



NEW SOUTH WALES
BAR ASSOCIATION

IN BRIEF

NEWS & CURRENT AWARENESS



Applications for appointment as senior counsel

President Jane Needham SC invites applications for appointment as senior counsel for 2014. The deadline for applications is **5.00pm on 25 July 2014**. The principles governing selection and appointment of senior counsel are set out in the Senior Counsel Protocol and the Guide to Practical Aspects of Appointment of Silk in New South Wales. Applications must include a completed application cover sheet. It is intended the names of successful applicants will be announced on or before the first Friday in October 2014.

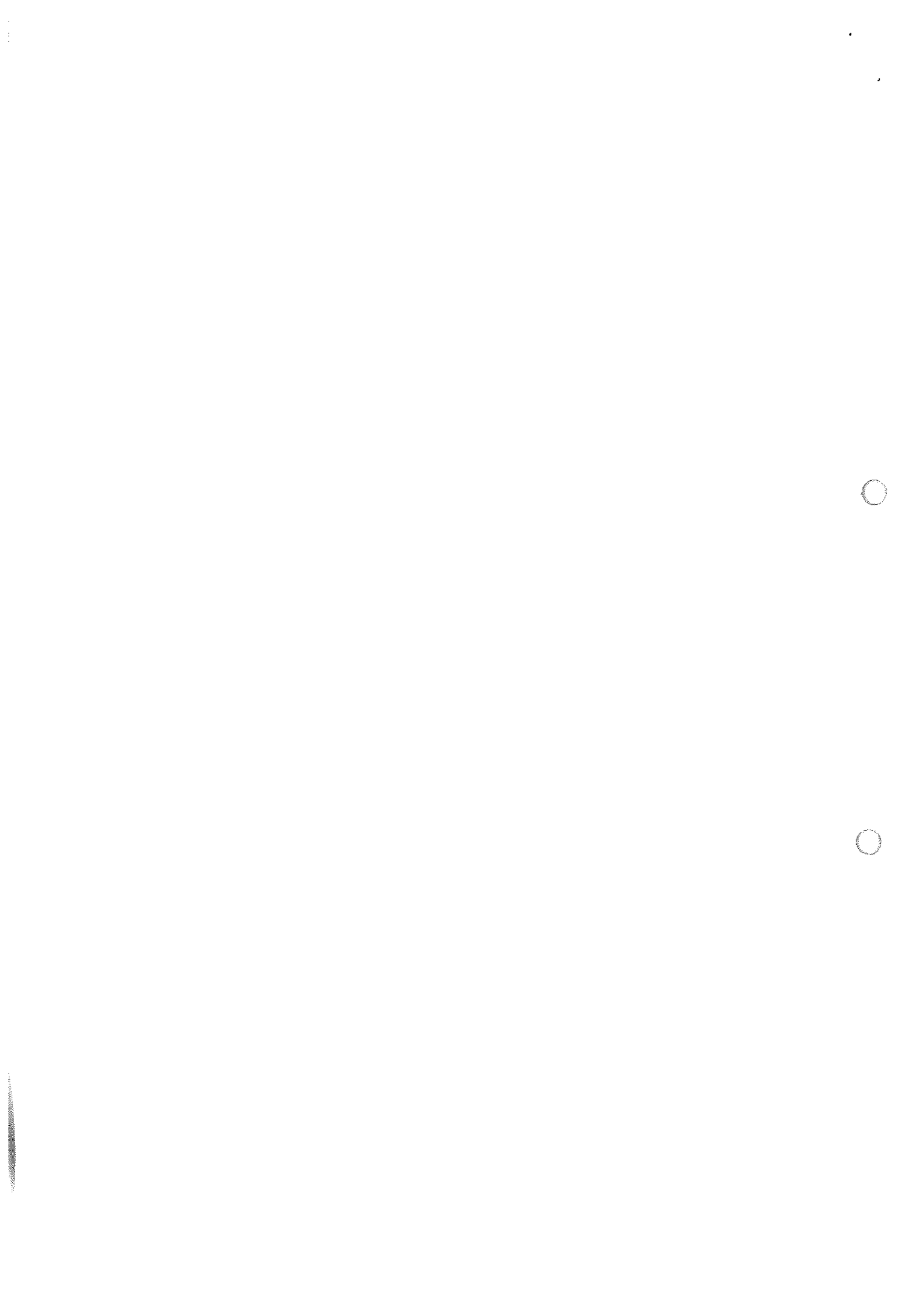
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NEW SOUTH WALES
BAR ASSOCIATION

APPOINTMENT OF SENIOR COUNSEL - 2014

TO ALL MEMBERS OF THE OUTER BAR

I invite applications for appointment as Senior Counsel for 2014. The principles governing selection and appointment of Senior Counsel are set out in the Senior Counsel Protocol, a copy of which is available on the Bar Association's website:

http://www.nswbar.asn.au/docs/webdocs/silk_protocol_2014.pdf

Senior Counsel will be selected by a committee comprising the President and the Senior Vice-President (both ex-officio), Simon Harben SC, Carolyn Davenport SC, Richard Lancaster SC, Sarah Pritchard SC, The Hon Jane Mathews AO and Mr Dennis Robertson. Once the Selection Committee has settled on the most suitable candidates, I will consult the Chief Justice and then announce the appointments.

Applications should be made as follows:

1. On or after 1 July 2014, but before 5pm on 25 July 2014, applicants should inform me, in writing, of their intention to seek appointment. The letter must include the completed Senior Counsel Application Cover Sheet which is available at the Bar Association's website <http://www.nswbar.asn.au>. Applicants may also provide any additional particulars they wish the Selection Committee to take into account.

