



Ministry of
JUSTICE

FEE PAID JUDICIAL OFFICE HOLDERS

THE TRIBUNALS SERVICE

**Memorandum on conditions of appointment
and terms of service**

This Memorandum has been prepared for the information of persons who are offered a judicial appointment on a fee paid basis to the Tribunals Service or are transferred in under S.30 of the Tribunals, Courts and Enforcement Act 2007.

References in the Memorandum to “office holders”, etc., are to be construed accordingly and apply ‘mutatis mutandis’ to professional and other members. Unless the context otherwise requires, references to senior judicial officers mean e.g. the Senior President, the President or the Deputy President of the relevant Chamber or Tribunal, or other office holder acting under delegated authority from them.

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 given at the bottom of this page, but may in some circumstances be subject to change.

The Memorandum should be read in conjunction with, and may be supplemented by or subject to, other guidance which may be made available to office holders.

Part I outlines the requirements which must be satisfied before appointment;

Part II sets out the general terms and conditions of service; and

Part III sets out the current arrangements for travelling, subsistence and other allowances.

The Memorandum states the position as at 1st April 2010 and applies to judicial office holders whose appointment is administered by the Ministry of Justice.

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Part I

FORMALITIES OF APPOINTMENT

A person who has been offered appointment to judicial office must satisfy the following requirements before the appointment can be made.

1. Pre-Appointment checks

- 1.1 The offer of appointment is conditional on the outcome of financial and other checks, which are undertaken by the Judicial Appointments Commission, or otherwise. An individual may be required to undergo a medical examination.

2. Official correspondence

- 2.1 It would be helpful if the candidate could confirm that his/her names are as given in his/her application, provide a note of any decorations which he/she may have, and give the ordinary and email address which he/she would like to have recorded for official use (this will normally be used for official correspondence, circulars to members of the judiciary, and material of that sort).

Part II

GENERAL TERMS AND CONDITIONS OF SERVICE

This section contains information about the terms of appointment and guidance on certain matters.

3. Role of the Senior President of Tribunals

- 3.1 The role of the Senior President of Tribunals (Senior President) is set out in the provisions of the Tribunals, Courts and Enforcement Act. In particular, the Senior President is given the statutory responsibility of maintaining the appropriate arrangements for the training, guidance and welfare of judges and members of the relevant tribunals he is also responsible for assigning office holders to Chambers.
- 3.2 The Senior President is responsible for choosing office holders to decide cases in the FTT and UT.
- 3.3 Judges are expected to comply with any guidance or instructions issued by, or on behalf of, the Senior President, co-operate with the administrative directions of the senior judiciary, and assist the senior judiciary to ensure, with the help of the administrative staff, the efficient management of Tribunals.

4. Tenure

- 4.1 An appointment as a fee-paid office holder is for a renewable period of five years

5. Renewal of Appointment

- 5.1 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. The grounds for non-renewal are:
- i. inability;
 - ii. misbehaviour, including:
 - failure to comply with sitting requirements (without good reason);
 - failure to comply with training and appraisal requirements;
 - sustained failure to observe the standards reasonably expected from a holder of such office.
 - iii. part of a reduction in numbers because of changes in operational requirements;
 - iv. part of a structural change to enable recruitment of new tribunal office-holders.
- 5.2 All decisions not to renew on grounds i - ii are taken by the Lord Chancellor with the concurrence of the relevant Chief Justice.

- 5.3 All decisions not to renew on grounds (iii) or (iv) will be on a first in, first out principle, and the decision to use such grounds and the extent to which they will be used will be taken by the Lord Chancellor, with the concurrence of the relevant Chief Justice.
- 5.4 Office holders may choose to end their appointment by resignation or by declining to accept renewal on completion of a term.

6. Upper Age Limit

- 6.1 An office holder is required to vacate his/her office on the day on which he/she attains the age of 70 (unless he has a later retirement date under the transitional provisions in the relevant legislation) save that, where the Lord Chief Justice, Senior President or other 'appropriate person' considers it desirable in the public interest, he/she may, with the concurrence of the Lord Chancellor, extend or re-extend the office holder's service for a period not exceeding one year at a time and not extending beyond the date on which the office holder attains the age of 75 (Judicial Pensions and Retirement Act 1993, s26).

7. Removal from Office

- 7.1 The main legislative provisions governing tenure and powers of removal are set out in Annex 1. The Lord Chancellor may, if he thinks fit, terminate the appointment of an office holder (other than a lay member of the Employment Appeal Tribunals) on grounds of:

- i. inability;
- ii. misbehaviour, including:
 - failure to comply with sitting requirements (without good reason);
 - failure to comply with training and appraisal requirements;
 - failure to observe the standards reasonably expected from a holder of such office.

- 7.2 The Secretary of State may terminate the appointment of a lay member of the Employment Appeal Tribunals where he is satisfied that the member:

- i. has been absent from sittings of the Appeal Tribunals for a period longer than six consecutive months without the permission of the President of the Appeal Tribunals;
- ii. has become bankrupt or made an arrangement with his creditors, or has had his estate sequestrated or made a trust deed for behoof of his creditors or a composition contract;
- iii. is incapacitated by physical or mental illness; or
- iv. is otherwise unfit or unable to discharge the functions of a member.

- 7.3 The decision to remove an office holder is taken by the Lord Chancellor with the concurrence of the relevant Chief Justice. Decisions to remove are taken in accordance with the procedures contained in Regulations made under the Constitutional Reform Act 2005, where applicable.

8. Fees

- 8.1 The fee of a Tribunal office holder is paid out of the Ministry of Justice's Vote. Details about the arrangements for the claiming/payment of fees will be sent to the judicial office holder shortly before he/she takes up his/her appointment. Service as a fee paid office holder does not attract a pension.

- 8.2 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 full time public office holders (including salaried judiciary) and public servants paid by Central Government will receive no remuneration for any fee-paid judicial offices held concurrently.
- 8.3 Office holders who are practitioners or 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 office holders who are employed by, or are officers of, local government.
- 8.4 Cancellation fees may be payable where sittings are cancelled at short notice. The main criteria in considering whether or not a cancellation fee will be paid are where a sitting day is cancelled with less than two day's notice and there is evidence of financial loss. Where these criteria are met the fee payable will be equivalent to the daily fee.

