

Nature of the Role of the Legally Qualified Member of the Appeal Tribunals for Northern Ireland

As a Legally Qualified Member (LQM) of the Appeal Tribunal you may sit alone or as one of a two or three member tribunal to decide on entitlement to various Social Security benefits and Child Maintenance issues, including the following:

- (i) Personal Independence Payment (PIP), a new benefit introduced in June 2016 to replace the existing Social Security benefit Disability Living Allowance (DLA), for those people who are of working age;
- (ii) DLA or Attendance Allowance (AA) for those who are under age 16 or are aged 65 or older;
- (iii) Employment and Support Allowance (ESA) for those of working age but are too sick to work. Various other social security benefits and on occasions child maintenance issues.

The initial decision on entitlement to these benefits is made by the Department for Communities' staff and that decision is appealable to the Appeal Tribunal, an independent judicial body.

With PIP, DLA and AA appeals, the Tribunal consists of 3 members - a Legally Qualified Member (LQM), a Medically Qualified Member (MQM) and a Disability Qualified Member (DQM), in ESA the LQM will sit with a MQM. In other social security benefits and in child maintenance the LQM usually sits alone but may be assisted by a financially qualified member if there are complex financial issues. In PIP, DLA and AA appeals the appellant is automatically given an opportunity to provide consent to the release of his/her GP notes and records which are, when available, then considered by the Tribunal on the day of the hearing. On occasions these are also available when dealing with ESA appeals.

Initially LQMs will be trained in PIP appeals only.

There are also pre-hearing interlocutory applications which have to be dealt and this primarily involves assessing the merit of applications for postponements. Decisions

also have to be made in late appeal applications or applications to strike out appeals which are frequently included as part of the legal members work in session. The responsibility for list management and organisation of the Tribunal session rests with the LQM. In practical terms this can involve dealing with a wide range of appellants – from those who are late for their appeals to those who are very anxious and sometimes disruptive.

Representation at appeals is variable. Presenting Officers on behalf of the Department are sometimes but not always present and it is open to the LQM to direct their attendance if required. Appellants are often unrepresented but organisations such as the Citizens Advice Bureau often provide advice and/or representation. An essential part of the process is the need for the LQM to communicate with other panel members to achieve consensus as to how the hearing will be conducted and to effectively communicate this to the parties in the introduction to the hearing.

All members of the Tribunal have an equal contribution to the decision making process role in the appeal but the key role of the LQM is to ensure that all of the evidential and legal issues have been adequately addressed. This involves putting any inconsistencies in the evidence to the appellant to give an opportunity for comment. The LQM gives an explanation of all the legal issues arising in the appeal and facilitates the conduct of the appeal to provide an effective hearing. On a practical level a meticulous record of the proceedings is essential since this helps in the decision making process and also is needed for provision of reasons for the decision if this is requested by either party at a later date.

A summary decision is usually issued to the appellant after the hearing although this can be reserved at the discretion of the Tribunal. The LQM is required after consultation with the other panel members to make findings of fact and this will facilitate the provision of a statement of reasons of the decision if this is requested by either party. Providing an adequate and comprehensive statement of the reasons for the decision of the Tribunal is another key duty of the LQM.

Post hearing applications also form an essential part of a working week- these can relate to setting aside applications, applications for correction or extension of time for the issue of reasons and also applications for leave to the Commissioner.

In each tribunal session there will usually be 3 individual appeals listed. Around two weeks in advance of the hearing you will receive a package of documents which sets out the claim made by the person appealing, the decision made by the department, the appellant's appeal and the department's response to that appeal. These documents will require reading prior to attending the hearing. This preparation usually takes at least one to one and a half hours and often considerably more. On the day of the hearing the tribunal will discuss these papers together with any additional evidence received and will view the GP records if available. A high proportion of appellants attend the tribunal in person or with a representative. The LQM controls the proceedings and will discuss with the other members the areas of questioning that each member will deal with. This may involve asking the appellant for information on personal health issues which requires sensitivity and excellent communication and interpersonal skills.

Tribunal sessions last half a day, starting at 9:45am and 1:45pm and are held in various centres across Northern Ireland, so it sometimes requires an early start in order to arrive in time. However, members do have the right to decide to which centres they are prepared to travel. The Appeals Service (TAS) provides administrative support to the tribunal. TAS will send out a monthly calendar, working at least two months in advance, to canvass availability. While a minimum commitment of 56 sessions is required there is some flexibility around this and is subject to the workload received. On occasions you may be asked at short notice if you can fill in for a colleague who has had to cancel however, there is no pressure to do so.

Full training is provided by the President of Appeal Tribunals with ongoing updates. Training is by way of lectures and group discussion designed to improve knowledge of and application of the legislation. Attendance at training is compulsory.

Office of the President of Appeal Tribunals