

## **Instructions**

1. You are instructed to appear for Chloe Jones on her application for membership of the newly-created UK Financial Services Industry (UKFSI) body. This membership is now required in order to be appointed to a range of functions and management positions within regulated organisations. In particular, under the Financial Services (Taking Back Control) Act 2018, which came into force on 1 March 2018, no-one may give financial advice to consumers without being a member of the UKFSI.
2. The 'Requirements for appointment to the UKFSI' are attached. There is a single previous decision of the Court of Appeal on the interpretation of these requirements, from which the material extracts are attached. There are no other preparatory or explanatory materials to assist with interpretation.
3. The material facts are set out in the witness statement of Chloe Jones (attached). Under the applicable procedural rules, the material adduced by the applicant will be treated as accurate for the purposes of the application.
4. You are asked to prepare to advise in a meeting with your client as to:
  - a. Whether you consider that Ms Jones meets the requirements for any or all of the Gateways for appointment to the UKFSI;
  - b. The strengths and weaknesses of her position in respect of each Gateway; and
  - c. Whether you would propose arguing the case for her membership under all Gateways, or only relying on one or more of them.
5. This is not a role play. You will have about 20 minutes in which to give your advice, but you will probably be interrupted by questions from the interview panel.

**NOTE:** The UKFSI and Financial Services (Taking Back Control) Act 2018 are fictional. You are not expected to have any knowledge of actual financial services law or regulations. Indeed, any such knowledge should be ignored for the purpose of this exercise.

## **Requirements for appointment to the UKFSI**

1. In order to be appointed to the UKFSI, the applicant must demonstrate to the satisfaction of the UKFSI appointment panel that the applicant meets the requirements of one of the gateways set out below.

### ***Gateway A - academic achievement***

2. In order to meet the requirements of Gateway A, the applicant must have achieved the following:
  - a. A degree from a UK university with a 2:1 mark or above, or equivalent; and
  - b. An average mark overall of at least 75% in five UKFSI entrance papers, including a minimum of at least 65% in the three core entrance papers of financial services law, numeracy, and professional ethics.

### ***Gateway B - experience***

3. In order to meet the requirements of Gateway B, the applicant must have had at least three years of broad-based experience in financial services which, in the opinion of the appointment panel, is equivalent to the requirements of the UKFSI entrance papers.

### ***Gateway C - other exceptional grounds***

4. In order to meet the requirements of Gateway C, the applicant must satisfy the appointment panel that exceptional grounds exist to justify the appointment of the applicant to the UKFSI, even though the requirements of Gateways A and B have not been met.

## Witness statement of Chloe Jones

1. I obtained a 2:1 in my undergraduate degree from the University of Durham in June 2014. I was awarded a 1<sup>st</sup> class mark on my final year dissertation, on the life cycle of the *Drosophilla Melanogaster* (fruit fly). I then went travelling for a year, spending 6 months travelling through South-East Asia, including 3 months working in an orphanage in Hanoi (Vietnam), and 6 months working for the Bank of Tasmania in Hobart, Australia. My job at the bank involved assisting customers with deposits and withdrawals of cash and cheques, and foreign exchange transactions for their holidays abroad.
2. On returning to the UK, I worked for Google as a receptionist, before being promoted to a Senior Customer Experience manager. In this latter role, I was responsible for a team of up to a dozen customer-facing Customer Experience providers. In March 2016 I decided to move into the financial services industry, and was taken on as a graduate trainee by the Stamler Bank, a multinational banking group headquartered in London.
3. Over the course of the 2 year graduate training scheme with Stamler Bank, I was exposed to a range of the bank's functions, including working in the compliance function, the investment banking function, the retail banking function, and as a member of the internal audit team. Stamler Bank also encouraged me to take UKFSI entrance papers, and I achieved passes in the following modules in December 2017: financial services law (55%); international banking conventions (84%); numeracy (75%); blockchain and other new technologies (83%). My score in the blockchain and other new technologies paper placed me in the top 10% nationally of all those sitting that paper.
4. In March 2018 I resigned from Stamler Bank in protest at excessive pay awards for senior management in combination with what I regarded as derisory pay rises for other employees. However, I continued to pursue my UKFSI studies, and in December 2018 I achieved the following further passes: accounting (79%); professional ethics (70%). Unfortunately, I was unable to take the exam in the foreign exchange module in December 2018 as my local exam centre was closed due to bad weather, but I am

confident that I would have achieved at least 80%, as I had studied diligently for the paper.

5. Since April 2018, I have been employed by the Bank of Tasmania (London Branch) as an administrative assistant. I have in that period achieved a company record of six successive 'employee of the month' awards. My work includes filling the cash machine on a daily basis; helping clients who visit the bank to complete bank forms when applying for a range of financial products; and advising them as to the financial products which I consider will be most suitable for them.
6. In my spare time I have recently started volunteering at my local Citizens' Advice Bureau, mainly advising people with debt problems. I discuss with them budgeting and debt solutions including debt management plans. I also signpost clients to other services where they can find support for other aspects of their lives. I supplement my earnings by tutoring A-level students in maths, economics and biology, and I also sing in my church choir, which last year performed the 'Hallelujah' chorus in the Royal Albert Hall as part of its Christmas season.
7. I am passionate about financial services and I believe that I would find a career in financial services very rewarding. I believe that I am an exceptional candidate for membership of UKFSI thanks to my academic excellence and my lengthy experience in financial services.

I believe that the facts stated in this witness statement are true.

*Chloe Jones*

31<sup>st</sup> January 2019

**Extract from *X v UKFSI appointments panel***

- “37. In our judgment, when interpreting the three Gateways, the UKFSI appointments panel must have regard to the underlying purpose of the membership requirements laid down in the Financial Services (Taking Back Control) Act 2018.
38. The primary purposes of these requirements are to maintain trust and confidence in the financial services sector in this country, and to ensure that there can be public confidence in the quality, legality, and moral probity of advice being given by financial advisers to consumers. Usually, those purposes will be achieved by qualification or experience. But, albeit in circumstances which are likely to be rare, those purposes may be satisfied by appointing someone of exceptional personal character and competence.
39. In the present case, we consider that the appointments panel mis-directed itself in law when deciding that it should pay no regard to X's long experience as an academic, researching and publishing in the field of business ethics. We also consider that the appointments panel was wrong to refuse to weigh in the balance X's health issues (details of which are in a confidential annex to this judgment, and are not for publication) which X's Counsel persuasively argued had impacted on X's marks in some of the UKFSI entrance papers.
40. On the other hand, we consider that the panel was also wrong to direct itself that it should give greater weight to two of the UKFSI entrance papers which X sat, on the grounds that, in its view, of the ten UKFSI papers which might be sat by applicants, these two papers were notoriously difficult papers in which to achieve high marks. We see nothing in the scheme of the UKFSI requirements for appointment which permits an appointments panel to give greater weight to one entrance paper over another, save, of course, for the mandatory requirement that applicants must have

achieved the requisite standard in the core entrance papers in order to satisfy Gateway A.

41. In these circumstances, we remit X's application to a new appointments panel, to re-take the decision as to whether to grant X's application for appointment."