



Member of the Investigatory Powers Tribunal

Information pack for candidates

15 December 2023

Introductory note by The Rt Hon Lord Justice Singh, President of the Investigatory Powers Tribunal

Thank you for taking the time to consider applying to become a member of the Investigatory Powers Tribunal (“IPT” or “the Tribunal”).

The Tribunal was established by section 65 of the Regulation of Investigatory Powers Act 2000 (“RIPA”), as amended by the Investigatory Powers Act 2016. It is an independent judicial Tribunal, in substance a court, and provides an important part of the scheme by which the United Kingdom ensures that a fair balance is struck between fundamental human rights, including the rights in the European Convention on Human Rights, and the wider public interest, including the interests of national security.

It is a specialist Tribunal, whose President must be a person who has held high judicial office. I am a member of the Court of Appeal of England and Wales and my Vice-President, Lord Boyd of Duncansby, is a Senator of the College of Justice in Scotland and sits in the Inner House of the Court of Session.

The IPT has developed ways of working which include holding OPEN hearings when possible and CLOSED hearings when necessary so that it can consider evidence which has to be kept secret in the interests of national security. In *Big Brother Watch v UK* (2022) 74 EHRR 17, at para. 413, the European Court of Human Rights noted that “the IPT provides an effective remedy for applicants complaining of both specific incidences of surveillance and the general Convention compliance of surveillance regimes”. At para. 415, the Court concluded that the IPT provides “a robust judicial remedy” to anyone who suspects that his or her communications have been intercepted by the intelligence services.

The Tribunal is under a duty to investigate valid complaints. Section 68(6) of RIPA provides that the Tribunal may require persons specified in the Act to provide all such documents and information as the Tribunal requires to fulfil its statutory obligations. These include the UK intelligence services and police. This marks the Tribunal out from other Tribunals and Courts in the UK which do not possess such investigative powers. It is necessary because at the point the claimant makes the claim they may suspect, but they may not know, that they have been the subject of surveillance or investigatory powers.

In relation to the findings from these investigations, under RIPA s 67(3)(c) the Tribunal has a duty make a determination by applying the same principles as in a claim for judicial review. This determination requires a minimum of two Tribunal members. We need to recruit a new member, to replace a member who is due to retire in July 2024. On this occasion the particular need which has been identified is for a lawyer who is familiar with the law of England and Wales.

Contents

	Page
Person Specification	4
Role Description	5
How to apply	7
Conditions of Service	9
On appointment	12

Annex A – Disability Confident Form

Overview

Person Specification

Overall, the Tribunal should represent a balanced mix of qualities, skills and experience.

Statutory Requirements:

By virtue of Schedule 3 to the Regulation of Investigatory Powers Act 2000 (RIPA) as amended, a person shall not be appointed as a member of the Tribunal unless they are:

- a person who holds, or has held, a high judicial office (within the meaning of part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council;
- a person who satisfies the judicial-appointment eligibility condition on a 7-year basis;
- an advocate or solicitor in Scotland of at least seven years standing; or
- a member of the Bar of Northern Ireland or solicitor of the Court of Judicature of Northern Ireland of at least seven years' standing.

Appointments are made by HM The King under Letters Patent for a period of five years. Members are eligible for re-appointment. The Tribunal policy is that, save in exceptional circumstances, a member will only serve two 5-year terms.

Desirable Requirements:

The successful candidate needs to be a distinguished lawyer with a proven track record of expertise capable of being applied to the work of the Tribunal, who is able to make informed and reliable decisions on issues which can be of national importance.

He or she must have considerable experience in the law and legal practice at a senior level, be familiar with Administrative Law and have a sufficient knowledge and understanding of RIPA, the Investigatory Powers Act 2016, the Security Service Act 1989, the Intelligence Services Act 1994 and the Human Rights Act 1998. Judicial experience, for example as a fee-paid judge, will be of advantage.

