



MASTER OF  
THE ROLLS

## **SOLICITORS DISCIPLINARY TRIBUNAL APPOINTMENT PROTOCOL 2012**

### **Preamble**

1. The Solicitors Disciplinary Tribunal (the Tribunal) is a statutory tribunal established under the Solicitors Act 1974 (the 1974 Act). It is responsible for protecting the public interest and the reputation of the solicitors' profession through adjudicating on alleged disciplinary breaches of the profession's conduct rules.
2. The Master of the Rolls is responsible for appointing solicitor and lay members of the Tribunal: the 1974 Act s46. Solicitor members are solicitors who, when appointed and during their period of appointment, are practising solicitors. Solicitor members must also be of not less than ten years' standing when appointed: the 1974 Act s46(3)(a). Lay members are individuals who are neither solicitors nor barristers: the 1974 Act s46(3)(b).
3. Solicitor and lay members are appointed for five year terms of office and hold and vacate their office in accordance with their terms of appointment. Members are not required, nor can be required, to sit on any particular proceeding or proceedings. It is expected however that members will be able to sit for 15 days per annum and attend up to two training days per annum.
4. The purpose of this protocol is to set out the procedure by which the Master of the Rolls shall exercise his discretion to appoint solicitor and lay members of the Tribunal.

### **Appointment Criteria**

5. In order to ensure that the Tribunal is best able to command the respect of both the profession and the public it is essential that its membership is properly representative of the profession as a whole and the public. The Master of the Rolls therefore: a) welcomes applications from everyone of good character who meets the statutory appointment criteria; and b) values diversity amongst the Tribunal membership.
  
6. 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 Solicitors Regulation Authority (the SRA), its independent regulatory arm, individuals who are either employed by, or serve as Council or Board members of, either body cannot be appointed as either solicitor or lay members of the Tribunal.

### **Appointment Process**

7. The President of the Tribunal shall be responsible for ensuring that arrangements are made to identify, in good time, the need for appointments to be made.
  
8. The appointment process will be carried out consistently with the public sector equality duty, as provided for by section 149 of the Equality Act 2010, and current best practice.

#### **(i) Stage One**

9. 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 so as to encourage diversity in the range of individual applications for appointment.

#### **(ii) Stage Two**

10. In order to assess applicants' merit for appointment, applications will initially be sifted according to the following criteria.

#### **Sift Criteria**

##### **(1) Solicitor member applications:**

- a) Minimum of 10 years' standing as a solicitor
- b) In active practice as a solicitor;

- c) Knowledge of the solicitors' profession and its regulatory and disciplinary rules.

(2) Lay member applications:

- a) Neither a solicitor nor barrister;
- b) Knowledge of or an ability to obtain a good understanding of the solicitors' profession and its regulatory and disciplinary rules.

(3) Solicitor and Lay member applications:

- a) Neither a Law Society Council member, SRA Board member, nor an employee of either The Law Society or the SRA;
- b) Intellectual and analytical ability;
- c) Sound judgement;
- d) Integrity;
- e) Time management and communication skills.

11. The sift panel will produce a short-list of applicants for interview.

(iii) Stage Three

12. Short-listed applicants will be assessed at interview, by an appointment panel, according to the following criteria:

**Interview Criteria**

(1) Intellectual capacity:

- High level of expertise in their chosen area or profession
- Ability to absorb and analyse potentially complex information quickly
- Appropriate knowledge of the solicitors' code of conduct and practice rules, their underlying principles, or the ability to acquire this knowledge and apply it

(2) Personal qualities

- Integrity and independence of mind
- Sense of justice and fairness
- Sound judgement
- Decisiveness
- Objectivity
- Ability and willingness to learn and develop professionally
- Ability to work constructively with others
- Ability to make and justify decisions and abide by them
- Commitment to public service, in particular the seven Nolan Principles of Public Life

(3) An ability to understand and deal fairly

- Ability to treat everyone with respect and sensitivity whatever their background
- Willingness to listen with patience and courtesy
- Demonstrating an understanding of and commitment to equality of opportunity and the promotion of diversity