Applicants should include in their application notice of any matter or circumstances, either past or anticipated, which may adversely affect their fitness and propriety to hold appointment as Senior Counsel. Applicants are required to give their consent to the Selection Committee making inquiries of the Legal Services Commissioner or any other regulatory body about such matter or circumstances. They are also required to be bound by the Senior Counsel Protocol.

Applications should be sent to the New South Wales Bar Association, Selborne Chambers, B/174 Phillip Street, Sydney NSW 2000 or DX 1204 Sydney.

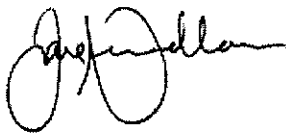
Any application received by the Bar Association after 5.00pm on 25 July 2014 will not be considered.

Confidentiality

2. The collection of information relating to appointment of Senior Counsel is governed by Australian Privacy Principle 6 and will not be used or disclosed for a purpose other than the selection of Senior Counsel and the giving of counselling by the President by unsuccessful applicants.
3. In accordance with Australian Privacy Principle 11, to protect the confidentiality of the material it gathers, the Bar Association will destroy or permanently de-identify all documentation in its possession in relation to the selection process as soon as practicable after the appointments are announced.
4. All applicants for appointment of Senior Counsel are asked to acknowledge that information collected by the Bar Association in conjunction with their application, including information

obtained from third parties, is confidential information in terms of Australian Privacy Principle 12.3(b). Specifically, information obtained about the applicant from other parties will be kept confidential between the Selection Committee and those third parties. Further, information produced by the Selection Committee will be kept confidential to the Selection Committee. This information will not be made available to persons outside the Selection Committee and its secretariat.

5. In the event that an applicant declines to provide such an acknowledgement, the application will not be rejected but that fact will be communicated to all persons who may be consulted about that application.
6. Limited information from each application will be distributed to a consultation group during the selection process. It will therefore be impossible to keep confidential the fact that the application has been made and the basic details of applications that are sent out in the consultation process. The Consultation Group does not receive the full application lodged by each applicant. That information is only available to the Selection Committee.
7. I shall retain a list of applicants. This list is not available for general circulation.
8. An email acknowledging the receipt of applications will be sent to each applicant. Any applicant who has not received an email acknowledging his or her application by Wednesday, 31 July 2013, should contact Miss Georgina Stow at The New South Wales Bar Association (9229 1754) or gstow@nswbar.asn.au.
9. Some additional guidance about the selection process is provided on the Bar Association's website (www.nswbar.asn.au). If, after consulting the website, a prospective applicant has difficulty with any aspect of the application process, he or she should contact me or Georgina Stow at the Association on 9229 1736 before applications close on 25 July 2014.
10. On receipt of the list of applicants, the Selection Committee will consult with members of the Bar, the Bench and solicitors in accordance with the Senior Counsel Protocol.
11. It is intended the names of successful applicants will be announced on or before the first Friday in October 2014.



Jane Needham SC
President

1 July 2014



SENIOR COUNSEL PROTOCOL – AS AT 15 MAY 2014

The principles governing the selection and appointment of those to be designated as Senior Counsel by the President of the Bar Association are as follows:

1. The designation as Senior Counsel of certain practising advocates by the President of the Bar Association, in accordance with the following principles and under the following system, is intended to serve the public interest.
2. The designation of Senior Counsel provides a public identification of barristers whose standing and achievements justify an expectation, on the part of those who may need their services as well as on the part of the judiciary and the public, that they can provide outstanding services as advocates and advisers, to the good of the administration of justice.
3. As an accolade awarded on the basis of the opinions of those best placed to judge barristers' qualities, the designation of Senior Counsel also provides a goal for junior counsel, and should encourage them to improve and maintain their professional qualities.
4. Appointment as Senior Counsel should be restricted to practising advocates, with acknowledgment of the importance of the work performed by way of giving advice as well as appearing in or sitting on courts and other tribunals and conducting or appearing in alternative dispute resolution, including arbitrations and mediations.

Essential Criteria

5. The system for the designation of Senior Counsel must be administered so as to restrict appointment to those counsel whose achievement of the qualities set out below displays and presages their ability to provide exceptional service as advocates and advisers in the administration of justice.
6. The qualities required to a high degree before appointment as Senior Counsel are:
 - (a) learning: Senior Counsel must be learned in the law so as to provide sound guidance to their clients and to assist in the judicial interpretation and development of the law.



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- (b) skill: Senior Counsel must be skilled in the presentation, testing, evaluation and resolution of litigants' cases, so as to enhance the likelihood of just outcomes and/or negotiated resolution in adversarial proceedings, whether in court or otherwise.
- (c) integrity and honesty: Senior Counsel must be worthy of confidence and implicit trust by the judiciary and their colleagues at all times, so as to advance the open, fair and efficient administration of justice.
- (d) independence: Senior Counsel must be committed to the discharge of counsel's duty to the court, especially in cases where that duty may conflict with clients' interests.
- (e) disinterestedness: Senior Counsel who are in private practice must honour the cab-rank rules; namely, the duty to accept briefs to appear for which they are competent and available, regardless of any personal opinions of the parties or the causes, and subject only to exceptions related to appropriate fees and conflicting obligations.
- (f) diligence: Senior Counsel must have the capacity and willingness to devote themselves to the vigorous advancement of the clients' interests.
- (g) experience: Senior Counsel must have the perspective and knowledge of legal practice acquired over a considerable period.

