

PRESIDENT OF THE VALUATION TRIBUNAL FOR ENGLAND (VTE)

TERMS AND CONDITIONS OF SERVICE

INTRODUCTION

1. Schedule 11 to the Local Government Finance Act 1988 (as amended by Schedule 15 of the Local Government and Public Involvement in Health Act 2007) provides for the appointment by the Lord Chancellor of the Valuation Tribunal for England (VTE) established under that Act, including the President, Vice-Presidents, Chairmen and Members. Each member is to hold and vacate his/her office in accordance with the terms of his/her appointment.
2. The President and Vice-Presidents of the VTE are to be appointed in advance of the establishment of the VTE (which is expected to take place in the Autumn of 2009).
3. This memorandum contains information about the terms and conditions of appointment, which should be understood and agreed when accepting appointment. These terms and conditions are correct as at the date given at the end of this memorandum but may in some circumstances be subject to change.

NATURE OF POST

4. The Valuation Tribunal for England will hear appeals in England against decisions related to council tax and business rates and will replace the current 56 separate tribunals in England. The role of the President of the Valuation Tribunal for England will be:
 - To be the Judicial Head of the Valuation Tribunal for England (VTE);
 - To provide effective leadership to the Tribunal members;
 - To strengthen judicial independence and enhance public confidence in the Tribunal;
 - To act as a member of the Valuation Tribunal Service (VTS) Board; and
 - To sit on a Tribunal from time to time.

LOCATIONS

5. Valuation tribunals sit in a number of locations across England. The Valuation Tribunal Service, which provides administrative support and general advice to the existing tribunals and will provide the same support to the VTE, has its headquarters in London. The staff of the VTS are based in around 12 locations throughout England.
6. The President must to be willing and able to travel frequently to the Headquarters of the Valuation Tribunal Service and regularly to other locations, across England, for meetings. S/he shall have the option of choosing, as a base, the most convenient of the locations, in which the VTS has offices, as his/her primary location of work.

SALARY, INCOME TAX AND NATIONAL INSURANCE

7. The President will receive a full-time equivalent salary of £106,812 (Group 7 plus), plus an additional £4000 for those based in London. Salary, London weighting, annual leave, sick pay and pension benefits will be calculated on a pro-rata basis, based upon a full time requirement of 220 days a year. The appointment will be on a part-time basis with a required commitment of 60% (i.e. approximately 3 days per week).
8. Income Tax, which is payable under Schedule E, is deducted at source in accordance with PAYE arrangements. The President 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.

PROHIBITION ON PRACTICE

9. There is no prohibition on the President that stops him/her from practising as a barrister or solicitor or be indirectly concerned in any such practice as long as the continuation of such practise does not pose a conflict of interest with the role of President. This appointment is for a fixed term with one reappointment (subject to paragraph 15); therefore appointees may return to practice at the end of this appointment.

PENSION TERMS

10. The post is pensionable and it is anticipated that the post will be added to the list of offices covered by the Judicial Pensions and Retirement Act 1993 (JUPRA). On this basis, provision of pension benefits will be determined under the provisions of the 1993 Act, as summarised here. 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 1993 Act, 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.
11. 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 office holders 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.
12. 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.

TIME COMMITMENT

13. The appointment will be on a part-time basis for up to six years, with a required commitment of 60% (i.e. approximately 3 days per week). The precise requirement will be dependent on the operational needs of the Tribunal. In the period prior to and shortly after the establishment of the VTE, and its taking over from the current 56 separate valuation tribunals, the President of the VTE may need to be able to offer an additional time commitment.

14. The President is entitled to 30 days annual leave per annum (pro rata) together with public and privilege holidays. Planning of annual leave should be arranged in the light of business requirements.

RENEWAL OF APPOINTMENT

15. At the end of the initial appointment, renewal for one further successive period (term) of up to six years is automatic subject to the individual's agreement and the upper age limit unless a ground for non-renewal is found, or the individual no longer satisfies the conditions for appointment (see paragraph 18).

