

**THE APPOINTMENTS COMMISSION**

Appointment of

1 Member

for

The Interception of Communications Tribunal

**Information Pack**

**November 2022**

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**N.B.** This information pack covers the roles of all the members of the Interception of Communications Tribunal. This is deliberate even if the current recruitment is not for the whole Tribunal. This will allow all candidates to better understand the role of the Tribunal and of the other members.



**1. Interception of Communications Tribunal**

**The Interception of Communications Tribunal**

**Vacancy for:**

**1 Member**

Term of office: 5 years

**What does the Interception of Communications Tribunal do?**

The Interception of Communications Tribunal, being an independent judicial body established in law, considers and where appropriate investigates and determines applications made to it by any person who believes that communications sent to or by him have been intercepted in the course of their transmission by post or by means of a courier service or a public telecommunication system.

**What is the constitution of the Tribunal?**

Part 8 of the Interception of Communications Act 1988 provides that:

*“(1) There shall be a tribunal (in this Act referred to as ‘the Tribunal’) in relation to which the provisions of Schedule 1 shall apply.”*

*“(2) Any person who believes that communications sent to or by him have been intercepted in the course of their transmission by post or by means of a courier service or a public telecommunication system may apply to the Tribunal for an investigation under this section”*

Part 1 of Schedule 1 to the Interception of Communications Act 1988 provides that:

“*(1) The Tribunal shall consist of 3 members appointed by the Governor.*

*(2) The Governor shall appoint one member of the Tribunal, being an advocate of not less than 10 years’ standing, to be chairman of the Tribunal.*

*(3) The members of the Tribunal shall, subject to sub-paragraphs (4) to (6), hold office during good behaviour.*

*(4) A member of the Tribunal shall vacate office at the end of the period of 5 years beginning with the day of his appointment but shall be eligible for reappointment.*

*(5) A member of the Tribunal may be relieved of office by the Governor at his own request.*

*(6) A member of the Tribunal may be removed from office by the Governor in pursuance of a resolution of Tynwald.* “

The Governor has delegated his powers, referred to above, to the Appointments Commission.

**Who provides administrative support for the Tribunal?**

Administrative and Secretariat support is provided by the Tribunals’ Centralised Administration in the General Registry.

**Term of Office**

The term of office will be for a period of 5 years from date of appointment unless the successful candidate resigns or is removed from office.

**2. Role Profiles and Person Specification**

**Chairperson:** The Chairperson will be required to undertake the full range of Chairperson functions in relation to all cases coming before the Tribunal.

It is important to recognise that claims before the Tribunal, and the responses thereto, can be both legally and factually complex in nature. Using your comprehensive knowledge and experience of relevant law and the procedural rules applicable to the Tribunal, you will be involved in matters ranging from the determination of any initial or subsequent case management issues/applications, which may need to be considered at a case management hearing or pre-hearing review, through to chairing substantive hearings. Part of this will involve you receiving regular communications from the Tribunals’ Centralised Administration, either by email, recorded delivery or telephone, for you to consider and to advise how you wish to progress – it is important that you have both the time, availability and the commitment to ensure these matters are dealt with promptly.

You will sit as part of a Tribunal with members to whom you will provide appropriate guidance.

You will also have responsibility for the timely drafting of any Tribunal Orders and Judgments, and for any matters arising including consideration of applications for an appeal.

Keeping abreast of legal developments in relation to the relevant law is important and may require a significant amount of reading, at one’s own time and cost, not directly connected with cases with which you are involved.

**Lay Members:** As a lay member of the Tribunal you will be called upon from time to time to sit for the substantive hearing of an individual case.

You will be provided with a full copy of the papers received from the parties in advance of the hearing, and you must be able to commit the necessary time to carefully consider and gain an understanding of these before the hearing. It is important to recognise that claims before the Tribunal, and the responses thereto, can be both legally and factually complex in nature.