During this time it is expected (without being exhaustive) that the applicants' practice will demonstrate some or all of the following:

- (i) experience in arguing cases on appeal;
- (ii) a position of leadership in a specialist jurisdiction;
- (iii) experience in conducting major cases in which the other party is represented by Senior Counsel;
- (iv) experience in conducting cases with a junior;
- (v) considerable practice in giving advice in specialist fields of law;
- (vi) experience and practice in alternative dispute resolution, including arbitrations and mediations; and
- (vii) experience in sitting on courts or tribunals.



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7. Senior Counsel will have demonstrated leadership in:
 - (a) developing the diverse community of the Bar; or
 - (b) making a significant contribution to Australian society as a barrister.

Selection and Appointment

The system for the selection and appointment of those to be designated as Senior Counsel is to be conducted as follows:

8. All steps towards the selection of appointees are to be conducted by a Selection Committee (the 'Selection Committee') comprising:
 - (a) the President of the New South Wales Bar Association;
 - (b) the Senior Vice President of the New South Wales Bar Association;
 - (c) four other senior counsel (Queen's Counsel or Senior Counsel) nominated by the President, and approved by the Bar Council, not more than one of whom may be a member of that Bar Council;
 - (d) one person who is not a practising barrister but who by virtue of his or her qualifications is an appropriate person to be the non-practising representative on the Committee; and
 - (e) one non-lawyer community member.
9. The Bar Council is to ensure that the Selection Committee is provided with all administrative, clerical and other assistance reasonably necessary for the discharge of their responsibilities for the selection and appointment of Senior Counsel.
10. Each year the Selection Committee, shall, by invitation, choose at least thirty senior counsel (Queen's Counsel or Senior Counsel), at least thirty junior counsel, and at least thirty solicitors specialising and experienced in the conduct of litigation (the 'Consultation Group') for the purpose of mandatory consultation with the profession for the selection of appointees. The Consultation Group shall include at least a third of the members of the previous year's Consultation Group.

In determining the membership of the Consultation Group, the Selection Committee shall take into account the information provided under clauses 12 and 13 below.



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Submission of Applications

* 11. On or after 1 July in each year, applications may be made in writing in a form approved by the Bar Council to the President by junior counsel with full unrestricted practising certificates who wish to be considered for appointment as Senior Counsel. The appointment of Senior Counsel takes effect from the date of appointment, unless otherwise stated in the notice of appointment.

* 12. Applicants must provide in respect of all cases, including contested interlocutory applications (but excluding directions hearings), in which they have appeared in the last 18 months, and if desired, a longer period:

- (a) the name of the case and, if available, its citation;
- (b) the name of the judicial officer, tribunal, arbitrator or CARS assessor before whom they appeared;
- (c) the name of any counsel who led them or who they led;
- (d) the name of opposing counsel;
- (e) the name of their instructing solicitor; and
- (f) a brief description of the nature of the proceedings.

The details required in (a) to (f) may be modified in alternative dispute resolution matters or otherwise when confidentiality requires.

* 13. Applicants are required to provide, as part of their application, a list of their readers/tutors and the years of such pupillage.

* 14. Applicants may submit with their applications particulars of such other matters as they wish to be taken into account by the Selection Committee, including details of their professional experience before coming to the Bar.

* 15. Applicants may, if they wish, nominate not more than three members of the profession who are familiar with their recent work and qualities. They may also, if they wish, provide not more than two written references of not more than three pages each from those they have nominated. The references should not be from judicial officers.



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16. Applicants are requested to submit a photograph with their application (this will assist the Committee members in recognising and placing an applicant who may have been seen in court or at an Association function but whose name s/he did not know).
17. Any application not conforming with the requirements in clauses 11 and 12 of this Protocol will be rejected. No application will be considered which is received later than the last Friday in July, except in cases of accident or other special circumstances, and then at the discretion of the President.

Confidentiality

18. The opinions of all consultees should be kept confidential. Confidentiality shall extend not only to the consultation form responses, but also to any discussions with Committee members.
19. The collection of information relating to appointment of Senior Counsel is governed by Australian Privacy Principle 6 and will not be used or disclosed for a purpose other than the selection of Senior Counsel and the giving of counselling by the President to unsuccessful applicants.
20. In accordance with Australian Privacy Principle 11, to protect the confidentiality of the material it gathers, the Bar Association will destroy or permanently de-identify all documentation in its possession in relation to the selection process as soon as practicable after each year's appointments are announced.
21. All applicants for appointment as Senior Counsel will be asked to acknowledge that information collected by the Bar Association in conjunction with their application, including information obtained from third parties, is confidential information in terms of the Australian Privacy Principle 12.3(b). Specifically, information obtained about the applicant from other parties will be kept confidential between the Selection Committee and those third parties. Further, information produced by the Selection Committee will be kept confidential to the Selection Committee. This information will not be made available to persons outside the Selection Committee and its secretariat.
22. In the event that an applicant declines to provide such an acknowledgement, the application will not be rejected but that fact will be communicated to all persons who may be consulted about the application.



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23. Applicants are to be made aware that their applications will be the subject of distribution during the selection process and it will therefore be impossible to keep confidential the fact that an application has been made.