(4) Authority and communication skills

- Ability to explain the procedure and any decisions reached clearly and succinctly to all those involved
- Possession of strong written skills
- Ability to inspire respect and confidence
- Ability to maintain authority when challenged
- Interviewing skills

(5) Efficiency

- Ability to work at speed and under pressure
- Ability to organise time effectively and produce clear reasoned judgments expeditiously

13. Following interview the most meritorious applicants will be recommended for appointment. References will be taken up for those applicants recommended for appointment. References will also, for solicitor member applicants, be taken up from the Solicitors Regulation Authority in respect of the applicant's disciplinary record.

(iv) Stage Four

14. Following receipt of an appointment panel's recommendation, references and satisfactory disciplinary record, the Master of the Rolls may accept or reject the recommendation, or ask the appointment panel to reconsider its recommendation(s).

15. Decisions to reject a recommendation, or ask the appointment panel to reconsider, will be taken on grounds of merit only. If the recommendation is accepted, the applicant will be appointed. If the appointment panel is asked to reconsider a recommendation and it re-recommends the applicant for appointment, the Master of the Rolls may either accept or reject the recommendation.

16. Those applicants appointed will be appointed subject to any relevant statutory provisions and, in so far as they are consistent with any relevant statutory provision, the terms set out at paragraph 21 below.

### **Sift and Appointment Panels**

17. Sift and appointment panels will be diverse. All panel members must have undergone suitable training in recruitment practices which promote equal opportunities. The Tribunal shall be responsible for remunerating, where necessary, panel members. No member of the sift panel may, in any one application process, sit on an appointment panel.

18. The initial sift will be carried out by a panel chaired by the President of the Tribunal or their nominee. The sift panel will also consist of: (i) a member of the Tribunal, also nominated by the President of the Tribunal; and (ii) an employee of the Judicial Office of England and Wales nominated by the Master of the Rolls. At least one member of the sift panel shall be a lay member of the Tribunal.

19. The appointment panel will be chaired by the President of the Tribunal or their nominee. The panel will also consist of: i) a solicitor member of the Tribunal nominated by the President of the Tribunal; ii) a lay member of the Tribunal nominated by the President of the Tribunal; iii) the Legal Secretary to the Master of the Rolls or another Legal Secretary to one of the Heads of Division, as nominated by the Master of the Rolls. In the event that the appointment panel is equally divided the President of the Tribunal or their nominee will have the casting vote.

20. Tribunal members nominated to sift and appointments panels must have been Tribunal Members for at least twelve months prior to their nomination to either panel.

### **Terms of Appointment**

21. Appointments are made subject to the following terms of appointment:

- (1) Appointments are for five year periods;
- (2) As the Tribunal is, by s46(4)(3)(a) of the 1974 Act, required to consist of practising solicitors of not less than ten years' standing, if a solicitor member

ceases to be in practice, for whatever reason, during the period of appointment, unless it is a temporary period of cessation, their appointment shall terminate;

(3) A member who is subject to regulatory, disciplinary or criminal process or proceedings which call into question their character and suitability must inform the President of the Tribunal. During the currency of such process or proceedings the member shall not sit. At the conclusion of the process or proceedings, including any appellate process, if the member is found guilty, or is subject to adverse findings, their appointment shall terminate;

(4) Members will be remunerated for their sittings, at a rate notified to them by the President of the Tribunal.

22. Other terms of appointment may be incorporated, on appointment, from time to time.

### **Reappointment**

23. Tribunal members are eligible for reappointment: 1974 Act s46(4). The Master of the Rolls will consider any application for reappointment made by a Tribunal Member. In considering any application for reappointment the Master of the Rolls will take into consideration any recommendation made by the President of the Tribunal in the light of any appraisal system operated by the Tribunal.

24. Before members submit an application for reappointment they should consider the terms of any relevant retirement policy agreed by the Tribunal.

**Lord Neuberger of Abbotsbury MR**

**26 April 2012**