On the day of the hearing you will sit alongside the legally qualified Chairperson and the other panel memberto hear the case which may include consideration of witness evidence and cross-examination thereon, documentary evidence and submissions. A party may represent themselves or be represented by any other person including legally qualified representation. During the hearing you will ask appropriate questions as necessary, and you will participate in the post-hearing discussion with your Tribunal colleagues to enable the Tribunal to reach its decision on the matter in the light of the Tribunal’s findings of fact and the applicable law.

Thereafter you will be provided with a written draft of the Tribunal’s Judgment prepared by the Chairperson, and it is important that you can commit the necessary time to carefully consider this, and provide any feedback, without delay. On some limited occasions it may be necessary for the Tribunal to meet again to agree the Judgment.

In the event that the Tribunal’s Judgment is subject to a review hearing then you will be called to sit again as part of the same Tribunal that conducted the substantive hearing.

**Time Commitment:** The Tribunal sits infrequently.

Even when matters have been listed for hearing and members have received case papers to allow for prior reading, it is possible that matters will be resolved prior to the hearing taking place.

**Data Protection and Information Security**

The Tribunal Chair and members may have access to sensitive and personal information and are responsible for its safekeeping. Members should be aware of the need to employ appropriate measures to safeguard such information.

Members will be required to uphold the requirements of the Data Protection legislation but should additionally be aware that they are likely to be in possession of sensitive personal data, disclosure or use of which for purposes not connected with the proper business of the body, is absolutely prohibited. Breach of this requirement will be regarded as a breach of the fundamental principles underpinning public service and may result in the withdrawal of the appointment warrant. This obligation survives the termination of the member’s term of office.

Due to the extremely sensitive nature of matters considered by the Tribunal, it is essential that all members are professional, discreet and confidential in their work.

**Criminal Offences**

You are required to declare any criminal convictions (whether considered spent or not) on the application form for this post.

Further details can be viewed at:

[https://www.gov.im/categories/working-in-the-isle-of-man/rehabilitation-of-offenders](https://www.gov.im/categories/working-in-the-isle-of-man/rehabilitation-of-offenders/)

or phone the Isle of Man Vetting Bureau on (01624) 631409.

**UK Home Office Security Check**

The appointment is subject to a satisfactory UK Home Office security check.

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| **Appointments Commission – Interception of Communications Tribunal**  **Person Specification – Legally Qualified Chair** | |
| **Criteria for selection** | **Essential**  **or**  **Desirable** |
| * Applicants must be an advocate, barrister or solicitor of not less than 10 years standing * Experience of drafting orders, decisions and reports * Comprehensive knowledge of relevant legislation and the procedural rules applicable to the Tribunal * Sound judgement and decision making * Effective communication skills * Ability to successfully Chair Tribunal hearings and to effectively work with, and provide guidance to, members of the Tribunal * Authority and case management skills * A commitment to ‘The 7 Principles of Public Life’ * Computer literate with computer access (email, word processing and video conferencing) * Able to commit time to reading case papers and decisions, and to attend at hearings * Satisfactory references | E  D  E  E  D  E  D  E  E  E  E |

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| **Appointments Commission – Interception of Communications Tribunal**  **Person Specification - Member** |

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| **Criteria for Selection** | **Essential**  **or**  **Desirable** |
| * No formal qualifications required * Sound and independent judgement * A recognition of the requirement to act at all times in a manner which maintains public confidence in the tribunal * Ability to work constructively with others * An understanding of the judicial nature of the Tribunal * Effective communication and interpersonal skills * Able to analyse and review complex issues and weigh up conflicting opinions * A commitment to ‘The 7 Principles of Public Life’ * Computer literate with computer access (email, word processing and video conferencing) * Able to commit time to reading case papers and decisions, and to attend at hearings * Satisfactory references | E  E  D  E  D  E  E  E  E  E |

**3. Overview on the Procedure and Function of Tribunals and the Responsibilities of the Chair and Members**

Applicants should note the following extract from section 8 of the Interception of Communications Act 1988:

***8 The Tribunal***

*(1) There shall be a tribunal (in this Act referred to as ‘the Tribunal’) in relation to which the provisions of Schedule 1 shall apply.*