9. Income tax and national insurance contributions

- 9.1 Office holders 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.
- 9.2 Office-holders may wish to be aware that in certain circumstances, HM Revenue & Customs is prepared, by administrative practice, to treat the emoluments of an office held by someone who is also a professional in private practice as ordinary professional receipts within Class II of Schedule D. Office holders who want further details on this practice should contact their HM Revenue & Customs Office or see the website at www.hmrc.gov.uk. The Ministry of Justice has, however, been advised by HM Revenue & Customs that it is unlikely that fee-paid appointments to tribunals' judicial offices will qualify for this administrative practice as the condition that "there would be practical difficulties if Schedule E were to be applied to the fees received" will not be met, since the Ministry of Justice is able to process the payments through its payroll system.
- 9.3 In the event that the practice is nevertheless adopted, in exceptional cases, the Inspector will issue a 'No Tax' code to the Ministry of Justice and no Schedule E tax will be deducted from the fee. The fees should then be included in the office holder's Self-Assessment return alongside other Schedule D fees received. Class 1 National Insurance contributions will, however, continue to be deducted from the fee subject to paragraph 9.4 below since the adoption of this practice does not affect the liability to pay the contributions.
- 9.4 Although it is the responsibility of an office holder to arrange matters with HM Revenue & Customs National Contributions Office, the Ministry of Justice understands that it is open to them to apply to defer payment of contributions before

the beginning of a new tax year or during a current tax year or to apply for a refund of excess contributions made in a previous year. Further details may be obtained by contacting the Deferment Group at HM Revenue & Customs National Insurance Contributions Office, Longbenton.

- 9.5 It would be helpful, and avoid confusion, if in any correspondence with HM Revenue & Customs regarding fees and allowances attributable to any fee-paid office, and with HM Revenue & Customs National Contributions Office regarding deferment of payment or refund of National Insurance contributions, office holders would give as the address for the fee paying authority the appropriate Area Manager's Office and mention the fact that they are office holders, and not employees of the Ministry of Justice.

10. Fee Sacrifice (Child Care)

- 10.1 Fee sacrifice entails an office holder giving up the right to receive part of his or her fee in return for childcare vouchers to the same value. The vouchers are then used to meet some (or all) of the individual's private childcare costs. As the fee sacrifice takes place before tax and National Insurance contributions are deducted, there will be a saving on tax and N.I. liabilities. The extent of that saving is dependent on the amount of the fee sacrifice. As a rule of thumb, an individual taking a fee sacrifice of £55 per week will achieve an annual saving on tax and N.I. of approximately £1195 (for a higher rate tax payer). A detailed guidance note and information on individual questions can be obtained from the judicial intranet or from Judicial HR Division.

11. Sitting requirements

- 11.1 Office holders are usually required to make themselves available for a minimum of 30 days a year on tribunal business. This figure may be varied from time to time, in accordance with business needs either generally or for certain categories of office. Where a different sitting level is required, it will be specified in the recruitment material or otherwise notified. The Tribunals Service will try to allocate sittings equally but cannot guarantee a minimum number of days in any year. Training days and any sittings undertaken by virtue of an appointment to an office in the Courts administered by Her Majesty's Court Service, or to tribunals which are not covered by this Memorandum, do not count towards this minimum requirement.
- 11.2 A maximum number of days may be set where business needs dictate.

12. Sitting arrangements

- 12.1 An office holder's workload (which can comprise a combination of paperwork, preparation, writing up, hearing cases etc) is arranged by the tribunal or centre manager in the light of directions and instructions etc. given by, or on behalf of, the senior judicial officer. The balance and nature of sittings, and other forms of judicial work, may vary from time to time across jurisdictions according to business needs and the nature of the workload. Senior judicial officers have responsibility for overseeing the disposal of judicial business and in that capacity may wish to be reassured as to the work which an office holder is undertaking at any particular time, and may seek the assistance of the tribunal administration in providing information about patterns of work by individual office holders.
- 12.2 Office holders are asked to indicate sufficiently far in advance the dates on which, because of other official commitments or their holidays, they do not expect to be available to sit.

13. Reasonable adjustments

- 13.1 A range of reasonable adjustments to working practices, travelling arrangements and equipment may be available for office holders 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 an individual office holder. No judicial office-holder will be asked to fund reasonable adjustments from his or her personal resources.

14. Sick leave

- 14.1 Up to 28 weeks Statutory Sick Pay (SSP) may be payable subject to meeting the qualifying thresholds. See Annex 2.

15. Maternity, Paternity and Adoption Leave

- 15.1 Arrangements for maternity leave, maternity pay, adoption leave and adoption pay may be made by analogy with those applicable to staff in the Department. Two weeks paid paternity leave (at the statutory rates) is available for the secondary carer irrespective of sex and it applies to both new born and adopted children. In addition, parental leave entitles the office holder to 13 weeks additional but unpaid leave for the period up to the child's 5th birthday. If the child is disabled, 18 weeks are available for the period up to their 18th birthday. Annex 2 provides further details.

16. The Senior Judicial Officer

- 16.1 If an office holder has a judicial problem, he/she should consult the tribunal's senior judicial officer. If he/she has an administrative problem which he/she cannot resolve with the relevant tribunal manager, the Area Manager or ultimately, the Regional Director, he/she should consult the tribunal's senior judicial officer.

17. Training, judicial studies, conferences etc.

- 17.1 The Senior President expects all office holders from time to time to undertake training activity, and to attend training events and courses organised by the tribunal itself or otherwise, which are relevant to the work they do. The Senior President and Lord Chancellor consider that such activity is of considerable value not only for newly appointed office holders but also for those who have been in office for some time.
- 17.2 Office holders will not normally be allowed to sit until they have attended and satisfactorily completed an initial induction. During the course of their appointment office holders are required to undertake such further training as may be arranged and required by the Senior President. Failure to complete required training may mean that office holders will not be permitted to sit and may be grounds for removal from office.
- 17.3 Office holders will be paid fifty percent of their daily fee for attending training courses.

18. Appraisal and Mentoring

- 18.1 The Lord Chancellor and Senior President expect all office holders to comply with, and participate in, any appraisal and mentoring schemes which have been developed in their respective tribunal. The Lord Chancellor and Senior President consider that such activity is of considerable value to office holders. Failure to participate in

appraisal may result in removal from office.

