

## **Legally Qualified Member of Welsh Language Tribunal Job Description**

### **BACKGROUND**

The Welsh Language Tribunal is a statutory tribunal established under section 120 of the Welsh Language (Wales) Measure 2011 ('the Measure'). The Tribunal's function is to decide on appeals against the Welsh Language Commissioner's ('the Commissioner') decisions in relation to Welsh Language Standards.

### **THE TRIBUNAL'S FUNCTIONS**

The Measure enables the Tribunal to hear the following:

1. Appeals against the Commissioner's decisions to impose Welsh Language Standards on bodies and officers exercising public functions or providing public services in Wales.
2. Appeals against determinations by the Commissioner, at the end of an investigation that a person had failed to comply with the requirement of a Standard.
3. Appeals by a complainant against a determination by the Commissioner, at the end of an investigation that a person had not failed to comply with a Standard.
4. Appeals against enforcement actions taken by the Commissioner.
5. Appeals against evidence notices issued by the Commissioner during an investigation.
6. Reviews of decisions by the Commissioner not to investigate a complaint (or to bring an investigation to an end before it has reached a conclusion).

### **PURPOSE OF POST**

The purpose of the Judicial Office is to administer justice according to law, without fear of favour, affection or ill will.

A Legally-qualified member must maintain high standards of independent decision making and effective case management, whilst also working with the Tribunal President and the Tribunal administration.

### **KEY TASKS**

The key tasks of a fee paid legally-qualified member of the tribunal are:

#### ***Pre-Hearing Stages***

***(when delegated by the Tribunal President to undertake the task)***

- Considering notices of application, case statements and written evidence submitted by the parties;

- Making decisions, based on consideration of the case papers, as to whether applications are within the Tribunal's powers;
- Where applications can only be made with the Tribunal's permission, deciding, based on consideration of the case papers, whether permission should be given;
- Making decisions on case management, including the variation or extension of time limits and the issuing of directions requiring the parties to take specific steps so as to ensure that hearings can be conducted fairly and effectively;
- Preparing for presiding over hearings;
- Discussing and agreeing with other tribunal panel members, any questions as to the procedure to be followed at the hearing.

### ***Presiding over hearings***

- Introducing the members of the tribunal panel to the parties;
- Explaining to the parties and the public (after hearing any relevant representations made by the parties) the procedure to be followed at the hearing;
- Presiding over the hearing, ensuring that the parties are able to present their respective cases fairly but concisely and in accordance with the Tribunal Rules;
- Ensuring that other members of the panel are able to play a full part in the hearing, being able to raise any matters on which they require clarification and to participate fully in any procedural decisions relating to the conduct of the hearing;
- Announcing any preliminary decisions, for example in relation to the conduct of the hearing, which the tribunal panel makes;
- Making a sufficient note of parties' evidence and submissions so as to enable the tribunal panel to discuss fully, and reach a fair decision on, all the relevant issues;
- Explaining to the parties and to the public the process by which the tribunal panel's decision will be reached and communicated to them;
- In those cases where it is appropriate to do so, announcing and explaining the tribunal panel's decision orally.

### ***Post-hearing stages***

- Chairing the tribunal panel's discussion of its decision;
- Advising the tribunal panel on any issues of law that affect its decision;
- Ensuring that the tribunal panel has reached logical, structured and legally sound conclusions on all relevant issues, including any questions relating to the costs of the application;
- Preparing, and agreeing with the other tribunal members, a written statement of the tribunal panel's conclusions and overall decision and its reasons for reaching them;
- Signing the official record of the tribunal panel's decision;
- Considering and deciding upon any application for a review of the tribunal panel's decision;
- Considering and deciding upon any application for permission to appeal against the tribunal panel's decision or to suspend that decision pending the determination of an appeal.

## **WELSH CONTEXT:**

Sufficient awareness and knowledge of Wales and its affairs to be able to understand:

- the context within which decisions which are the subject of appeals to the Tribunal were made; and
- the practical impact of the Tribunal's own decisions.

## **KNOWLEDGE OF, AND PROFICIENCY IN, THE WELSH LANGUAGE**

The Tribunal operates bilingually in both Welsh and English languages. Accordingly, the person appointed must be able to understand, speak, read and write both Welsh and English to a standard which will enable that person to conduct the business of the Tribunal through the medium of both languages.

The applicant's fluency in Welsh will be assessed during the interview stage, when you will be expected to respond to some questions in Welsh.

## **ELIGIBILITY**

To be eligible for appointment as a legally-qualified member of the Welsh Language Tribunal, you must satisfy the Judicial-appointment eligibility condition on a 5 year basis

The '*Judicial-appointment eligibility condition*' is defined in Part 2 of the Tribunals Courts and Enforcement Act 2007. It means that you have possessed a relevant legal qualification for the requisite period and whilst holding that qualification you have been gaining experience in law. The Welsh Ministers will count the requisite period from the start date of the relevant qualification up to the application closing date.

