

SOLICITORS DISCIPLINARY TRIBUNAL APPOINTMENT PROTOCOL 2020

Preamble

1. The Solicitors Disciplinary Tribunal (the Tribunal) is a statutory tribunal established under Section 46 of the Solicitors Act 1974 (the 1974 Act). It is responsible for protecting the public interest and the reputation of the solicitors' profession. It adjudicates upon alleged breaches of the rules and regulations applicable to solicitors and their firms, Registered European and Registered Foreign Lawyers, solicitors' employees, recognised bodies, and entities.
2. The Tribunal also determines applications by former solicitors for restoration to the solicitors' roll, termination of periods of suspension, and variation of conditions on practice imposed by the Tribunal. It also has appellate jurisdiction in respect of certain decisions of the Solicitors Regulation Authority (SRA) exercised under powers delegated to the SRA by The Law Society. The Tribunal's decisions are subject to a right of appeal to the High Court.
3. The Master of the Rolls appoints solicitor and lay members of the Tribunal in accordance with section 46 of the 1974 Act. This Protocol sets out the procedure by which the Master of the Rolls will exercise his discretion to appoint Tribunal members.
4. References in this document to 'appointment panel' include sift and interview panels.

Equality and Diversity Statement

5. It is essential that the membership of the Tribunal properly represents the solicitors' profession and the public. Diversity in its membership helps meet the needs of the profession and the public, and the Master of the Rolls welcomes applications from all sectors of the community.
6. The Master of the Rolls is committed to ensuring equality of opportunity. Everyone who applies for appointment under this Protocol should be treated fairly and with respect. No-one will be treated less favourably because of his or her race (including nationality, ethnic or national origins), sex, sexual orientation, gender reassignment, religion or belief, marital or civil partnership status, age, disability, pregnancy or maternity, paternity or adoption. The appointment process will therefore be carried out through fair, transparent and merit-based recruitment procedures, which are accessible equally to all and which comply with the Equality Act 2010.

7. When vacancies for new Tribunal members arise, advertisements for the number and type of vacancy will be placed to encourage diversity in the range of applications for appointment, taking account of commonly prevailing recruitment practices.
8. Positive action initiatives to promote diversity in the Tribunal's membership may be deployed if they represent a proportionate and appropriate measure at the time the recruitment takes place.

Data Protection

9. The Master of the Rolls is committed to ensuring that the appointment process under this Protocol is carried out consistently with data protection law. For further information see the Master of the Rolls' Solicitors' Disciplinary Tribunal Appointments – Privacy Notice, which is available at www.Judiciary.uk

Appointment Eligibility Criteria

10. The Master of the Rolls appoints Tribunal members. They are not appointed by, nor are they, employees of the Tribunal or its administration company, Solicitors Disciplinary Tribunal Administration Limited (SDTAL).
11. In order to ensure that the Tribunal is both independent of and perceived to be independent of The Law Society, the approved regulator of the solicitors' profession, and the SRA, the independent regulatory arm of The Law Society, the following individuals **cannot** be appointed as either solicitor or lay members of the Tribunal:
 - (i) individuals who are employed by The Law Society or serve as Law Society Council or Board members, or who have been or done so in the past two years;
 - (ii) individuals who are employed by the SRA or serve as SRA Board members, or who have been or done so in the past two years;
 - (iii) individuals who are Adjudicators of the SRA, or who have been so in the past two years;
 - (iv) individuals who are members of the Legal Services Board, or who have been so in the past two years.
12. To be eligible for appointment, applicants must satisfy the statutory appointment criteria set out in section 46(3) of the 1974 Act.
13. Solicitor Member applicants must:
 - (i) have a minimum of 10 years' standing as a solicitor; and

(ii) be in active practice as a solicitor (section 46(3)(a) of the 1974 Act).

14. To be in active practice a solicitor is required to hold a current practising certificate, or be exempt from doing so under section 88 of the 1974 Act, and regularly to:

- (i) take instruction from and/or
- (ii) represent and/or
- (iii) act on behalf of and/or
- (iv) provide legal advice to clients and/or other parties; or
- (v) supervise other solicitors; and

to do so in a fee-earning capacity or otherwise, for example as part of a legal firm, consultancy, in an in-house capacity, or in public service.

