

THE VALUATION TRIBUNAL FOR ENGLAND

TERMS AND CONDITIONS FOR MEMBERS AND CHAIRMEN

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1. INTERPRETATION

In this document

“The 1988 Act” means the Local Government Finance Act 1988 (c.41) as amended by the Local Government and Public Involvement in Health Act 2007;

“The 2007 Act” means the Local Government and Public Involvement in Health Act 2007 (c. 28);

“Members” includes Chairmen unless the context clearly indicates otherwise;

“Registrar” means ‘the clerk’ to the tribunal as set out in paragraph 9 of Schedule 4 to the Local Government Act 2003 (see paragraph 13(5) of Schedule 16 to the 2007 Act);

“President” means the President of the Valuation Tribunal for England and shall include a Vice-President where responsibility has been delegated;

“Tribunal” or “VTE” means the Valuation Tribunal for England;

“VTS” means the Valuation Tribunal Service.

“Staff” means tribunal staff provided by the VTS under paragraph A20(e) of Schedule 15 to the Local Government and Public Involvement in Health Act 2007.

“Transferred Members” means members, previously of a valuation tribunal, who have been transferred to the Valuation Tribunal for England on 30 September 2009 in accordance with regulations made under section 220(2) and 3(a) of the Local Government and Public Involvement in Health Act 2007.

2. INTRODUCTION

- 2.1 Members of the Valuation Tribunal for England (VTE) are appointed by the Lord Chancellor under Schedule 11 to the 1988 Act and hold office in accordance with these Terms and Conditions which are determined by the Secretary of State pursuant to paragraph A7(2) of Schedule 11 to the 1998 Act.
- 2.3 No one may become a Member who has not accepted these Terms and Conditions
- 2.4 These Terms and Conditions may be amended from time to time by the Secretary of State.
- 2.5 A Member is not an employee of the VTE or the Crown and these terms do not create any contract of service or contract for services between a Member and the Secretary of State or the Lord Chancellor.

3. DURATION OF APPOINTMENT AND REAPPOINTMENT

- 3.1 Appointment as a Member is for an (automatically renewable) period of five years, subject to the statutory retirement age of 72 and paragraphs 3.2, 4 and 14.
- 3.2 An appointment will be automatically renewed at the end of each five-year period unless; the Secretary of State has determined (in accordance with paragraph A8(1) of Schedule 11 to the 1988 Act) that the complement of Members and/or Chairman be reduced; or there is a need for structural change.
- 3.3 The decision to apply the terms in paragraph 3.2 will be taken by the Secretary of State after consulting with the President.

¹ In the case of transferring members, the date of first appointment to the Valuation Tribunals and not the date of transferring (which is in essence the date of establishment of the VTE) will be taken into account.

4. RESIGNATION

- 4.1 A Member may resign by notice in writing to the Lord Chancellor (copied to the President).
- 4.2 A Chairman who wishes to resign as Chairman but remain as a Member may do so if the President is satisfied that the overall number of Members and the workload justify it.

5. FINANCIAL MATTERS

- 5.1 Members serve in a voluntary capacity and are unpaid, but may claim financial loss allowances, subsistence and expenses in accordance with the scheme in force at the time. The VTS will provide Members with the details.
- 5.2 Members must exercise the greatest care in completing and submitting claims. Advice may be obtained from the relevant VTS staff or, in any case of difficulty, the Resource Director.

6. DUTIES OF MEMBERS

- 6.1 Members shall have the following duties:
- a) to sit on panels hearing appeals;
 - b) to engage in any other judicial work of the VTE, as directed by the President;
 - c) to undertake appropriate training prescribed by the President;
 - d) to support and assist the President and Vice-Presidents;
 - e) to attend such meetings as are arranged;
 - f) to co-operate with the Registrar and other staff.
- 6.2 Chairmen shall have the following additional duties:
- a) to chair panels hearing appeals and deal expeditiously with draft decisions;
 - b) to assist with the training of Members;
 - c) to undertake such other activities as may be required by the President, such as mentoring, appraising and advising colleagues.
- 6.3 Members are required at all times in the discharge of their duties to comply with the law, follow the prescribed procedures and guidance as updated from time to time and adopt the highest standards of conduct (see paragraph 10).