JUDICIAL CONDUCT

19.1 The requirements for Judicial Conduct set out in the paragraphs below are supplemented by the Judges' Council's '*Guide to Judicial Conduct*', which offers assistance to the judiciary when considering issues of conduct. A copy can be obtained from www.judiciary.gov.uk/about_judiciary/conduct_and_appeals.

20. Relations with the press, radio and television

20.1 Guidance on relations with the media will be provided by the Judicial Communications Office (JCO). The JCO provides communications support to office holders. 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 press.enquiries@judiciary.gsi.gov.uk. The out of hours pager number is 07659 550652. The Judicial Intranet can be accessed by visiting <http://benchmark.sut1.co.uk/join>. The public website with information on the judiciary in England & Wales is available at www.judiciary.gov.uk.

21. Conviction for criminal offences

21.1 Where, either before or after he/she has commenced service, an office holder 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 Senior President and should keep him informed of the progress and outcome of the case. Failure to do so could itself in some cases amount, prima facie, to misbehaviour¹. Convictions for some offences, including some motoring matters, need not necessarily be regarded as being incompatible with continuing to sit. However, if an office holder were convicted of a grave offence, for instance one involving violence to persons, dishonesty or moral turpitude, the Lord Chancellor and relevant Chief Justice would regard that as constituting misbehaviour. The Lord Chancellor and relevant 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.

22. Personal Conduct

22.1 The Lord Chancellor, relevant Chief Justice and Senior President believe that the public must be entitled to expect all office holders to maintain at all times proper standards of courtesy and consideration. Behaviour which could cause offence, particularly on racial or religious grounds, or amounting to sexual harassment, is not 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 the Lord Chancellor's and relevant Chief Justice's view capable of being regarded as misbehaviour.

22.2 An office holder must also notify the Senior President if he/she gets into serious

¹ Where the powers of removal are framed differently misbehaviour, when used in paragraph 22.1, should be construed as meaning behaviour constituting grounds for removal.

financial difficulties, particularly if legal proceedings appear likely to be, or have actually been, initiated. They should also inform the Senior President of any complaint made against them by their professional body, whether it relates to their professional or judicial capacity. Office Holders must notify the Senior President if they are involved or likely to be involved in any court proceedings.

- 23.3 The Lord Chancellor, relevant Chief Justice and Senior President also consider it appropriate that if any office holder is aware of matters relating to conduct which may affect his/her position, or which reflect on the reputation and standing of the judiciary at large, he/she will advise them at the earliest opportunity. The Lord Chancellor and relevant Chief Justice will in that event have full regard to any observations which the office holder may wish to make on the matter. Indeed, while the Lord Chancellor and relevant Chief Justice believe that the public both deserves and expects the highest standards of conduct from those in judicial office, they will not consider the exercise of the powers vested in them in respect of judicial conduct without serious cause and the most careful deliberation.
- 23.4 The Lord Chancellor's and relevant Chief Justice's disciplinary powers are exercised in accordance with the procedures contained in Regulations made under the Constitutional Reform Act 2005. In agreement with the Lord Chancellor, the Senior President exercises many of the Lord Chief Justice's disciplinary functions, under the Judicial Discipline (Prescribed Procedures) Regulations 2006.

24. Conflicts of Interest

- 24.1 General Principles. Office holders must ensure that while holding judicial office they conduct themselves in a manner consistent with the authority and standing of an office holder. They must not, in any capacity, engage in any activity which might undermine, or be reasonably thought to undermine, their judicial independence. 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.
- 24.2 If any doubt arises on the application of these principles, an office holder should seek initial guidance from a senior colleague, the Senior President or his office.
- 24.3 The following paragraphs provide further guidance on types of interest or activity which are most likely to occur.

25. Professional Activities

- 25.1 As a general principle, a barrister or solicitor advocate ought not to sit as an office holder, or to appear before a tribunal, at a particular hearing centre if he/she is liable to be embarrassed in either capacity by doing so. For solicitor office holders this is likely to include where they, any partner or employee of theirs regularly practises. This is to help avoid them being assigned to adjudicate in a case (or several cases) from which they would have to stand down. If an office holder who is a solicitor does sit at such a hearing centre or a tribunal, then the Lord Chancellor regards it as the office holder's personal responsibility (and not that of the staff of the tribunal or the hearing centre) to ensure, as far as possible, that he avoids any potential conflict of interest which might require him to stand down from a particular case.
- 25.2 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. They 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. They should not sit on a case if they have a personal, professional or pecuniary interest in that case; or if any businesses or practices of which they are members in any capacity have such an interest.

26. Professional Disciplinary Proceedings

- 26.1 Doctors who fail to declare at the time of appointment any pending disciplinary matter are liable to be removed from office and referred by the Department of Health to the General Medical Council. A failure to declare pending disciplinary proceedings is likely to be regarded as justification for consideration of the exercise of the power of removal under grounds (i) and (ii) of paragraph 7.1 above.
- 26.2 Any applicant who declares at the time of applying that there are disciplinary proceedings against him or her shall have consideration of his or her application deferred until the disciplinary proceedings are completed and the outcome made known to the Lord Chancellor and the Department of Health.
- 26.3 Any serving medical members who are the subject of professional disciplinary proceedings may be suspended from sittings until the disciplinary proceedings have been completed and the outcome has been made known to the Lord Chief Justice and the Department of Health.

27. Political or other activities

- 27.1 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*.
- 27.2 Office holders should also be aware of the risk of a perceived lack of impartiality arising from published articles or public announcements, etc. (*Timmings v Gormley* [(2000) 2 WLR 870]). Office holders should exercise caution in any reference to their appointment on, for example, letterheads or in company advertising literature.
- 27.3 Office holders should not use their appointment as a means of pursuing personal, professional or commercial advantage. In the event of any doubt an office holder should contact the Tribunal Judicial Office for advice.
- 27.4 Office holders are precluded by statute from serving concurrently as Members of Parliament. Office holders are also expected to submit their resignation to the Lord Chancellor in the event of 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.

28. Parliamentary Committees

- 28.1 Guidance for members of the judiciary who are invited to give evidence to Parliamentary Committees is provided by the Judicial Communications Office.