Determination of Applications

24. The Selection Committee may determine that any application which it is satisfied does not warrant further consideration should be put aside in a preliminary selection.
25. The Selection Committee must seek comments on all applicants remaining after the preliminary selection from each member of the Consultation Group, to the extent to which they are able and wish to assist.
26. The Selection Committee must seek comments on each applicant remaining after the preliminary selection from the following members of the judiciary (the 'Judicial Consultation Group'), namely:
- (a) All members of the New South Wales judiciary, including the Chief Magistrate, but not necessarily all members of the Local Court;
 - (b) All members of the Federal judiciary based in New South Wales;
 - (c) The Chief Judge or most senior member of at least one court or tribunal of the Commonwealth in which the Selection Committee considers the applicant to have practised to a substantial extent;
 - (d) The Chief Justice of the Federal Court of Australia;
 - (e) The Chief Justice of the Family Court of Australia;
 - (f) The Chief Judge of the Federal Circuit Court; and
 - (g) At least two other Judges or members of at least one of any other courts or tribunals of the Commonwealth in which the Selection Committee considers the applicant to have practised to a substantial extent.
27. The Selection Committee may, in its discretion, consult with as many other legal practitioners or members of the judiciary or other persons as it considers may be of assistance in consideration of the applications, in addition to the Consultation Group and the Judicial Consultation Group.



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28. The Selection Committee may, in its discretion, consult with any of the persons from whom comments have already been received, for the purposes of further discussion, clarification or other assistance in its consideration of the applications.
29. The Selection Committee shall, after taking into account all comments received, make its final selection of the proposed appointees.
30. The President shall inform the Chief Justice of New South Wales of the Selection Committee's final selection and seek the views of the Chief Justice on those proposed appointees.
31. The President shall not appoint any applicant included in the Selection Committee's final selection whose appointment the Chief Justice opposes.
32. The Selection Committee should use its best endeavours to ensure that the process of selection is completed so as to permit public announcements of the successful applications on or before the first Friday in October. The President shall publish the names of the successful applicants for appointment as Senior Counsel for that year in order of intended seniority.
33. The list of successful applicants shall be available for inspection in the office of the Bar Association and published in such manner as the President directs.
34. After publication of the list of successful applicants, any unsuccessful applicant may discuss his or her application with the President.

Attire and Post Nominals

35. Subject to the approval of the Chief Justice of New South Wales, and subject to the requirements and permission of particular courts, tribunals and other jurisdictions, appointees as Senior Counsel shall wear the court dress worn by Queen's Counsel.
36. Appointees as Senior Counsel shall be entitled to describe themselves as 'Senior Counsel', to be abbreviated 'SC'.



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Undertaking

37. Senior Counsel, by seeking and achieving appointment, undertake to use the designation only while they remain practising barristers in private practice or retained under statute by the Crown, or during temporary appointments in a legal capacity to a court, tribunal or statutory body.
38. Subject to clause 38, a Senior Counsel who returns to legal practice as a barrister is entitled to resume the use of the designation.

Cessation of Appointment

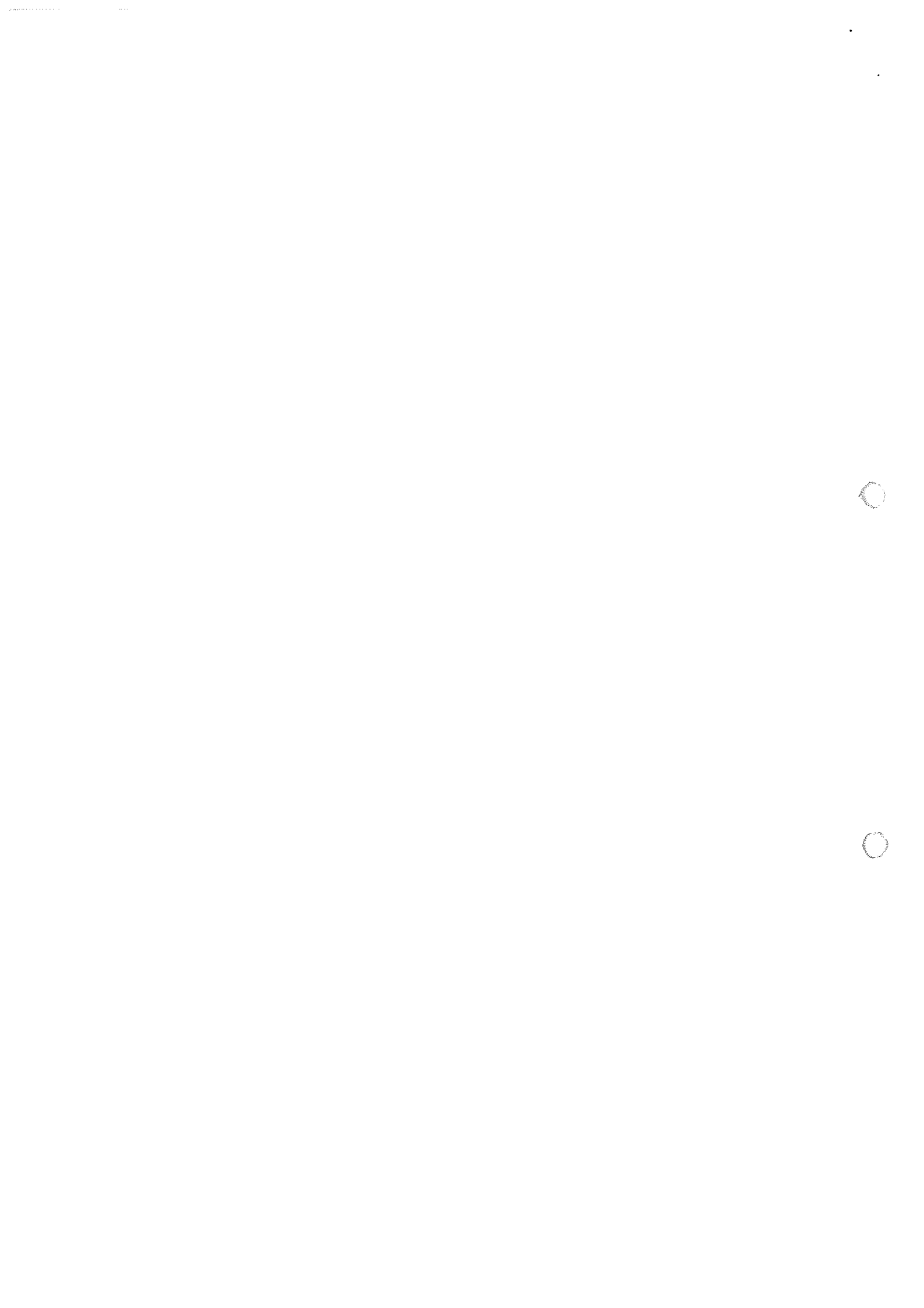
39. Appointment as Senior Counsel is restricted to barristers who hold a practising certificate.
40. A Senior Counsel:
 - (a) whose name has been removed from the roll of persons admitted as lawyers in any Australian or foreign jurisdiction; or
 - (b) whose practising certificate has been cancelled or suspended; or
 - (c) against whom a finding of professional misconduct has been made by a competent court or tribunal; or
 - (d) who has been convicted of a serious offence as defined in *the Legal Profession Act 2004*,ceases to hold the appointment and is not permitted to retain or use the title of Senior Counsel.
41. Where the Bar Council believes that, having regard to the essential criteria for Senior Counsel appointment, the person is not fit to retain the title of Senior Counsel it may, by resolution, terminate the appointment of Senior Counsel in the following circumstances:
 - (a) a finding of unsatisfactory professional conduct has been made against the appointee by a competent court or tribunal; or
 - (b) the appointee has conditions imposed on his or her practising certificate pursuant to the *Legal Profession Act 2004*.



