

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: REAPPOINTMENT OF PANEL MEMBERS AND DESIGNATION OF THE CONVENOR AND DEPUTY CONVENOR

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Employment and Discrimination Tribunal: Reappointment of Panel Members and Designation of the Convenor and Deputy Convenor', dated 30th November 2020, they are of the opinion:-

1. To reappoint the Members of the Employment and Discrimination Panel ("the Panel") listed in paragraph 2.8, from 1st March 2021 until 31st December 2021;
2. To designate Mr Jason Hill as Convenor of the Panel from 1st March 2021 until 31st December 2021;
3. To designate Mrs Paula Brierley as Deputy Convenor of the Panel, effective immediately until 31st December 2021.

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.

THE STATES OF DELIBERATION
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COMMITTEE *for* EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: REAPPOINTMENT OF PANEL
MEMBERS AND DESIGNATION OF THE CONVENOR AND DEPUTY CONVENOR

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

30th November, 2020

Dear Sir

1. EXECUTIVE SUMMARY

- 1.1 In July 2020, the States of Deliberation considered proposals from the Committee *for* Employment & Social Security (“the Committee”) for a new Discrimination Ordinance¹, anticipated to come into force in 2022. On 17th July 2020, the States agreed unanimously to the preparation of an Ordinance to outlaw discrimination on the grounds of disability, carer status and race. The States also approved an Amendment² to the Committee’s proposals which added religious belief and sexual orientation into the first phase of the development of the Ordinance. Complaints made under this legislation, which have not been resolved through conciliation, will be adjudicated by the Employment and Discrimination Tribunal.
- 1.2 The Employment and Discrimination Tribunal Panel (“the Panel”) needs to be restructured and expanded to have the capacity, skills and knowledge to adjudicate complaints made under the new Discrimination Ordinance. During 2021, the Committee intends to conduct an open recruitment process, seeking lay members and legally qualified chairs to join the Panel, and to commence training.

¹ Committee *for* Employment & Social Security – Proposals for a New Discrimination Ordinance (Billet d’État XV of 2020, Article XV). Available at <https://gov.gg/article/176559/Proposals-for-a-New-Discrimination-Ordinance> [accessed 20th August, 2020].

² P.2020/41 Parkinson and Tooley Amendment 2 to the Committee *for* Employment & Social Security’s Proposals for a New Discrimination Ordinance (Billet d’État XV of 2020, Article XV). Available at <https://gov.gg/CHttpHandler.ashx?id=127724&p=0> [accessed 20th August, 2020].

- 1.3 The three year term of office of the current Panel Members is due to expire on 28th February 2021. Extending the term of the current Panel Members until the end of 2021 will enable the Panel to continue to hear and determine complaints under existing employment protection and discrimination legislation throughout 2021, in parallel with the recruitment and training of new Panel members.
- 1.4 The Committee, therefore, recommends the re-appointment, until 31st December 2021, of 12 of the current 13 Panel Members. The other Panel Member does not wish to be reappointed.
- 1.5 The States are required to designate one Panel Member as Convenor and another as Deputy Convenor in order to convene three Panel Members and to appoint one as Chairman for each Tribunal hearing. Mr Jason Hill consents to continue in his role as Convenor. The Committee recommends that the States designate Mr Jason Hill as Convenor until 31st December 2021. Mrs Christine Le Lièvre, whose term of office as Deputy Convenor was also due to expire on 28th February 2021, has resigned from this position. The Committee recommends that the States designate Mrs Paula Brierley as Deputy Convenor, effective immediately until 31st December 2021.

2. PANEL MEMBERSHIP AND REAPPOINTMENT

- 2.1 The Panel is made up of independent people, appointed under the Employment and Discrimination Tribunal (Guernsey) Ordinance, 2005 ("the Ordinance"), from which a Tribunal of three is formed to hear and determine complaints made under relevant employment and discrimination legislation, such as unfair dismissal, sex discrimination and failure to be paid the minimum wage.
- 2.2 Section 1 of the Ordinance requires the States, on the recommendation of the Committee, to draw up and maintain the Panel. Panel Members are appointed for a three-year period or such shorter period as the States may specify.
- 2.3 The Ordinance requires that the Panel must consist of such number of persons as, in the opinion of the States, is necessary for the purpose of hearing and determining complaints under the provisions of the relevant enactments. At present, there are 13 Panel Members. Their terms of office are due to expire on 28th February 2021.
- 2.4 To ensure the States maintains a credible and appropriately skilled Panel, the Committee conducts a local advertising and recruitment campaign whenever recruitment is required. Applicants are shortlisted against objective criteria and the shortlisted candidates are required to take part in an assessment process run by trained staff from the UK Advisory, Conciliation and Arbitration Service

(ACAS). Following this independent assessment, recommendations for appointment are made to the Committee to consider.

