

STATES OF JERSEY



JERSEY EMPLOYMENT AND DISCRIMINATION TRIBUNAL: APPOINTMENT OF LAY MEMBERS

Lodged au Greffe on 4th August 2015
by the Minister for Social Security

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 lay members of the Jersey Employment and Discrimination Tribunal, each for a period of 5 years to begin from the date of States approval –

Mr. Simon Cross
Mrs. Susan Cuming
Mrs. Louise James
Mr. Gerald Larkins
Mrs. Suzannah Le Moignan
Mr. Vincent Manning
Mrs. Anne Southern
Mrs. Marilyn Wetherall.

MINISTER FOR SOCIAL SECURITY

REPORT

Background

Article 81 of the [Employment \(Jersey\) Law 2003](#) (the “Employment Law”), as amended by the [Discrimination \(Jersey\) Law 2013](#) (the “Discrimination Law”), provides for the establishment of the Jersey Employment and Discrimination Tribunal (the “Tribunal”). It provides that the Tribunal will exercise the jurisdiction conferred on it by the Employment Law, the Discrimination Law and the [Employment Relations \(Jersey\) Law 2007](#).

The Tribunal retains the jurisdiction of the former Jersey Employment Tribunal which was responsible, from 1st July 2005, for hearing and determining complaints relating to areas including: written terms of employment, rest periods and annual leave, minimum wage, unfair dismissal, redundancy pay and collective disputes.

Since 1st September 2014, the Tribunal has also been responsible for hearing complaints under the Discrimination Law, which includes ‘race’ as the first protected characteristic. Protection against discrimination on grounds of sex, sexual orientation, gender re-assignment, and pregnancy and maternity will be included from 1st September 2015, and further protected characteristics (age and disability) are intended to be added in the future.

The written decisions of the Tribunal are published on the Jersey Legal Information Board website. Annual Reports of the Tribunal are presented as a Report to the States each year. The latest Annual Report for 2014 was presented to the States on 7th April 2015 ([R.39/2015](#)).

Constitution of the Tribunal

Under Article 82 of the Employment Law, Regulations may provide for the constitution, membership and administration of the Tribunal, including for the appointment and terms of membership of the members. These provisions are set out in the [Employment and Discrimination Tribunal \(Jersey\) Regulations 2014](#) (the “Regulations”).

The Regulations provide that the Tribunal consists of the following members –

- (a) a Chairman, being a person who holds a qualification in law ... ;
- (b) at least one and not more than 5 Deputy Chairmen, being persons who hold a qualification in law ... ;
- (c) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in trade unions or matters relating to employees generally;
- (d) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in employers’ associations or matters relating to employers generally; and
- (e) at least 2 and not more than 8 other members, being persons with knowledge or experience of or interest in matters relating generally to equality and discrimination, or to discrimination and protected characteristics within the meaning of the Discrimination Law.

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 Regulations also provide that the recruitment of Tribunal members must be overseen by, and conducted in accordance with, the guidelines produced by the Jersey Appointments Commission (the “Appointments Commission”). Members are appointed by the States on the recommendation of the Minister for Social Security (the “Minister”), after consultation with the Appointments Commission.

Recruitment of Tribunal lay members

Vacancies on the Tribunal have arisen because 7 of the original lay members have served the maximum 10 year term of office (3 employee representative lay members and 4 employer representative lay members); and one employee representative lay member has resigned from the Tribunal following her decision to move to the UK. (**Appendix 1** lists the 7 members whose terms have ended and the member who has resigned.) The Minister is very grateful to these 8 members for their service.

The positions were advertised twice in the Jersey Evening Post during April 2015, and an advert was placed on the States of Jersey website. Following shortlisting, structured interviews were undertaken in June 2015 by a recruitment Panel consisting of the Chairman of the Employment and Discrimination Tribunal, the Assistant Judicial Greffier and a States Human Resources Manager who provided recruitment expertise. The recruitment process was overseen by a representative of the Appointments Commission.

Having assessed the candidates and reached a decision, the recruitment Panel recommended the appointment of 8 new members. The representative of the Appointments Commission audited the recruitment outcomes and stated that he was satisfied with the paperwork and that the process conformed to the Appointments Commission Code of Practice.

The proposed new members were therefore recommended to the Minister, and the Minister decided that she is satisfied that the 8 individuals possess the required knowledge and experience. Further details of the proposed members are provided in **Appendix 2**.

The Minister proposes that the States approves the following 4 individuals as employee representative lay members, each for a 5 year term of office to begin from the date of States approval –

Mr. Simon Cross
Mrs. Suzannah Le Moignan
Mr. Vincent Manning
Mrs. Anne Southern.

The Minister also proposes that the States approves the following 4 individuals as employer representative lay members, each for a 5 year term of office to begin from the date of States approval –

Mrs. Susan Cuming
Mrs. Louise James
Mr. Gerald Larkins
Mrs. Marilyn Wetherall.

