

STATES OF JERSEY



JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF MEMBERS

Lodged au Greffe on 14th January 2019
by the Minister for Social Security

STATES GREFFE

PROPOSITION

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

in accordance with the Employment and Discrimination Tribunal (Jersey) Regulations 2014, to appoint the following persons as members of the Jersey Employment and Discrimination Tribunal, each for a period of 5 years to begin on 1st March 2019 –

Miss Jennifer Bridge
Mr. Michael de la Haye, O.B.E.
Mr. Simon Nash
Miss Roisin Pitman
Advocate Fraser Robertson
Mrs. Hannah Westmacott.

MINISTER FOR SOCIAL SECURITY

REPORT

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 Law¹. The Tribunal became operational in 2005, and is responsible for enforcing the Island’s employment and discrimination legislation: the Employment Law, 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, disability, sex, sexual orientation, gender re-assignment, 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 –

- a Chairman
- up to 5 Deputy Chairmen
- 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
- 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
- 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.

¹ <https://www.jerseylaw.je/laws/revised/Pages/05.255.aspx> Article 81

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 (*being a member to whom Regulation 2(1)(c) refers*); and one employer representative member (*being a member to whom Regulation 2(1)(d) refers*), 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 lay members (*Regulation 2(1)(e) refers*), 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 guidelines² 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 a number of vacancies on the Tribunal (*see Appendix 1*) – 2 Deputy Chairmen, 3 employer representative lay members, and one employee representative lay member. In October to November 2018, the positions were advertised in the Jersey Evening Post, on the States Government website, in the Bailiwick Express, and via newsletters distributed by the Jersey Law Society and the Jersey Advisory and Conciliation Service. Following short-listing in November, structured interviews were undertaken in November and December 2018 by 2 separately constituted recruitment panels.

Deputy Chairmen – The recruitment panel which interviewed candidates for the Deputy Chairmen positions consisted of the Deputy Bailiff, the Chairman of the Tribunal, and the Director of the Judicial Greffe.

Lay members – The recruitment panel which interviewed candidates for the lay member positions consisted of the Chairman of the Tribunal, the Director of the Judicial Greffe, and a States of Jersey Human Resources Manager.

The Jersey Appointments Commission confirmed that it did not require direct involvement in the recruitment process. An open recruitment process was conducted in accordance with the guidelines produced by the Commission. This is required by Regulation 3(3) of the [Employment and Discrimination Tribunal \(Jersey\) Regulations 2014](#). Regulation 3(4) also requires that the Commission must be consulted before appointing members.

² www.gov.je/SiteCollectionDocuments/Government%20and%20administration/P%20JAC%20recruiting%20guidelines%2020160706%20JP.pdf

Having assessed the candidates and reached their decisions, the recruitment panels recommended to the Minister that 6 new appointments be made. The Minister is satisfied that the individuals possess the required knowledge and experience, and proposes their appointment, each for a 5-year term of office, to begin from 1st March 2019. Further details about the proposed members are provided in **Appendix 2**.

Deputy Chairmen –

Advocate Fraser Robertson
Mrs. Hannah Westmacott

Lay members –

Miss Jennifer Bridge
Mr. Michael de la Haye, O.B.E.
Mr. Simon Nash
Miss Roisin Pitman.

Notification of re-appointment

The initial term of office of current side member, Mrs. Emma Harper, would expire on 28th February 2019.

Mrs. Harper works in accounts and property management for Badix Properties Jersey Limited, as well as undertaking bookkeeping for a number of local small businesses. Mrs. Harper has 19 years' previous experience as Owner, Director and Company Secretary of Harper's Catering Limited, in which she employed a multicultural workforce of more than 100 staff, including permanent, seasonal, temporary and part-time staff. Mrs. Harper has previously worked in the travel and retail sectors, and she served for 2 years as the Chairman of the Parent Teachers' Association for St. John's Primary School.

Mrs. Harper has requested a 4-year extension to her term of office. Having consulted the Jersey Appointments Commission, the Minister has re-appointed Mrs. Harper as a side member for a further 4-year term that will end on 28th February 2023.

It is not necessary to ask the States Assembly to approve 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. Harper has been re-appointed.

Financial and manpower implications

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

APPENDIX 1

RETIRING MEMBERS

Vacancies have been created by the following members' terms of appointment coming to an end –

1. Mr. Michael Preston
(Appointed 1st March 2014. Term due to end 28th February 2019.)
2. Mr. Mark Therin
(Appointed 16th January 2008. Term ended 15th January 2018.)
3. Mr. Michael Baudains
(Appointed 16th January 2008. Term ended 15th January 2018.)
4. Mr. Ian Carr
(Appointed 1st February 2012. Term ended 4th September 2017.)
5. Mr. Gerald Larkins
(Appointed 8th September 2015. Term ended 19th May 2017.)