- 2.5 The current Panel Members were selected through this assessment process and have served the Employment and Discrimination Tribunal well, gaining valuable skills and experience.
- 2.6 Paragraph 7.4.3 of the Committee's Policy Letter, dated 2nd March 2020, entitled "Proposals for a New Discrimination Ordinance"³ explained that, in preparation for the new Discrimination Ordinance coming into force in 2022, the Panel would be expanded to ensure that it had an appropriate mix of expertise including service providers, accommodation providers, etc., alongside existing expertise in employment, and to represent a balance of interests. Recognising the technical complexity of discrimination complaints, a new requirement will be introduced for the Panel Members appointed to chair a Tribunal brought under the new Discrimination Ordinance to be legally qualified. This is line with practice in Jersey and the UK. Some of the legally qualified chairs will be recruited off-island to ensure that there is a lower risk of conflict of interest. Training on the new Discrimination Ordinance will be provided for Panel Members and support staff.
- 2.7 The process of recruitment will be open to existing Panel Members and other applicants. It is estimated that the recruitment and training process will take approximately 12 months to complete. Therefore, the Committee recommends that the term of office of the current Panel Members is extended from 1st March 2021 until 31st December 2021 in order to allow time for the recruitment and training of the new Panel to take place during 2021 while retaining capacity to continue to adjudicate complaints brought under existing enactments.
- 2.8 Of the 13 current Panel Members, the following 12 have confirmed that they are prepared to be reappointed on this basis:

Mrs Paula Mary Brierley
Mr Roger John Brookfield
Mrs Joanne Antonia de Garis
Mr Darren Etasse
Ms Alison Jayne Thompson Girollet (formerly Anderson)
Mr Jason Hill
Mr George Charles Sidney Jennings
Mrs Christine Diane Le Lièvre
Ms Helen Sheena Martin (formerly Hubbard)
Ms Georgette Scott

³ Committee for Employment & Social Security - Proposals for a New Discrimination Ordinance (Billet d'État XV of 2020, Article XV). Available at <https://gov.gg/article/176559/Proposals-for-a-New-Discrimination-Ordinance> [accessed 20th August, 2020].

Mr Andrew Douglas Vernon
Mr Peter Robert Woodward

- 2.9 Brief resumes of the above named persons are provided at Appendix 1.
- 2.10 The other current Panel Member, Mr Wayne Hassall, has indicated that he does not wish to be reappointed as a Panel Member.
- 2.11 The States are required to designate one Panel Member as Convenor and another as Deputy Convenor in order to convene three Panel Members and appoint one as Chairman for each Tribunal hearing.
- 2.12 On 16th October 2019, following consideration of a Policy Letter entitled ‘Employment and Discrimination Tribunal: Appointment of Convenor’⁴, dated 9th September 2019, the States agreed to designate Mr Jason Hill as Convenor of the Panel from 1st November 2019 until 28th February 2021. He has indicated that he would be happy to continue in this role until 31st December 2021. The Committee recommends that Mr Jason Hill be designated as Convenor of the Panel from 1st March 2021 until 31st December 2021.
- 2.13 On 7th February 2018, following consideration of a Policy Letter entitled ‘Employment and Discrimination Tribunal: Reappointment of Panel Members and Designation of the Convenor and Deputy Convenor’⁵, dated 29th December 2017, the States agreed to designate Mrs Christine Le Lièvre as Deputy Convenor of the Panel from 1st March 2018 until 28th February 2021. Mrs Le Lièvre has recently resigned from this position but remains a Panel Member. The Committee recommends that Mrs Paula Brierley, who has been a Member of the Panel since 2009, be designated Deputy Convenor, effective immediately until 31st December 2021. Mrs Brierley consents to designation as Deputy Convenor. Mrs Brierley’s resume is attached at Appendix 1.

