

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND APPOINTMENT
OF HOUSING APPEALS PANEL MEMBERS

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled ‘Housing Appeals Tribunal – minor constitutional changes and appointment of Housing Appeals Panel members’, dated 2nd March 2020, they are of the opinion:

1. To note the resignations from the Housing Appeals Panel of those five individuals whose names are listed in paragraph 3.1 of that Policy Letter.
2. To note the expiration on 31st July 2019 of the terms of the appointments to the Housing Appeals Panel of those three individuals whose names are listed in paragraph 3.2 of that Policy Letter.
3. To appoint Mr Keith Bell to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
4. To appoint Ms Hayley Cooper to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
5. To reappoint Ms Natasha Newell to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
6. To appoint Ms Julia Anne Springett White to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
7. To reappoint Mr John Martyn Weir to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
8. To appoint Ms Julia Anne Springett White as Chair of the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.

9. To appoint Mr Keith Bell as Deputy Chair of the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
10. To rescind resolutions 1 and 11b of Article XXIV of Billet d'État XIV of 31st July 2015.
11. To make ineligible for appointment to the Housing Appeals Tribunal Panel any person working in the service of the Committee *for* Employment & Social Security, whether as an employee, statutory office-holder, or otherwise.
12. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND APPOINTMENT
OF HOUSING APPEALS PANEL MEMBERS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

2nd March 2020

Dear Sir

1. Executive summary

- 1.1. This Policy Letter sets out the proposals to appoint Mr Keith Bell, Ms Hayley Cooper, and Ms Julia White to the Housing Appeals Tribunal Panel (“the Panel”), and to reappoint Ms Natasha Newell and Mr John Weir to the Panel for a period of five years. It also sets out proposals for Ms Julia White to be appointed as the Chair and Mr Keith Bell as the Deputy Chair of the Panel.
- 1.2. The Policy Letter seeks to amend the rules for the appointment of members to the Panel, so that a person who is currently employed by the Committee *for* Employment & Social Security (“the Committee”), is not able to be proposed to be appointed to the Panel while they are working in the service of that Committee, whether as an employee, statutory office-holder, or otherwise. Further, this Policy Letter also proposes the rescission of a number of 2015 resolutions of the States, to ensure that the rules relating to the Panel align with other States tribunals.

2. Background

- 2.1. If Housing or the Guernsey Housing Association make a decision in relation to a tenant or applicant which that person feels is unreasonable, unfair, or against the law, that person has the right to ask the Housing Appeals Tribunal (HAT) to review that decision. The first step is for an internal review to be carried out by a senior officer who has not been involved in the case. After an internal review has been carried out, if the tenant, or prospective tenant, continues to feel aggrieved by the decision, they can apply to have their case heard by the HAT.

- 2.2. The Tribunal consists of a panel of independent members who were appointed by the States and who meet as required to hear and determine appeals. Three members from the Panel form a Tribunal to hear each individual case. The Panel was established under the States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005, (“the Regulations”).
- 2.3. On 31st July 2015¹, the States approved the appointment of six new members to the Panel, who joined two existing members to form a panel of eight members, which included a Chair and Deputy Chair.
- 2.4. Since that time, the Deputy Chair has reached the end of her term of service in July 2017 and retired from the Panel, and four other members tendered their resignation, three within a period of just a few months. The number of active members therefore dwindled from eight to three and Housing officers began the recruitment process for new members in April 2018.
- 2.5. Although applications for new Panel members were considered, the process was not completed, as there were insufficient applicants. Since that time, the remaining three panel members reached the end of their terms of service in July 2019. Further recruitment for new members commenced in January 2020.

3. Resignations

- 3.1. The States is asked to acknowledge the resignations of the following Panel members, who have retired from their duties:
 - Reverend Linda Le Vasseur;
 - Ms Judith Dyke;
 - Ms Patricia Holland;
 - Ms Lesley Le Page on 11th June 2018; and
 - Ms Suzanna Morgan.
- 3.2. The Panel members who reached the end of their terms of service on 31st July 2019 were:
 - Ms Natasha Newell (Chair);
 - Dr Elina Steinerte; and
 - Mr John Weir

¹ Minor constitutional changes to the Housing Appeals Tribunal and appointment of members to the Housing Appeals Panel - [Billet d’État XIV of 2015, Volume II, Article XXIV](#)

4. Recruitment and appointment

- 4.1. The Committee considered applications for new Panel members, and as a result, proposes that Mr Keith Bell, Ms Hayley Cooper and Ms Julia White are appointed to the Panel, and that Ms Natasha Newell and Mr John Weir are reappointed to the Panel. A profile on each of the appointees is set out in the appendix to this Policy Letter.

