

Review of Tribunals Judiciary Terms and Conditions

Key Changes for fee-paid judicial office holders

Set out below, are the four key changes to fee-paid judicial office holders memorandum of terms and conditions, that will become effective from 1st April 2010.

1. Training fees

A variety of arrangements currently exist to reimburse fee-paid judiciary for attending training events and courses organised by the Tribunals Service. The fees range from payment of a full daily fee at one end, to a flat fee of £73.10 per day at the other, with the vast majority of judiciary receiving up to or equal to fifty percent of their daily fee.

The new guidance provides:

‘18.2 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.

18.3 Office holders will be paid fifty percent of their daily fee for attending training courses.’

Setting the training fee at 50% of the daily fee, was regarded as the fairest approach, providing increases for some judiciary while at the same time being consistent with the approach taken by HMCS.

2. Cancellation Fees

There are a wide range of policies in place, across the Tribunals Service, to reimburse fee-paid judiciary where sittings are cancelled at short notice. In many jurisdictions a daily sitting fee, or 50% of a daily sitting fee, is paid where a hearing needs to be cancelled. In others the matter is entirely discretionary with the decision resting with lead judiciary.

The new guidance provides:

‘9.4. 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.’

The new policy provides improved arrangements for a large number of judiciary and a consistent approach across the Tribunals Service.

3. Taxation of Allowances: Home to office travel expenses

There are different policies in place across the Tribunals Service to comply with the HMRC regulations. This new guidance sets out a consistent policy for the Tribunals Service and wider Ministry of Justice.

The new guidance provides:

‘38.1 The cost of travel to all venues by fee paid office holders will 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.’

In taking forward this policy the Department will be applying tax, where appropriate, to all fee-paid judiciary on the same basis and will no longer meet the tax liability of some jurisdictions. This ensures equality of treatment for all.

4. Expenses Claims

The new guidance now sets out the requirement for all expenses claims to be submitted on a monthly basis and clarifies the arrangements governing the submission of late expense claims.

The new guidance provides:

‘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.

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.’