3. COMPLIANCE WITH RULE 4 OF THE RULES OF PROCEDURE

- 3.1 In accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees (“the Rules of Procedure”), the Committee has consulted with Her Majesty’s Procureur.

⁴ Committee *for* Employment & Social Security – Employment and Discrimination Tribunal: Appointment of Convenor (Billet d’État XX of 2019, Article I). <https://www.gov.gg/article/174334/Employment-and-Discrimination-Tribunal-Appointment-of-Convenor> [accessed 5th November, 2020].

⁵ Committee *for* Employment & Social Security – Employment and Discrimination Tribunal: Reappointment of Panel Members and Designation of the Convenor and Deputy Convenor (Billet d’État V of 2018, Article 3). Available at <https://gov.gg/article/163088/Employment-and-Discrimination-Tribunal-Reappointment-of-Panel-Members-and-Designation-of-the-Convenor-and-Deputy-Convenor> [accessed 5th November, 2020].

- 3.2 In accordance with Rule 4(4) of the Rules of Procedure, it is confirmed that the Propositions have the unanimous support of the Committee.
- 3.3 In accordance with Rule 4(5) of the Rules of Procedure, the Propositions relate to the Committee's purpose:
- "To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation."
- 3.4 In particular, the Propositions relate to the Committee's mandated responsibilities for labour market legislation and practices.
- 3.5 Through the drafting of this Policy Letter, the Committee has considered the need to consult with other bodies in accordance with Rule 4(5) of the Rules of Procedure of the States of Deliberation and their Committees. Consultation was not deemed necessary on this occasion.

Yours faithfully

P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop

BRIEF RESUMES OF MEMBERS OF THE EMPLOYMENT AND DISCRIMINATION PANEL

Mrs Paula Mary Brierley

Mrs Brierley is currently the Chief Operating Officer for EMEA HR for Northern Trust, and has been employed with Northern Trust for eleven years in various HR roles. Previously, she was employed, for 16 years, as Head of HR for HSBC Securities Services (Guernsey) Limited (formerly the Bank of Bermuda), where she was responsible for all areas of HR including teams in Isle of Man and Luxembourg. Her current role involves overseeing the operational side of HR for the EMEA region (10 countries) including HR risk and governance. She leads the HR side of acquisitions, outsourcing/insourcing, new business integrations and legal entity changes in the region. During her career, she has gained wide experience in dealing with employee relations issues from informal discussions to full formal disciplinary and grievance procedures. Mrs Brierley is a Chartered Member of the CIPD and has an MA in Strategic HR Management with the University of East London, she also has the Certificate in Company Direction from the IoD. She has been a Member of the Guernsey Employment and Discrimination Panel since 2009.

Mr Roger John Brookfield

Prior to his retirement, Mr Brookfield was Fire Safety Manager with the Guernsey Fire & Rescue Service. Throughout his 31 year career, Mr Brookfield has had first-hand experience of managing staff and working closely in a team environment. His training and subsequent Fire Service examinations require a good working knowledge of sex and race discrimination and the Fire Service disciplinary regulations. In recent years his experience extended to dealing with routine staffing matters and in the application of Guernsey's Fire Laws as a qualified Fire Safety inspector. He is an experienced Fire Service Instructor with responsibility for overseeing both practical and theory examinations. He is a graduate of the Institution of Fire Engineers and currently works as a part-time Fire Safety Consultant and trainer. He has been a Member of the Guernsey Employment and Discrimination Panel since 2006.

Mrs Joanne Antonia de Garis

Mrs de Garis has thirty years' practical people management experience across both public and commercial sectors gaining considerable understanding of employment relations, change management and quality of service in a number of environments. A science graduate of Cardiff University, Mrs de Garis also holds the Institute of Directors Diploma in Company Direction. She was appointed to the Guernsey Employment and Discrimination Panel in 2011.

