

General Information	
Ministerial Decision Type	Approval: Budget/Contract/Resource Allocation
Report Title	Revised remuneration for Tribunal members
Minister	Social Security
Signatory	Minister
Lead Department	Customer and Local Services (CLS)
Lead Directorate	Customer Operations (CLS)
Ministerial Decision Summary: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Date decision made if different to date 'Ministerial Decision Summary' signed.	Select date.
Report and Supplemental Report Details	
Report Author	Risk & Quality Manager
Date of Report	18/03/2024
Supplementary Report Title <i>(If applicable)</i>	Insert Supplemental Report Title.
Supplementary Report Author <i>(If applicable)</i>	Insert Official Title Only.
Date of Supplementary Report <i>(If applicable)</i>	Select Date of Supplemental Report.
Ministerial Decision Report: Public or Absolutely/Qualified Exempt	Public Select if more than one Absolutely/Qualified Exemption.
Relevant Case/Application/URN <i>(Only complete if making a decision related to an appeal where appropriate or allowed under legislation/case/application)</i>	Insert Relevant Case/Application.
Relevant Proposition Number <i>(Only complete if presenting Comments or if lodging an Amendment)</i>	Insert P. number.
Relevant Scrutiny Report <i>(Only complete if presenting a ministerial response)</i>	Insert S.R. number.
Associated Law(s) and/or Subordinate Legislation	Social Security (Jersey) Law 1974 and Income Support (Jersey) Law 2007
Action required if recommendation agreed	Department to take necessary action.

Resource Implications	There are additional financial and/or manpower implications. Further detail is included in the detail section of the report.
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Introduction

The Income Support and Social Security legislations provide for Tribunal members to be given such remuneration and expenses as the Minister may determine.

There are three Tribunals;

- Income Support Medical Appeal Tribunal - which hears appeals regarding the award of the impairment component of Income Support, care level assessments for claims to Long Term Care and the level of care being provided by claimants to Home Carers Allowance.
- Social Security Medical Appeal Tribunal - which hears appeals against the assessment of claims to Long Term Incapacity Allowance.
- Social Security Tribunal - which hears appeals on all other decisions in respect of Income Support, Long Term Care and Social Security matters.

In 2009 the then Minister through MD-S-2009-0026 approved the introduction and levels of remuneration to be paid to panel members as follows.

Tribunal	Constitution	Remuneration daily rate
Income support Medical Appeal Tribunal	Legal Chair	£440
	1 Medical practitioner	£440
	1 lay member	£102.01
Social Security Medical Appeal Tribunal	Legal Chair	£440
	2 Medical practitioners	£440 each
Social Security Tribunal	Legal Chair	£440
	2 Lay members	£102.01 each

Previously Tribunals had traditionally been an honorary service but recruitment of new members, particularly professionals, was proving difficult without some remuneration. In addition, a precedent has been set by the Employment and Discrimination Tribunal which already remunerated panel members.

MD-S-2009-0026 provided that that the rates should be reviewed annually with any increase to be considered with reference to the Earnings Index and rates for other Tribunals and Courts.

The rates set in 2009 have not been reviewed or increased since, which is now causing difficulties in recruiting new panel members, in particular medical practitioner members.

This paper proposes revised remuneration levels for the Tribunal members to take account of the lack of any increase since 2009. Whilst at the same time complying with principles set in 2009 to consider the Earnings Index and rates payable to other Tribunals and Courts.

Recommendation

To approve the budget allocation.

Only insert text if 'Other' selected above.

Detail

Proposed rates

Tribunal	Constitution	Remuneration daily rate
Income support Medical Appeal Tribunal	Legal Chair	£664
	1 Medical practitioner	£664
	1 lay member	£155
Social Security Medical Appeal Tribunal	Legal Chair	£664
	2 Medical practitioners	£664 each
Social Security Tribunal	Legal Chair	£664
	2 Lay members	£155 each

Level of remuneration for the Chair/Deputy Chair

The same Chair and Deputy Chair are appointed to sit on all three Tribunals. The Tribunals powers relate solely to whether a decision is correct or not which in turn impacts on the award of benefit. Whereas the Employment and Discrimination Tribunal is also able to award compensation and/or a fine.

For this reason, as with the rates set in 2009, the increased rate proposed remains below the level currently paid to the Employment and Discrimination Tribunal.

The level of remuneration is set for the hearing time pro rata with a half day rate paid for hearings of less than 3 hours. As it is also the responsibility of the Chair/Deputy Chair to compile the Tribunals written judgements, which are then published, a further half day rate is payable to cover the additional time required for the completion of these.

Level of remuneration for other panel members

The Income Support Medical Appeal Tribunal includes a medical practitioner. The Social Security Medical Appeal Tribunal includes 2 medical practitioners.

Primary care in Jersey is private practice and so if a doctor is not available to see patients, they are unable to generate income. It is therefore reasonable to continue the practice set in 2009 of remunerating the medical practitioner panel members at the same day rate as the Chair/Deputy Chair.

For the lay panel members, it is proposed to apply to the rates set in 2009, the same percentage increase applicable to the proposed rates for the Chair/Deputy Chair and medical practitioners members.

The level of remuneration for the medical practitioner panel member and lay panel member is set for the hearing time pro rater with a half day rate paid for hearings of less than 3 hours.

Rationale for proposed rates

The proposed rates represent a 50.91% increase on the rates set in 2009 which were then based on the rates paid to other Tribunals set in 2008.

The Index of Average Earnings report for 2023 shows an increase of 48% between June 2008 and June 2023.

There is currently a shortfall of medical practitioner panel members despite recent recruitment campaigns. Contact with the Primary Care body has highlighted that an increase of less than that proposed would have limited impact in addressing the lack of interest from their members in applying to become a Tribunal medical practitioner panel member.

There are also currently only 3 lay person panel members appointed, which can make convening a hearing of the Social Security Tribunal which requires 2 lay panel members in a reasonable time period difficult.

Were these situations to continue then the consequences would be an inability to hold Tribunal hearings with the resulting impact on customers not being able to exercise their statutory right of appeal.

It is also recognised that the rate paid by the Minister to medical practitioners appointed to undertake medical boards has been regularly revised since 2009 and is currently set at £110.54 per hour.

The proposed increase at 50.91%, rounded up to the next whole pound, is therefore recognised as being necessary to attract interest from professionals and lay persons to sit as panel members.

Review of rates

It is intended that moving forwards the rates will be reviewed annually with any increase to be considered with reference to the Index of Average Earnings, the rate paid to medical practitioners appointed by the Minister to conduct medical boards and the rates for other Tribunals and Courts.

Costs

There have been 6 Tribunal hearings in the 12 months from March 2023, which based on the proposed increased rates would have cost an additional £4,981.