

SALARIED LEGAL MEMBER OF THE MENTAL HEALTH REVIEW TRIBUNAL

TERMS AND CONDITIONS OF SERVICE

1. **Introduction:** The following is a summary of the basic terms and conditions of service. This memorandum contains information about the terms and conditions of appointment, which should be understood and agreed by all those accepting appointment. The terms and conditions are correct as at the date at the end of this memorandum, but may in some circumstances be subject to change.
2. **Prohibition on Practice:** A salaried legal member of the Mental Health Review Tribunal shall not practise as a barrister or solicitor or be indirectly concerned in any such practice (s.75 Courts and Legal Services Act 1990). The Lord Chancellor also regards a judicial office as a lifetime appointment. Any offer of appointment is therefore currently made on the understanding that appointees will not return to practice.
3. **Nature of the post:** The Mental Health Review Tribunals hear applications made by patients or their relatives for discharge from compulsory detention in psychiatric hospitals or from continuation of guardianship or aftercare under supervision. The Tribunals also review the authority for detention of patients whose cases have been referred by the Secretary of State for Health, the Home Secretary or hospital managers. The powers and functions of these Tribunals are set out in detail in sections 65 – 79 of the Act and their rules of procedure are governed by the Mental Health Review Tribunal Rules 1983 (SI1983/942). A description of the tasks which will be undertaken by a salaried legal member can be found in the **Job Description**.
4. **Locations:** The Tribunals sit in places which are convenient for seeing the patients, and in practice this means that most sittings have to take place in the hospitals themselves. It is the normal practice of the Regional Chairmen (to be replaced from 2008 by a Chamber President) when selecting members to deal with particular applications, to try as far as possible to select members who live within reasonable distance of the hospital where applications are to be heard. It is, however, sometimes necessary to ask members to go to more distant hospitals.

A salaried legal member will be allocated to a MHRT region in England (as to which see the Information Pack). The working locations within these regions have yet to be decided.
5. **Salary, income tax and National Insurance:** A legal member, will receive a salary of £98,900, plus an additional £4000 for those working in London. Income Tax, which is payable under Schedule E, is deducted at source in accordance with PAYE arrangements. A legal member is classed as an "employed earner" for National Insurance purposes and is liable for Class 1 contributions, which are deducted from salary together with income tax. Since the judicial pension scheme has been contracted-out of the State Earnings-Related Pension Scheme, contributions are payable at the lower, contracted-out, rate. Liability for National Insurance contributions ceases at state retirement age even if service continues thereafter.
6. **Pension terms:** The post is pensionable. Provision of pension benefits is determined under the provisions of the Judicial Pensions and Retirement Act 1993. Although membership of the judicial pension scheme is automatic on appointment, it is not compulsory and a judicial office holder may opt out. Under the Judicial Pensions and Retirement Act 1993, an immediate pension is payable at age 65, provided the office-holder has completed at least 5 years' service. The annual rate of the pension will be

1/40th of an office-holder's pensionable pay multiplied by the aggregate length of service in qualifying judicial office (expressed in years and fractions of a year) subject to a maximum pension equal to one-half of pensionable pay after 20 or more years' service. An actuarially reduced pension is payable immediately where an office-holder retires, having completed at least 5 years' service, after attaining the age of 60 but before age 65. Where an office-holder is obliged to retire on health grounds before attaining age 65, his or her service will be enhanced by a period equal to one-half of the service he or she would otherwise have served from the day following retirement to his or her 65th birthday.