29. Involvement in legal proceedings

- 29.1 There may, for obvious reasons, be difficulty with an office holder becoming involved

in legal proceedings, either in his/her private capacity or in the event of such proceedings (outside the normal processes of appeal or judicial review) arising in some way from the performance of his/her judicial functions. As regards proceedings in a purely private capacity, the Lord Chancellor and the Chief Justices are concerned that the normal legal rights of the office holder as a private citizen should not be unduly prejudiced. However, an office holder may think it appropriate to seek advice from the Tribunal Judicial Office and/or his/her senior judicial officer, etc. before himself/herself initiating any such proceedings. He/she may also wish to consider whether to seek advice from these same sources before initiating any proceedings arising as a consequence of his/her judicial functions.

- 29.2 Proceedings arising out of non-judicial activity. If an office holder is involved in legal proceedings arising from his/her professional activity, or from any other cause, the senior judicial officer and the Tribunal Judicial Office should be informed but there will be no provision available for legal representation or to meet legal costs.
- 29.3 Proceedings arising out of judicial acts. Office holders are generally immune from proceedings arising out of acts or words done or said in the exercise of judicial duty.
- 29.4 Where an office holder is the defendant, or otherwise the subject of actual or prospective proceedings arising from his/her judicial functions, different procedures apply according to the nature of the proceedings.
- 29.5 Judicial Review. When an office holder is made a respondent to a Judicial Review application he/she should inform the senior judicial officer concerned, or his/her nominee for the purpose of dealing with Judicial Review applications.
- 29.6 Other proceedings. When an office holder is made a defendant or respondent to other proceedings the senior judicial officer and the Tribunal Judicial Office should always be informed promptly.
- 29.7 Representation. The Department will normally instruct the Treasury Solicitor to apply to strike out a claim of the kind referred to at paragraph 29.6 where the principle at paragraph 29.3 applies. More generally, the Lord Chancellor will only consider instructing the Treasury Solicitor (or the equivalent bodies in Scotland and Northern Ireland) on behalf of the office holder where satisfied that it would be appropriate to do so having regard to all the relevant circumstances. An office holder should always approach the Tribunal/Chamber President in the first instance if he/she wishes to be represented by the Treasury Solicitor and should not in any circumstances approach Departmental Lawyers or the Treasury Solicitor directly for representation. It will not normally otherwise be possible to meet legal costs incurred by the judicial office holder.
- 29.8 Witness summons. The question sometimes arises whether an office holder should appear as a witness in legal proceedings, arising in some way from his/her judicial duties or otherwise. It is hoped that such involvement can be avoided so far as possible. Legal authority (*Warren-v-Warren*) [1996] 4 AER 664 confirms however that no office holder is compellable as a witness in relation to his/her judicial functions, but that all are competent; and that where an office holder's evidence is vital for the purpose of the proceedings, he/she should be able to be relied upon not to allow his/her lack of compellability to stop him/her from giving evidence. It is, however, difficult to give general guidance in this field; advice will always be given by the Tribunal Judicial Office if, and as, appropriate in a particular case.

30. Complaints

- 30.1 Complaints are received from time to time from members of the public or others about office holders. These complaints may relate either to a judicial or case management decision; or to the personal conduct of an office holder and sometimes both. Any complaint which relates wholly or partly to the conduct of an office holder will be dealt with by the tribunal in accordance with the Judicial Complaints (Tribunals) Rules 2008 or by the Office for Judicial Complaints in accordance with the Judicial Discipline (Prescribed Procedures) (Amendment) Regulations 2008. A further category of complaint, basically relating to an aspect of tribunal administration but incidentally referring to an office holder, will normally be dealt with by the Tribunals Service as an administrative matter, though the office holder will be consulted first if that is considered necessary.
- 30.2 The constitutional principle of judicial independence precludes the Lord Chancellor or any official from commenting on or attempting to interfere with judicial decisions. An individual complaining about a judicial decision will be advised to seek legal advice about whether they have the right of appeal. Further information will be available from the Office for Judicial Complaints.

31. Judicial Grievances

- 31.1 A protocol has been established, setting out a process which may be followed if an office holder has a complaint about another office holder, which it has not been possible to resolve by normal methods. Details of the procedure can be obtained from the Tribunal Judicial Office.

32. Requests for research facilities

- 32.1 From time to time office holders receive requests for assistance in connection with research into the judicial process or other aspects of court or tribunal administration or procedure. Such approaches may include requests for access to records or private hearings, interviews with the office holder or staff, or special assistance in attending public hearings.
- 32.2 The present policy is that to ensure that such requests are treated consistently, they should be referred to the Ministry of Justice's Research Unit, 102 Petty France, London SW1H 9AJ. In considering such requests on behalf of the MoJ, the Research Unit will have regard to the likely value of the proposed research and the extent of the burden it might impose on the judiciary or on the staff. The Research Unit will wish to consider carefully all research applications where:
- (a) active participation by the judiciary in the research is proposed;
 - (b) the researcher proposes to study decision-making by the judiciary; or
 - (c) the research relates to the judicial process and seems likely to raise important issues of policy or to make substantial comment on the work of the judiciary.
- 32.3 No office holder should feel obliged to participate in any project if he/she does not wish to do so. Where an office holder does agree to participate in an approved research project, the Ministry of Justice will keep him/her informed about the project and will try to provide any help he/she needs. Notes issued for the guidance of members of the judiciary on participation in research projects, attached at Annex 3 to this Memorandum, give further guidance on this topic.

33. Security

- 33.1 A complete copy of the Departmental Security Manual, which outlines the physical security requirements in the Ministry of Justice's buildings, is available on the intranet. Personal security advice is best given, however, on an individual basis. Any office holder who requires advice on a specific security matter is therefore advised to consult the Head of the Security Branch on 0203 334 6653. General security advice can be obtained from the security staff of HMCS. Their address and telephone numbers are:- Security and Safety Division, 3rd Floor - 3.06, 102 Petty France, London SW1H 9AJ (0203 334 6653/6651).
- 33.2 Office holders will be aware of their personal circumstance in the context of travel. Should any office holder require advice on the security aspects of a visit, he/she is advised and encouraged to consult the Department's security staff at the above address.