Role Description

Posts: The Tribunal is looking to appoint one legal member. All appointments are made by HM The King.

Eligibility: Applicants need to demonstrate that they meet the qualities required for the roles as outlined in this information pack. The successful candidate will be required to undergo good character checks before their appointment.

Remuneration: Legal members will receive a daily fee equivalent to that paid to a Deputy High Court Judge. This is reviewed annually in line with the recommendations of the Senior Salaries Review Body for the Judiciary. Additional payment(s) are also made and full details are given on page 7.

Time commitment: At least 15 days a year. Initial appointments will be for 5 years.

Start date: The summer of 2024.

Role and Responsibilities of the Investigatory Powers Tribunal

Section 65 of RIPA provides for His Majesty to appoint by Letters Patent such number of members of a Tribunal as His Majesty sees fit to perform certain statutory functions under Part IV of the Act, as amended by the Investigatory Powers Act 2016.

The Tribunal is a court which investigates and determines complaints and Human Rights Act Claims lodged by members of the public which allege that the intelligence services, public authorities or law enforcement agencies have unlawfully used covert techniques and infringed their right to privacy. It also considers complaints against any conduct by or on behalf of the UK intelligence services.

As a judicial body handling sensitive material, the Tribunal's policies and procedures have been carefully developed and have evolved since its creation with the aim of balancing the principles of open justice for the complainant with a need to protect national security.

There are currently 7 judicial members appointed under s1(a) of schedule 3 of RIPA including the President, Lord Justice Singh, and the Vice-President, Lord Boyd of Duncansby. There are a further 5 legal members appointed under s 1(b) – (d) of schedule 3. The Tribunal represents a balanced mix of qualities, skills and experience and the constituent parts of the United Kingdom.

They are supported by a small, full-time secretariat, headed by a Head of Secretariat.

Background

The Tribunal was established on 2 October 2000 by section 65 of RIPA. The Tribunal replaced the Interception of Communications Tribunal, the Security Service Tribunal, the Intelligence Services Tribunal and the complaints provision of Part III of the Police Act 1997 (concerning police interference with property).

Role of Tribunal Members

All complaints are presented to the Tribunal Member by the Tribunal Secretariat. The secretariat conduct investigations as directed by the Member unless the Member directs that the complaint is (a) out of jurisdiction as set out by RIPA, (b) out of time, generally referring to conduct taking place longer than a year before the complaint, or (c) deemed frivolous or vexatious.

It is the role of the Tribunal Member to review the complaints and human rights claims and determine whether or not there have been contraventions of RIPA and/or the Investigatory Powers Act 2016 as well as contraventions of the Human Rights Act, Part III of the Police Act 1997 or the Intelligence Services Act 1994. Complaints and claims about conduct by or on behalf of the intelligence services are broader in nature and are not limited to the legislation set out above.

Case reviews can be undertaken by at least two members on paper or by way of attendance at an oral hearing which can be OPEN in the presence of both parties, CLOSED or a mixture of the two.

Where members determine a complaint or Human Rights Act claim they apply the same principles for making their determination as would be applied by a court on an application for judicial review.

Further information about the Tribunal and its role can be found on the Tribunal website <https://investigatorypowerstribunal.org.uk/>

How to apply

The closing date for application is 1600 on 19 January 2024.

Please submit the following 3 documents clearly labelled by email to:

recruitment@ipt-uk.com

1. **A CV** (maximum two sides A4, minimum 11 font) setting out your career history and including details of legal qualification to establish that you meet the statutory requirement to become a member of the Tribunal.
2. **A short supporting statement** (maximum two sides A4, minimum 11 font) setting out how you meet the desirable requirements to become a member of the Tribunal. Please provide specific examples how you meet each of the requirements.
3. **Annex A** Disability Confident Form.

Please submit your application documents as three separate attachments and include the heading “Member of the Investigatory Powers Tribunal” in the subject box. You will receive an acknowledgment that your application has been received.

