



## **DEPUTY CHAIR TO THE NATIONAL HEALTH SERVICE TRIBUNAL**

### **INFORMATION FOR APPLICANTS**

#### **Background**

The National Health Service (NHS) Tribunal was established under the National Health Service (Scotland) Act 1978. The purpose of the Tribunal is to protect NHS primary care services by ensuring that they are not brought into disrepute by the practice or continued practice of those who prejudice its efficiency, who commit fraud or are unsuitable by reason of professional or personal conduct.

The grounds on which a reference can be made to the Tribunal are:

- it would be prejudicial to the efficiency of the relevant NHS service to allow the practitioner to provide or continue to provide it – this is known as the efficiency ground;
- the practitioner has caused detriment to any health scheme by securing or trying to secure financial or other benefit – this is known as the fraud ground; or
- the practitioner is unsuitable, because of professional or personal conduct, to be allowed to provide the NHS service. This is known as the unsuitability ground.

#### **What happens at the Tribunal?**

If a reference is made by anyone other than a health board, the Tribunal first has to decide if there are grounds for holding a full hearing. If a hearing is to be held, the practitioner will be asked to submit answers to the complaint, and both parties will lodge copies of any documents they intend to rely on.

At the hearing, the complainer and the practitioner can both call witnesses to give evidence. Witnesses may be put on oath and the evidence is all recorded. The Tribunal can also require anyone who has relevant information to provide it.

Once the Tribunal has heard the evidence and any submissions the parties wish to make, it will decide whether the ground for complaint is made out and what action may be required.

## **Disqualification by the Tribunal**

The Tribunal may direct that a practitioner or a pharmaceutical, ophthalmic or dental body corporate is disqualified or conditionally disqualified on a national basis. This means that the practitioner or body corporate is either refused entry to or removed from:

- the list of the NHS Board which made the representations against the practitioner; and
- all corresponding lists held by other NHS Boards.

A conditional disqualification means that a practitioner or body corporate may join or remain on an NHS Board list but under conditions specified by the Tribunal.

## **Suspension of practitioners**

The Tribunal can make orders for interim suspension pending a full hearing or a review hearing. It can only do this if it considers that suspension is necessary to protect patients or is otherwise in the public interest.

NHS Boards may only apply to the Tribunal for suspension orders if:

- they have already made representations that the practitioner or body corporate should be disqualified; or
- they have requested a review of a conditional disqualification on the ground the person has failed to comply with the conditions or, in a fraud case, the person concerned has again committed or attempted fraud.

Suspension is a neutral act and an interim measure only. It is not a sanction.

## **Applications for reinstatement or review of conditional disqualification**

Practitioners or corporate bodies whose names the Tribunal has disqualified for inclusion or continued inclusion in NHS Board lists may apply to the Tribunal for a review. A practitioner who has been conditionally disqualified may apply also for a review. The Tribunal may also review any disqualification or conditional disqualification in any other circumstances in which they consider it appropriate.

## **Procedure**

The procedure of the Tribunal is set out in the National Health Service (Tribunal) (Scotland) Regulations 2004. The Tribunal is supported by a part-time Clerk and Deputy Clerk who are Solicitors.

When a case is before the Tribunal, a panel consisting of the Chair or Deputy Chair, a practitioner from the appropriate specialism and a lay member, hears it.

The Lord President of the Court of Session appoints the Chair and the Deputy Chair. The other members are appointed by Scottish Ministers.

## Appeals against the NHS Tribunal’s decision

Appeals from all Tribunal decisions are to the Court of Session on points of law.

### Eligibility

There is no bar on non-British nationals applying and being appointed but they must be suitably qualified in the Scottish Legal system and be an Advocate or Solicitor of at least 10 years standing.

You will not be considered for this appointment if you have unspent or relevant spent convictions on your criminal record. The successful candidate will require a Standard Disclosure clearance and at the applicant’s cost. Further information on Disclosures can be found at [Disclosure Scotland](#)

As this appointment is made by the Lord President. Applicant’s attention is drawn to the [Judicial Ethics in Scotland Guidance](#).

### Essential Criteria for Candidates

It is expected that the successful candidate should have a high level of expertise in their chosen area or profession, appropriate knowledge of the law and its underlying principles and be able to demonstrate the following essential personal qualities:

<b>Essential Personal Qualities</b>	
<b>Leadership</b>	<ul style="list-style-type: none"><li>• Support the Chair in ensuring the Tribunal’s statutory functions and effectiveness are met.</li><li>• Have the ability and willingness to learn and develop professionally.</li><li>• Is able to coach, support and mentor other members of the Tribunal.</li></ul>
<b>Working with others</b>	<ul style="list-style-type: none"><li>• Understands people and society.</li><li>• Allows people to give of their best.</li><li>• Is even-tempered and consistent.</li><li>• Treats people with respect and sensitivity.</li></ul>
<b>Analysis &amp; Exercising Judgment</b>	<ul style="list-style-type: none"><li>• Remains impartial and open minded and is seen to be fair to all.</li><li>• Is able to analyse and assess complex evidence and arguments.</li><li>• Is able to reason clearly.</li><li>• Is confident in judging and making independent decisions in the face of challenge.</li></ul>
<b>Written and oral communication</b>	<ul style="list-style-type: none"><li>• Is able to draft clearly, accurately and concisely.</li><li>• Is able to convey points clearly both in writing and orally.</li><li>• Is confident to interview and question effectively, drawing out information from parties.</li></ul>

## **Time commitment**

The Tribunal's workload is not high but has recently shown an increase following changes in the grounds on which cases may be referred. The likely commitment for a case would be of the order of 5 days spread over a period time.