## **GOOD CHARACTER AND CONDUCT**

You should be a person of good character and conduct yourself, at all times, in a manner which will maintain public confidence in your ability to carry out the functions of the role.

You are asked to answer a number of questions related to your character in the application form and you must make appropriate declarations as requested.

In particular you are required to declare whether you are aware of anything in your private or professional life that would be an embarrassment to you or to the Welsh Ministers if it became known in the event of appointment.

## **NATIONALITY<sup>1</sup>**

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<sup>1</sup> Derives from section 3 of the Act of Settlement 1700.  
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You must complete a declaration of your nationality in the application form. In order to qualify for this post, you must be a citizen of:

- the United Kingdom; or
- another Commonwealth country; or
- the Republic of Ireland.

You must satisfy these requirements by the time applications close for this exercise.

## **DISQUALIFICATION**

The Welsh Ministers may not appoint a person to be legally-qualified member if the person is:

- a) disqualified from membership of the Tribunal on grounds of employment or unsuitability, or
- b) disqualified from appointment as a member on grounds of age.

### *Disqualification from membership: employment*

You are disqualified from membership of the Tribunal on grounds of employment if you are—

- a) a Member of Parliament;
- b) a Member of the National Assembly for Wales;
- c) a member of the staff of the Welsh Government;
- d) a member of the staff of the National Assembly for Wales Commission;
- e) the Welsh Language Commissioner;
- f) the Deputy Welsh Language Commissioner;
- g) any other member of the staff of the Welsh Language Commissioner; or
- h) the husband or wife or civil partner of a person falling within paragraph (e), (f) or (g).

### *Disqualification from membership: unsuitability*

You are disqualified from membership of the Tribunal on grounds of unsuitability if you—

- a) have been adjudged bankrupt and remain bankrupt;
- b) have been granted a debt relief order (within the meaning of Part VIIA of the Insolvency Act 1986), and the moratorium period under that order is continuing;
- c) have made an arrangement with your creditors and the arrangement remains in force;
- d) have been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine has been imposed;
- e) are disqualified from being a member of a county borough council or county council in Wales; or
- f) are disqualified from being a director of a company.

For the purposes of sub-paragraph (a) you remain bankrupt until such time as you are discharged from bankruptcy, or the bankruptcy order made against you is annulled. For the purposes of sub-paragraph (c) an arrangement with your creditors remains in force until you pay your debts in full, or if later, until the end of the period of five years beginning with the day on which the terms of the arrangement are fulfilled.

If the question of whether you are disqualified from membership of the Tribunal on grounds of unsuitability arises in relation to your appointment to be a member of the Tribunal, any conviction which you received more than five years before the date of the appointment is to be disregarded.

#### *Disqualification from appointment: age*

The upper age limit of 70 years for judicial appointments applies. The age at which someone is appointed to this position must allow for a reasonable length of service before reaching 70 years, usually for this position 4 years.

### **ADMINISTRATIVE SUPPORT**

Administrative staff for the Tribunal will be provided by the Administrative Justice and Tribunals Unit of the Welsh Government.

### **DURATION OF THE APPOINTMENT AND DISMISSAL**

The appointment is for a five year term which may be renewed and will be made by the Welsh Ministers. However, if the Welsh Ministers think it necessary or expedient, they may appoint a person for a period of less than five years.

The decision to renew is at the discretion of the Welsh Ministers in consultation with the President. 10 years is the maximum period which a person may hold office as a legally-qualified member, whether in consecutive or non-consecutive appointments.

The grounds for dismissal are set out in Paragraph 12 of Schedule 11 to the Measure.

### **TIME COMMITMENT**

You will be called upon to undertake the duties set out in the Key Tasks section.

The number of days worked, including training, will depend on the workload of the Tribunal and on the commitments of the office holder. However the time commitment could be 5 days per year.

### **LOCATION OF TRIBUNAL**

The Tribunal is currently based in South East Wales. However, you must be available to hear cases and travel throughout Wales. This will require you to travel

independently and to stay overnight where necessary.

## **REMUNERATION**

A legally-qualified member is fee-paid. The appointment is non-salaried. You will be remunerated at a rate of £503 for each day worked including training days. This fee may be revised from time to time.

HM Revenue & Customs has determined that those appointed to the panel convened by the Tribunal are 'office holders' and therefore the fees they receive fall to be assessed under Sections 5 and 62 of ITEPA 2003. Travel within Wales and subsistence payments are currently non-taxable.

Reasonable travelling expenses and in certain circumstances overnight subsistence allowances may be payable in connection with sittings, attendance at training courses, etc. These will be paid in accordance with HMRC approved rates.

## **TRAINING**

You will be required to attend induction, observe a hearing and other training sessions relevant to the role and the work of the Tribunal.