Appointment of Chair

- 4.2. With the expiration of the term of service of Ms Newell, who was the Chair of the Panel, a new Chair was sought.
- 4.3. The Committee proposes that Ms Julia White should be appointed as the Chair of the Panel.

Appointment of Deputy Chair

- 4.4. With the resignation of Reverend Le Vasseur, who was the Deputy Chair of the Panel, a new Deputy Chair was sought.
- 4.5. The Committee proposes that Mr Keith Bell should be appointed as the Deputy Chair of the Panel.

5. 2015 resolutions and amendment to Regulations

- 5.1. The following resolutions were made on 31st July 2015²:

“1. To agree that the Housing Appeals Panel should comprise of a minimum number of eight members and to amend the regulations accordingly.

11. To approve the introduction into the regulations the means by which members may resign from the Housing Appeals Panel. This includes the introduction of new provisions which specify that Panel members cease to be members when/if:

- a) they reach the end of their term of appointment as specified by the States decision which confirmed their appointment;
- b) they reach the age of 72 years or, if the Royal Court sitting as a Full Court so determines, by reason of special circumstances in any particular case, 75 years;

²

Minor constitutional changes to the Housing Appeals Tribunal and appointment of members to the Housing Appeals Panel - [Billet d'État XIV of 2015, Volume II, Article XXIV](#)

- c) they resign from their duties:
 - in the case of the Chair, submitting their resignation to the Bailiff; and
 - in the case of any other member, submitting their resignation to the Tribunal's Chair.
- d) they are removed from office by the Royal Court sitting as a Full Court if the Court is satisfied that they:
 - have misbehaved in their office;
 - are incapable of continuing as a member by reason of physical or mental illness;
 - have been declared insolvent; or
 - have been unavailable without reasonable cause to sit as a member of the Tribunal for a period in excess of six consecutive months.

12. To approve an amendment to Part II of the regulations to specify the maximum time period associated with the internal review process, as detailed in paragraph 7.3 of that Policy Letter.”

5.2. It has come to the Committee's attention that the above amendments to the 2005 Regulations were drafted, but never made, following the 2015 Debate. As time has moved on, the Committee has some views on the appropriateness of pursuing some of the above resolutions.

Number of Panel members

5.3. The Committee is of the opinion that it is unnecessary to maintain a Panel of eight Members for two reasons. Firstly, a low number of appeals is made to the Housing Appeals Tribunal, with one not having been received since 2013. Secondly, the Review of the States of Guernsey's Arm's Length Bodies will be recommending that the following tribunals are merged in the future: Social Insurance, Income Support, Family Allowances, and Housing Appeals. This will mean that a whole separate Panel of members will not be required specifically for Housing Appeals.

5.4. Further, should a requirement for a minimum number of eight Panel members be enforced, the Committee would need to undertake further recruitment, and return to the States with another Policy Letter recommending the appointments. This is assuming that a further three individuals would come forward during the recruitment process, noting that the last two rounds of recruitment, in April 2018 and January 2020 have generated only five suitable candidates. The Committee is therefore recommending the rescission of resolution 1, as listed in paragraph 5.1 on the previous page.

Means by which members may resign from the Housing Appeals Panel

In relation to resolution 11, the Committee agrees with this resolution, and intends to make the relevant changes to Regulations, with the exception of resolution 11b, which sets an upper age limit for Panel members. In order to be consistent with its decision to remove the retirement age for members of the Employment & Discrimination Tribunal Panel, as well as with the Longer Working Lives Strategy, the Committee proposes to rescind resolution 11b of that Policy Letter, so that an upper age limit for Panel members is not imposed.

Maximum time period associated with the internal review process

- 5.5. The Committee is satisfied that it is appropriate that the maximum time period associated with an internal review process is 28 days, and will set this out in Regulations, as directed by the States in 2015. As stated in the 2015 Policy Letter, it will be in the interest of Housing and the appellant for this timeframe to be set out in Regulations, meaning that Housing will be required to undertake an internal review of a decision and the appellant or applicant would be required to provide additional information and documents needed to progress the appeal within that timeframe. Following receipt of any additional information, Housing would have further time to complete the internal review. The Committee agrees that the Regulations should be amended to this effect.