34. Further information

- 34.1 Any further information about terms of appointment that may be needed by office holders, or by practitioners who have been offered appointment to judicial office, will be readily supplied by the Ministry of Justice. Most inquiries are best made in the first instance to the Tribunal Judicial Office.

Part III

ALLOWANCES AND OTHER PROVISIONS

35. Official stationery

- 35.1 Office holders may use the facilities provided in their tribunal centre or centres for the dispatch of official correspondence. Office holders are reminded that the facilities provided at public expense, including those for the dispatch of correspondence and stationery, are provided for use in carrying out official duties and are not intended for personal use/correspondence.

TRAVELLING AND SUBSISTENCE ALLOWANCES

36. The following paragraphs deal with the travelling and subsistence allowances applicable to travel on the judicial business of fee paid office holders in tribunals administered by the Ministry of Justice.

- 36.1 The payments which the Department is authorised to make for office holders' travel and subsistence come from monies Voted by Parliament, which requires them to be strictly accounted for. The general principle is that nothing may be reimbursed beyond extra expenditure actually incurred on the necessary business of the Crown. It is not regarded as an appropriate use of public funds to meet the travelling expenses incurred by office holders in attending public dinners and other social functions, however desirable it may be that they should so do. The rules governing the following allowances reflect, with appropriate modifications, those adopted for persons in Crown service generally. These rules may change from time to time and any such changes will be notified accordingly. 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.

- 36.2 Office holders are encouraged to use the most economic form of transport and, wherever possible, to make use of national rail cards, discounted rail fares, low cost airlines, etc.

37. Rates of allowance

- 37.1 Office holders will be advised separately about the current rates of motor mileage and subsistence allowances and how to use the Department's hotel booking agency (see paragraph 45 below) and any local accounting schemes which are in operation in their tribunal. Any increases in the rates of allowance will be notified as they occur. General advice and guidance on the rules and their application in individual circumstances, on the submission of claims, and about the insurance requirements for car journeys paid for at public expense, is best sought from the tribunal or centre manager at the office holder's place of work.

38. Taxation of allowances

This section accords with the Department's current understanding of the law governing the taxation of allowances and expenses.

- 38.1 The cost of travel to all venues by fee paid office holders will normally be met by the Department and the following general rules apply:-
- i. Where an office holder is regarded as holding a 'travelling appointment' whereby s/he attends a range of venues to no regular pattern over a 24 month period, then s/he is entitled to receive expenses free of tax and NI based on the actual journey to each of those locations.
 - ii. However, where an office holder sits mainly or wholly at one tribunal centre and arguably is not holding a 'travelling appointment', that is treated as his/her principal centre. While the cost of travelling between there and his/her home will be met by the Department, this is liable to deductions for tax and National Insurance. If he/she sits at other tribunal centres he/she is entitled to expenses free of tax and NI based on the actual journey to each of those locations.'
- 38.2 For the purposes of these general rules, two or more tribunal centres in the same town (provided they are not too far apart, as they may be in London) are regarded as a single centre.
- 38.3 The primary consideration governing the pattern of an office holder's sittings must be the needs of judicial business (which will vary from time to time) and an office holder may therefore be asked to agree to a pattern which is, as far as travelling expenses are concerned, less advantageous to him/her than his/her existing pattern (or some other pattern) is or might be.

39. The standard rates of mileage allowance

- 39.1 The standard rate of mileage allowance, payable in accordance with the above arrangements, comprises a single category for all cars, irrespective of engine size. Within that category there are two tiers which relate to the mileage travelled. A higher rate applies up to the first 10,000 miles and a lower rate for each mile thereafter. Records of office holders' cumulative mileage will be kept within the tribunal administration.
- 39.2 Liability to tax The rates of motor mileage payable are set at a level approved by HM Revenue & Customs as involving no profit element and do not themselves therefore give rise to any tax liability.
- 39.3 No limit is placed on the mileage which office holders who prefer to use their cars rather than public transport for travel to their tribunal centre or centres may claim.

40. Insurance of motor vehicles used on Crown business

- 40.1 Office holders who claim mileage allowances must have fully comprehensive insurance cover. In addition, a person using his/her privately owned motor vehicle in connection with his/her business is legally required to have in his/her insurance policy a clause covering such use by the policy holder in person. Although business-user clauses are common in normal private motor insurance policies, not all of them provide expressly that the receipt of an allowance for such use shall not, for the purpose of the policy, constitute use for hire and reward. Without such a provision, and in the absence of any arrangement rendering it unnecessary, the receipt of a mileage allowance might result in the journey in respect of which it was paid being made without insurance cover.
- 40.2 In order to obviate the need for endorsement of individual policies, the Motor Conference, on behalf of its insurer members, gives undertakings to different

organisations by which the policies of the members of those organisations are deemed to have been endorsed in the terms of the undertaking. Such an undertaking has been agreed between the Ministry of Justice and the Motor Conference in the following terms:-

"(1) Private Car and Motor Cycle Policies (including Policies covering motor scooters, auto-cycles and mechanically-assisted pedal cycles) issued to any of the persons referred to in paragraph (2) hereof which permit the use of the vehicle by the policy holder in person in connection with his/her business shall be deemed to permit such use of the vehicle on the business of the Ministry of Justice and the receipt of an allowance from such Department for such use or in respect of the carriage by him/her of official passengers shall not be deemed for the purpose of such policies to constitute use for hiring or for the carriage of passengers for hire or reward.

(2) The persons referred to in paragraph (1) above are persons serving in a judicial or other capacity in, or in connection with, any court, tribunal, office or department for the administration of which the Lord Chancellor is responsible (not being a person referred to in the General Undertaking given by the Motor Conference to the Treasury Solicitor dated 1 April 1973)."

- 40.3 The Motor Conference is representative of some 98% of the motor insurance business transacted in the UK. To check whether any individual insurer is a subscriber, contact motor@abi.org.uk. An office holder who uses his/her car for official business and who is not insured with one of the member companies should inform his/her own insurer that he/she is in receipt of a mileage allowance, and for what purpose, and seek confirmation that this is permitted by his/her policy. If another person's car, including that of a spouse or other family member, is used on official business, it is essential that such use is covered by his/her or their insurers.
- 40.4 Office holders are also required to give a written undertaking that these insurance requirements are satisfied. A form of undertaking is at Annex 4 to this Memorandum. Office holders who intend to use their car on judicial business are requested to complete an undertaking in this form on appointment and to lodge this with their tribunal administration.

