

## **VICE 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 members of the Valuation Tribunal for England established under that Act, including the President, Vice President(s), 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-President(s) of the Valuation Tribunal 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 for Vice President(s) which should be understood and agreed by all those 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 Vice President(s) will be:
  - To support and assist the President in his/her role as judicial Head of the VTE;
  - To support the President in providing leadership to and communication with Tribunal members;
  - To support the President in strengthening judicial independence and enhancing public confidence in the VTE;
  - To support the President in strengthening partnership working between the VTE and the Valuation Tribunal Service;
  - To strengthen links between members and the national President; and
  - To sit on a Tribunal from time to time (Vice Presidents will not be paid for sitting on the tribunal as this will form part of the chairman/member duties that are voluntary).

#### **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 currently based in around 12 locations throughout England.
6. Should the VTE President consider it appropriate, the Vice President(s) shall agree with the President of the VTE where his/her primary location of work is to be.

#### **FEES**

7. The fees and allowances are determined by the Secretary of State for Communities and Local Government. The appointment is non-salaried and non-pensionable. A Vice-President will receive a fee for each day worked, except when sitting as a Chairman or member of a panel (as is the case for all tribunal members, no fee is paid to the chairmen and members for hearing cases). The current daily fee is £280.50. The fees are revised from time to time.
8. It is a general principle that Crown servants in receipt of a salary do not normally receive additional remuneration for public offices held, or work undertaken, concurrently on a fee

paid basis. While there may be circumstances (e.g. where it can be demonstrated that the judicial sittings are undertaken during a period of unpaid leave from the primary office or employment) where daily sitting fees may be payable, in general public office holders and public servants paid by Central Government will receive no remuneration for any fee paid judicial offices held concurrently.

9. Judicial office-holders who are private sector employees are expected to be open and transparent with their primary employer in terms of the arrangements, including financial arrangements, relating to their judicial appointment. It is essential that remuneration arrangements, and any uncertainties surrounding particular individual circumstances, should be resolved at the time of appointment or at the earliest opportunity following a material change of circumstances during a period of service. The same expectations apply to those fee-paid judicial office-holders who are employed by, or are officers of, local government.

## **INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

10. HM Revenue & Customs has determined that those appointed as Vice Presidents are not "office holders" and therefore the fees they receive fall to be assessed under Schedule D. Travel and subsistence payments are non-taxable.
11. It would be helpful, and avoid confusion, if in correspondence with the HM Revenue & Customs regarding fees and allowances attributable to this fee-paid appointment, Vice Presidents would mention that they are not office holders or employees of the Ministry of Justice or Department for Communities and Local Government.

## **DURATION OF APPOINTMENT**

12. An appointment as a fee-paid Vice President is for a (renewable) period of five years, subject to the upper age limit.

## **RENEWAL OF APPOINTMENT**

13. At the end of the initial appointment, renewal for further successive periods of up to five 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 or qualifications for appointment.
14. There are 6 grounds for non-renewal.:
  - (a) being unable, unwilling or unfit (whether because of misbehaviour or otherwise) to perform the duties of the office; including
  - (b) persistent failure to comply with sitting requirements (without good reason);
  - (c) failure to comply with training requirements;
  - (d) sustained failure to observe the standards reasonably expected from a holder of such office;
  - (e) part of a reduction in numbers because of changes in operational requirements; and
  - (f) part of a structural change to enable recruitment of new part-time office holders.
15. All decisions not to renew on grounds (a) - (d) are taken by the Lord Chancellor with the concurrence of the Lord Chief Justice. Such decisions are taken following an investigation conducted by a judge, who will report to the Lord Chancellor and the Lord Chief Justice.
16. All decisions not to renew on grounds (e) or (f) will be on a "first in, first out" principle. The decision to use such grounds and the extent to which they will be used will be taken by the Lord Chancellor after consultation with the Secretary of State and with the concurrence of the Lord Chief Justice.

17. The Vice President(s) may choose to end their appointment by resignation or by declining to accept renewal on completion of a term.

#### **UPPER AGE LIMIT**

18. Under the provisions in the Valuation Tribunal Regulations 1989, all members, including fee paid, are required to vacate office on their 72nd birthday.

#### **TIME COMMITMENT & ARRANGEMENTS FOR WORKING/SITTING DAYS & TRAINING**

19. The precise number of working days will depend upon the workload of the Tribunal and on the commitments of the office holder as agreed with the VTE President. The Vice president(s) can expect to be offered a minimum of 24 fee paid days annually, together with days where he/she will be required to sit as a Chairman or member.
20. This appointment carries an obligation to sit at any venue in the exercise of the relevant jurisdiction. An office holder's sitting and working days are arranged in consultation with him or her, as appropriate, by the Tribunal administration. The Vice President(s) should observe the sitting and other requirements of the hearing centres at which they sit. Chairmen and members (including the Vice President(s) of the tribunal receive no payment for sitting on tribunals). The Vice President(s) will be expected, from time to time and as agreed by the VTE President, to sit on a hearing panel as either a Chairman or a member of a panel. This will not attract a daily fee.
21. During the course of their appointment office holders are required to undertake such training as may be arranged and required.

#### **REMOVAL FROM OFFICE**

22. Under Schedule 15 of the Act, the Lord Chancellor may remove a Vice President on specified grounds. The grounds for removal from appointment are as follows:
  - (a) unable;
  - (b) unwilling, or
  - (c) unfit (whether because of misbehaviour or otherwise),  
to perform his functions as a member of the Tribunal.
23. All decisions to remove are taken by the Lord Chancellor with the concurrence of the Lord Chief Justice. Such decisions are taken in accordance with the procedures contained in the Regulations referred to at paragraph 22 above.

#### **DISQUALIFICATION**

24. Members of the VTE are precluded by statute (the House of Commons Disqualification Act 1975) from serving concurrently as Members of Parliament, etc. A fee-paid member 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.

#### **CONFLICT OF INTEREST**

25. 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.
26. 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.

27. Fee-paid 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.

28. 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

29. The public both deserves and expects the highest standards of conduct from those who hold judicial office. Without prejudice to the paragraphs below, an office holder should notify the Lord Chief Justice at the earliest opportunity if they are aware of any matters relating to conduct which may affect their position or may reflect on the standing and reputation of the judiciary at large.

30. An office holder should also notify the Lord Chief Justice if they get into serious financial difficulties, particularly if legal proceedings appear to be likely to be, or have actually been, initiated. They should also inform the Lord Chief Justice of any complaint made against them by their professional body, whether it relates to their professional or judicial capacity. Office holders must notify the Lord Chief Justice if they are involved, or likely to get involved in any court proceedings.

31. If an office holder is charged with, or cautioned for 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) whether before or after they have been authorised to sit as a fee-paid office holder, they should report the matter at once to the Lord Chief Justice 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 a judicial office holder 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; and 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.

32. The public must be entitled to expect all judicial office holders 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 those who hold judicial office. 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.
33. 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 office holder 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 the powers vested in them in respect of judicial conduct without serious cause and the most careful deliberation.

#### **FREEMASONRY**

34. 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 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 a public register.

#### **TRAVELLING ETC. EXPENSES**

35. Travelling expenses and in certain circumstances night subsistence allowances 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 Valuation Tribunal Service. The rules governing and rates of these allowances may change from time to time, and any such changes will be notified. HM Revenue & 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.

#### **MEDIA GUIDANCE**

36. Guidance on relations with the media will be provided by the Judicial Communications Office (JCO). The JCO provides communications to support 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](mailto: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 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 President's Office.