TRAINING

16. The President must make him/herself available to attend such training courses as shall from time to time be arranged or specified.

SICK LEAVE

17. 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 the President 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 (pro rata). The President is required to undergo an in-service medical examination if requested to do so by the Lord Chief Justice.

TENURE

18. Under the provisions of the Valuation Tribunal Regulations 1989 the President will be required to vacate his or her office on his or her 72nd birthday. The Lord Chancellor may remove the President if satisfied that the member is:

- (a) unable;
 - (b) unwilling, or
 - (c) unfit (whether because of misbehaviour or otherwise),
- to perform his functions as a member of the Tribunal.

19. The President may resign his or her office at any time by giving three months notice in writing to the Lord Chancellor.

DISQUALIFICATION

20. Members of the VTE are precluded by statute (the House of Commons Disqualification Act 1975) from serving concurrently as Members of Parliament, etc. The President of the VTE is expected to submit his or her resignation to the Lord Chancellor in the event of nomination or adoption as a prospective candidate for election to Parliament, to the Scottish Parliament, to the Welsh Assembly, to the Northern Ireland Assembly or the European Parliament.

COST OF TAKING UP APPOINTMENT

21. No assistance is available from public funds towards any costs incurred (e.g. through a move of house) on appointment as President.

CONFLICT OF INTEREST

22. The governing principle is that no person should sit in a judicial capacity in any circumstances, which would lead an objective onlooker with knowledge of all the material facts reasonably to suspect that the person might be biased. As a general principle therefore, a barrister or solicitor advocate ought not to sit as a judicial office holder, or to appear before a tribunal at a particular hearing, if he or she is liable to be embarrassed in either capacity by doing so.

23. As a general rule, it is undesirable for judicial office holders who are solicitors to sit at a tribunal or hearing centre where they, or any partner or employee of theirs, regularly practise. This is to help avoid them being assigned to adjudicate in cases from which they would have to stand down. If a judicial post holder who is a solicitor does sit at such a hearing centre or a tribunal, then the Lord Chancellor and the Lord Chief Justice regard it as the judicial office holder's personal responsibility (and not that of the staff of the Tribunal or the hearing centre) to avoid, as far as possible, any potential conflict of interest which might require him or her to stand down from a particular case.
24. Judicial office-holders:
- should not sit in a case involving their own firm or client, or otherwise where to do so could give rise to the perception of prejudice in the administration of justice;
 - should comply with the existing case law governing pecuniary or other interests in deciding whether to declare an interest in, or to stand down from, a particular case e.g. *Locabail (UK) Ltd v Bayfield Properties Ltd and Another* (2000) Q.B. 451; in re *Medicaments and Related Classes of Goods (No 2)* [2001] 1 W.L.R 700; and *Lawal v Northern Spirit Limited* [2003] UKHL 35.
 - should not sit on a case if they have a personal, professional or pecuniary interest in that case; or if any business or practice of which they are members in any capacity has such an interest.
25. Judicial office holders are expected to refrain from any activity, political or otherwise, which would conflict with their judicial office or be seen to compromise their impartiality, having regard for example to the comments of the Court of Appeal in the case of *Locabail*. They should also be aware of the risk of a perceived lack of impartiality arising from published articles or public pronouncements, etc. (*Timmins v Gormley* [(2000) 2 W.L.R 870]). Fee-paid judicial office holders should exercise caution in any reference to their appointment on, for example, letterheads or in chambers' advertising literature. They hold office only when exercising the functions of the office and should not use their office as a means of pursuing personal, professional or commercial advantage.