15. Active practice does not include solely academic roles or solely holding a judicial office.

16. Solicitors who are dual-qualified as barristers and legal executives, patent or trade mark attorneys or costs lawyers are eligible for appointment where they satisfy the solicitor member eligibility criteria.

17. Lay member applicants must be neither a solicitor nor a barrister nor former solicitor or barrister (section 46(3)(b) of the 1974 Act).

18. Additionally, both solicitor and lay member applicants must have knowledge of or an ability to obtain a good understanding of the solicitors' profession and its regulatory and disciplinary rules.

Terms and Conditions of Appointment

19. Appointment terms are for a period of 5 years. Members hold and vacate their office in accordance with their terms of appointment and with the prevailing Code of Conduct for Tribunal Members.

20. Appointments may be renewed on application to the Master of the Rolls. In considering an application for reappointment the Master of the Rolls will take into consideration any recommendation made by the President of the Tribunal which may be informed by any appraisal system operated by the Tribunal. Members whose reappointment is not recommended have the right make a written submission setting out the reasons why they believe they should be reappointed, for consideration by the Master of the Rolls.

21. Appointments and Reappointments will take account of the Tribunal's prevailing Retirement Policy (which can be found on its website at

<http://www.solicitortribunal.org.uk/>. Applicants and members should consider the terms of the Tribunal's Retirement Policy before submitting an application for appointment or reappointment. The Master of the Rolls expects that applicants will, on appointment, be able to serve a minimum of one term.

22. Members must commit to devote sufficient time to the business of the Tribunal. They are expected to be able to sit for at least 15 days per annum as required, including long cases (defined as exceeding 5 days), to meet the Tribunal's workload and performance targets, in addition to time spent on preparation, including reading papers and, after hearings, amending and approving draft judgments.
23. Cases may take several days, and occasionally weeks, to conclude. Members will therefore be required to sit for more than one day consecutively on a regular basis.
24. Members are not and cannot be required to sit on any particular proceeding or proceedings. Members will not be permitted to sit on hearings where there is any risk of actual or apparent bias in their sitting.
25. Members are expected to attend two training days each year and are responsible for keeping themselves up to date with Tribunal practice and procedure, case law, and all legal and regulatory issues relevant to the Tribunal's work. Failure to do so could preclude the Member from sitting on future hearings and may be taken into consideration if the Member applies to be reappointed. This is a rapidly changing legal environment and the personal time commitment required should not be underestimated.
26. Members are remunerated for sitting days in accordance with fixed fees laid down by the Board of SDTAL notified to them by the President of the Tribunal. Members are paid solely for sittings and not for pre- or post-hearing preparation, drafting, case management decisions outside sittings, keeping up to date in accordance with paragraph 25 above or approval of draft judgments.
27. Members will receive reimbursement of reasonable travel and subsistence expenses which must be evidenced by production of valid receipts. Claims must be made and submitted in accordance with the Tribunal's prevailing Expenses Policy and procedure.
28. Fees will not be paid in respect of sittings which are cancelled. However, non-refundable expenses will be reimbursed.
29. Members are required to complete an annual Declaration of Personal Interests, including confirmation that they are in active practice, in accordance with the Tribunal's prevailing procedure, so that risk of actual or apparent bias can be managed

effectively and efficiently, always adopting a cautious approach to such risk. Members must notify the Clerk to the Tribunal of any changes to their personal or professional circumstances which affect their annual declaration as and when they arise.

30. Members must inform the President of the Tribunal and the Clerk to the Tribunal, without delay, if their circumstances change such that they no longer meet the eligibility requirements for Tribunal membership, set out in this Protocol.
31. A member who is subject to regulatory or disciplinary proceedings brought by the SRA, or police cautions or other criminal process (excluding minor motoring offences) or proceedings, including SDTAL disciplinary proceedings, which call into question their character and suitability must inform the President of the Tribunal and the Clerk to the Tribunal without delay. The President is responsible for notifying the Master of the Rolls of any such process or proceedings. During the currency of such a process or proceedings the member will not be eligible to sit on hearings but will remain a member. At the conclusion of the process or proceedings, including any appellate process, if the member is found guilty, or is subject to adverse findings, his or her appointment will terminate immediately.
32. Where a member subject to disciplinary proceedings further to the Tribunal's Code of Conduct for Members is, upon completion of those proceedings (including any appellate process), found to be in breach of the Code, the Master of the Rolls may, in his discretion, terminate the member's appointment.
33. Other terms of appointment may be incorporated, on appointment or reappointment, from time to time.

