

REPORT FOR INFORMATION

SUBJECT: TERMS AND CONDITIONS – PART TIME ADJUDICATORS

REPORT OF: The Chief Adjudicator

PURPOSE OF REPORT

To inform the Joint Committee of a revision of the terms and conditions of the part-time adjudicator ahead of the impending recruitment exercise.

RECOMMENDATIONS

1. To note and approve the review of terms and conditions for part time adjudicators.

FINANCIAL CONSEQUENCES

Provision has been made for the forthcoming recruitment exercise

CONTACT:

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1. BACKGROUND

- 1.1 One of the functions delegated by the Joint Committee to the Chief Adjudicators is:

The determination of the terms and conditions applying to adjudicators having regard to principles established for such judicial appointments and conduct by the Lord Chief Justice and Lord Chancellor.

- 1.2 The last competition for appointment of new adjudicators was in 2003.
- 1.3 In preparation for the impending competition for the appointment new adjudicators the Chief Adjudicator has reviewed the terms and conditions of part-time adjudicators. This has been done having regard to the requirements that apply, either by statute, or Ministry of Justice policy, to similar tribunal appointments. Member are asked to note and approve in particular the following:

2. RELEVANT QUALIFICATION

- 2.1 The TMA provides that adjudicators must hold a relevant legal qualification which means holding a qualification as a solicitor or barrister or a Fellow of the Chartered Institute of Legal Executives for a period of at least five years a barrister,
- 2.2 Adjudicators appointed by the Joint Committees are not subject to the Tribunals, Courts and Enforcement Act (TCE) 2007, which has introduced the 'judicial-appointment eligibility condition'. This means that in order to be eligible for appointment as an adjudicator, an adjudicator must not only be in possession of the relevant qualification, but must also have been engaged in 'law related activity' whilst holding that qualification. It is therefore expedient to adopt as a matter of policy the condition that the candidates for appointment, in addition to the relevant legal qualification for the requisite period that whilst holding that qualification the candidate has been gaining legal experience.

3. NATIONALITY

- 3.1 In accordance with statutory requirements that apply to other tribunal appointment applicants for an appointment must be a citizen of:
- the United Kingdom; or
 - another Commonwealth country; or
 - the Republic of Ireland.

4 DISQUALIFICATION

4.1 While there are no statutory disqualifications for appointment as an adjudicator and in particular the House of Commons Disqualification Act 1975 does expressly apply to this office, the following are not be suitable for appointment:

- An elected MP
- A Councillor of any Local Authority in England (including London) and Wales
- A lawyer in the service of any local authority in England (including London) and Wales, or who has within the period of two years immediately prior to the request for the Lord Chancellor's consent to that candidate's appointment, whether or not the lawyer has been engaged in legal activity associated with parking or traffic enforcement services;
- A lawyer who employed by, acts for or advises any company or organisation engaged in TMA enforcement services to or on behalf of a local authority in England (including London) and Wales may be considered ineligible for appointment as an adjudicator depending on the nature to the work undertaken for the company and its client local authority.

5. UPPER AGE LIMIT

5.1 The current condition relating that an appointment will not continue beyond the age of 70 will continue. The government reasons for this policy are set out in Appendix 1. Precisely the same operational reasons apply to the Traffic Penalty Tribunal adjudicators. In particular the arguments set out in paragraphs 7- 9 of the appendix apply to adjudicators as to other jurisdictions.

5.2 Paragraph 10 of the appendix may, in exceptional circumstances, and for business operational reasons may apply.

5.3 Members are requested in particular to note and approve that the existing upper age limit in existing adjudicators' terms and conditions continues to apply and is applied to future appointments to reflect the age limit that is applied by the Lord Chancellor to other tribunal appointments, either as a consequence of statutory provisions or as a matter of policy.

6. RECOMMENDATIONS

1. To note and approve the review of terms and conditions for part time adjudicators.