

TERMS AND CONDITIONS OF SERVICE AND TERMS OF APPOINTMENT

FEE-PAID MEMBER (MEDICALLY QUALIFIED: EXPERT AND NON-SPECIALIST) OF THE FIRST TIER TRIBUNAL

INTRODUCTION

1. The following is a basic summary of the terms and conditions of service. The terms and conditions are correct as at the date given at the end of this document, but may in some circumstances be subject to change. Fuller details, including the conditions of appointment, will be supplied to candidates who are offered appointment.

LOCATIONS

2. The geographical jurisdiction of the Tribunal includes England, Wales, and Scotland and will be organised on a regional basis. A judicial office holder will be assigned to a region and may, on occasion, be asked to travel to hearings outside that region.

FREEMASONRY

3. 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.

DURATION OF APPOINTMENT

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

RENEWAL OF APPOINTMENT

5. At the end of the initial five-year appointment, renewal for further successive periods of five years is automatic subject to the individual's agreement and the upper age limit unless a question of cause for non-renewal is raised, or the individual no longer satisfies the conditions or qualifications for appointment.

There are seven grounds for non-renewal:

- (a) inability;
- (b) misbehaviour, including:
- (c) persistent failure to comply with sitting requirements (without good reason);
- (d) failure to comply with training requirements; or
- (e) sustained failure to observe the standards reasonably expected from a holder of such office;

- (f) part of a reduction in numbers because of changes in operational requirements;
 - (g) part of a structural change to enable recruitment of new fee-paid members.
6. All decisions not to renew on grounds (a) – (e) are taken by the Lord Chancellor with the concurrence of the relevant Chief Justice.
 7. All decisions not to renew on grounds (f) or (g) will be on a “first in, first out” principle, subject to the requirements of the First Tier Tribunal. 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 Senior President of Tribunals and with the concurrence of the relevant Chief Justice.
 8. Fee-paid members may choose to end their appointment by resignation or by declining to accept renewal on completion of a term.

UPPER AGE LIMIT

9. The appointment of a fee-paid member will not normally be extended beyond the age of 70.

TRAINING

10. Newly appointed fee-paid office holders are not eligible to sit until they have attended and satisfactorily completed the initial induction course. During the course of their appointment, judicial office holders are required to undertake such further ongoing training as may be arranged and required by the Chamber President.

SITTINGS REQUIREMENTS

11. A fee-paid member is called upon to sit and to undertake other prescribed duties as the need arises. The frequency of sittings etc. depends upon the workload of the Tribunal and on the commitments of the office holder. There is no guarantee of a minimum number of sitting days, but a judicial office holder would be expected to be offered a minimum of 15 sittings (30 half-day sessions) annually.

APPRAISALS OR MENTORING

12. It is essential that all judicial office holders are given the support that they need to ensure that the high quality service, which the Tribunal Service delivers, is maintained. This support is given to all judicial office holders through mentoring, advice and guidance from a salaried judge, under the overall management of the Chamber President. For a medical practitioner who is not engaged in practice other than as a member of the Tribunal, the appraisal is intended to be sufficient to meet the revalidation requirements of the General Medical Council.

CONFLICTS OF INTEREST

13. 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 fee paid member of the First Tier Tribunal 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 by doing so.

14. 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 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 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

15. The public both deserves and expects the highest standards of conduct from those who hold judicial office. An office holder should notify the relevant Chief Justice and the Senior President 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.
16. The public must be entitled to expect all judicial office holders to maintain at all times proper standards of courtesy and consideration. The Lord Chancellor and the relevant Chief Justice 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.

IMMUNITY FROM SUIT

17. Members are immune from suit providing they act within their jurisdiction if the Tribunal has the authority to make the decision in question even if, owing to some error of law or procedure, the decision is invalid and liable to be overturned on appeal or quashed on judicial review.

REMOVAL FROM OFFICE

18. The Lord Chancellor may if he thinks fit terminate the appointment of a judicial office holder on specified grounds. There are five grounds for removal from appointment:
 - (a) inability;
 - (b) misbehaviour, including:
 - (c) failure to comply with training requirements;
 - (d) persistent failure to comply with sitting requirements (without good reason);
 - (e) sustained failure to observe the standards reasonably expected from a holder of such office.

19. All decisions to remove are taken by the Lord Chancellor with the concurrence of the relevant Chief Justice. Such decisions are taken in accordance with the procedures contained in Regulations made under the Constitutional Reform Act 2005.

DISQUALIFICATION

20. Fee-paid judicial office holders are precluded by statute from serving concurrently as a Member 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 to the European Parliament. The Lord Chancellor should be consulted if doubts arise about any particular circumstances.

FEES, INCOME TAX AND NI CONTRIBUTIONS

21. The post is non-salaried and non-pensionable. A judicial office holder will receive a fee for each day or half-day sat.
22. Fee-paid members are regarded as holders of an office for tax and National Insurance purposes. Fees payable will, as a result, be chargeable to tax under Schedule E of the Taxes Act and subject to Class 1 National Insurance contributions. These liabilities will be deducted via the Ministry of Justice's payroll system and the net fee paid to the office holder. Fees are not subject to VAT.

TRAVELLING EXPENSES, ETC

23. Travelling expenses and in certain circumstances night subsistence allowances may be payable in connection with sittings, attendance at training courses, etc. Details of the current mileage and night subsistence rates will be supplied by the staff of the Tribunal. 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.

MATERNITY, PATERNITY AND ADOPTION LEAVE AND STATUTORY SICK PAY

24. Fee-paid judicial office holders are entitled to maternity, paternity and adoption leave and Statutory Sick pay. Details of the operation of these entitlements will be provided to office holders as appropriate.

Ministry of Justice
January 2009