The Appointment Process

34. The Master of the Rolls will appoint an individual (the Appointment Panel Chair) to be responsible for ensuring that the recruitment of Tribunal members is carried out in accordance with this Protocol. The Appointment Panel Chair will neither be a member nor an employee of the Tribunal.
35. The Tribunal is responsible for providing such support as is necessary to secure the effective implementation of this Protocol.
36. The Appointment Panel Chair in carrying out their duties must uphold the Nolan Principles i.e., must act with:
 - (i) Selflessness: Holders of public office should act solely in terms of the public interest.

- (ii) Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other benefits for themselves, their family, or their friends. They must declare any interests and relationships.
 - (iii) Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
 - (iv) Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
 - (v) Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
 - (vi) Honesty: Holders of public office should be truthful.
 - (vii) Leadership: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
37. Selection decisions at sift and interview stages will be by a panel or panels made up of solicitor and lay members of the Tribunal (Tribunal panel members) and an independent panel member, who will not be a member of the Tribunal. Each panel must be ethnically and gender diverse.
38. The President of the Tribunal will be a member of a selection panel at the interview stage. Where there is more than one selection panel at the interview stage, the lay Vice-President of the Tribunal will be a member of the first additional panel, and members of the SDTAL Board will be members of any further panels. The Appointment Panel Chair will determine which SDTAL Board member or members will be an interview panel member where there are more Board members than there are interview panels. If there are more selection panels at interview stage than available Board members, the Appointment Panel Chair will identify another member in their place.
39. Independent panel members will be appointed by the Appointment Panel Chair.
40. Each panel will be chaired by a chairperson nominated by the Appointment Panel Chair.
41. Tribunal Members who sit on appointment panels will be paid fees and expenses at prevailing rates and in accordance with the prevailing Tribunal Expenses Policy and process.

42. There is no set number of selection panels at either the sift or interview stage. The number required will be determined by the Appointment Panel Chair in consultation with the Clerk to the Tribunal by reference to the number of applications received (sift) and the number shortlisted (interview).
43. Tribunal members will be invited to apply for inclusion in one of the appointment panels, either at sift or interview stage. Such panel members will be selected following a telephone interview. Selection for the panels will be based on recruitment best practice and demonstrable commitment to the Tribunal's aims and values, and so as to ensure that the requirement that each panel is ethnically and gender diverse is achieved. Selection for panel membership will be determined by the President of the Tribunal for solicitor panel members, the lay member Vice-President of the Tribunal for lay members, in conjunction with the Appointment Panel Chair, the Clerk to the Tribunal and the Tribunal's Head of Human Resources and Office Services.
44. Panel members may not sit on a panel at both the sift and interview stage.
45. If more than one panel is used at any stage of the process, the decisions of the individual panels will be calibrated at a meeting chaired by the Appointment Panel Chair, assisted by the Tribunal's Head of Human Resources and Office Services, or another suitably qualified and experienced recruitment expert, to ensure consistency of decision-making.
46. Once selected, all panel members will be required to undergo equality and fair selection training from the SDT's Head of Human Resources and Office Services and/or another suitably qualified and experienced recruitment expert(s) before taking part in the recruitment process. Separate written guidance will be provided to panel members.

The Recruitment Process - General Principles

47. Selection is based on fair and objective criteria. The recruitment process will be carried out in accordance with prevailing equality legislation including the provisions and principles of the Equality Act 2010, as specified in paragraph 6, above. The exact nature of each appointment process will be determined by the Appointment Panel Chair.
48. Appointment is on merit only.
 - a. However, where, having considered the relevant eligibility criteria, a selection panel concludes that two or more persons are of equal merit, the panel may prefer one of them over the other or others for the purpose of increasing diversity within the Solicitors Disciplinary Tribunal (known as the "equal merit provision").
 - b. The equal merit provision may be applied at the second sift, interview, recommendation for appointment, and appointment stages of the selection process.