*(2) Any person who believes that communications sent to or by him have been intercepted in the course of their transmission by post or by means of a courier service or a public telecommunication system may apply to the Tribunal for an investigation under this section.*

*(3) On such an application (other than one appearing to the Tribunal to be frivolous or vexatious), the Tribunal shall investigate —*

*(a) whether there is or has been a relevant warrant or a relevant certificate; and*

*(b) where there is or has been such a warrant or certificate, whether there has been any contravention of sections 2 to 5 in relation to that warrant or certificate.*

*(4) If, on an investigation, the Tribunal conclude that there has been a contravention of sections 2 to 5 in relation to a relevant warrant or a relevant certificate, they shall —*

*(a) give notice to the applicant stating that conclusion;*

*(b) make a report of their findings to the Governor in Council; and*

*(c) if they think fit, make an order under subsection (5).*

*(5) An order under this subsection may do one or more of the following, namely —*

*(a) quash the relevant warrant or the relevant certificate;*

*(b) direct the destruction of copies of the intercepted material or, as the case may be, so much of it as is certified by the relevant certificate;*

*(c) direct the Treasury to pay to the applicant such sum by way of compensation as may be specified in the order.*

*(6) A notice or report under subsection (4) shall state the effect of any order under subsection (5) made in the case in question.*

*(7) If, on an investigation, the Tribunal come to any conclusion other than that mentioned in subsection (4) they shall give notice to the applicant stating that there has been no contravention of sections 2 to 5 in relation to a relevant warrant or a relevant certificate.*

*(8) The decisions of the Tribunal (including any decisions as to their jurisdiction) shall not be subject to appeal or liable to be questioned in any court.*

*(9) For the purposes of this section —*

*(a) a warrant is a relevant warrant in relation to an applicant if —*

*(i) he is named or described in the warrant, or*

*(ii) the communications described in the warrant are likely to be, or to include, communications from him or intended for him;*

*(b) a certificate is a relevant certificate in relation to an applicant if and to the extent that it names or describes him as mentioned in section 3(4).*

**4**. **Conflicts of Interest Guidance Note**

**CONFLICTS OF INTEREST**

**A GUIDE FOR APPLICANTS FOR MEMBERSHIP OF TRIBUNALS/BODIES**

**The Seven Principles Underpinning Public Life**

Holders of Public Office should at all times exercise the highest standards of behaviour in line with the seven principles of public life. The principles of public life are as follows**:**

**Selflessness:**

Holders of Public Office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or other friends.

**Integrity:**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

**Objectivity:**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands or statute requires.

**Honesty:**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership:**

Holders of public office should promote and support these principles by leadership and example.

All candidates who put themselves forward for public appointment must be able to demonstrate their commitment to the principles and values of public service.

**What is a conflict of interest?**

Public Appointments require the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds and the oversight and management of all related activities. This means that any private, voluntary, charitable or political interest which might be material and relevant to the work of the body concerned should be declared.

There is always the possibility for real or perceived conflicts of interest to arise. Both are a problem, as the perceived inference of a conflict may, on occasions, be as damaging as the existence of a real conflict.

The test which should be applied in relation to a potential case of perceived bias is:

*“whether the ascertained relevant circumstances would lead a fair-minded and informed observer to conclude that there is a real possibility that the decision-maker was biased.”*

*Judgment delivered by His Honour Deemster Kerruish on 12 February 2007.*

**Surely a perceived conflict is not a problem, as long as I act impartially at all times?**

The integrity of the individual is not in question here. However, it is necessary for the standing of the individual and the Tribunal that members of the public have confidence in their independence and impartiality. Even a perceived conflict of interest on the part of a member can be extremely damaging to the Tribunal’s reputation and it is therefore essential that these are declared and explored in the same way as an actual conflict would be. The fact that a member acted impartially may be no defence against accusations of potential bias.