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42. Reinstatement of a practising certificate does not result in reinstatement of an appointment as Senior Counsel following termination of the appointment under clause 37 or 38. A barrister will not however be prevented from re-applying for appointment as Senior Counsel other than where the termination of the designation followed the removal of the lawyer's name from the roll.

15 May 2014





Appointment of Silk in New South Wales - 2014

Guide to Practical Aspects

Introduction

1. This is a short guide to some of the practical aspects of the operation of the Senior Counsel Protocol ('the Protocol') which experience has shown may be of interest to members of the Bar. It is written for members of the Bar who are considering making application for appointment as Senior Counsel. It is also intended to provide information to members of the public who wish to better understand the process.
2. The Protocol is published on the Association's website (<http://www.nswbar.asn.au/>). It sets out the essential criteria and explains the process for the appointment of Senior Counsel. This guide offers an explanation of how aspects of the Protocol operate in practice.
3. The Protocol is approved by the Bar Council and is the instrument by which Senior Counsel are selected by the Senior Counsel Selection Committee each year. This guide does not amend or re-interpret the Protocol.

Timing for the appointment of Senior Counsel

4. Pursuant to the Protocol, on 1 July each year the Bar Association calls for applications for appointment as Senior Counsel. The closing date for applications this year is Friday, 25 July 2014. A final list of applicants is then prepared, distributed to the proposed consultation group, feedback received and then the final selections are made. Best endeavours will be used to ensure announcement of the appointments of Senior Counsel are made on or before the first Friday in October 2014. All of these tasks are undertaken by the Selection Committee with the assistance of a few Bar Association staff.

Recent Reviews

5. The process is continuously scrutinised. The most recent review of the process was made by the Bar Council early this year.
6. The Protocol is drafted at a relatively high level of generality. This means that each year the Selection Committee can adapt its procedures to the circumstances of the number and range of practice areas of applicants in that year.

Interstate comparisons

7. The New South Wales Protocol operates differently from the systems for the appointment of Senior Counsel in other States. Victoria, South Australia, Western Australia, Tasmania and the Northern Territory operate on a system in which the selection of senior counsel is made by the judiciary (usually the Chief Justice of the State) in consultation with the Bar. In Queensland, appointments are made by the Governor-in-Council via the Attorney-General on the recommendation of the Chief Justice. In the Australian Capital Territory the appointment is by the President of the Bar. The close involvement of the judiciary in the selection process in those jurisdictions emphasises the general importance of the judiciary in the process and reflects the fact that judges are most often chosen from the ranks of Senior Counsel. The judiciary has a central role in the operation of the New South Wales Protocol, but its involvement is different.
8. In New South Wales the Protocol was adopted by Bar Council after the decision of the New South Wales Government in 1992 to no longer appoint Queen's Counsel after that year. The New South Wales system has the advantage that the independent Bar selects its own leaders, subject only to the operation of clause 31 of the Protocol. Clause 31 prevents the appointment of any applicant in the Selection Committee's final selection whose appointment the Chief Justice opposes. This clause only has the potential to operate in the unlikely event that the Selection Committee makes a final selection that is unacceptable to the Chief Justice. Control of the process by the independent Bar, itself, is important in ensuring that the Bar's future leadership is moulded by the Bar itself.