## **Length of appointment**

The terms of appointment will be at the discretion of the Lord President.

## **Remuneration**

This is a non-salaried and non-pensionable position. The current daily fee is currently set at £555. This fee is payable for each day the Tribunal sits and also for time spent on preparation and producing the Tribunal's statement in a particular case. You will also receive reimbursement for all reasonable travel expenses.

## **Application**

To apply for this appointment please set out in writing using the application form and no more than 400 words per criterion, how your skills and knowledge (drawing on either your working or personal life) meet the essential criteria set out above. Please note that job titles etc. on their own will not be taken as evidence of meeting criteria. Please include in your letter of application your contact details (full name, address, telephone number and email address).

The application form should be submitted by 5pm on 29 November to:

[judicialofficeforscotland@scotcourts.gov.uk](mailto:judicialofficeforscotland@scotcourts.gov.uk)

**Or by post to:**

**Mr Ryan Gare  
Deputy Head of Strategy & Governance  
Judicial Office for Scotland  
Parliament House  
Edinburgh  
EH1 1RQ**

If you require a reasonable adjustment at any stage of the appointments process or if require further support with your application, please contact the Judicial Office for Scotland using the above details.

## **Shortlisting**

Although this appointment is not covered by the Public Appointments in Scotland or the Ethical Standards Commissioner, the panel will follow the means of best practice, and to ensure, a process of independent and open assessment.

Candidates who appear, from the information available, to most closely match the criteria for appointment will be invited to interview. It is therefore essential for your application

form to give full but concise information relevant to the appointment. Application forms must be completed in full.

**Please note that CVs will not be accepted as an alternative to completing the application form.**

## **Interviews**

It is expected that interviews will be held in mid-January in Glasgow. The selection panel will consist of three interviewers and the interview should last around 45 minutes.

The interview will usually commence with an opening question on which you will be expected to give an oral presentation lasting no longer than 4 minutes. Overheads, slides or other presentational aids will not be necessary, although you may, if you wish, bring supporting documentation which the panel may consider. Further information regarding this question will be provided in advance of the interview.

## **Consultation**

The successful applicant will be subject to checks being made with the relevant professional body. This process will be undertaken by the Judicial Office for Scotland.

## **Interview Expenses**

Candidates can claim for **reasonable** expenses incurred travelling to and from interview. It is expected that the most efficient and economic means of travel will be used and reimbursement will normally be restricted to that amount. Where an overnight stay is necessary you **must** contact the Scottish Government Health Directorate, Primary Care Unit in advance, for confirmation of existing subsistence rates. Receipts must be provided in support of all claims.

## **GUIDANCE ON THE COMPLETION OF THE APPLICATION FORM**

### **Contact Details**

This contact information is for the Judicial Office for Scotland staff to process. Before the panel considers your application, all applications will be anonymised, and this page is detached for the purposes of the shortlisting. However, as this is a judicial appointment, basic information about the individual appointed is made public in appropriate legal publications and communicated to the legal professional bodies.

### **Suitability for Appointment & Essential Criteria**

All sections **must** be completed. Please ensure you demonstrate/evidence how your skills can meet the criteria for appointment. You can draw on experience from your working or personal life to do this. A good application should be structured to ensure that it flows in a clear and logical way. Applicants should provide clear evidence and examples of how they meet the essential criteria to ensure that panel members fully comprehend what the applicant did, the reasons for action(s) taken, what happened on each occasion, what the applicant took into account, and the outcome. It may help you in preparing to apply to visit [The STAR method | National Careers Service](#)

Please keep a copy of the application form.

## **HOW WE WILL HANDLE YOUR APPLICATION**

- Your application will be acknowledged within five working days of receipt.
- A panel constituted by the Lord President comprised of the Chair of the NHS Tribunal, Mike Graham, Allan Watson, Lay Member of the NHS Tribunal, and an official from the Judicial Office for Scotland will consider all applications.
- Your application will be assessed against the criteria for the post to see whether you have the necessary specified skills, knowledge and personal qualities for the appointment. The panel will then decide whether you are to be interviewed or not. The Judicial Office for Scotland will write to you.
- If invited to interview, you will be asked questions by the panel to assess whether you can demonstrate you have the specified qualities.
- If, in the view of the panel, you have the skills required and would clearly bring added value to the NHS Tribunal, your name will be recommended to the Lord President. Please note that the final decision rests with the Lord President based on the recommendations made by the panel.
- All interviewees will be advised in writing of the outcome of the interview.
- If you are successful, you will receive an appointment from the Lord President. You will then be contacted by the Chair of the NHS Tribunal for a one to one meeting to discuss what is expected of you in your role as the Deputy Chair.