Mr Darren Karl Etasse

Mr Etasse is an independent facilities management and building services consultant. Prior to this he was Managing Director of a large corporate facilities company across the Channel Islands and has over 25 years of experience in running a

large organisation with a workforce of over 400 staff. He is a qualified IOD Director and a qualified building services engineer and was Chairman of the Channel Island branch of BIFM. As a long serving and practicing Director of a large organisation, he has been involved in a number of internal disciplinary investigations and hearings, taking in a broad range of cultural and ethnic backgrounds. He was appointed to the Guernsey Employment and Discrimination Panel in 2016.

Ms Alison Jayne Thompson Girollet (formerly Anderson)

Ms Girollet has been employed by Specsavers Optical Group, (SOG), within the Legal Department since 1997. She is now part of SOG's UK & ROI Legal team as a Senior Employee Relations Advisor (a small team with responsibility for aspects of employment law covering the Group's interests in the UK and Republic of Ireland). The role includes advice and co-ordination of store partner issues (such as investigations, grievances, disciplinary action etc.) coordination and guidance of 'store' formal board meetings and employment litigation and regulatory compliance. Prior to working for Specsavers, Ms Girollet served eight years in the Royal Air Force. Tours of duty included Officer Commanding HR, Accounts, Facilities Management and Project Management respectively. She is an Associate Member of the Chartered Institute of Personnel and Development and has been a Member of the Guernsey Employment and Discrimination Panel since 2009.

Mr Jason Hill

Mr Hill is a Crown Advocate in the Civil Litigation Directorate of the chambers of the Law Officers of the Crown and as such is part of the team of lawyers that advises and represents the States of Guernsey and other quasi-governmental organisations in civil matters. He was appointed a Crown Advocate in 2013 having been called to the Guernsey Bar in 2011 and appears regularly before the various courts in the Bailiwick. He is particularly experienced in cases involving public law, land law, financial services, commercial litigation and company law. Prior to coming to Guernsey in 2009, he was a barrister in private practice in Sheffield after being called to the English Bar in 1995 and specialized in civil and chancery practice. He is also an accredited mediator and a Member of the Chartered Institute of Arbitrators. He was appointed to the Guernsey Employment and Discrimination Panel in 2016.

Mr George Charles Sidney Jennings

Mr Jennings is now retired, but was previously employed as Operations Director at Guernsey Post. Prior to this he held the position of Union Secretary of the Communications Union for over 20 years, where he represented over 200 postmen and women and, as a result of both positions, has been involved in a wide range of negotiations and discussions with both management and Union. Mr Jennings was a Member of the Panel set up under the Industrial Disputes and Conditions of Employment (Guernsey) Law, 1993 for two years and in June 2008 sat as a Panel Member to hear the dispute in respect of The Generation Engineers and the Control Room Operators, (represented by Prospect Union and Unite the Union) v Guernsey Electricity. He gained a BSc (Hons) in Labour Studies in 2006 through Southampton

University. He has been a member of the Guernsey Employment and Discrimination Panel since 2009.

Ms Christine Diane Le Lièvre

Prior to retiring at the end of 2017, Ms Le Lièvre had twenty seven years' experience working for Northern Trust (previously Barings). Since 1997 she has been a Manager in Human Resources and was appointed Head of Human Resources in 2005, shortly after the acquisition of the Barings Guernsey Group of Companies by Northern Trust. In this role, she was responsible for the management of the HR function including recruitment, employment relations, change management, payroll, pensions and terminations (the latter including redundancies). From 2012, she worked part-time and had been primarily responsible for employee relations, pensions and various HR projects. Ms Le Lièvre has wide experience in dealing with employment relations issues including interpersonal conflict, stress related issues, absenteeism, performance and capability issues. In 2000 she achieved the post graduate Diploma in Personnel Management through Portsmouth University and the GTA and was a Chartered Member of the Chartered Institute of Personnel and Development (CIPD). Ms Le Lièvre has been a member of the Guernsey Employment and Discrimination Panel since 2009 and, until recently, held the post of Deputy Convenor.

Ms Helen Sheena Martin

Ms Martin was employed at Credit Suisse in Guernsey for over 16 years where she was a Director and Member of the local Executive Board and Senior Country Head of Human Resources with regional responsibilities. Latterly, as Group Head of Human Resources for Generali Worldwide, Ms Martin assumed global responsibility for Human Resources in multiple jurisdictions and was a member of the local executive committee. At the present time, Ms Martin offers consultancy and training services specialising in diversity and inclusion and related topics. During her career in the finance sector she specialised in diversity and inclusion and employment law and led an award-winning initiative to set up Diversity and Inclusion forums internationally. She has written numerous published articles on the topic and has spoken at the World Open Learning Conference and various international Training Conferences.