41. Reimbursement of parking fees and certain other charges

- 41.1 The Ministry of Justice aims, wherever possible, to provide parking spaces for office holders at tribunal centres. Where these are available, an office holder will be allocated one free of charge.
- 41.2 Where no such parking facilities exist, parking expenses may be reimbursed only when they have been incurred as a result of an office holder having to attend a tribunal centre other than his/her principal tribunal centre, or centres as the case may be. Parking expenses incurred at the principal tribunal centre or centres may be reimbursed however where, after attendance there, the office holder is obliged to travel on to a sitting at another tribunal centre.
- 41.3 The cost of garaging and parking fees, congestion charges, tolls and ferry charges incurred in the course of an official journey to a centre other than his/her principal centre or centres may also be reimbursed, where appropriate.

42. Travel by public transport

- 42.1 Office holders who travel by train to a tribunal centre may claim the first class rail fare for the journey. He/she may also claim the cost of a taxi at either end of the journey where this is reasonably incurred.

43. Air travel

- 43.1 Office holders may travel by air if it would be cheaper than making the journey by first class rail and/or car, or if air travel would avoid the need for an overnight stay, and the cost of the air fare is less than the cost of an overnight stay, including travelling expenses.

44. Night subsistence allowances

- 44.1 No precise limit of distance or travelling time within which it would be considered reasonable for an office holder to take hotel accommodation rather than return home has been fixed; and the Department has no wish to impose either. What is reasonable, therefore, must depend on the practice adopted within the tribunal administration, due account being taken of such matters as the method of travel, the time of year and road conditions.

- 44.2 Night subsistence allowance falls into the following categories:-

- (a) London (in respect of sittings at tribunals within a 5 mile radius of Charing Cross);
- (b) Elsewhere.

- 44.3 Different rates are payable in respect of the two categories.

- 44.4 Night subsistence allowance covers overnight absences of up to 24 hours. Charges covered by the allowance include (a) the actual cost of bed and breakfast up to a specified ceiling, and (b) a standard 24 hour allowance towards the cost of lunch and dinner and travel. A small additional allowance (c) is also paid to cover personal incidental expenditure. This form of triple allowance is payable except where overnight accommodation is taken with friends or relatives, or in the office holder's second home (see paragraphs 46.1(b) and (c)). The current rates of night subsistence allowance have been agreed with HM Revenue & Customs as offering no profit element and are not, therefore, liable to tax. Under the terms of this agreement, a receipt from a hotel or guest house etc. in respect of the bed and breakfast costs must be submitted with any claim for night subsistence allowance.

45. Hotel Booking Agency

- 45.1 Whilst it is open to office holders to make their own arrangements for booking hotel accommodation, they are encouraged to use the services of the hotel booking agency (Calder Conferences) employed by the Ministry of Justice. Under the terms of the contract, the agency undertakes to identify suitable hotel accommodation throughout the country to a standard specified for the judiciary and in accordance with the night subsistence allowance available. The agency is aware of special judicial requirements and the appropriate procedures to be adopted. Wherever possible, hotel accommodation for members of the judiciary will not be situated on the ground floor and the agency will make the booking without revealing the status of the judicial office holder, if this is preferred for security reasons. Office holders should simply identify the area in which accommodation is required (being as precise as possible) and the agency will do the rest. It is possible to request a specific hotel.

Use of the booking agency can realise savings of up to 50% on the cost of a room, thus allowing better quality accommodation to be booked within the specified limits.

- 45.2 Where bookings are made through the hotel booking agency the normal limit for the bed and breakfast element in the night subsistence allowance may, in exceptional circumstances, be exceeded where the agency has certified that no suitable alternative accommodation was realistically available within the relevant area at a lower cost.
- 45.3 Details of how to book with Calder Conferences, and the form to be used, are on the Department's website. Calder Conferences may be contacted by telephone or the booking form may be emailed or faxed to them. Details of the codes to be used in completing the form are available from the tribunal secretariat.
- 45.4 If an office holder who books through the Department's hotel booking agency, or otherwise, reasonably and necessarily incurs abnormally high expenses on accommodation and meals (for example, because of an unusually heavy local demand for hotel accommodation during a holiday season) the Department may in these exceptional circumstances pay above the specified limits of night subsistence allowance. In such circumstances, the actual cost, supported by a receipt from a hotel or guest house etc., of bed and breakfast, lunch and dinner, plus VAT and service charges incurred during the period for which night subsistence allowance was payable, may be reimbursed in place of the normal allowance. The Department will need to be satisfied that in the exceptional circumstances involved it was not realistically possible for hotel accommodation of a suitable standard to be obtained at a lower cost.

46. Overnight stays other than in hotels

- 46.1 Office holders who sit at a tribunal centre, which is beyond daily travelling distance from his/her home, and who choose not to stay in a hotel may claim reimbursement appropriate to the accommodation occupied:-
- (a) if staying in a private club - actual cost of bed and breakfast up to the specified limit, plus the 24 hour allowance and the personal incidental expenditure allowance;
 - (b) if staying with relatives or friends – a single fixed allowance on a **tax paid** basis; or
A Non-Commercial Accommodation Payment (NCAP) up to a specified limit, plus the personal incidental expenditure allowance (PIE). The NCAP element of the claim covers the cost of an evening meal and drinks(s) and must be supported by valid receipts. The PIE element is a flat rate and does not require receipts;
 - (c) if staying in his/her own property such as a country cottage, town flat or similar accommodation - reimbursement of the expenses necessarily incurred up to a specified limit for heating, lighting and food. Details of such expenditure, supported by receipts, should be submitted to the Tribunal Manager's office in the usual way. The payment in respect of expenditure claimed under these headings takes into account any element of "home saving" in respect of an office holder's normal place of residence. In addition the cost of travel to and from the tribunal may be claimed.
- 46.2 Where an office holder chooses to rent a flat rather than going to a hotel, he/she may claim reimbursement of his/her actual rental up to a specified limit, subject to the provision of receipts, plus the 24 hour allowance and the personal incidental expenditure allowance.