**What should I do if I think I have a conflict of interest?**

The Tribunals Act 2006 covers situations where a conflict of interest or duty occurs.

(a)      Section 6(1) provides that if a Tribunal member becomes aware of a conflict he should declare that a conflict exists and should withdraw from taking any further part in the proceedings of the Tribunal.

(b) Section 6(2) provides that if a member has made such a declaration, he may nonetheless continue to take part in the proceedings of the Tribunal if both parties consent thereto.

(c)      Section 7(1) provides that a party to a Tribunal may object to a member of a Tribunal on the ground that there is a material conflict of interest or duty.

**5. Remuneration for Members of the Tribunal**

The Members are remunerated in accordance with the provisions of the Payment of Members Expenses Act 1989.

The Attendance Allowances Order 2008 specifies a rate of £89.50 per hour for the legally qualified Chair (with a minimum of £156.00 per meeting) and £78.00 for other Members per morning or afternoon session. These expenses must be declared for income tax purposes, but are not taxable.

‘Session’ means any of the following periods:

1. 9.00 a.m. to 1.30 p.m.;
2. 2.00 p.m. to 6.30 p.m.;
3. 6.00 p.m. to 12 midnight.

An additional payment shall be made to the legally qualified Chair in respect of the time taken in preparing for a meeting or hearing and report writing in relation to a meeting or hearing at the rate of £89.50 per hour. These payments are taxable.

The following travel allowance is also paid, in accordance with the “Payment of Members’ Expenses (Travelling Allowances) Order 2014” –

Motor Vehicle 57p per mile

Motorcycle 30p per mile

**6. The Appointments Commission**

The Appointments Commission has been established by the Council of Ministers under the auspices of the Tribunals Act 2006 as an independent body. Its principal function is to make appointments to various Appeal Tribunals and other bodies covered by the statutory provisions.

**7. Recruitment Policy**

**Recruitment Policy Statement**

It is the Appointments Commission’s policy to promote equal opportunities. Procedures in relation to recruitment form part of this commitment. The Commission seeks to select the most suitable person for the post. The selection process is undertaken without discrimination and regardless of race, gender, age or any other personal circumstances.

**Appointments Commission Recruitment Procedure**

The Appointments Commission will prepare a shortlist of suitable candidates using the information provided on the application form for the relevant post. It is important that your answers on this form demonstrate how you meet the requirements of the post applied for. Interviews will be conducted in accordance with the policy of the Commission, but please be aware that the Commission may appoint to a Tribunal without interviews if it is satisfied by the written application and references in appropriate circumstances.

The opportunity exists for all candidates to speak to the Clerk of the Tribunal for further information about the function and procedures of the Tribunal.

Where formal qualifications are a requirement of appointment the Commission will require original certificates to be produced. Applicants may be required to provide verification of identity and address in a form and manner acceptable to the Commission.

Further information and downloadable documents are available at the Appointments Commission’s website: <https://www.courts.im/court-procedures/tribunals-service/appointments-commission>

**8. Further information**

An overview of the Tribunal/Body can be found by following this link: <https://www.courts.im/court-procedures/tribunals-service>

Isle of Man Primary and secondary legislation are available at: [www.legislation.gov.im/cms/en](http://www.legislation.gov.im/cms/en)

For persons who do not have access to the internet, copies of legislation are available from the Tynwald Library at The Ground Floor, Legislative Buildings, Finch Road, Douglas, or telephone 01624 685522.

**How do I apply?**

An application form and the information pack are available on the Appointments Commission’s website: <https://www.courts.im/court-procedures/tribunals-service/appointments-commission/>

or from the Secretary to the Appointments Commission. Tel: 687562

Email: [appointments.commission@gov.im](mailto:appointments.commission@gov.im)

**Applications should reach the Secretary no later than 5pm on Thursday 24 November 2022**

The application form you submit must set out how you meet the essential requirements of the role.

If, after reading through the information pack, you have any queries about the duties and/or responsibilities of the post, or the Tribunal, please contact the Clerk to the Interception of Communications Tribunal, on 685260.