Role of the President and Senior Vice President

9. Clause 8 of the Protocol provides for the President and the Senior Vice President of the Bar Association to be ex officio members of the Selection Committee. Four other members nominated by the President, and approved by the Bar Council, also comprise the Committee, along with one person who is not a practising barrister but who by virtue of his or her qualifications is an appropriate person to be the non-barrister representative on the Committee and one non-lawyer community representative. The President takes a leading role in explaining the process of the selection of Senior Counsel to both members of the Bar and the general public. The President and often either the Senior Vice President or another member of the Selection Committee conduct meetings which are offered to unsuccessful applicants at the conclusion of the selection process each year.
10. Last year, of the 114 applicants for appointment as Senior Counsel, 26 were successful. All unsuccessful applicants were offered a meeting to discuss their applications when the result was communicated to them. Approximately 50 of the unsuccessful applicants took advantage of that offer.
11. Members considering applying in a particular year often seek advice from senior members of the Bar or the judiciary about whether or not they should apply. However, the President and members of the Selection Committee will decline to advise an individual member of the Bar whether such a member of the Bar is likely to succeed if he or she makes an application.

Applying

12. The application form can be downloaded from the Bar Association's website (<http://www.nswbar.asn.au/>). Detailed written guidance is not given as to how to fill out the forms. However, a number of matters which may assist applicants with their application forms are mentioned in this Guide.
13. In practice, applicants differ in the ways they provide information to the Selection Committee. The differences tend to reflect both the nature of the practices and the personalities of the applicants. The way that the application prepared may affect the Committee's overall impression of applicants.
14. An applicant should provide such information in his or her application which the applicant believes will assist the Selection Committee in considering that the applicant has the qualities for appointment as Senior Counsel required by Clause 6 of the Protocol. For example, this would include a sufficient description of the experience of each applicant so as to give a clear picture of it to the Selection Committee for the purpose of applying Clause 6 (g) of the Protocol. This may include details of an applicant's professional experience before coming to the Bar. Applicants are also asked to include a list of their readers and, if possible, submit a photo with their application.
15. Applicants are asked to provide in respect of all cases, including contested interlocutory applications (but excluding directions hearings), in which they have appeared in the last 18 months:
 - (a) the name of the case and, if available, its citation;
 - (b) the name of the judicial officer, tribunal, arbitrator or CARS assessor before whom they appeared;
 - (c) the name of any counsel who led them or who they led;
 - (d) the name of opposing counsel;
 - (e) the name of their instructing solicitor; and
 - (f) a brief description of the nature of the proceedings.

Applicants are at liberty to provide details of relevant matters that they have been involved in outside of the last 18 months. It is recognised that changes in the provision of legal services occur from time to time. The Selection Committee takes in to account the effect these changes have on the practice of barristers and the opportunities for barristers to engage in oral advocacy varies significantly and from time to time. The Selection Committee has regard to the importance of the work performed by giving advice as well as appearing in or sitting on courts and other tribunals and conducting or appearing in alternative dispute resolution, including arbitrations and mediations.

Applicants are also:

- (a) required to provide, as part of their application, a list of their readers/tutors and the years of such pupillage; and

- (b) requested to submit a photograph with their application (this will assist the Committee members in recognising and placing an applicant who may have been seen in court or at an Association function but whose name s/he did not know).
16. Some applicants who practise overseas, have an extensive interstate practice, have been caught up in a long-running case, practise in fields which involve substantial chambers practices, have had a recent period of maternity or parenting leave, who practise part-time for any reason, or where (because of the size of the cases) they are almost invariably led, should note that in their applications so that appropriate attention can be given to these special circumstances. A part-time or flexible practice is not a bar to appointment as Senior Counsel.
17. The seniority of applicants is taken from the applicant's admission to the New South Wales Bar. Applicants with extensive advocacy experience interstate or overseas before their admission to the Bar in New South Wales may note that previous experience in their applications.
18. Applicants should include in their applications notice of any matter or circumstances, either past or anticipated, which may adversely affect their fitness and propriety to hold an appointment as Senior Counsel. Applicants are required to give their consent to the Selection Committee making inquiries of the Legal Services Commissioner and other regulatory bodies about such matter or circumstances.
19. Selection committees do not conduct interviews with applicants. The Selection Committee may communicate with applicants where it is thought that the communication may help to fill a gap in the committee's knowledge or to help resolve an issue about an applicant. The Selection Committee will rely on its own experience of applicants and that of the persons consulted by the committee.

The Consultation Process

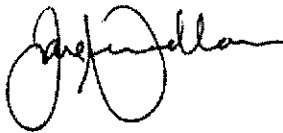
20. The Consultation Group is selected at the invitation of the Selection Committee each year pursuant to Clause 10 of the Protocol. The Consultation Group is comprised of senior counsel, junior counsel and solicitors and is to be distinguished from the Judicial Consultation Group which is provided for by Clause 26 of the Protocol. Apart from the obviously different roles in the legal profession of each of these two consultation groups, they differ in one important respect in the application of the Protocol. The Judicial Consultation Group is comprised of a fixed minimum number of members who are members of the Judicial Consultation Group ex officio. The Consultation Group has a minimum number of members but Clause 10 of the Protocol assumes there will be both a degree of turnover in this Group and also a degree of continuity in its membership. In practice, considerable change occurs in the membership of the Consultation Group each year. Deciding upon the make up of the consultation group is one of the early tasks of the Selection Committee. Change in the Consultation Group helps ensure that particular practitioners do not have influence over the selection process over time.
21. Most judges in each of the State and Federal Courts referred to in the Protocol are consulted as part of the Judicial Consultation Group. Because of the wide range of practice areas of the applicants, judges in many other courts and tribunals have been consulted

apart from those specifically identified in the Protocol. Most judges respond to the consultation request made of them.

