

Remuneration for Health & Safety Appeal Tribunal

Introduction

1. The Health and Safety Appeal Tribunal sits to hear appeals against Prohibition and Improvement Notices issued by Health and Safety Inspectors, and to determine appeals against decisions made by the Minister for Social Security on matters relating to licences issued under Regulations made under the Health and Safety at Work (Jersey) Law 1989.
2. The Health and Safety at Work (Appeal Tribunal) (Jersey) Regulations, 1989, set out the arrangements for the Tribunal, which consists of 4 members: a chairman and deputy chairman who must both be advocates or solicitors of the Royal Court of at least 7 years standing, and two other members.
3. Regulation 6 of the Health and Safety at Work (Appeal Tribunal) (Jersey) Regulations, 1989 provides for Tribunal members to be paid such salaries, allowances and expenses as the Minister may determine.
4. To assist with recruitment to the positions of chairman and deputy chairman that are typically very difficult to recruit to, it is considered reasonable to provide some remuneration to such appointees in the form of an annual retainer.
5. To provide consistency with remuneration provided to other Social Security Tribunals and recognise all members who give their time in the event of the Tribunal being convened to hear an appeal, it is also considered reasonable to provide remuneration in the form of a daily rate should they sit.

Levels of remuneration

6. To hear an appeal, the Tribunal must constitute as follows:
 - a. The chairman, or deputy chairman and 2 other members;
 - b. The chairman and deputy chairman and one other member; or,
 - c. (With the consent of the parties to the appeal, the chairman or deputy chair and one other member.
7. The proposed rates are set out below

Position	Annual Retainer	Remuneration daily rate
Legal Chair	£350	£800
Legal Deputy Chair	£250	£800
Member	-	£300

Resource Implications

8. There have only been 3 appeals heard by the Tribunal since 1989; 2 in 2007 and 1 in 2013. All were heard within half a day.

9. The numbers of legal enforcement Notices served in 2019-2024 (to date) are provided below to illustrate the typical level of Notices served in recent years, all of which were subject to the right of appeal (but never exercised).

	Improvement Notices served	Prohibition Notices served
2019	10	20
2020	26	36
2021	14	20
2022	18	10
2023*	14	5
2024 (01/01/24 – 19/08/24)	24	7

* HSI had significant resourcing issues & major incident operating pressures in the first half of 2023 which reduced the level of enforcement.

10. Whilst there is always the potential for an appeal to be lodged there is no reason to believe that the numbers will suddenly increase such that the anticipated financial burden will become significant.
11. In addition to the annual retainer, the cost to constitute a Tribunal for one day would be dependent on the constitution outlined in paragraph 6:
- a. £1400 (Chair or Deputy Chair at daily rate £800 + 2 members £300 each); or
 - b. £1900 (Chair and Deputy Chair daily rate £800 + 1 member £300); or
 - c. £1100 Chair or Deputy Chair daily rate £800 + 1 member £300)
12. The daily costs plus the annual retainer would be paid from existing budgets.

Recommendation

13. It is recommended that the Minister agree the proposed rates of remuneration for Tribunal members