7. In addition to the pension, a lump sum equal to 2.25 times the annual rate of that pension is payable. There is a spouse's pension at the rate of one-half of the personal pension accruing or in payment at the time of death and provision for a children's pension. In the event of death in office, there is provision for a death benefit equal to twice the amount of an office-holder's pensionable pay. Contributions towards spouses' and children's pensions are compulsory for all salaried legal members of the Mental Health Review Tribunal and take the form of monthly payments of 1.8% of pension-capped salary. Pensions already in payment are subject to increases under the Pensions (Increase) Act 1971. Surviving civil partnership benefits are payable on the death of a judicial office holder who has formed a civil partnership in accordance with the Civil Partnership Act 2004.
8. The judicial pension scheme is a "non-registered" scheme for the purpose of the Finance Act 2004. This means that benefits under the scheme will not count towards the lifetime allowance for pension benefits under that Act, but that benefits and contributions under it do not attract income tax relief; lump sum benefits are accordingly subject to income tax at the office holder's marginal rate. This liability will be offset, in whole or in part, by the payment of a separate service award on the office holder's retirement. Fuller details are available on request.
9. **Sitting requirements:** A salaried legal member of the Mental Health Review Tribunal is entitled to six weeks annual holidays a year, together with the public and privilege holidays. Planning of annual leave should be arranged with the Chamber President. Because of the burden falling on the Tribunal, the Lord Chancellor considers it essential for the legal member to be prepared to attend at the hearing centre for 5 days in each week, or otherwise to carry out judicial business during those 5 days as directed by the President.
10. **Sick leave:** A legal member is required to notify the President of any absence through sickness, so that all the necessary arrangements can be made for their sittings, by the appointment of deputies or otherwise. They should also keep the President informed of the likely length of a sick absence. Although there is nothing specifically laid down in regard to sick leave, the practice is to apply the same conditions as for civil servants. Broadly speaking, these provide that a legal member may receive 6 months' sick leave on full pay during any period of 12 months, and thereafter sick leave on half pay, subject to a maximum of 12 months sick leave in any period of 4 years or less; provided there is a reasonable prospect of an eventual return to duty.
11. **Tenure:** Under the provisions of the Judicial Pensions and Retirement Act 1993, a legal member will normally be required to vacate his or her office on his or her 70th birthday (s.26 of the 1993 Act). A salaried judicial office holder who was appointed prior to the commencement of the Judicial Pensions and Retirement Act 1993 (31 March 1995) will retain the compulsory retirement date applicable to him or to her in the former office. The Lord Chancellor may remove a legal member on the grounds of incapacity or misbehaviour. Any such removal requires the concurrence of the Lord Chief Justice. A

legal member may resign his or her office at any time by notice in writing to the Lord Chancellor.

12. **Residence:** A legal member must live within reasonable travelling distance of the venues at which he or she sits or is allocated to sit.
13. **Travelling etc allowances:** Travelling expenses and in certain circumstances night subsistence may be payable in connection with sittings, attendance at training courses, etc. Details of the rules governing the payment of these allowances will be supplied by the staff of the Tribunal. The rules governing and rate of these allowances may change from time to time, and any such changes will be notified. HM Revenue and Customs tax rules governing the tax treatment, and rates, of these allowances may also change and any such changes will be notified to office holders.
14. **Cost of taking up appointment:** No assistance is available from public funds towards any costs incurred (e.g. through a move of house) on appointment as a salaried legal member. Exceptionally, however, a serving judicial office-holder is entitled to relocation expenses if, as a result of that appointment, removal of home becomes necessary.
15. **Outside activities and interests:** A legal member should not in any capacity engage in any activity which might undermine, or be reasonably thought to undermine, his or her judicial independence or impartiality. He or she must expect to forgo any kind of political activity and be on their guard against circumstances arising in which their involvement in any outside activity might be seen to cast doubt on their judicial impartiality or conflict with their judicial office. A person holding a commercial company directorship is expected to relinquish this on appointment to salaried judicial office. A legal member is also expected to submit his or her resignation to the Lord Chancellor in the event of a nomination or adoption as a prospective candidate for election to Parliament, or to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly or the European Parliament.
16. **Freemasonry:** Following the Government's response to the Report of the House of Commons Select Committee on Freemasonry in the Police and the Judiciary, anyone being appointed for the first time to a judicial office is asked as a condition of appointment whether they belong to the Freemasons and, if not, that they notify the Lord Chancellor in the event that they subsequently join them. Judicial post holders must expect that this information may be included in the public register.
17. **Maternity, Paternity and Adoption Leave:** Judicial office holders are entitled to maternity, paternity and adoption leave. Details of the operation of these entitlements will be provided to office holders as appropriate.
18. **Salaried part-time working:** It may be possible for the appointment to be salaried part time, subject to the judicial needs of the Tribunal. Such appointments are permanent and are subject to the same terms and conditions of service as for full-time appointments, which are set out in this document. This includes the requirement that appointees will not continue to practise.
19. Salary, annual leave, sick pay and pension benefits will be calculated on a pro-rata basis, based upon the full-time requirement of 220 sitting days per year. A salaried part-time legal member will be expected to sit for the full duration in longer cases.
20. **Advice:** Judicial office holders are welcome to consult the Ministry of Justice or the Judicial Office for England & Wales (as appropriate) on any matters relating to judicial office. Judicial media enquiries should be directed to the Lord Chief Justice's Judicial

Communications Office on 020 7947 6438. Enquiries relating to the operation of the Tribunal should be directed to the staff of the Tribunal.

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