JUDICIAL CONDUCT

26. The Lord Chancellor and the Lord Chief Justice believe that the public both deserves and expects the highest standards of conduct from those who hold judicial office. Without prejudice to the paragraphs below, the President should notify the Lord Chief Justice at the earliest opportunity if aware of any matters relating to conduct which may affect his/her position or may reflect on the standing and reputation of the Tribunal or the judiciary at large.
27. The President should also notify the Lord Chief Justice if s/he gets into serious financial difficulties, particularly if legal proceedings appear to be likely to be, or have actually been, initiated. S/he should also inform the Lord Chief Justice of any complaint made against them by a professional body, whether it relates to their professional or judicial capacity. The President must notify the Lord Chief Justice if s/he is involved, or likely to get involved in any court proceedings.
28. Where, either before or after he/she has commenced service, the President is cautioned for, or charged with, any criminal offence, other than a parking or speeding offence without aggravating circumstances (i.e. an offence for which a period of disqualification, or at least 6 penalty points, are imposed, or which results in a total of more than 6 currently accumulated penalty points) he/she should report the matter at once to the Lord Chief Justice/Senior President and should keep him informed of the progress and outcome of the case. Failure to do so could in some cases amount prima facie to misbehaviour. Convictions for some offences, including some motoring matters, need not necessarily be regarded as being incompatible with continuing to serve. However, if

the President were convicted of a grave offence, for instance one involving violence to persons, dishonesty or moral turpitude, the Lord Chancellor and the Lord Chief Justice would regard themselves as having cause to consider the exercise of their powers to remove the individual from office on the grounds of misbehaviour; The Lord Chancellor and the Lord Chief Justice regard a conviction for an offence of driving while under the influence of alcohol or drugs as so grave as to amount prima facie to misbehaviour.

29. The Lord Chancellor and the Lord Chief Justice believe that the public must be entitled to expect the President to maintain at all times proper standards of courtesy and consideration. They do not regard behaviour which could cause offence, particularly on racial or religious grounds, or amounting to sexual harassment, as consistent with the standards expected of the office of President. A substantiated complaint of conduct of this kind, whether or not previous complaints have also been made, is in their view capable of being regarded as misbehaviour.
30. The exercise of the Lord Chancellor's and the Lord Chief Justice's disciplinary powers are governed by regulations made by the Lord Chief Justice under sections 115 and 117 of the Constitutional Reform Act 2005. They enable any observations which the President may wish to make on the matter to be taken fully into account. The Lord Chancellor and the Lord Chief Justice will not consider the exercise of those powers without serious cause and the most careful deliberation.

REASONABLE ADJUSTMENTS

31. A range of reasonable adjustments to working practices and equipment may be available for those who have, or acquire, an impairment or long-term medical condition amounting to a disability. The nature of the adjustments, and whether they are reasonable, will be specific to the individual. No office holder will be asked to fund reasonable adjustments from his or her personal resources.

OUTSIDE ACTIVITIES AND INTERESTS

32. The President 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 office as President. A person holding a commercial company directorship is expected to relinquish this on appointment to salaried judicial office.

FREEMASONRY

33. 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 office holders must expect that this information may be included in the public register.

TRAVELLING ETC ALLOWANCES

34. Travelling expenses and, in certain circumstances, night subsistence may be payable in connection with the role of President, attendance at training courses, etc. Details of the rules governing the payment of these allowances will be supplied by the staff of Valuation Tribunal Service. 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.

MATERNITY, PATERNITY AND ADOPTION LEAVE

35. 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.

MEDIA GUIDANCE

36. Guidance on relations with the media is available from the Judicial Communications Office (JCO). The JCO provides communications support to judicial office holders in England & Wales (including salaried and fee paid judges, tribunal members and magistrates). This includes advice on media issues such as mis-reporting and requests for interviews; as well as an external judicial website, an intranet and a newsletter for the judiciary. The JCO is based in the Royal Courts of Justice, is accountable to the Lord Chief Justice and is independent of any Government press office. The JCO's media team is available on 020 7073 4852, fax 020 7947 6544 or e-mail press.enquiries@judiciary.gsi.gov.uk. The out of hours pager number is 07659 550652.

ADVICE

37. 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 his office as President of the VTE. 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.

Communities and Local Government
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