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 were created by the departure of the following members –

1. Mr. Alan Hall
(Appointed 1st July 2005. Term ended 30th June 2015.)
2. Mrs. Susan Armes
(Appointed 1st July 2005. Term ended 30th June 2015.)
3. Mrs. Mary Curtis
(Appointed 1st July 2005. Term ended 30th June 2015.)
4. Mr. Stewart Mourant
(Appointed 1st July 2005. Term ended 30th June 2015.)
5. Mr. Samuel Le Breton
(Appointed 1st July 2005. Term ended 30th June 2015.)
6. Mr. Patrick Kirwan
(Appointed 1st July 2005. Term ended 30th June 2015.)
7. Mr. Peter Woodward
(Appointed 1st July 2005. Term ended 30th June 2015.)
8. Mrs. Angela Swindell
(Appointed 1st February 2012. Resigned with effect from 30th June 2015.)

Employee representative side members

Mr. Simon Cross served as a Police Constable for 27½ years in various operational roles for the States of Jersey Police, including 8 years as Force Trainer and 8 years as a Community Police Officer. Mr. Cross served as a Committee Member of the Jersey Police Association, including terms as President and Vice-President, and has experience of representing colleagues in disciplinary and grievance hearings. Mr. Cross also has 14 years' experience as Force Assistant Welfare Officer. Mr. Cross retired in January 2015 and is currently employed by the States of Jersey Police on an *ad hoc* basis as a training assistant.

Mrs. Suzannah Le Moignan has experience as an employee working in various marketing, communications and customer services roles, including 4 years in Jersey and 7 years in the UK. Mrs. Le Moignan gained experience of dealing with appeals against decisions whilst working for a transport scheme for disabled people in the UK and in her role working for Ofsted – the UK government office for standards in education and childcare – Mrs. Le Moignan was responsible for responding to complex Freedom of Information requests. Mrs. Le Moignan is currently a full-time mother and, since January 2015, has worked part-time as a self-employed book-keeper for a number of clients.

Mr. Vincent Manning has 5 years' experience as a Senior Shop Steward for Unite the Union and has acted as Branch Secretary for the past 2 years. During this time, Mr. Manning has completed various training courses, including Union Representatives training to Stage 4 and equality and diversity training. Mr. Manning is responsible for running his branch, which includes representing employees in disciplinary and grievance hearings and representing his members in negotiations on pay and conditions. Mr. Manning has been employed by G4S as a Jersey Ports Security Agent for the past 7 years and has previous experience of working in removals and in the hospitality industry.

Mrs. Anne Southern has 38 years' experience as a teacher of all age-groups, including 10 years as Head of English at Hautlieu School. Mrs. Southern has been a member of the Jersey Teachers' Association for more than 40 years, including 8 years as President. Mrs. Southern is currently a Jersey Teachers' Association Committee Member with responsibility for casework, which involves providing support to union members in workplace issues and disputes. Mrs. Southern retired from full-time employment in 2008, but has since undertaken contract work as a Senior Examiner for English Literature 'A/S' Level examinations.

Employer representative side members

Mrs. Susan Cuming has 25 years' experience as a Human Resources professional, including 13 years working at a senior level for the States of Jersey until she retired in April 2015. Most recently, Mrs. Cuming worked in the Chief Minister's Department leading a team that provided a human resources service for 500 staff across a range of departments. Mrs. Cuming was also the Secretary to the Jersey Appointments Commission. Mrs. Cuming is a qualified Chartered Fellow of the Chartered Institute of Personnel and Development and was formerly a committee member of the CIPD Jersey Branch.

Mrs. Louise James is a human resources generalist with 10 years' experience, to a senior level, of working in both small and large human resources teams within the finance industry in Jersey and in the UK. Mrs. James most recently worked as a Human Resources Consultant for Saltgate on a short-term project basis, and prior to that she worked as Head of Human Resources for Santander Private Banking. Mrs. James holds an MSc in Human Resource Management and Development and is an Associate Member of the Chartered Institute of Personnel and Development.

Mr. Gerald Larkins has 24 years' experience of working in the hospitality sector, in Jersey and in Scotland, across a range of different businesses including hotels, restaurants, bars and a nightclub. In his current position as General Manager of Jersey's Pizza Hut, Mr. Larkins has 13 years' hands-on experience of dealing with operations and staff management for around 20 staff, managing all aspects of a busy 166 seater restaurant, kitchen and bar. Mr. Larkins is also responsible for providing management support to the fast-food chain KFC with an additional 15 staff.

Mrs. Marilyn Wetherall has 40 years' experience as a Human Resources professional, and has worked at a senior level in both the public and private sectors; including previous roles at the General Hospital, Jersey Airport, a local law firm and as owner of a recruitment agency. Mrs. Wetherall is a chartered member of the Chartered Institute of Personnel and Development and was one of the founder members of the Jersey branch of the Chartered Management Institute. Mrs. Wetherall is currently retired, but provides her expertise on an *ad hoc* basis to the Social Security 'Back to Work' team to assist customers with job applications and interview skills.