

# **STATES OF JERSEY**



## **JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF CHAIRMAN AND MEMBERS**

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**Lodged au Greffe on 18th April 2017  
by the Minister for Social Security**

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**STATES GREFFE**

## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion –**

to appoint, further to a process overseen by the Jersey Appointments Commission and in accordance with the Employment and Discrimination Tribunal (Jersey) Regulations 2014, the following persons as members of the Jersey Employment and Discrimination Tribunal, each for a period of 5 years to begin from the date of States' approval –

Mrs. Hilary Griffin  
Mr. Michael Salter  
Mr. Ian Jones  
Mr. Neal Vautier  
Mr. Alan Kearney.

**MINISTER FOR SOCIAL SECURITY**

## **REPORT**

### **Appointments to the Jersey Employment and Discrimination Tribunal**

#### **Background**

The [Employment \(Jersey\) Law 2003](#) (“the Employment Law”) provides for the establishment of the Jersey Employment and Discrimination Tribunal (“the Tribunal”) and provides that it will exercise the jurisdiction conferred on it by the Employment Law and any other Law. The Tribunal became operational in 2005 and is responsible for enforcing the Island’s employment and discrimination legislation: the Employment Law (*see Article 81*), the [Employment Relations \(Jersey\) Law 2007](#), and the Discrimination (Jersey) Law 2013. It hears and determines complaints relating to –

- written terms of employment
- minimum rest periods and annual leave
- minimum wage
- payment of wages and pay-slips
- notice pay on termination of employment
- unfair dismissal
- redundancy pay and related rights
- family-friendly rights
- breach of contract of employment
- Trade Union recognition
- collective disputes
- discrimination on grounds of race, age, sex, sexual orientation, gender re-assignment, and pregnancy and maternity.

#### **Constitution of the Tribunal**

The [Employment and Discrimination Tribunal \(Jersey\) Regulations 2014](#) (“the Tribunal Regulations”) set out the requirements for the constitution and membership of the Tribunal, including for the appointment and terms of office of the members. The Tribunal consists of the following members –

1. a Chairman;
2. up to 5 Deputy Chairmen;
3. up to 8 ‘employee representative’ lay members who have knowledge or experience of, or an interest in, trade unions or matters relating to employees generally;
4. up to 8 ‘employer representative’ lay members who have knowledge or experience of, or an interest in, employers’ associations, or matters relating to employers generally;
5. up to 8 ‘discrimination panel’ lay members who have knowledge or experience of, or an interest in, equality and discrimination matters generally, or discrimination and specific protected characteristics.

In hearing a complaint that relates to employment or discrimination in employment, the Regulations provide that a 3-person panel must consist of a legally qualified Chairman or Deputy Chairman with 2 lay members; one employee representative member (paragraph (c)) and one employer representative member (paragraph (d)), chosen by rotation. It is important that the employer/employee balance is retained in employment-related discrimination cases.

Where a Panel is formed to hear a complaint about an act of discrimination that does not relate to employment or recruitment (e.g. housing, services or education), the Panel must consist of the Chairman or a Deputy Chairman and 2 members from the pool of discrimination lay members (paragraph (e)), chosen by rotation. The employer/employee balance is not required in such a case.

The Tribunal Regulations provide that Tribunal members are appointed by the States Assembly for an initial term of up to 5 years. If a member requests that their term is extended, the Minister for Social Security may, after consultation with the Jersey Appointments Commission (“the Commission”), extend a member’s term of office. The Commission’s recruitment guidelines<sup>1</sup> state that “*members of independent bodies should not normally be appointed for terms in excess of nine years*”.

### **Recruitment of Tribunal members**

Recruitment was undertaken to fill 4 positions on the Tribunal – one Chairman, one Deputy Chairman and 2 employee representative lay members<sup>2</sup>. In January 2017, the positions were advertised in the Jersey Evening Post, on the States website, in the Bailiwick Express, and via newsletters distributed by the Jersey Law Society and the Jersey Advisory and Conciliation Service. Following shortlisting in February, structured interviews were undertaken in March 2017 by 2 separately constituted recruitment Panels.

**Chairman and Deputy Chairman** – The first recruitment Panel, which interviewed candidates for the positions of Chairman and Deputy Chairman, consisted of the Judicial Greffier, the Viscount, the Deputy Bailiff and a Jersey Appointments Commissioner.

**Lay members** – The second recruitment Panel, which interviewed candidates for the positions of employee representative lay member, consisted of the Viscount, one of the current Deputy Chairmen of the Tribunal and a States of Jersey Human Resources Manager.

Having assessed the candidates and reached their decisions, the recruitment Panels recommended 5 new appointments, as follows –

Mrs. Hilary Griffin – Chairman  
Mr. Michael Salter – Deputy Chairman  
Mr. Ian Jones – Deputy Chairman  
Mr. Neal Vautier – Employee representative lay member  
Mr. Alan Kearney – Employee representative lay member.

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<sup>1</sup>[www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20JAC%20recruiting%20guidelines%2020160706%20JP.pdf](http://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20JAC%20recruiting%20guidelines%2020160706%20JP.pdf)

<sup>2</sup> See Appendix 1

Having proposed one of the current Deputy Chairmen for appointment as Chairman, the recruitment Panel was fortunate to have interviewed a number of good quality candidates, and selected 2 candidates to recommend for appointment as Deputy Chairmen.