- c. Prior to the commencement of the selection process, the Tribunal will provide the selection panel with data and information to enable it to determine whether there is any relevant under-representation of any particular group within the Solicitors Disciplinary Tribunal.
- d. Where a selection panel relies on the equal merit provision, it must be satisfied that: -
 - (i) The candidates about whom a decision is being made are of equal merit.
 - (ii) The particular identified protected characteristic is under-represented in the Solicitors Disciplinary Tribunal.
 - (iii) Reliance on an equal merit provision is a proportionate means of achieving the aim of enabling persons with the relevant protected characteristic to become members of the Solicitors Disciplinary Tribunal.

49. Selection methods will include a paper-based sift, panel interviews and, if appropriate, other assessment exercises e.g. written assessments, role-play etc.

50. Applications will not be considered outside of the formal recruitment process.

51. All applicants will be notified of the outcome of their applications at each stage of the process.

Advertisement of vacancies

52. The Master of the Roll's goal is to secure a wide and diverse range of applicants who are willing and able to devote the necessary time to the performance of their duties and are representative of the wide and diverse make-up of the solicitors' profession.

53. The President of the Tribunal is responsible for ensuring that arrangements are made to identify, in good time, the need for appointments to be made, and to inform the Master of the Rolls accordingly.

54. The Clerk to the Tribunal, working with the Appointment Panel Chair, in discussion with the President, is responsible for putting recruitment and selection arrangements in place in accordance with the principles and procedures set out in this Protocol.

55. When vacancies arise, the Tribunal will advertise the number and type of vacancy, the terms and conditions of appointment and the nature of the role. It will ensure that advertisements are placed to encourage diversity in the range of individual applications for appointment. This may include but is not limited to:

- (i) Local and national press;
- (ii) Professional publications;
- (iii) Minority interest group publications;
- (iv) The Law Society's website;

- (v) The Tribunal's website;
- (vi) The Judiciary of England and Wales' website, in conjunction with the Master of the Rolls' Private Office.

Application form

56. Anyone who wishes to be considered for appointment is required to submit an application form by the specified closing date. The application form is tailored to ensure that applicants provide information to facilitate objective selection decisions and for this reason all sections of the form must be completed.

Initial sift stage - eligibility criteria

- 57. Once the closing date for applications has passed, all applications received will be sifted to determine whether applicants meet the essential eligibility criteria.
- 58. Solicitor member applicants must satisfy the eligibility criteria set out at paragraphs 11 to 16 and 18 above.
- 59. Lay member applicants must satisfy the eligibility criteria set out at paragraphs 11, and 17 to 18 above.
- 60. Applications from people who do not demonstrate that they meet these essential eligibility criteria will not be progressed beyond this stage.

Second sift stage – shortlisting for interview

- 61. Candidates who meet the eligibility criteria will be assessed by a sift panel or panels to determine whether they should be put forward to attend an interview.
- 62. Candidates will be assessed from the written application against the following criteria based on the competencies and behaviour required to fulfil the role of Tribunal member effectively:

Intellectual Capacity

- Appropriate knowledge of, or an ability to acquire a good understanding of, the solicitors' profession, its regulatory and disciplinary rules and their underlying principles, and the ability to apply them.
- Ability to absorb and analyse potentially complex information quickly from multiple sources.
- Maintains a high level of expertise in his or her chosen area or profession and keeps abreast of changes.
- Problem solving skills.

Personal Qualities

- Ability to make sound and objective judgements with an open mind.
- Ability to make and justify decisions and abide by them.
- Integrity and independence of mind.

- Ability and willingness to learn and develop professionally.
- Ability to build effective relationships and work constructively with others.
- Commitment to public service and, in particular, the Nolan Principles of Public Life.

Ability to Understand and Deal Fairly

- A sense of and commitment to justice and fairness.
- Ability to treat everyone with respect and sensitivity whatever their needs and background.
- Understanding of and commitment to equality of opportunity, including not unlawfully discriminating on the basis of protected characteristics, dealing fairly with others, and the promotion and integration of diversity in their professional life.
- Knowledge of consumer issues or client care (lay members).
- Experience of professional HR/ disciplinary work or tribunals from other fields (lay members). (This is a desirable rather than necessary criterion.)