47. Day subsistence allowance

- 47.1 Day subsistence allowances are not payable generally in respect of judicial sittings. A day subsistence allowance may be paid where a sitting takes place away from the principal hearing centre and which involves an absence for which overnight subsistence is payable. Day subsistence allowances are not otherwise payable in respect of judicial sittings. Day subsistence allowances may also be paid in relation to other official business, e.g. training events.
- 47.2 Day subsistence allowance may not be paid concurrently with night subsistence allowance, but may be paid for a balance of more than five hours (or, as the case may be, more than 10 hours) after the expiry of a complete period of 24 hours which has attracted night subsistence allowance.
- 47.3 There are two rates of allowance; the first when an office holder is away from his/her normal place or places of work for more than five hours, and the second when he/she is away for more than 10 hours. The allowance is payable only when a meal is necessarily purchased at a greater cost than if it had been bought at the office holder's normal place of work. The allowance is intended to compensate for this additional expenditure; it is not designed to cover the whole cost of the meal. During a period which does qualify for day subsistence allowance, the cost of a main meal (that is, a full breakfast, lunch, high tea or dinner, including VAT but excluding alcoholic beverages) taken on a train may be reimbursed instead of the day subsistence allowance, subject to the production of vouchers. Gratuities not exceeding 10% of the cost of the actual meal (exclusive of VAT) may also be reimbursed.

48. Special arrangements for attendance during a transport emergency

- 48.1 Special arrangements apply for the reimbursement of travelling and/or accommodation expenses incurred by office holders during public transport strikes. Information about these arrangements will be provided as appropriate.
- 48.2 It would be most helpful if office holders could consult the tribunal or centre manager if they are uncertain about which tribunals will sit on those days when public transport staff are taking industrial action.

49. Miscellaneous travelling and other expenses

- 49.1 In the following paragraphs references to subsistence allowances include both night subsistence allowance as described at paragraph 44 and day subsistence allowance as described at paragraph 47.
- 49.2 Abbey Service and Lord Chancellor's Breakfast. Although office holders may be invited from time to time to the Lord Chancellor's Breakfast and to the service in Westminster Abbey which precedes it, the Lord Chancellor has decided that he/she cannot justify the payment of travel and subsistence expenses to those who attend. He/she regrets that it is not possible for parking facilities to be made available at the Palace of Westminster.
- 49.3 Royal Garden Parties. An office holder who receives an invitation to attend a Garden Party is invited in his/her private capacity. He/she will wish to arrange his/her sittings so that litigants are not inconvenienced by his/her absence, and must bear the expenses of attending.

49.4 Committees of inquiry, Commissions etc. Office holders may be asked from time to time to give evidence to Commissions or Committees for which the Lord Chancellor does not have responsibility. If this involves travelling, the cost cannot be borne on the Vote of the Ministry of Justice, but should be met by the Secretariat of the Committee or Commission concerned.

50. Expenses claims

50.1 All claims for fees and expenses must be submitted on a monthly basis and no later than 3 calendar months after the sitting or training date. Claims made after that date will only be authorised in exceptional circumstances and payment will be limited to the current and previous tax year.

50.2 Claims submitted for payment more than 3 months after the sitting date must be accompanied by an explanation of the reason for the late claim. A decision will be sought from the President on whether the reasons for submitting a claim after 3 calendar months amount to exceptional circumstances which justify payment being authorised. Fees and expenses in respect of tax years earlier than the preceding tax year will not be paid.

51. Requests for Transfer

51.1 Office holders may transfer from one tribunal centre to another with the agreement of the senior judicial officer and the Department.

52. Further information

52.1 Any further information about the travel, subsistence and other allowances to which office holders may be entitled will be readily supplied by the Ministry of Justice. However, initial enquiries should be addressed to the Senior Operations Manager or Finance Officer of the tribunal/chamber.

1st April 2010

(Para. 7)

ANNEX 1

PROVISIONS GOVERNING TENURE AND REMOVAL FROM OFFICE

PROVISIONS GOVERNING TENURE AND REMOVAL FROM OFFICE

<u>Employment Tribunals :</u>	Employment Tribunals (Constitution and Rules of Procedure) Regulations 2004
<u>Employment Appeal Tribunals:</u>	Section 25(4) of the Employment Tribunals Act 1996.
<u>First Tier and Upper Tribunal Judges and Members</u>	Schedule 2 paragraph 4 and schedule 3 paragraph 4 of the Tribunals, Courts and Enforcement Act 2007

(Para. 14)

ANNEX 2

**ABSENCES ON SICK LEAVE
AND THE STATUTORY SICK PAY (SSP) SCHEME**

ALSO

**WORKPLACE BENEFITS
FOR FEE PAID OFFICE HOLDERS**

ABSENCES ON SICK LEAVE AND THE STATUTORY SICK PAY (SSP) SCHEME.

STATUTORY SICK PAY

1. Statutory sick pay is payable (subject to you meeting the qualifying requirements) for 4 or more consecutive days of sickness (including Sundays and Public Holidays) and for those days on which you would normally have worked if you had not been sick.
2. The only days which count for SSP purposes, and for which payment can be made, are known as qualifying days. Qualifying days are normally the days on which an individual is required to work. The legislation is largely framed on the assumption that individuals work to a regular pattern and the legal requirement is that there must be at least one qualifying day in every week (irrespective of actual sitting patterns). Where an individual does not sit to a regular pattern, it is necessary to agree with them which days in a week count as qualifying days.
3. Where irregular sitting takes place, one of the options is to count the Wednesday in each week as a qualifying day, irrespective of whether the office holder actually sits. While this would work for those who sit for individual days, it would not be equitable for those who sit for blocks of days at a time. Another option is to count all days in the week other than those when there was a clear understanding that there was no sitting requirement (e.g. Saturday and Sunday). This could cause difficulties for the office holder and the Department since listing patterns are such that the required clarity is not always available.
4. Because of the range of working patterns in use amongst the fee paid judiciary, it has been necessary to devise the following formula to accommodate both those who sit individual days and those office holders who sit blocks of days interspersed by long gaps:

The Qualifying Day in a given week is the actual day(s) on which you were booked to sit. In those weeks where there are no booked days then the Wednesday counts as the qualifying day for that week.

