

## **COMMONS**

### **WRITTEN MINISTERIAL STATEMENT**

#### **MINISTRY OF JUSTICE**

##### **Implementation of the Tribunals Courts and Enforcement Act 2007**

###### **The Parliamentary Under-Secretary of State, Ministry of Justice (Bridget Prentice)**

The Tribunals Service was created in April 2006, bringing together the administrative support for over 23 tribunals from across government into a single organisation so that tribunals were visibly independent of original decision makers and to bring improved quality and efficiency in the provision of administrative and management support.

The provisions of the Tribunals Courts and Enforcement Act 2007 (TCE Act) followed these administrative changes and created a new judicial and legal framework, bringing together a range of formerly separate tribunals into a new unified two-tier tribunal structure (the First-tier and Upper Tribunal) under a Senior President, Lord Justice Carnwath. The First-tier and the Upper Tribunal were established under the TCE Act on 3 November 2008, with the First-tier Tribunal being the first-instance tribunal for most jurisdictions. The Upper Tribunal mainly, but not exclusively, reviews and decides appeals from the First-tier Tribunal. It also has the power to deal with judicial review work delegated from the High Courts of England and Wales and Northern Ireland and from the Court of Session.

The TCE Act has provided a cohesive statutory framework for a unified tribunal system dealing with nearly 600,000 cases a year which is committed to improvement and innovation for the benefit of the Public.

The TCE Act also contains provisions for the jurisdictions of most existing tribunals administered by the Tribunals Service to transfer into the new two-tier structure. The main exception to this is the system of employment tribunals, which will remain as a distinct pillar within the tribunals system. The structure is designed to be flexible so

that, in the future, when Parliament decides to create a new appeal right or jurisdiction, it will not be necessary to create a new tribunal to administer it.

Both the First-tier and Upper Tribunal are divided into chambers that group together jurisdictions, and their judiciary, dealing with like subjects or where individual panels need the same types of members. The following chambers have been established in the First-tier Tribunal;

- Social Entitlement (3 Nov 2008)
- War Pensions and Armed Forces Compensation (3 Nov 2008)
- Health, Education and Social Care (3 Nov 2008)
- Tax (1 April 2009)

In the Upper Tribunal the following chambers have been established;

- Administrative Appeals (3 November 2008)
- Tax and Finance (1 April 2009), and
- Lands (1 June 2009)

Further Chambers dealing with general regulatory matters and immigration and asylum appeals are to be established in 2009 and early 2010.

Everyone who holds a judicial office within the Tribunals Service, including those who have or will be transferred into one of the new Chambers, have been asked to take the oath of allegiance. So far 2,622 judges have taken the oath.

The new judicial structure allows for the flexible deployment of judges, known as 'cross ticketing', within and across the new Chambers. This will mean that suitably qualified judiciary can hear cases in jurisdictions other than the one to which they were first appointed without the need for a further Judicial Appointments Commission competition. This will reduce the costs of training and support. It will also enable the flexible deployment of judiciary to meet fluctuations in workloads between jurisdictions; encourage greater consistency of standards and approach across

previously disparate jurisdictions; assist where there are difficulties in finding judges for particular locations and where there are recruitment difficulties in smaller jurisdictions. Working with the judiciary, the Tribunals Service has identified £6m of efficiency savings relating to judicial activity in 2009/10 in areas such as reducing adjournments and more effective deployment of judges. A further £10m in 2010/11 is now being sought.

The Judges within this new structure are currently subject to widely differing rates of remuneration inherited from the tribunals from which they have transferred or will transfer and which have or will be abolished. Under the existing arrangements, therefore, many office holders will find themselves doing effectively the same job as each other for what would be unequal pay. This would hamper effective operation of the system and the delivery of efficiencies as well as leaving pay inequalities in place. To address these issues, in March 2007 the Government commissioned the Senior Salaries Review Body (SSRB) to propose a pay structure for the tribunals' judiciary following implementation of the TCE Act. The SSRB delivered its Report No.66, *Review of Tribunals' Judiciary Remuneration*, in November 2008. The Report includes 18 recommendations and proposes a single salary structure for tribunals judiciary linked to that already in operation for the courts judiciary and some tribunals' judges. The Report and the Government's response to each of the 18 recommendations have been placed in the libraries of both Houses, the Vote Office and the Printed Paper Office.

The Government broadly accepts those SSRB recommendations in relation to legally-qualified salaried and fee-paid tribunals judiciary, as an important step in supporting the Tribunals Service and the new judicial structure. Addressing the issues identified by the SSRB enables the tribunals system to operate as effectively and efficiently as possible.

While the Government recognises and supports the important role played by non-legally qualified members it has decided not to implement those recommendations that apply to non-legal members. In taking this decision, account was taken of the level of increases being recommended by the SSRB and the lack of market-based justification in the current economic and public expenditure climate. The Government

will be prepared to review any specific recruitment and retention issues, which might arise, with any targeted salary or fee supplements being paid at the discretion of the Lord Chancellor. The Government will keep under review the arguments for drawing a link between the pay of fee-paid and salaried judiciary and that of non-legal members in the light of recruitment and retention data and the overall economic climate.

The impact of this new pay structure will see no change for over 92% of the salaried judiciary and 37% of legally qualified fee-paid members. Non-legally qualified members pay will be unaffected by these changes. Pay costs are expected to be no more than £160,000 in the current year and £400,000 incrementally in the remaining four transitional years.

The creation of the Tribunals Service and the implementation of the TCE Act have been major steps in delivering improved services to tribunal users and a more effective and efficient system. Rationalisation of the judicial structure and, as a consequence, judicial pay is a key part of that.

(The statement has also been laid in the House of Lords by the Parliamentary Under-Secretary of State, Lord Bach)