

STATES OF JERSEY



INCOME SUPPORT MEDICAL APPEAL TRIBUNAL: APPOINTMENT OF DEPUTY CHAIRMEN

Lodged au Greffe on 23rd February 2016
by the Minister for Social Security

STATES GREFFE

PROPOSITION

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

in accordance with Article 9 of the Income Support (Jersey) Law 2007, and further to a process overseen by the Jersey Appointments Commission, to appoint –

Advocate David Benest,
Ms. Wendy Lambert (Solicitor), and
Advocate Bryan Ian Le Marquand

as Deputy Chairmen of the Income Support Medical Appeal Tribunal, each for a period of 5 years.

MINISTER FOR SOCIAL SECURITY

REPORT

1. Background

Article 15 of the Income Support (General Provisions) (Jersey) Order 2008 provides for the constitution of the Income Support Medical Appeal Tribunal and the terms of appointment of its members.

The Income Support Medical Appeal Tribunal (ISMAT) hears appeals on the award of the Impairment Component under the Income Support system, and any other decisions made on medical grounds. It may also hear appeals regarding care requirements for Home Carer's Allowance and the care assessments for Long-Term Care. The Tribunal will review all facts placed before it by the Appellant and the Minister for Social Security and may confirm, reverse or vary the decision made by the Department's Determining Officers.

The constitution of the ISMAT comprises a Chairman (or a Deputy Chairman) holding a qualification in law, a Medical Practitioner and a lay member.

Medical Practitioners appointed to the ISMAT must be currently licensed to practice medicine with the UK's General Medical Council. The role of the Medical Practitioner is to help the Tribunal interpret and understand specific clinical information and its relevance or otherwise in the determination.

The lay member must have experience, either through their work, from having cared for someone, or because of their own situation, of the needs of someone with a disability. Panel members use this experience to interpret the information provided and to consider whether a reasonable assessment has been made.

This proposition relates to the appointment of Deputy Chairmen.

2. Tribunals

The Minister is responsible for the constitution of 3 different Tribunal Panels, the Social Security Tribunal (SST), the Income Support Medical Appeal Tribunal (ISMAT), and the Social Security Medical Appeal Tribunal (SSMAT). In consultation with the Judicial Greffe, who are responsible for the convening and administration of the Tribunals, the role of Chairman was developed across all 3 Tribunals to ensure consistency of process and decision-making, and to support the further development of the Tribunals Service. The same principle is being applied, as appropriate, to Deputy Chairmen and Panel members, ensuring a stronger pool available for each Tribunal.

Advocate Sarah Fitz was appointed as Chairman of the SST, ISMAT and SSMAT in December 2015.

3. Terms of appointment

The Income Support (General Provisions) (Jersey) Order 2008 provides that members of the Tribunal are appointed by the States on the recommendation of the Minister after consultation with the Jersey Appointments Commission.

The Minister therefore recommends the appointment of –

- Advocate David Benest
- Ms. Wendy Lambert (Solicitor)
- Advocate Bryan Ian Le Marquand,

each for a term of 5 years.

The Minister is confident that all individuals proposed have the skills necessary to uphold the fairness and integrity of the tribunal system.

4. Members proposed for appointment

Deputy Chairmen of the Income Support Medical Appeal Tribunal:

Advocate David Benest is an Advocate of the Royal Court of Jersey, with over 18 years' legal experience, having also practised as an English Barrister between 1995 and 1999, he qualified as a Jersey Advocate in 1999.

Advocate Benest is the Managing Partner of the recently founded firm Benest Corbett Renouf, and heads up its Insured Risks practice group. He conducts a broad range of litigation-based work in addition to Managing Partner responsibilities, with wide experience of court work in personal injury and clinical negligence, contentious trusts and planning and construction matters.

Joining Bailhache Labesse (now Appleby Global) in 1997, he was appointed as a Partner of the firm in 2001, becoming Managing Partner of the Appleby Global Jersey Office in 2010, before establishing his own firm, David Benest Law, in April 2013.

Advocate Benest is currently Chairman of the Jersey Criminal Injuries Compensation Board (CICB) and sits on the Board of Examiners for the local professional examinations.

In October 2015, Advocate Benest was appointed to the Senior Lawyers Panel of La Chambre de Discipline of the Guernsey Bar.

Ms. Wendy Lambert is a Jersey qualified Solicitor with over 25 years of experience in providing legal advice to Jersey businesses and individuals. Ms. Lambert has provided advice and training to clients in many areas of law, including employment law, business set-up and acquisitions, commercial and residential property, private client, corporate, insolvency and bankruptcy.

Ms. Lambert is Chairman of Jersey Business Limited, a government-funded company supporting and advising businesses in all sections of industry in the Island.

She was Chairman of the Employment Forum for a number of years, actively involved in the development of employment legislation in the Island, and a member of the Law Society Working Committee advising on the Control of Housing and Work (Jersey) Law 2012.

Ms. Lambert recently joined Altair Partners Limited as a consultant, to provide directorship services to Jersey companies in all sectors of industry.

Advocate (Bryan) Ian Le Marquand qualified as an Advocate in March 1977, becoming a Partner of Le Marquand & Backhurst, and remaining with the firm until 1988.

Advocate Le Marquand was a relief Magistrate from 1987 to 1990 and also acted as a consultant to Olsen, Backhurst and Dorey during that time.

Advocate Le Marquand was appointed Judicial Greffier in 1990, Master of the Royal Court in 1997 and Magistrate in 1999. From December 2008 to November 2014, he was elected as a Senator of the States of Jersey, and was appointed to the role of Minister for Home Affairs.

With almost 25 years of experience of the public sector in different roles, he is a very experienced judge and expert on Court procedures.

Financial and manpower implications

There are no additional financial or manpower implications for the States arising from this proposition.

Re-issue Note

This Projet is re-issued to correct an administrative error at the Social Security Department, which erroneously referred to Ms. Wendy Lambert as an Advocate, when in fact she is a Solicitor.