Note: In addition, up to 5 Deputy Chairmen may be appointed to the Tribunal. Currently, there are 4 Deputy Chairmen, and so the fifth vacant Deputy Chairman position was advertised.

PROPOSED MEMBERS: BIOGRAPHICAL INFORMATION**Deputy Chairmen**

Advocate Fraser Robertson was admitted as an English Solicitor in 1985, and practised for a number of years in London before becoming an Advocate of the Royal Court in 1999. Advocate Robertson has worked at Appleby for 24 years, becoming a Partner in 2000, and was Practice Group Head of the Jersey Dispute Resolution team for 12 years until October 2018. Advocate Robertson advises on commercial disputes, specialising in trust, contractual, professional negligence, fraud and regulatory issues. Advocate Robertson also has experience in employment legislation, both acting for clients and in the workplace, such as chairing disciplinary panels. Advocate Robertson has appeared before the Jersey Courts in a number of significant reported cases and, as an accredited mediator, has conducted mediation hearings. As a member of the Jersey Law Society's Disciplinary Panel, Advocate Robertson has experience of chairing a panel to reach a decision in collaboration with lay members.

Mrs. Hannah Westmacott was admitted as Solicitor of the Supreme Court of England and Wales in 2005. Mrs. Westmacott trained and qualified as a Solicitor with Simmons & Simmons, working for them in London for 5 years and then in Abu Dhabi for a further 2 years, dealing with a variety of international clients across a range of sectors. Mrs. Westmacott specialised in dispute resolution, gaining experience in the Royal Courts of Justice in London, the Dubai International Financial Centre Courts, International Arbitration and Alternative Dispute Resolution. Mrs. Westmacott has also gained experience in other professions, working for 2 years as the Assistant to the Abu Dhabi Executive Director of Culture and (after a break to have her children) for local retailer Proviz, where she is currently employed.

Employee representative lay member

Miss Jennifer Bridge is currently a Mathematics, English and Music tutor. She has previously been employed in various teaching roles in local schools since 1990. During her recent role as Education Manager for the States of Jersey Prison Service, Miss Bridge was the Prospect Union Representative, supporting prison colleagues with employment issues. Miss Bridge continues to be a member of that trade union, and is also a member of the teaching union, NASUWT. Miss Bridge is a trained mediator and a Member of the Chartered Institute of Arbitrators. Miss Bridge served as a Deputy of St. Helier No. 2 district from 1999 to 2005, and is the Chairman of the Jersey Literary Festival Association.

Employer representative lay members

Mr. Michael de la Haye, O.B.E. has recently completed a 3-year term of office as a Commissioner for the Jersey Financial Services Commission (January 2016 to December 2018), during which time he was a member of the Board's Remuneration Committee. Prior to that, Mr. de la Haye worked for the States of Jersey for 30 years in a number of different roles, including for the Immigration and Nationality Department and the Law Officers' Department. In his most recent position, Mr. de la Haye served as the Greffier of the States for 13 years until December 2015. This was a Chief Officer role, with responsibility for the impartial administration of the States Assembly, as well as the performance of the Department and its staff. Mr. de la Haye was a member of the States of Jersey Audit Committee for 8 years.

Mr. Simon Nash has 23 years' experience in human resources management, having worked in sectors including telecommunications and banking. He currently runs his own consultancy business, Insight Group, which advises clients on a range of people management products and services, including recruitment and reward strategy. For 12 years until 2016, Mr. Nash was the Human Resources Director for Carey Olsen, with global responsibility for 350 staff. Mr. Nash is a Fellow of the Chartered Institute of Personnel and Development, and is a founder member of the Jersey Good Business Charter, an independent standard of excellent business practice.

Miss Roisin Pitman works in the security industry, and provides security services and security industry education. For 23 years until 2016, Miss Pitman was the Managing Director of local family business, Trek Plus, with responsibility for the day-to-day management of the business, including human resources. Miss Pitman served for 11 years as a States of Jersey Police Officer until 1993, and prior to that worked in banking for 4 years. Miss Pitman has experience of the local courts, both as a Police Officer and as a former Centenier for the Parish of St. Helier. Miss Pitman is the Director of Disability Martial Arts for the Jersey Sports Association for the Disabled, and she teaches martial arts locally and internationally.