² HM Revenue and Customs have determined that for tax purposes Chairmen and Members are not "office holders". Accordingly, travel, subsistence and financial loss allowance are assessed under Schedule D. Travel and subsistence payments are non-taxable. These provisions may be changed from time to time. In any correspondence with HMRC regarding membership of the Tribunal, Members and Chairmen should mention that they are not office holders or employees of the Ministry of Justice or the Department for Communities and Local Government.

7. LOCATION

7.1 Hearings will be held throughout the country and members will normally sit at locations reasonably convenient for their homes, but this cannot always be guaranteed.

8. ADVICE

8.1 Members should seek advice from the President, a Vice-President, the Registrar or any other relevant member of staff as appropriate, on any matter affecting their duties of which they are unsure.

9. TIME COMMITMENT

9.1 A Member must commit to a minimum of 12 days per annum on Tribunal business, inclusive of training and meetings.

9.2 A Chairman must commit to a minimum of 15 days per annum on Tribunal business, inclusive of training, meetings and any other responsibilities or activities.

9.3 The amount of work offered to Members will depend on the Tribunal's workload and may fall short of the minimum number of days specified above.

9.4 "Days" in 9.1 and 9.2 refers to a full working day or any part of a working day on which duties have been carried out

10. JUDICIAL CONDUCT

10.1 The Lord Chancellor believes that the public both deserves and expects the highest standards of conduct from those who hold judicial office. Without prejudice to the paragraphs below, Members should notify the 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 Tribunal or the judiciary at large.

10.2 Members should also notify the President if they get into serious financial difficulties, particularly if legal proceedings appear to be likely to be, or have actually been, initiated. They should also inform the President of any complaint made against them by a professional body, or in relation to membership of a local authority. Members must notify the President if they are involved or likely to be involved in any court proceedings against them.

- 10.3 If a Member is charged with, or cautioned for, any criminal offence, other than a parking or speeding offence without aggravating circumstances³ whether before or after they have been appointed, they should report the matter at once to the President and should keep him informed of the progress and outcome of the case. Failure to do so could amount to misbehaviour. Convictions for some offences, including some motoring offences, need not necessarily be regarded as being incompatible with continuing to serve. However, if a Member were convicted of a grave offence, for instance one involving violence to persons, dishonesty or moral turpitude, the Lord Chancellor would consider the exercise of the power to remove the individual from office. The Lord Chancellor regards 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.
- 10.4 The Lord Chancellor believes that the public must be entitled to expect Members to maintain at all times proper standards of courtesy and consideration. They do not regard behaviour which could cause offence, particularly on racial or religious grounds, or amounting to sexual harassment, as consistent with the standards expected of Members. A substantiated complaint of conduct of this kind, whether or not previous complaints have also been made, is in the Lord Chancellor's view capable of being regarded as making a Member 'unfit'.

11. CONFLICT OF INTEREST

- 11.1 The governing principle is that no person should sit as a Member 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.
- 11.2 A Member must never sit on a case involving a local authority of which he or his spouse/civil partner is a member.
- 11.3 It is the Member's personal responsibility, and not that of the Tribunal or staff, to avoid, as far as possible, any potential conflict of interest which might require him or her to stand down for a particular case.
- 11.4 Circumstances which disqualify Members from continuing to serve the Tribunal are set out in regulations.⁴

³ (i.e. an offence for which a period of disqualification, or at least six penalty points, are imposed, or which results in a total of more than six currently accumulated penalty points)

⁴ The Valuation Tribunal for England (membership and Transitional Provisions) Regulations 2009 SI2267/2009.

11.5 Members must:

- a) not sit in a case involving their own firm or client;
- b) not sit at a location where a member or any partner or employee regularly appears. This is to help in avoiding Members being assigned to hear cases from which they would have to stand down;
- c) not sit where to do so could give rise to the perception of prejudice in the administration of justice;
- d) comply with the existing law governing pecuniary and other interests in deciding whether to declare an interest in, or stand down from, a particular case, on which the President will issue further guidance.
- e) not sit on a case if they have a personal, professional or pecuniary interest in that case, or if any business, practice or public body of which they are members has such an interest.

11.6 Members should exercise caution in any reference to their appointment on, for example, letterheads or in chambers' advertising literature. They hold office only when exercising the functions of the office and should not use their office as a means of pursuing personal, professional or commercial advantage.

