

## FINAL

### FEE-PAID TRIBUNAL MEMBER

#### **OUTLINE CONDITIONS OF APPOINTMENT AND TERMS OF SERVICE**

##### **Introduction**

1. The following is an outline summary of the terms and conditions of service. Fuller details, including the conditions of appointment will be supplied to candidates who are offered appointment. 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.

##### **Duration of Appointment**

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

##### **Renewal of Appointment**

3. 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.
4. There are four grounds for non-renewal:
  - a. inability;
  - b. misbehaviour; including
    - persistent failure to comply with sitting requirements (without good reason);
    - failure to comply with training requirements;
    - sustained failure to observe the standards reasonably expected from a holder of such office;
  - c. part of a reduction in numbers because of changes in operational requirements;
  - d. part of a structural change to enable recruitment of new fee-paid members.
5. All decisions not to renew on grounds (a) and (b) are taken by the Lord Chancellor with the concurrence of the relevant Chief Justice. Such decisions are taken following an investigation conducted by a judge, who will report to the Lord Chancellor and the relevant Chief Justice.
6. All decisions not to renew on grounds (c) or (d) 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 President of the Tribunal and with the concurrence of the relevant Chief Justice.
7. 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**

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

## **Training**

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

## **Arrangement for Sittings**

10. A fee-paid member is called upon to sit and to undertake other prescribed duties as the need arises. The frequency of sittings, training etc. depends upon the workload of the Tribunal and on the commitments of the office holder. Fee-paid members can expect to dedicate approximately 30 days a year to Tribunal business (including a minimum of 15 sitting days).
11. An office holder's workload is arranged, in consultation with him or her as appropriate, by a senior judicial officer, or by the staff of the President's Office in the light of directions and instructions etc. given by the senior judicial officer or the President, as the case may be. Office holders should observe the sitting and other requirements of the hearing centres at which they sit.

## **Appraisal & Mentoring**

12. Fee-paid members are expected to comply with, and participate in, any appraisal and mentoring schemes which are developed. Failure to participate in appraisal may result in removal from office.

## **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 in either capacity 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.

## **Judicial Conduct**

15. The public both deserves and expects the highest standards of conduct from those who hold judicial office. An office holder should not in any capacity engage in any activity which might undermine, or be reasonably thought to undermine, his or her judicial independence or impartiality. An office holder should notify 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.

## **Removal from Office**

16. The Lord Chancellor may if he thinks fit terminate the appointment of a fee-paid member on specified grounds. There are two grounds for removal from appointment:
  - a. inability;
  - b. misbehaviour; including
    - failure to comply with training requirements;
    - persistent failure to comply with sitting requirements (without good reason); and
    - sustained failure to observe the standards reasonably expected from a holder of such office.

17. 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 the Regulations made under the Constitutional Reform Act 2005.

### **Disqualification**

18. Fee-paid judicial office holders are precluded 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 election 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. The Lord Chancellor should be consulted if doubts arise about any particular circumstances.

### **Fees, Income Tax and NI Contributions**

19. The appointment is non-salaried and non-pensionable. A judicial office holder will receive a fee for each day sat. This fee is revised from time to time.

HM Revenue & Customs (HMRC) may treat the emoluments of an office held by someone who is also a professional in private practice as ordinary professional receipts within the trading income rules. Further details on this practice should contact their HMRC Office or see the website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

The status of 'office holder' determines the treatment in matters of taxation because of Section 5 of the Income Tax (Earnings and Pensions Act) 2003. As a result, income tax is payable under the Income Tax (Earnings and Pensions) Act 2003 and is deducted at source from the fee paid to a judicial office holder, in accordance with PAYE regulations. Further details can be found at [www.hmrc.gov.uk](http://www.hmrc.gov.uk). Liability for NI contributions will cease automatically once the office holder reaches state retirement age.

In certain circumstances, HMRC may be prepared to treat the fees of an office held by someone who is also a professional in private practice as ordinary professional receipts within the trading rules. There are various HMRC conditions that must be met and office holders who want further details on this practice should contact their HMRC. In the event that the practice is nevertheless adopted, in exceptional cases, HMRC will issue a 'No Tax' code to the Ministry of Justice and no tax will be deducted from the fee.

### **Travelling Expenses, ETC**

20. 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**

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