6. Ineligibility for appointment to the Panel

- 6.1. In recruiting additional members for the Panel, the Regulations specify that the following people are not eligible to be appointed to the Panel:
- Members of the States of Deliberation and States of Election;
 - Members of the States of Alderney and the Chief Pleas of Sark;
 - any Constable or Douzenier; and
 - any Procureur or Overseer of the Poor or a member of a Parochial Outdoor Assistance Board.
- 6.2. On reflection, the Committee proposes that, in addition to those people listed above, a person should also not be appointed as a Panel member while they are currently working in the service of the Committee *for* Employment & Social Security, whether as an employee, statutory office-holder, or otherwise. It therefore recommends that the Regulations are amended to that effect.

7. Conclusions

Resource and Implementation Plan

- 7.1. The Committee has considered the resources required to implement the propositions set out in this Policy Letter, and concludes that no additional resources are required.

Compliance with Rule 4 of the Rules of Procedure

- 7.2. The Committee has consulted with the Law Officers regarding the legal implications and legislative drafting requirements resulting from the propositions set out in this Policy Letter.
- 7.3. The Committee has set out its proposals for minor constitutional changes and the appointment of five members to the Housing Appeals Panel throughout this Policy Letter, and seeks the States support for the propositions, which are based on the Committee's purpose. In particular, the propositions are aligned with the priorities and policies set out in the Committee's Policy Plan, which was approved by the States in June 2017³. The Committee's Policy Plan is aligned with the States objectives and policy plans.
- 7.4. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions have the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

J A B Gollop
E A McSwiggan
P J Roffey

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

³ Policy & Resource Plan – Phase Two ([Billet d'État XII of 2017](#), Article I)

8. Profiles of recommended appointees to the Panel

Mr Keith Bell

- 8.1. Mr Bell is an experienced company/commercial/corporate and employment lawyer. He was, until recently, a senior associate in the corporate department in Babbé and is currently working with them on a part-time consultancy basis. He is a solicitor and chartered secretary, corporate governance professional, and an accredited mediator.

Ms Hayley Cooper

- 8.2. Ms Cooper was Legal Aid Administrator at the Guernsey Legal Aid Service until 11th February 2018 and acted as Deputy Legal Aid Administrator on a temporary basis until 31st August 2019. Ms Cooper is a Solicitor of the Supreme Court of England and Wales (non-practising). She is currently a member of the panel that is reviewing the independent bodies operating at 'arm's length' from the States of Guernsey, a review commissioned by the Policy & Resources Committee.

Ms Natasha Newell

- 8.3. Advocate Newell is an Advocate of the Royal Court and an English barrister. She is Counsel at Carey Olsen where she works on complex litigation, with an emphasis on employment and regulatory matters. She served as Chair of the Housing Appeals Tribunal between 2015 and 2019.

Mr John Weir

- 8.4. Mr Weir is a retired Chartered Surveyor with extensive real estate experience. He is currently Chair of the Tax on Real Property Appeals Panel, sits on the Planning Appeals Panel and has applied to be reappointed onto the Housing Appeals Panel.

Ms Julia White

- 8.5. Ms White is currently Chair of the Social Insurance Appeals Tribunal, Deputy Chair of the Tax on Real Property Appeals Panel and Vice-President of the Guernsey Tax Tribunal. Ms White was admitted as an Advocate of the Royal Court in 2001 and retired from private practice in November 2016.

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HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND
APPOINTMENT OF HOUSING APPEALS PANEL MEMBERS

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

2nd March 2020

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Housing Appeals Tribunal – minor constitutional changes and appointment of Housing Appeals Panel members' be considered at the States' meeting to be held on 22nd April 2020.

It would be helpful for the policy letter to be considered at the earliest opportunity, as the Housing Appeals Tribunal has been without Panel members since the expiry of the terms of office of the previous Housing Appeals Panel members on 31st July 2019. Consideration of the above policy letter at the States meeting to be held on 22nd April 2020 would enable the new Panel members, should the States approve the propositions, to commence their duties from 1st May 2020.

Yours faithfully



Michelle Le Clerc
President

Shane Langlois
Vice President

John Gollop, Emilie McSwiggan, Peter Roffey

Mike Brown, Andrew Le Lievre
Non-States Members