The representative of the Commission was satisfied that the process met the Commission's requirements, and the proposed new members were recommended to the Minister. The Minister is satisfied that the individuals possess the required knowledge and experience, and proposes the appointment of the 5 individuals, each for a 5-year term of office to begin from the date of States' approval.

Further details of the proposed members are provided in **Appendix 2**.

### **Notification of re-appointment**

The initial term of office of current Deputy Chairman Mrs. Claire Davies would expire on 31st May 2017. Having consulted the Commission, the Minister decided on 30th March 2017 to re-appoint Mrs. Davies as Deputy Chairman for a further 4-year term, which will end on 31st May 2021.

Mrs. Davies qualified as an English Barrister in 1992 and as a Jersey Advocate in 1997. She is a Partner of the law firm Davies & Ingram, founded in 2012. Mrs. Davies trained in business and employment law; however, her main focus as a practitioner is family and children's law. Mrs. Davies represents and advises private individuals, companies and States of Jersey departments, and she regularly appears in all Courts of the Island. Mrs. Davies teaches the LLB degree at the Jersey Institute of Law and is the Adjunct Professor for family law for the Jersey Advocates' course. She is the current Chairman of the Jersey Family Law Association and has served 5 years as Deputy Chairman of the Employment and Discrimination Tribunal.

It is not necessary to request that the States approves the re-appointment of a Tribunal member. However, as a matter of good order, the Minister takes this opportunity to notify the States that Mrs. Davies has been re-appointed.

### **Collective responsibility under Standing Order 21(3A)**

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Minister for Social Security, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

### **Financial and manpower implications**

There are no financial or manpower implications for the States arising from this Proposition. Training for new members will be financed from within existing budgets.

## **APPENDIX 1**

Vacancies on the Tribunal have been created by the departure of the following 3 members –

1. Mrs. Nicola Santos-Costa  
*(Appointed 1st July 2005 as Deputy Chairman, and on 1st June 2012 as Chairman. Term ended 30th April 2017.)*
2. Mr. Vincent Manning  
*(Appointed 8th September 2015. Term ended on 8th December 2016.)*
3. Mr. Timothy Langlois  
*(Appointed 1st October 2005. Term ended 30th September 2015.)*

In addition, up to 5 Deputy Chairmen may be appointed to the Tribunal. Currently there are 3 Deputy Chairmen, and so one of those vacancies was advertised.

## APPENDIX 2

### Employee representative lay members

**Mr. Neal Vautier** has been employed by Jersey Electricity Plc. for 27 years and is currently a Civil Works Supervisor with responsibility for a number of large and small contracts, as well as 6 carpenters and labourers. Mr. Vautier has been a union committee member for 18 years and has 6 years' experience as Chairman of the Jersey Electricity Prospect Committee. Mr. Vautier intends to stand down from the Chairman role at the end of 2017. Jersey Electricity has approximately 100 Prospect members and Mr. Vautier has acted as the primary union representative for the majority of the disciplinary and grievance issues in his workplace during the past 15 years.

**Mr. Alan Kearney** has been employed by the States of Jersey Prison Service for 18 years and is currently Unit Manager with responsibility for overseeing 130 prisoners and 35 staff. Mr. Kearney is a Unite qualified shop steward, was Chairman of the Prison Officers' Association for 6 years until 2014 and is currently the Vice-Chairman. Mr. Kearney has experience as a member of the States of Jersey Suspension Review Panel and the Public Employees' Pension Scheme Joint Negotiation Group. Mr. Kearney also acts as a negotiator for the Joint Council of Unions and Associations, currently in relation to the States of Jersey workforce modernisation programme.

### Chairman

**Mrs. Hilary Griffin** has acted as Deputy Chairman of the Employment and Discrimination Tribunal since March 2014. In that role, Mrs. Griffin has proved to be a capable leader of hearings. Mrs. Griffin qualified to practice as an English solicitor in 2002. For 9 years Mrs. Griffin worked for London-based international law firm Clyde and Co. as a Senior Employment Associate, and latterly as a Professional Support Lawyer. Mrs. Griffin's experience in these roles included acting for clients in a wide variety of cases in employment tribunals and the High Court, as well as marketing and training for the employment law team and clients. Mrs. Griffin moved to Jersey in 2011, but continues to act as a director of a family chemical business based in England which employs approximately 15 people.

### Deputy Chairmen

**Mr. Michael Salter** qualified as an English Barrister in 1999, and since 2008 has held a Tenancy at Ely Place Chambers, London, specialising as an employment law Barrister. Mr. Salter is instructed by both claimants and respondents in a range of court and tribunal claims arising from the employment relationship for clients in the public and private sectors, trade unions and individual claimants. Mr. Salter has 3 years' experience as a part-time Employment Tribunal Judge for the South-West Region. As part of that role he has undertaken training in skills for tribunal judges, has provided training to tribunal lay members, and is scheduled to provide training to employment judges in June 2017. Mr. Salter is also currently a Chairman of Police Disciplinary Tribunals for several forces in the south-east of England.

**Advocate Ian Jones** qualified as an English Barrister in 2007, was called to the Jersey Bar in 2009, and is currently employed as a Senior Associate in Carey Olsen's Litigation Department. Advocate Jones regularly appears at all levels in the Jersey courts across a range of litigation areas, including commercial, civil, public and criminal. He has represented clients in a number of sensitive and high-profile cases. Advocate Jones is also a Trustee of the local charity, Jersey Action Against Rape, and is a volunteer legal adviser at the Citizen's Advice Bureau.