Authority and Communication Skills

- Strong verbal and written communication skills.
- Ability to explain procedures and decisions reached clearly and succinctly to a variety of audiences.
- Willingness to listen to and explore other people's point(s) of view with patience and courtesy.
- Ability to inspire respect and confidence.
- Ability to maintain authority when challenged.
- Able to influence others when necessary.

Efficiency

- Ability to perform effectively at speed and under pressure, focusing on the relevant issues.
- Ability to manage time effectively to meet conflicting priorities.
- Accuracy and attention to detail.
- Ability to produce clear reasoned Judgments expeditiously including when under pressure.
- Embraces new processes and procedures.

Interview stage

63. Applicants selected at the second sift stage will be invited to attend an interview, which will normally take place at the Tribunal's office at Gate House, 1 Farringdon Street, London. However, interviews may be held remotely by electronic means if required.

64. Interviews may include a written assessment and/or the requirement to give a presentation.
65. Shortlisted applicants will be assessed by an interview panel or panels, using the selection criteria set out at paragraph 62 above.
66. All applicants who have a disability as defined in the Equality Act 2010 and who satisfy the minimum eligibility criteria will be offered an interview. Any reasonable adjustments that are required by such an applicant will be made.

References

67. Following interview, the most meritorious applicants will be recommended for appointment.
68. References will be taken up for those applicants who are recommended for appointment and, when received, will be forwarded to the Master of the Rolls to inform his decision about whether or not to appoint the recommended applicant(s).
69. In the case of Solicitor member applicants, references will also be taken up from the SRA in respect of the applicant's disciplinary and regulatory record.

Appointment

70. Following receipt of the Interview Panel's recommendation, references and satisfactory disciplinary record, the Master of the Rolls may ask for further information regarding the recommendation(s), accept or reject the recommendation(s) or ask the interview panel to reconsider its recommendation(s).
71. If the recommendation is accepted the applicant will be appointed. Appointment may be immediate, or it may be at a specified later date. If the interview panel is asked to reconsider a recommendation and the panel again recommends the applicant for appointment, the Master of the Rolls may either accept or reject the reconsidered recommendation.
72. Those applicants appointed will be appointed subject to any relevant statutory provisions and, in so far as they are consistent with any relevant statutory provisions, the terms set out in this Protocol.

Reserve list

73. In the event of several successful potential Tribunal members being identified during an appointment process by interview panels, beyond the advertised number of vacancies, a reserve list may be established by the Appointment Panel Chair.
74. The purpose of the reserve list will be clearly set out and adhered to. Such information will be available to all applicants.

75. Those potential Tribunal members who may be put onto the reserve list will be informed of this in order to seek their agreement.
76. Where an applicant indicates his or her willingness to be placed on the reserve list paragraphs 66-71 apply.
77. Should the Master of the Rolls approve the appointment in principle, the candidate's name will be entered on to the reserve list for, initially, one year. With the individual's consent the one-year period may be extended annually for a year at a time, subject to the individual being able to serve a minimum of a single term.
78. Individuals on a reserve list will receive regular communications, at least annually, on the progress of the list and the likelihood of appointment. They will be sent the Tribunal's Annual Report.
79. The reserve list for one appointment campaign will close at the commencement of the next appointment campaign.

Scoring

80. Applicants will be scored against the selection criteria at each stage of the process according to an agreed scoring mechanism. Those applicants who reach the required score will be put forward to the next stage of the process.
81. Scoring may be weighted to reflect the relative importance of each criterion in relation to the others. Where weighting is applied, applicants will be advised of this in the Application Information Pack.

Complaint Process

82. Where an applicant wishes to complain about the appointment process, he or she should do so in writing to the Master of the Rolls at:

Master of the Rolls' Private Office
Solicitors Disciplinary Tribunal Appointment Process – Complaint
Room E214
Royal Courts of Justice
Strand
London, WC2A 2LL

83. Upon receipt of the complaint the Master of the Rolls will appoint an independent assessor to investigate and make recommendations to him concerning its resolution.

Further Information

84. For further information about the recruitment process please contact Solicitors Disciplinary Tribunal Administration Ltd, by email at recruitment@solicitorsdt.com, or by telephone on 020 7329 4808.

85. Further information about the Solicitors Disciplinary Tribunal can be found on our website at www.solicitorstribunal.org.uk