

Who gets silk 2018?

Congratulations to the 108! As our new QCs prepare for the silk ceremony, we dive into the pool to see what's the most influential factor for success, after an individual's own effort

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Who are the 108 new Queen's Counsel who will be sworn in by the Lord Chancellor in Westminster Hall on 11 March? Since 2005-6, the task of selecting a cohort to be recommended for appointment to the Lord Chancellor and thence to the Queen has been carried out by Queen's Counsel Appointments (QCA). Anyone going on QCA's website can read in great detail the way in which the Selection Panel goes about its task (qcappointments.org). The aim so far as possible is transparency. They also provide generic information about the diversity of the pool and in due course six people's potted biographies will be chosen to appear on the website. Apart from that, what is published is nothing more than 108 names. If, however, one goes through 108 chambers' (or solicitors') profiles, one gets a fuller picture.

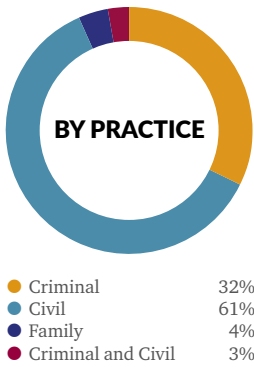


THE PANEL'S GOALS

Sir Alex Allan, Selection Panel Chair, stated this year: ‘We remain concerned that the number of female applicants remains comparatively low.’ On the other hand he was pleased that the number of black, Asian and minority ethnic (BAME) applicants appointed (13 out of 30 applicants) ‘was in proportion to their representation amongst applicants and amongst the relevant cohort of the profession’ (12% in both cases. BAME barristers are 7% of all QCs). There were no other concerns expressed about what the Panel elsewhere refers to as under-represented groups, apart from solicitor advocates.

WHO IS IN THE POOL

The process involves tiny numbers of the Bar. QCs are 10% of the entire profession. Fewer than 2% of juniors apply. This year there were 240 applications,



QC awards criminal only

Title	Surname	Forenames
Miss	Bahra	Narita
Mr	Bhatia	Balraj
Mr	Burge	Edmund John
Mr	Cammegh	John
Mr	Corsellis	Nicholas Robert Alexander
Mr	Cray	Timothy James
Mr	Dent	Kevin Joseph
Mr	Durose	David William
Mr	Edwards	Nigel Royston
Mr	Emanuel	David Henry
Mr	George	Dean Robert
Miss	Goddard	Katherine Lesley
Mr	Goodwin	Michael
Ms	Grahame	Nina Stephanie
Mr	Hamilton	Jaime Richard
Mr	Harries	Mark Robert
Mr	Hossain	Mozammel Mohammad
Miss	Howard	Nicola
Miss	Jones	Sarah Frances
Mr	Littler	Richard Mark
Mr	Monteith	Keir Bartley
Miss	Morgan	Alison Esther
Ms	Nelson	Michelle
Mr	Paxton	Christopher
Mr	Pentol	Simon
Mr	Povoas	Nigel John Spencer
Mr	Powles	Steven Sacha
Mr	Rees	Jonathan Elystan
Mr	Robinson	Daniel Michael
Miss	Smart	Julia Elizabeth
Mr	Thackray	John Richard Dominic
Mr	Wainwright	Jeremy Patrick
Mr	Whittaker	David John
Mr	Wormald	Richard
Mr	Zahir	Hossein

down on last year’s 272 but almost exactly the average over the last 11 years. Of these 189 were men, slightly down on the 11-year average of 194. Over the last 20-plus years, only about 45 women per year on average have applied but this year there were 55 women, or 22.9% of all applicants. That is an increase from last year, when there were 50 but 18.3%. Women are 37% of the practising Bar. However, their success rate (54%) was down from last year’s 64%. In light of such marginal change and in order to fulfil the function of promoting diversity, the QCA commissioned two reports (*Balancing the Scales* from The Work Foundation in September 2017 plus an assessment process validation from Jenny Crewe Consulting Ltd in May 2018) which made several recommendations to alter the application process. The Bar Council and Law Society have consulted on the actual QCA proposals. A major purpose is to change the requirements which are thought to favour male over female applicants. *Balancing the Scales* goes further in making recommendations to promote gender equality which would involve the profession at large to play its part as well.

There are over 400 sets of chambers with more than one barrister practising, according to the Bar Standards Board. A total of 65 chambers produced the new list. Three sets (Littleton, Brick Court and 39 Essex) produced four new silks each; five further sets produced three each. In other words, 25% of all new silks came from a total of eight chambers, all London-based. For civil practitioners, the average number of existing silks in their chambers is 20; for family practitioners the average is nine, and for criminal practitioners 11. Only one new silk is the first QC in his set. This may reflect what has so far been required of the applicant, who must list 12 cases of substance, complexity or particular difficulty or sensitivity in which they have appeared in the last three years. In addition they are required to provide the names of eight to 12 judicial assessors, six practitioner assessors, and four to six client assessors. One gets a picture of barristers who are used to having heavy demands placed on them, in flourishing, silk-heavy chambers. They also have the advantage that mentors, encouragers, role models, people with good advice on how to fill out the form and how to present yourself in interview are right at hand.