22. The High Court of Australia does not form part of the Judicial Consultation Group. Some applicants will appear in the High Court. The appearances of applicants before the High Court are taken into account through the consultation with other legal practitioners appearing in the High Court.
23. In practice, a far larger number of practitioners are consulted as part of the Consultation Group than the minimum numbers prescribed by Clause 10 of the Protocol. The Selection Committee endeavours to keep the Consultation Group to less than 400 practitioners and members of the judiciary. Most practitioners respond to the consultation request made of them. The practitioners are chosen for inclusion in the consultation group by the Selection Committee to ensure that the principal areas of practice of all the applicants are adequately represented by experienced practitioners who are likely to have knowledge of applicants practising in that area. The Consultation Group includes some of the counsel and solicitors mentioned in the individual applications.
24. Applicants may nominate not more than three members of the profession who are familiar with their recent work and qualities. They may also provide not more than two written references of not more than three pages each from those they have nominated. The references should not be from judicial officers.
25. The consultation form requires each member of the consultation group to indicate whether he or she has had direct personal experience of the candidate conducting professional practice either in court or in other identifiable circumstances in recent years. This is to ensure that old information or indirectly acquired information is not unduly influential in the regard given to the opinions provided by the consultation groups.
26. The Chief Justice of New South Wales does not provide an opinion about individual applicants in the course of the Selection Committee's consideration. Rather, his involvement is reserved for the exercise of his veto power as provided for by Clause 31 of the Protocol.
27. The responses of the two consultation groups are collated and analysed in respect of each applicant for the consideration of the Selection Committee. The members of the Selection Committee rely upon their own knowledge of applicants and also make their own inquiries. Additional general research is undertaken at the direction of and on behalf of the Selection Committee. This will include, for example, looking at the available public record of appearances by each applicant. The Selection Committee has a broad practice background but sometimes specific inquiries are necessary in specialised areas of practice.
28. The Selection Committee works through each application. The application form is the primary source of information available to the Committee. It is the usual practise of the Committee for the barrister members to make inquiries of a group of consultees, and then advise the rest of the Committee of the result of those inquiries. Members of the committee may also make their own separate inquiries. It may not be necessary for all persons nominated as a referee by each applicant to be contacted by a member of the

Selection Committee. It is generally assumed that a referee report will be favourable to the applicant. It is the practice that Selection Committee decisions are made by consensus.

29. The collection of information relating to appointment of Senior Counsel is governed by Australian Privacy Principle 6 and will not be used or disclosed for a purpose other than the selection of Senior Counsel and the giving of counselling by the President to unsuccessful applicants.
30. In accordance with Australian Privacy Principle 11, to protect the confidentiality of the material it gathers, the Bar Association destroys or permanently de-identifies all documentation in its possession in relation to the selection process as soon as practicable after the appointments are announced.
31. All applicants for appointment of Senior Counsel will be asked to acknowledge that information collected by the Bar Association in conjunction with their application, including information obtained from third parties, is confidential information in terms of Australian Privacy Principle 12.3(b). Specifically, information obtained about the applicant from other parties will be kept confidential between the Selection Committee and those third parties. Further, information produced by the Selection Committee will be kept confidential to the Selection Committee. This information will not be made available to persons outside the Selection Committee and its secretariat.
32. In the event that an applicant declines to provide such an acknowledgement, the application will not be rejected but that fact will be communicated to all persons who may be consulted about that application.



Jane Needham
President

1 July 2014



COVER SHEET FOR SENIOR COUNSEL APPLICATION - 2014

Please complete all pages of this form and attach your application. Your application must be received at The New South Wales Bar Association by 5.00pm on Friday, 25 July 2014. In addition to the information required by this form, you may attach any particulars you wish the Selection Committee to take into account.

Please print details:

1. Full Name: _____

2. Chambers : _____

3. Date of Admission: _____

4. Mailing Address : _____

DX: _____

Telephone: _____ Fax: _____

E-mail: _____

5. In respect of all cases, including contested interlocutory applications (but excluding directions hearings), in which you have appeared in the last 18 months, please supply:
- the name of the case and, if available, its citation;
 - the name of the judicial officer, arbitrator, CARS assessor or other tribunal before whom you appeared;
 - the name of any counsel who led you or whom you led;
 - the name of opposing counsel;
 - the name of your instructing solicitor; and
 - a brief description of the nature of the proceedings.
6. You may also provide:
- details of relevant or important matters in which you have been involved outside the most recent 18 month period; and
 - details of the scope and complexity of any written significant advice work which you have produced in the last 18 months.
 - Such other matters as you wish to be taken into account, including details of your professional experience before coming to the Bar.

- (d) You may, if you wish, identify not more than three members of the profession who are familiar with your recent work and qualities. You may also, if you wish, provide not more than two written references, of not more than three pages each, from those you have identified. The references should not be from judicial officers.

Applicants may provide information beyond the 18 month period, should they wish.

7. Please state the reasons you hold the view you are an appropriate candidate for the office of Senior Counsel by reference to the protocol, in particular, paragraphs 6(a) to 6(g).
8. Areas of Practice: Please indicate in the boxes provided those areas which fairly characterise your work and which would therefore provide the focus for assessment of your application.