Candidates short listed for interview will be required to complete a separate form in relation to nationality and bring identification to the interview.

The successful candidate will be required to complete separate documentation to allow good character checks to be undertaken before their appointment can be confirmed.

Please note the following:

- We cannot accept applications submitted after the closing date.
- Applications will be assessed on the documentation provided. Please refer to the advert to ensure you have provided the necessary documents.
- Applications will be acknowledged upon receipt.
- Feedback will only be given to unsuccessful candidates following interview on request.

If you have any queries about this role, or about recruitment process for this post, please contact recruitment@ipt-uk.com

Indicative Timetable

Please note that these dates are only indicative at this stage and could be subject to change.

Advert Closing Date	1600 on 19 January 2024
Short List Meeting	To be confirmed (expected to be in late January or early February 2024)
Final Panel Interviews	To be confirmed (Spring 2024)
Appointment by Letters Patent	Expected post interview

Selection Process

This competition is based on three main principles – merit, openness and fairness.

The recruitment panel will be chaired by Lord Justice Singh, President of the Investigatory Powers Tribunal and will also include the President of the King's Bench Division and a lay member.

At the short-listing meeting the panel will assess each application against the essential and desirable criteria and decide who to invite for interview.

After interviews, the panel will make a recommendation to the Lord Chancellor/Secretary of State for Justice, who will, if he approves it, pass on the recommendation to the Prime Minister, who will, if he also approves, advise His Majesty to make the appointment.

Appointment is by Letters Patent and as a result there may be delays in informing the candidates of the outcome of the competition.

Please note that expenses incurred by candidates during the recruitment process will not be reimbursed except in exceptional circumstances and only when agreed in advance.

Good character checks

All people recommended for appointment to the Tribunal must be of good character. The successful candidate will be expected to undertake good character checks.

These checks reflect those detailed in the JAC's Good Character guidance - <https://www.judicialappointments.gov.uk/good-character>. You are strongly advised to read this and to assess whether there is anything in your past conduct or present circumstances that could affect your appointment to the Tribunal. You should read this carefully before completing the application form.

Conditions of Service

A member of the Tribunal is called upon to review Tribunal cases and to sit at Tribunal oral hearings and to undertake any other prescribed duties as the need arises. The frequency of reviewing case files and sittings at oral hearings etc. will depend upon the workload of the Tribunal and on the other commitments of the member. It should not be seen as conferring any expectation of any given level of future sittings nor of any level of future sittings at a particular location. Members of the Tribunal can expect at least 15 days work annually.

The appointment is non-salaried and non-pensionable. A member of the Tribunal who is not a salaried judicial-holder will receive a daily equivalent to that paid to a Deputy High Court Judge in England and Wales and is reviewed annually in line with the recommendations of the Senior Salaries Review Body for the Judiciary. Additional payment(s) will also be made for attendance at Tribunal meetings, attendance at oral hearings and file review visits to those agencies and authorities empowered under the legislation against whom complaints and claims are lodged.

Travel and subsistence costs will also be paid to all members where a member is attending a Tribunal venue other than their designated primary venue (i.e. chambers, office or home).

Conflicts of Interest

The governing principle is that no person should sit in a judicial capacity in any circumstances which would lead an objective onlooker with knowledge of all the material facts reasonably to suspect that the person might be biased. As a general principle, therefore, a barrister or solicitor ought not to sit as a member of the Tribunal if he/she is liable to be embarrassed by so doing.

Members of the Tribunal are expected to:

- refrain from any activity, political or otherwise, which would conflict with their judicial office or be seen to compromise their impartiality having regard for example to the comments of the Court of Appeal in the case of *Locabail (UK) Ltd v Bayfield Properties Ltd* [2000] QB 451;
- be aware of the risk of a perceived lack of impartiality arising from published articles or public pronouncements etc. (*Timmins v Gormley* [2000] QB 451) and
- refrain from referring to their appointment on professional cards, letterheads or chambers' or solicitors firms' literature.