WHO DID BEST

This year, as for several years in the past, about 45% of those who apply get it. Last year, 31% were filtered out before interview as ‘having no reasonable prospect of success’. This year it was 28%.

Do veterans do better? 36% of applicants had applied before in the previous three competitions, an almost identical figure to last year. Of the 87 ‘repeats’, 22 were not asked to interview although half of those had been so invited in the past. That early refusal rate of 25% was lower than that for first-time applicants

QC awards family only

Title	Surname	Forenames
Miss	Cavanagh	Lorraine
Miss	Cowton	Catherine Judith
Mr	Roberts	James McClintock
Mr	Woodward-Carlton	Damian

(29%). But it was the latter who did better at the end: 46% of new applicants were successful as opposed to 43% of repeat applicants.

Once more fortune favoured the young. There were 20 applicants aged 40 and under and half of them were successful. There were 65 applicants who were 51 and older but only 29% of them were recommended for appointment; the same percentage as last year. This would leave 80 out of 108 in their 40s. Civil practitioners provided far and away the most successful applicants who were called from 2000 onwards, including one who was called in 2008.

DIVERSITY

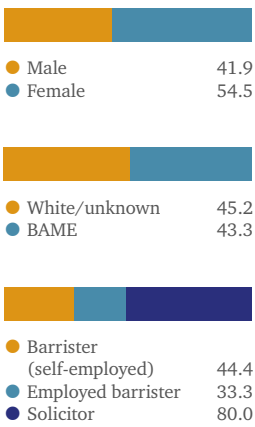
The application includes monitoring information and the Panel reports on the diversity statistics in terms of gender, disability, ethnic origin, age and sexual orientation. Admitting to one’s sexual orientation attracts the highest number of those who chose not to answer the question (one quarter of the total). Seven did declare themselves to be gay men or women (a slightly lower number and percentage than last year); three of them were recommended along with one bisexual person.

This year there were 30 applicants who declared an ethnic origin other than white. It was 33 last year, when they were more successful than white applicants – 55% recommended for appointment against 43% of white applicants. This year there was a lower percentage who were interviewed (60%) and 43% were recommended compared to 45% of white applicants. Of the 13 successful BAME applicants, 11 were of Asian heritage and two were Afro-Caribbean.

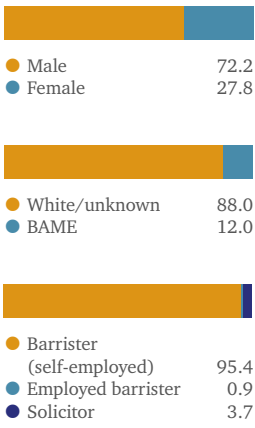
Six applicants declared a disability. Three were interviewed and all three were recommended.

There are five new silks who are not self-employed barristers. One is an employed barrister (one of only three who applied) and four (all male) are solicitor advocates (five applied, down from 10 and 13 in the previous two years). As last year, the Panel has expressed itself ‘concerned’ at the low level of applications from the employed Bar and from solicitor advocates. The process was designed to enable them to seek appointment ‘with the assurance that they would be assessed fairly alongside barrister applicants’. Last year the Panel said that they would speak to SACHA and the Law Society about it. Numbers in fact went down since then and it has made the same pledge.

% SUCCESSFUL



AWARDS BY %



The number of successful women applicants was 27.8% of the total of 108. The percentage of new women silks in civil work is up, at 28% but down (25%) amongst those practising crime, where women make up a third of the total in practice. As usual, the largest number of new QCs are civil practitioners – 66. Despite another difficult year for the criminal Bar, however, the number of criminal practitioners who feel they can justify a silk’s practice remains buoyant: 35 (plus three criminal and civil practitioners) this year, 40 last year, 38 the year before that. This is so much higher than in the past (17 in 2015/16); it calls for comment about what could be a disparity in prosperity between the 26 sets who produced this year’s criminal cohort (the majority of whom came from nine London-based sets) and some of the rest.

The number of family silks is down and going down. The average in recent years was 7.5 new family silks. Last year it was six. This year there are only four. Two men, two women. Of those, two specialise in children cases and two specialise in matrimonial finance. One practises in Manchester and three in London.

And then there is the issue of educational background. It is QCA who in effect made it an issue. When publishing profiles from last year’s cohort, Sir Alex stated: ‘Whatever may have been the position in the past, it is no longer the case that advocates have to be white, male, Oxbridge-educated barristers in order to be appointed QC.’ These are also the words used by his predecessor, although Sir Alex has dropped Dame Helen Pitcher’s additional ‘public school’. Perceptions are one thing, but was it ever a requirement? Obviously the Panel wishes advocates to know that the process is open to all on the basis of merit. But if it matters to them to demonstrate that taking silk is not an Oxbridge club activity, it is curious that they choose not to ask candidates for their educational background. Neither do they recognise that university actually played its part many years before, when these people applied for pupillage. It is a factor that QCA cannot undo. Now 75% of pupils have been to a Russell Group university; 45% to Oxbridge alone. That cannot be an accident. The task of encouraging more women and BAME advocates to apply is ongoing.