5. This will ensure that you have at least one qualifying day in each week, irrespective of whether you were actually booked to sit in that week. The following example explains how this would operate in practice:
6. Before the payment of SSP can be considered, a judicial office holder (JOH) must be incapable of work for at least four or more calendar days in a row and SSP is not paid until the fourth day. The first three days are called "Waiting days". Using the formula set out above, an office holder who was booked to sit on Wednesday 4 June to Friday 6 June and then not booked for a number of weeks and is sick from Sunday 1 June to Wednesday 18, would be entitled to the following:

1 st June	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
			w	w	w					0							

X = sick period

Qualifying days

W = waiting day

0 = ssp days

7. The JOH would be entitled to nothing for the first week (where the JOH was scheduled to sit) since those three days counted as waiting days. However he/she would receive SSP in the second week since the qualifying day was the Wednesday, in the absence of any booked days. For this the JOH would receive the full entitlement since he was absent for the whole of that week's qualifying days. As the JOH returns to health on the following Wednesday he receives nothing for that week. If he were to continue sick on Wednesday 18, then this would count as a further qualifying day, for which he/she received statutory sick pay.
8. Further information on statutory sick pay can be found in the booklet *CA86: Employee's guide to Statutory Sick Pay*, which is available from the Inland Revenue website: www.inlandrevenue.gov.uk or from their offices.
9. Enquires in connection with this note should be referred to Judicial Human Resources Division (0203 334 3487).

WORKPLACE BENEFITS

Maternity/Adoption Pay- Primary carer

10. Office holders are entitled (subject to meeting the qualifying thresholds contained in guidance provided to your tribunal administrators) to 26 weeks maternity pay on full pay (for fee paid office holders this is calculated by taking the average of actual earnings over the 12 month period immediately before the qualifying week), and 13 weeks Statutory maternity/adoption pay, to start any time after the 11th week before childbirth.
11. Adoption Pay is not sex specific and applies to the primary carer irrespective of their sex (subject to meeting the qualifying thresholds).

Maternity and Adoption Leave

12. The requirement to sit is waived for up to 39 weeks.

Additional Maternity and Additional Adoption Leave

13. The requirement to sit is waived for up to an additional 13 weeks on an unpaid basis.

'Paternity' Leave and Pay for Birth or Adoption - Secondary Carer

14. Fathers or partners of a mother irrespective of their gender will be entitled to 1 or 2 continuous weeks' leave to be completed within 56 days of child's birth paid at the lesser of 90 % of salary (for definition see Adoption leave) or £112.75 (as at 6 April 2007). This benefit is not sex specific and applies to the secondary carer irrespective of their sex.

Enquiries in connection with this note should be referred to Judicial Human Resources Division (0203 334 3487).

(Para. 32)

ANNEX 3

**NOTES ISSUED FOR THE GUIDANCE OF MEMBERS OF THE JUDICIARY ON
PARTICIPATION IN RESEARCH PROJECTS**

Notes issued for the guidance of members of the Judiciary on participation in research projects

1. These notes were drawn up in the interests of promoting a consistent approach to requests for assistance with research into the judicial process or other aspects of court administration or procedure.

Approval of judicial participation in research

2. Researchers who seek facilities for the conduct of research involving any member of the judiciary will be required to submit their proposals for projects to the scrutiny of senior officials in the Ministry of Justice and approval will be granted only after consultation with the Lord Chief Justice, the Master of the Rolls, the Vice-Chancellor or the President, as appropriate. Approval will normally only be given if:-
 - (a) the proposed research will be in the public interest;
 - (b) the nature of the proposed research makes judicial participation necessary;
 - (c) judicial discretion and independence would not be impaired by participation in the proposed research and members of the judiciary would not be drawn into areas of political controversy;
 - (d) participation will not impose an undue burden on members of the judiciary;
 - (e) members of the judiciary will not be identified in any reports; and
 - (f) the researcher undertakes to provide the members of the senior judiciary already mentioned and the members of the judiciary involved in the research with copies of any report before it is published and to give them an opportunity to comment upon it.
3. If a research project is given approval all members of the judiciary whose assistance the researcher desired will be informed of the project and the Ministry of Justice will make every effort to provide any advice or assistance requested.

Judicial agreement to participate

4. It is hoped that members of the judiciary will give favourable consideration to any invitation to participate in research projects which have received approval under the procedures described above. But, no member of the judiciary should feel obliged to participate in any way if he or she does not wish to do so.
5. It is considered desirable that a consistent attitude should be adopted in respect of judicial participation in research. A member of the judiciary approached directly by a researcher should therefore refer the request in writing to the Permanent Secretary to the Ministry of Justice so that the application can be considered in the ordinary way.

Form of judicial participation

6. Judicial participation may take the form of interviews or questionnaires or of observation by researchers of proceedings.
7. The subject matter of interviews and the content of questionnaires will have been considered by senior judges and by senior officials at the Ministry of Justice if approval has been given to a research project. The researcher will have been asked to alter the proposals, if necessary, so as to satisfy the criteria described in paragraph 2 above.

8. Members of the judiciary are not encouraged to discuss their personal background and there is no obligation upon them to do so.
9. Simple observation of the proceedings in open court will not involve judicial participation but it is hoped that the researcher will make his or her presence in court known. Judicial permission would, of course, be required under section 9 of the Contempt of Court Act 1981 if it were desired to use mechanical recording equipment.
10. Approval of observation of proceedings in Chambers will be given only in appropriate circumstances, and then only with the consent of the parties.

(Para. 40.4)

ANNEX 4

INSURANCE UNDERTAKING

INSURANCE UNDERTAKING

DRIVER DETAILS

Name.

Title.

Official Address.

Motor Vehicle Registration.

INSURANCE

I certify that I am insured with (name of Company)

which is an insurer member of the Motor Conference

OR

that my policy includes the appropriate endorsement as described in paragraph 40.4 of the Memorandum for Tribunal Office Holders.

DECLARATION

I declare that I:-

- undertake to notify the Ministry of Justice immediately of any change which leaves me with less insurance cover than the rules require; and
- will not seek to recover from the Department any amount which I may be called upon to pay as a result of the operation of any excess clause.

Signed _____

Date _____