. Initial appointments will end at age 75, with the possibility of re-appointments after this point, contingent upon satisfactory medical assessments and additional safeguards.

Initial Appointment

8. Court of Appeal judges will be appointed for an initial term ending at age 75. Appointments are subject to the receipt of a medical evaluation confirming the post-holder is physically and mentally capable of fulfilling the role.

Re-appointment Beyond Age 75

9. Court of Appeal judges may be recommended for re-appointment beyond the age of 75, contingent upon satisfactory medical reports and approval from the JLSC.
 - a. Initial re-appointments will be on a 3-year basis
 - b. Subsequent re-appointments 2-year contract basis.

Additional Safeguards

10. Judges aged 75-79 will undergo medical examinations every 2 years.
 - a. Judges aged 80 and above will undergo medical examinations every year.
 - b. The JLSC may introduce other safeguards as deemed necessary to ensure the continued capability and integrity of judges.

Review and Monitoring

11. This policy will be reviewed periodically to ensure it remains effective and aligned with the evolving needs of the judiciary.

6.4 Public Service Values

The values to which the public service shall aspire and which shall govern its management and operation are as follows –

- (a) to serve diligently the government of the day, the Legislative Assembly and the public in an apolitical, impartial and courteous manner and to deliver high-quality policy advice and services;
- (b) to uphold the proper administration of justice and the principles of natural justice, and to support public participation in the democratic process;
- (c) to strive continually for efficiency, effectiveness and value for money in all government activities;
- (d) to adhere to the highest ethical, moral and professional standards at all times;
- (e) to encourage creativity and innovation, and recognise the achievement of results;
- (f) to be an employer that cares, is non-discriminatory, makes employment decisions on the basis of merit and recognises the aims and aspirations of its employees, regardless of gender or physical disabilities;
- (g) to be an employer that encourages workplace relations that value communication, consultation, co-operation and input from employees (either individually or collectively) on matters that affect their workplace and conditions of service; and
- (h) to provide a safe and healthy working environment.

6.5 Cayman Islands Public Servant's Code of Conduct

The Public Servant's Code of Conduct which applies to all Civil Servants is as follows –

- (a) a public servant must behave honestly and conscientiously, and fulfil his duties with professionalism, integrity and care;
- (b) a public servant must be courteous and respectful to the Governor, the Speaker and Deputy Speaker, Official Members, Ministers, Members of the Legislative Assembly, other public servants and members of the public, and treat everyone with impartiality and without harassment of any kind;
- (c) a public servant must be politically neutral in his work and serve the government of the day in a way that ensures that he maintains the confidence of the government, while also ensuring that he is able to establish the same professional and impartial relationship with future governments;
- (d) a public servant, as a member of the public, has the right to be politically informed but must ensure that his participation in political matters or public debate or discussions, does not conflict with his obligation as a public servant to be politically neutral;
- (e) a public servant must not, at any time, engage in any activity that brings his ministry, portfolio, statutory authority, government company, the public service or the government into disrepute;
- (f) a public servant must obey the law and comply with all lawful and reasonable directions, including work place rules established by his chief officer or a person with delegated authority from the chief officer;
- (g) a public servant must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) with his duties as a public servant, and must not use his official position for personal or familial gain;
- (h) a public servant must treat all official information and any dealings with the Governor, an Official Member or Minister as confidential, and, unless authorised to do so, must not give or disclose, directly or indirectly, any information about official business or anything of which he has official knowledge; and
- (i) a public servant must not use official resources, including electronic or technological resources, offensively or for other than very limited private purposes.