Ms Martin is a Fellow of the Chartered Institute of Personnel and Development (Chartered FCIPD) and was the Chairperson of the Guernsey branch of the CIPD for 3 years until November 2020. She has been a member of the Institute of Directors (MIoD) since 2003 and is a current member of the Guernsey IOD Committee. Ms Martin has studied employment law to a high level and holds a Master of Education (MEd.) degree (special field: Professional Studies) from the University of Exeter. Ms Martin is an accredited Mediator and has been a member of the Employment and Discrimination Panel since 2006.

Ms Georgette Scott

Ms Scott is HR Director for Sovereign Trust (Channel Islands) Limited, who she joined in April 2012. Prior to working for Sovereign, she worked as an independent HR Consultant under the name Advantage HR from 2009. Before setting up her own

consultancy business she was Director of Human Resources, Channel Islands and Isle of Man for a local commercial business and held similar roles in legal, fiduciary and public sector organisations. She started her HR career in the public sector, where she worked for 12 years. Ms Scott is a graduate, and also a chartered member of the Chartered Institute of Personnel and Development and holds other professional memberships in Management and Leadership. Ms Scott has been a member of the Guernsey Employment and Discrimination Panel since 2006 and prior to that served as an Adjudicator from 2000 and is therefore, the longest serving member of the panel.

Mr Andrew Douglas Vernon

Mr Vernon was a bus company executive during a career in public transport of over 30 years. He moved to Guernsey on his early retirement following the sale of his Company. As Commercial Director he was responsible for all aspects of route planning, fares, trade union pay and conditions negotiations, pension schemes and budgeting. He was an Associate of the Institute of Logistics and Transport with a wide range of experience in employment issues, ranging from recruitment of staff to dealing with disciplinary matters from the initial investigations through to the appeals process. He has also represented the employer in Employment Tribunals and in dispute resolution processes, often with ACAS involvement. In addition he negotiated terms and conditions of employment with both local and paid Trade Union Officials. He is a member of the local Parole Review Committee and has been a member of the Guernsey Employment and Discrimination Panel since 2006.

Mr Peter Robert Woodward

Mr Woodward qualified in Business Studies at Nene College of Further Education and commenced his professional career as a graduate trainee with Texas Instruments UK Ltd in 1970. By 1978 he was responsible for a high volume electronic parts manufacturing department numbering some 200 employees, including supervisory and management staff. In 1979, after post-graduate studies at Nuffield College Oxford, sponsored by his employer, he was appointed UK Labour Relations Manager. Mr Woodward has experience in representing his former employer at Employment Tribunals. His career in Human Resources continued to progress and by 1986 he had been appointed by the Intel Corporation as Director for European Human Resources; with HR responsibility for staff in 15 international jurisdictions. His final role at Intel was as Director of Training and Development for Europe, Africa and Middle East. He moved to Guernsey in 1997 undertaking the role of independent management consultant, providing training and coaching for a wide variety of organisations in the Channel Islands, France, Eire, Germany and Spain. He served as a member of the Jersey Employment Tribunal Panel for ten years and is a Fellow of the Chartered Institute of Personnel and Development. He was originally appointed as an Adjudicator in 2003 and has been a member of the Guernsey Employment and Discrimination Panel since 2006, previously appointed as Convenor.

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COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

EMPLOYMENT AND DISCRIMINATION TRIBUNAL: REAPPOINTMENT OF PANEL
MEMBERS AND DESIGNATION OF THE CONVENOR AND DEPUTY CONVENOR

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

30th November 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 'Employment and Discrimination Tribunal: Reappointment of Panel members and Designation of the Convenor and Deputy Convenor' be considered at the States Meeting to be held on 27th January 2021.

The States is asked to designate a new Deputy Convenor for the panel at the earliest opportunity and the term of office of other Panel Members is due to expire on 28th February 2021, so it would be helpful for the policy letter to be considered as soon as possible.

Yours faithfully



P J Roffey
President

H L de Sausmarez
Vice-President

T L Bury
S J Falla
J A B Gollop