Disclosures

All members appointed to the Tribunal are subject to the provisions of the Official Secrets Act 1989 and will be notified as such on their appointment.

Nationality

The post is open to UK Nationals.

Age Limit

The Regulation of Investigatory Powers Act 2000 does not stipulate a retirement age for Tribunal Members. The long standing policy of the Tribunal is that members retire at 75.

Diversity and equality of opportunity

We welcome applications from all sections of the community and from people with diverse experience and backgrounds for these posts.

Disability Confident

Applicants who meet the essential criteria for the role as set out in the job advert and person specification, and have asked that their application is considered under the scheme, are guaranteed an interview. Selection will be on merit. If you wish to apply for consideration under the scheme, please complete the form in Annex A. It is not necessary to state the nature of your disability.

Whether you choose to apply under the Disability Conflict scheme or not, you can still ask us to make particular arrangements for you when attending an interview. You can also contact us if you want to discuss the criteria for the role or have questions regarding your application.

DOCUMENTATION REQUIRED IF CALLED TO INTERVIEW

If called to interview, you will be asked to provide original documentation to verify your identity.

A current, valid travel document, for example your passport.

Plus two of the following:

1. Bank statements to cover the last six months;
2. Birth certificate issued at birth;
3. Adoption certificate;
4. Driving licence;
5. Utility bill / council tax bill sent to you at your given address and dated within the last six months;
6. Cheque book and bank card accompanied by three statements and proof of signature;

7. Credit card accompanied by three statements and proof of signature;
8. Credit card with your photograph on it.

Plus one of the following as evidence of employment or academic history;

1. Pay slip
2. P60
3. P45
4. Academic reference

On appointment

Appointment is by Letters Patent granted by His Majesty and is for a period of five years. Appointed members shall be eligible to be considered for re-appointment at the end of the five year term. They will not normally serve more than two terms of five years.

Remuneration

- Legal members will receive a daily fee equivalent to that paid to a deputy High Court judge. Additional payment(s) will also be made for attendance at full Tribunal meetings, attendance at oral hearings. Travel and subsistence costs will also be paid where a member is attending a Tribunal venue other than their designated primary venue i.e. chambers, office or home.
- Remuneration is taxable under Schedule E and subject to Class 1 National Insurance contributions. It is not pensionable.
- Those appointed will also be eligible to claim allowances, at rates set centrally, for travel and subsistence costs necessarily incurred on Tribunal business.

Time commitment

At least 15 days a year.

Training

Full briefing will be arranged following appointment.

Standards in public life

You will be expected to demonstrate high standards of corporate and personal conduct. All successful candidates will be asked to subscribe to the Tribunal's ***Guidance on expected standards of behaviour of Tribunal members.***

You should note particularly the requirement to declare any conflict of interest that arises in the course of Tribunal business and the need to declare any relevant business interests, positions of authority or other connections with organisations relevant to the business of the Tribunal.

Eligibility

Applicants need to demonstrate that they meet the qualities required for the roles as outlined in this information pack.

Disqualification for appointment

There are circumstances in which an individual will not be considered for appointment. They include:

- People who have received a prison sentence or suspended sentence of 3 months or more in the last 5 years;
- People who are the subject of a bankruptcy restrictions order or interim order;
- In certain circumstances, those who have had an earlier term of appointment terminated;
- Anyone who is under a disqualification order under the Company Directors Disqualification Act 1986;
- Anyone who has been removed from trusteeship of a charity.

Equal Opportunities

The Tribunal is committed to the principle of public appointments on merit with independent assessments, openness and transparency of process and to providing equal opportunities for all, irrespective of race, age, disability, gender, marital status, religion, sexual orientation, transgender status and working patterns.

Data Protection

Any data about you will be held in secure conditions with access restricted to those who need it in connection with dealing with your application and the selection process.