



THE APPOINTMENTS COMMISSION

7th Progress Report to the Council of Ministers

Issue date: 14 November 2017

Introduction

The Appointments Commission (AC) was established under the provisions of the Tribunals Act 2006 and this is its 7th report to the Council of Ministers. This report covers the period from July 2014 to date.

The role of the AC is independent of Government and its function is to appoint persons to membership of a range of Tribunals and other public bodies which play a part in the Isle of Man's judicial arena. Distancing such appointments from Government ensures, inter alia, compliance with the Human Rights Act.

Appointments Commission Membership

The current membership as at 14 November 2017 is:-

Mrs Helen Booth (Chairperson wef 01 December 2015)

Mr Andy Finch

Mr Alan Teare

Major Charles Wilson

Dr Jacqueline Yates

The composition of the AC brings together a wealth of experience from government, commerce, human resource, education and military backgrounds as well as on and off Island experience.

July 2014 – November 2017

Following the submission of the AC's 6th Progress Report in July 2014, the Chief Secretary commissioned a review of the operating vires of the Commission (including administration) and of the Structure and Administration of Tribunals to address issues raised in the aforementioned report. The review, intended by the Chief Secretary to be completed within 6 weeks from commencement in January 2015, produced a draft report in September 2015, which was replete with factual inaccuracies, unqualified statements, erroneous assumptions and recommendations supported by flimsy evidence. The AC submitted a four page response to the draft report.

Despite repeated requests made between October 2015 and June 2016 for an update as to the outcome of the review, the AC received no such information. No apparent action was taken based on the review or its recommendations.

The AC determined therefore to progress initiatives it believed would be beneficial to Tribunal members and the Tribunals service generally, which were being resisted by the Chief Registrar on the pretext of awaiting the outcome of the review.

The AC appealed directly to the Chief Minister in December 2016 for support in addressing the issues and concerns unsuccessfully raised with the Chief Registrar and Chief Secretary. As a result, members of the Commission met with Ministers Thomas and Cannan in January of this year who were supportive of the direction the Commission was pursuing and recognised the position in which the Commission had been placed by its isolation.

Current Tribunals and Membership

There is a total of 18 Part 1 and Part 2 Tribunals (Tribunals Act 2006 Schedule 2) to which the AC makes appointments. To resource these Tribunals individually requires

27 legally qualified chairs

93 lay members

14 medically qualified members.

Of these 18 Tribunals, only 7 are regularly active, with the remaining Tribunals rarely if ever being called to sit.

Members are appointed to individual Tribunals. The current practice is highly inefficient, costly and damaging to the reputation of the service. Many people are appointed who are never called to serve and others who only serve infrequently. For a number of years the AC has recommended that “pools” of members be recruited from which members may be called to sit on any Tribunal.

Future Recruitment

In consultation with the Manager of the Probate and Tribunals service, the AC intends to introduce recruitment to three generic Tribunal panels;

- legally qualified chairs,
- lay members and
- medically qualified members.

This will significantly reduce the number of appointments required. It will also increase the frequency with which members are called to sit, and thereby develop experience and confidence, something which tribunal members themselves will welcome. Finally, it will reduce the number of recruitment exercises required with associated savings in costs for advertising and Commission meetings.

The introduction of this process will be phased in with effect from 01 January 2018 and will be implemented upon the expiry of each current appointment. It is anticipated that the process will be complete by 2021.

Unless it is advised otherwise, the Commission will, in collaboration with the Probate and Tribunals Manager, determine a programme of work that will be undertaken over the next 2 years to evolve efficient processes to administer and manage the panels.

The Commission has previously stated that it believes this proposal to be the original intention of the relevant legislation and exhorts Council of Ministers to actively support its intentions and to ensure consistency of legislative drafting when new Tribunals are being established.

Recruitment to non Tribunal bodies for which the Commission is responsible will continue unchanged.

Training and Performance Assessment

The Commission is regularly asked by candidates at interview for details of training for new appointees. Clearly, this is a matter which falls outwith the remit of the Commission. Currently there is no regular induction/ongoing training for Tribunal members. A cogent argument cannot be made against the need to properly equip Tribunal members for their role within the Island's judicial system.

The Commission has drawn up a half day induction programme and held preliminary discussions with the Head of Learning, Education and Development. It understands that the Probate and Tribunals Manager has submitted a bid for funding for training, including the delivery of such a programme. The Commission supports the bid and recommends that it be approved.

In response to a request from a group of Tribunal members and chairs, together with a concern of the Commission that there was no mechanism for it to receive feedback about the performance of those it appointed, the Commission, in collaboration with one of the Tribunal chairs, developed a simple feedback form which it piloted for 6 months. The results, together with recommendations, were submitted to Council in January 2017. The Commission will, in collaboration with the Probate and Tribunals Manager, put in place a feedback scheme based on the pilot to apply to members of all tribunal panels.

Staff and Administration

The Commission wishes to place on record its appreciation of the extremely competent and effective secretarial support provided by its secretary since her appointment in February 2016.

It is also pleased to note the development of a much improved working relationship between the Commission and the Tribunals Unit since the appointment of the new Probate and Tribunals Manager.

In January 2017 Commission members were issued with iPads. This has reduced the administrative burden for its secretary, enabling her to focus on vital communication with applicants and the Commission. The Commission is grateful to officers in Government Technology Services for their ongoing support to members.

Conclusion

The Commission continues to ensure that its practices incorporate best practice in recruitment and compliance with relevant legislation. It conducts an annual review of its policies and procedures which are available online.

The Commission has struggled against a background of lack of guidance, steer, oversight and direction, with the less than positive relationship between it, the Chief Registrar and Cabinet Office. There are positive signs of improvement. The Commission will continue to work closely with the Probate and Tribunals Manager and will continue dialogue with Council of Ministers via the Minister for Policy and Reform.

Mrs H G Booth

Chairperson

Date: 14 November 2017