At the same time, acknowledging what university one went to is something the Bar has some issues with. Looking at chambers’ websites, one sees that many are upfront about this. It is listed as part of

QC awards criminal & civil

Title	Surname	Forenames
Mr	Ahmad	Zubair
Mr	Darton	Clifford John
Ms	Horlick	Fiona Rosalie

QC awards civil only

Title	Surname	Forenames	Title	Surname	Forenames
Mr	Bailey	James Thomas	Miss	McDonnell	Constance
Mr	Banner	Charles Edward Raymond	Mr	Medcroft	Nicholas Julian
Mr	Bennett	William	Miss	Michalos	Christina Antigone Diana
Ms	Boase	Anna Jane	Miss	Mirchandani	Sian
Mr	Buley	Timothy Laurence Howard	Mr	Mooney	Giles Joseph
Mr	Burns	Peter Richard	Ms	Nathan	Aparna
Ms	Butler-Cole	Victoria	Dr	Nicholson	Brian Andrew
Mr	Cannock	Giles Michael Morgan	Mr	Palmer	Robert Henry
Mr	Chacksfield	Mark Andrew	Mr	Payne	Alan
Mr	Chapman	Richard Harold	Mr	Pilbrow	Fionn Peter Alexander
Mr	Craig	Nicholas	Miss	Pritchard	Sarah Jane
Mr	de Mestre	Andrew Etienne	Mr	Ray	Aloke
Mr	de Verneuil Smith	Peter Robert	Mr	Riley	Jamie Spencer
Ms	Deal	Katherine Alison Frances	Mr	Rivett	James Peter
Mr	Dumont	Thomas Julian Bradley	Mr	Sabharwal	Dipen
Mr	Dunlop	Rory James	Mr	Saoul	Daniel Abel Elie
Mr	Fietta	Stephen Lewis	Miss	Sen Gupta	Diya
Miss	Gray	Margaret Olivia	Mr	Sethi	Mohinderpal Singh
Mr	Hand	Jonathan Elliott Sheerman	Mr	Shapiro	Daniel Jonathan
Mr	Harris	Christopher Andrew	Mr	Sheldon	Neil John
Mr	Haydon	Alec Guy	Mr	Siddall	Nicholas Michael
Mr	Hickman	Thomas Richard	Ms	Sloane	Katherine Valentina
Miss	Hitching	Isabel Joy	Mr	Smith	Christopher Michael
Mr	Isaac	Nicholas Dudley	Miss	Stephens	Jessica
Mr	Kellar	Robert Alexander	Professor	Thomas	David Richard Brynmor
Ms	Kilroy	Charlotte	Mr	Todd	Alan James
Ms	Kreisberger	Ronit Charlotte	Miss	Tozer	Stephanie
Ms	Lane	Lindsay Ruth Busfield	Mr	Upton	James William David
Mr	Leabeater	James Ferguson	Professor	Verdirame	Guglielmo
Mr	Levy	Mark Allan	Ms	Wakefield	Victoria Elizabeth Livesey
Mr	Lewis	David Nicholas	Mr	Walton	Robert John
Mr	Martin	Dale	Mr	Wolanski	Adam Michael
Ms	McCafferty	Catherine Jane	Mr	Yates	David James Francis

a barrister's profile along with notable cases and commendations from satisfied clients. No doubt having achieved a First is still something to cite. This is mostly true about civil practitioners. Other chambers have decided as a policy to omit education. Others take a curious middle course, acknowledging that a barrister has a BA (Hons) or LLB (but not from where) although every barrister does have a university degree since it became a requirement for admission nearly 40 years ago. This year, two successful applicants even named their schools, both particularly well known for their academic achievement.

Working one's way through 108 profiles produces incomplete information supplemented by the list published by Cambridge of its 30 alumni (27.7% of all QCs) who were successful this year. We know the universities of 52 out of 66 new civil silks plus one from the criminal/civil list. Of those 53, 46 or 87% went to Oxford or Cambridge, the other seven went

to Russell Group universities. This is in line with previous years. Two out of four family silks went to Oxford or Cambridge (and one to Manchester). Of the 14 known universities of the 35 criminal silks, 12 went to Russell Group universities including six to Oxford or Cambridge. These figures are unlikely to change in the future. The Panel chooses on merit, using the criterion of 'excellence'. If there are certain predictive factors, that should not be surprising. People get into the Bar because they are who chambers wanted, and chambers, after the individual's own efforts, is the most important factor in a barrister's career. ●

QC awards honorary

Professor Mads Andenæs; Professor Sue Arrowsmith; Professor Richard Fentiman; Jonathan Jones; Professor Charles Mitchell; and Professor Thomas Glyn Watkin.



About the author
David practised at the criminal Bar for 27 years and is an honorary door tenant at 18 Red Lion Court. Prior to his retirement, he was a consultant in the CPD department at City Law School and consultant editor of *Counsel*. David is a member of the *Counsel* Editorial Board.



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