- | | | |
|--|--|---|
| <input type="checkbox"/> Administrative | <input type="checkbox"/> Defamation | <input type="checkbox"/> Native title |
| <input type="checkbox"/> Alternative Dispute Resolution | <input type="checkbox"/> Disciplinary Proceedings | <input type="checkbox"/> OHS Prosecution |
| <input type="checkbox"/> Appellate | <input type="checkbox"/> Equity | <input type="checkbox"/> Personal Injury |
| <input type="checkbox"/> Banking | <input type="checkbox"/> Family Law & Guardianship | <input type="checkbox"/> Professional Negligence |
| <input type="checkbox"/> Bankruptcy | <input type="checkbox"/> Industrial/Employment | <input type="checkbox"/> Property |
| <input type="checkbox"/> Building and Construction | <input type="checkbox"/> Inquests/Commissions of Inquiry | <input type="checkbox"/> Tax/Revenue |
| <input type="checkbox"/> Civil & Human Rights/Discrimination | <input type="checkbox"/> Insurance | <input type="checkbox"/> Sports Law |
| <input type="checkbox"/> Commercial | <input type="checkbox"/> Intellectual Property | <input type="checkbox"/> Statutory tribunals |
| <input type="checkbox"/> Communications/Media | <input type="checkbox"/> International | <input type="checkbox"/> Trade Practices and Competition |
| <input type="checkbox"/> Conflict of Laws | <input type="checkbox"/> Liquor Licensing | <input type="checkbox"/> Transportation Law (Aviation/Maritime) |
| <input type="checkbox"/> Constitutional | <input type="checkbox"/> Environmental/Planning Law | <input type="checkbox"/> Wills and Probate |
| <input type="checkbox"/> Corporations Law | <input type="checkbox"/> Local Courts | <input type="checkbox"/> Workers Compensation |
| <input type="checkbox"/> Criminal | <input type="checkbox"/> Medical Negligence | |
| <input type="checkbox"/> Customs | <input type="checkbox"/> Migration | |

Courts: please indicate in the boxes provided the courts and/or tribunals in which you regularly practise.

- | | | |
|--|---|---|
| <input type="checkbox"/> Administrative Appeals Tribunal | <input type="checkbox"/> High Court | <input type="checkbox"/> Migration Review Tribunal |
| <input type="checkbox"/> Australian Competition Tribunal | <input type="checkbox"/> AHRC | <input type="checkbox"/> National Native Title Tribunal |
| <input type="checkbox"/> Administrative Decisions Tribunal
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal | <input type="checkbox"/> ICAC | <input type="checkbox"/> NSW Crime Commission |
| <input type="checkbox"/> Australian Industrial Relations Commission
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal | <input type="checkbox"/> Chief Industrial Magistrate's Court | <input type="checkbox"/> Police Integrity Commission |
| <input type="checkbox"/> Consumer Trade and Tenancy Tribunal | <input type="checkbox"/> Industrial Relations Commission
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal | <input type="checkbox"/> Sporting tribunals |
| <input type="checkbox"/> Children's Court | <input type="checkbox"/> International courts and tribunals | <input type="checkbox"/> Supreme Court
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal |
| <input type="checkbox"/> Coroner's Court | <input type="checkbox"/> Interstate courts | <input type="checkbox"/> Refugee Review Tribunal |
| <input type="checkbox"/> District Court | <input type="checkbox"/> Land and Environment Court | <input type="checkbox"/> Victims Compensation Tribunal |
| <input type="checkbox"/> Dust Diseases Tribunal | <input type="checkbox"/> Local Court | <input type="checkbox"/> Workers Compensation Commission
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal |
| <input type="checkbox"/> Family Court
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal | <input type="checkbox"/> Medical Tribunal | <input type="checkbox"/> Other, please specify - |
| <input type="checkbox"/> Federal Court
<input type="checkbox"/> Trial/first instance <input type="checkbox"/> Appeal | | |
| <input type="checkbox"/> Federal Circuit Court | | |

9. All Senior Counsel applicants are:

- (a) required to provide, as part of your application, a list of your readers/tutors and the years of such pupillage; and
- (b) requested to submit a photograph of yourself with your application (this will assist the Committee members in recognising and placing an applicant who may have been seen in court or at an Association function but whose name s/he did not know).

I certify that the information provided in this application is correct to the best of my knowledge and belief.

I acknowledge that the Selection Committee may make enquiries of the persons referred to in paragraphs 5 and 9(a) and such other persons as it thinks fit in relation to my application. I authorise such enquiries to be made and acknowledge that it will be done on a confidential basis.

I agree to inquiries being made of the Legal Services Commissioner or any other regulatory body about any matter or circumstances that, either past or anticipated, may adversely affect my fitness or propriety to hold an appointment as Senior Counsel. I agree to abide by the Senior Counsel Protocol.

I note that the Bar Association will destroy or permanently de-identify documentation in its possession relating to the selection process as soon as practicable after this year's appointments are announced.

Signature: _____

Date: _____

I acknowledge that information collected by the Bar Association in conjunction with this application, including information obtained from third parties, is confidential information in terms of Australian Privacy Principle 12.3(b). Specifically, information obtained about me from other parties, including their identities and opinions, will be kept confidential between the Selection Committee and those third parties. Further, information produced by the Selection Committee will be kept confidential to the Selection Committee. I acknowledge this information will not be made available to persons outside the Selection Committee and its secretariat, including to myself.

Note: In the event that an applicant declines to provide the above confidentiality undertaking, the application will not be rejected but that fact will be communicated to all persons who may be consulted about the application.

Signature: _____

Date: _____

NEW SOUTH WALES BAR ASSOCIATION PRIVACY STATEMENT

Information held by the New South Wales Bar Association about its members and holders of New South Wales Barristers' Practising Certificates is collected, stored, used and disclosed in accordance with the Privacy Act 1988 (Cth) (the Act). The Association is committed to uphold the Australian Privacy Principles contained in the Act.

For further information on how the Association will collect, store and use personal information, and how an individual may obtain access to and where necessary correct their personal information, please see the Association Privacy Policy available at: <http://www.nswbar.asn.au/privacy-policy>