12. POLITICAL ACTIVITY

12.1 Members are expected to refrain from any activity, political or otherwise, which would be incompatible with their membership or be seen to compromise their impartiality. It is recognised that many Members will be active in local government and this is not regarded as incompatible with membership. However, Members should be careful to keep these roles distinct, not to use membership for any political advantage and, when acting as a Member, not to indicate membership of a local authority (please also refer to 'Conflict of Interest' section, particularly paragraph 11.4).

12.2 Members and Chairmen must submit their resignation to the Lord Chancellor (copied to the President) if nominated or adopted as a prospective candidate for election to the House of Commons, Scottish Parliament, Welsh Assembly, Northern Ireland Assembly or European Parliament. The Lord Chancellor should be consulted if doubts arise about any particular circumstances.

12.3 Schedule 1, part 2, to The House of Commons Disqualification Act 1975 applies to membership of the Tribunal.

13. PUBLIC COMMENT

13.1 Members should exercise great care and discretion in discussing their work on the Tribunal, especially with respect to cases they have heard. If there is a problem, they should consult the President or Registrar.

13.2 Members should be aware of the risk of a perceived lack of impartiality arising from published articles or pronouncements.

14. APPRAISAL

- 14.1 Members will be appraised on a regular basis in accordance with arrangements prescribed by the President. Such arrangements will make provisions for any consequential action to be taken as a result of an appraisal, such as additional training. If a member is found to be unable, unwilling or unfit to perform the required duties, a recommendation will normally be made to the Lord Chancellor to consider taking action in accordance with paragraph 16 below.
- 14.2 Under paragraph 15.3 where additional or special training is prescribed, the Member may not resume sitting until the training has been completed to the President's satisfaction.
- 14.3 Where a Member has been transferred from a valuation tribunal, reference in this paragraph to appraisals includes references to those begun/conducted before 1 October 2009.

15. COMPLAINTS AND INVESTIGATIONS

- 15.1 Members shall co-operate fully in any investigation or inquiry whether following a complaint or otherwise.
- 15.2 A Member shall agree that, if requested by the President, the Member shall not sit pending the outcome of any inquiry or investigation.
- 15.3 Following an inquiry or investigation, and where the matter is not so serious as to require referral to the Lord Chancellor, the Member agrees that the President may:
- a) offer advice,
 - b) issue a warning or caution and/or
 - c) may prescribe additional or special training.
- 15.4 Under paragraph 16.3(c) where additional or special training is prescribed, the Member may not resume sitting until the training has been completed to the President's satisfaction.
- 15.5 Where a Member has been transferred from a valuation tribunal, reference in this paragraph to inquiries or investigations include references to inquiries or investigations begun before 1 October 2009.

16. REMOVAL FROM OFFICE

16.1 A Member who is unable, unwilling or unfit (either because of misbehaviour or otherwise) to perform the required duties may, under paragraph A10 of Schedule 11 to the 1988 Act, be removed from office by the Lord Chancellor. Additionally, in accordance with Regulation 5 of the Valuation Tribunal for England (Membership and Transitional Provisions) Regulations 2009 (and any further regulations made under A19 of the Local Government Finance Act 1988), a Member shall be disqualified for membership of the VTE for any of the reasons set out, including if:

- a. The Member is aged 72 years or more;
- b. The Member's spouse or civil partner is a member of the VTE's staff;
- c. The Member is subject to bankruptcy;
- d. The Member has been convicted of an offence and sentenced to a term of imprisonment in the five years before appointment and that conviction remains unspent at the date of application for appointment;
- e. The Member is convicted of an offence and sentenced to a term of imprisonment during his appointment;
- f. The Member is disqualified from being a member of a local authority in pursuance of Section 79 of the Local Government Act 2000 or Section 78A(4)(a) of the Local Government and Public Involvement Health Act 2007.

16.2 Inability, unwillingness or unfitness include the following:

- a) persistent failure, without good reason, to comply with sitting requirements;
- b) failure to comply with training requirements;
- c) failure to observe the standards reasonably expected of Members.

16.3 The exercise of the Lord Chancellor's and the Lord Chief Justice's disciplinary powers are governed by regulations made by the Lord Chief Justice under sections 115 and 117 of the Constitutional Reform Act 2005. They enable any observations which the Member or Chairman may wish to make on the matter to be taken fully into account. The Lord Chancellor and the Lord Chief Justice will not consider the exercise of the powers vested in them in respect of judicial conduct without serious cause and the most careful deliberation.