



The Australasian Institute of
Judicial Administration Incorporated

SUGGESTED CRITERIA FOR JUDICIAL APPOINTMENTS

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The Australasian Institute of Judicial Administration Incorporated ('AIJA') is an incorporated association affiliated with Monash University. Its main functions are the conduct of professional skills courses and seminars for judicial officers and others involved in the administration of the justice system, research into various aspects of judicial administration and the collection and dissemination of information on judicial administration. Its members include judges, magistrates, legal practitioners, court administrators, academic lawyers and other individuals and organisations interested in improving the operation of the justice system.

The AIJA Secretariat, which has been in operation since February 1987, is funded substantially on a composite government funding basis through the Law, Crime and Community Safety Council (LCCSC).

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Message from the President of the AIJA, the Hon Justice Michelle May

The AIJA is pleased to produce this small booklet on suggested criteria for judicial appointments.

It will be apparent from the background to the suggested criteria that considerable work has taken place over several years in relation to the development of the suggested criteria and with input from many people and organisations. They are mentioned in the background to the suggested criteria. I would like to extend my personal thanks to all of those who have been involved.

I commend the suggested criteria to you.

I encourage all members of the AIJA to become actively involved in its activities. I would also recommend to those who are not currently members that they consider joining the AIJA. Details of membership can be found at: www.aija.org.au

*The Hon Justice Michelle May
President, AIJA
September 2015*

Background

The question of suggested criteria for judicial appointments has been the subject of discussion by the AIJA's Project and Research Committee and the AIJA Council over a number of years.

In June 2013 letters were sent to heads of jurisdiction throughout Australia and New Zealand asking them to identify any guidelines or practice for judicial appointment in their jurisdiction. In that letter it was noted that the AIJA was aware of the fact that there were guidelines in place in a number of jurisdictions. The letter also referred to the work of the Committee known as the Judicial Appointments Committee established under the chairmanship of the Hon Haddon Storey QC, former Attorney-General for Victoria, which prepared some guidelines as the result of its deliberations in the latter part of 1999 and early 2000.

The letter to heads of jurisdiction noted that a likely outcome might be an attempt at developing some generic guidelines or principles for appointment of judicial officers. The letter emphasised that the enquiry was not concerned with the actual appointment process which, for the most part, remains the domain of the Executive Government.

It was noted that Dr Pamela O'Connor of Monash University was then working on research for the Council of Australasian Tribunals (COAT) and the AIJA on Tribunal Independence and that she had undertaken some work in relation to appointment to tribunals. Reference was also made to the work of the Judicial Conference of Australia (JCA).

A sub-committee of the AIJA's Project and Research Committee consisting of the Hon Justice Susan Kenny, Professor Kathy Mack and the Hon Justice Robert Mazza was established to consider the responses received from heads of jurisdiction and to look at material gathered by the JCA in relation to the appointment process in Australia, New Zealand, the United Kingdom and Canada. The AIJA acknowledges with thanks the work of the JCA. The AIJA is grateful to the members of the sub-committee for their work in relation to the development of the suggested criteria for judicial appointments produced in this booklet. Several drafts were prepared and considered. The final draft of the suggested criteria has been approved by the AIJA Council.

The document has been sent to all heads of jurisdiction, the President of COAT, Attorneys-General and Shadow Attorneys-General and to the heads of all professional associations.

The AIJA hopes that the suggested criteria for judicial appointments will be of assistance to Attorneys, others involved in the appointment process and provide useful information to the wider community.

Suggested Criteria For Judicial Appointments

These suggested criteria have been developed by the AIJA. They are expressed to apply to all judicial appointments, but the list is not exhaustive and not all proposed criteria will apply equally to all judicial appointments. Judicial appointment will need to take into account factors such as the nature and volume of work of a particular court to which a candidate is to be appointed. Leadership qualities may be more important when considering the appointment of a head of jurisdiction, as may other qualities not listed in these suggested criteria.

The suggested criteria draw on information from a range of sources including research into the qualities and skills regarded as important by the Australian judiciary at all levels. The AIJA has reviewed criteria for judicial appointment from a large number of common law jurisdictions, particularly England and Wales, developed by the Judicial Appointments Commission.

1. Intellectual Capacity

- Legal expertise
- Litigation experience or familiarity with court processes, including alternative dispute resolution
- Ability to absorb and analyse information
- Appropriate knowledge of the law and its underlying principles, and the ability to acquire new knowledge.

2. Personal Qualities

- Integrity and independence of mind
- Sound judgement
- Decisiveness
- Objectivity
- Diligence
- Sound temperament
- Ability and willingness to learn and develop professionally and to adapt to change

3. An Ability to Understand and Deal Fairly

- Impartiality
- Awareness of and respect for the diverse communities which the courts serve and an understanding of differing needs

- Commitment to justice, independence, public service and fair treatment
- Willingness to listen with patience and courtesy
- Commitment to respect for all court users

4. Authority and Communication Skills

- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved
- Ability to inspire respect and confidence
- Ability to maintain authority when challenged
- Ability to communicate orally and in writing in clear standard English

5. Efficiency

- Ability to work expeditiously
- Ability to organise time effectively to discharge duties promptly
- Ability to manage workload effectively
- Ability to work constructively with others

6. Leadership and Management Skills

- Ability to form strategic objectives and to provide leadership to implement them effectively
- Ability to engage constructively and collegially with others in the court, including courts administration
- Ability to represent the court appropriately including to external bodies such as the legal profession
- Ability to motivate, support and encourage the professional development of others in the court
- Ability to manage change effectively
- Ability to manage available resources

About the AIJA

The AIJA is a research and educational institute associated with Monash University. It is funded by the Law, Crime and Community Safety Council (LCCSC) and also from subscription income from its membership.

The principal objectives of the Institute include research into judicial administration and the development and conduct of educational programmes for judicial officers, court administrators and members of the legal profession in relation to court administration and judicial systems.

The AIJA has approximately 700 members, including judges, magistrates, tribunal members, court administrators, legal practitioners, academic lawyers, court librarians, and others with an interest in judicial administration. The AIJA is **not** an organisation only for judicial officers.

The Institute has published widely in matters of judicial administration and associated subjects including areas such as case management, cultural awareness, judicial ethics, technology and the courts, complex criminal trials and cross-vesting legislation, to name a few.

In the area of education, the Institute runs a number of regular activities in the area of judicial education including programmes for court administrators, court librarians, magistrates and judges that are run either each year or biennially. It has also been involved in developing courses in relation to a number of specialised areas including gender awareness programmes, courses relating to cultural awareness, court technology and case management.

The AIJA is currently involved in a number of significant research projects including major projects for the Online Family Violence Bench Book and Accessibility and Perceived Efficacy of Programs for the Assistance of Indigenous Offenders.

Full details of the AIJA's research and educational activities can be found at the AIJA website: www.aija.org.au. A list of completed research projects and details of educational activities undertaken by the AIJA can be found on the website.



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