



**JUDICIAL
APPOINTMENTS
BOARD FOR
SCOTLAND**

GUIDANCE NOTES

For applicants wishing to become:

LEGAL MEMBERS

OR

DISABILITY MEMBERS

**(Known as Ordinary Members
With Disability Experience)**

OR

MEDICAL MEMBERS

**(Known as Ordinary Members
With Medical Experience)**

**OF THE FIRST-TIER TRIBUNAL FOR SCOTLAND –
SOCIAL SECURITY CHAMBER**

**The deadline for notes of interest is
12.00 (midday) GMT, 27 March 2023**

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CONTENTS

1. INTRODUCTION
2. ROLE DESCRIPTION
3. ESSENTIAL CRITERIA
4. APPOINTMENT PROCESS
5. ONLINE NOTE OF INTEREST
6. COMPLETING THE NOTE OF INTEREST
 - 6.1 Personal Details
 - 6.2 Tribunal Details
 - 6.3 Character and Conduct
 - 6.4 Conflict of interest
7. ENHANCED DISCLOSURE
8. TIMETABLE
9. REASONABLE ADJUSTMENTS
10. COMPLAINTS

APPENDICES

Appendix A – A day in the life of a tribunal member

Appendix B – Enhanced Disclosure Guidance Note

1. INTRODUCTION

The Judicial Appointments Board for Scotland (JABS) invites current members of the Social Entitlement Chamber and medical members of the Mental Health Tribunal for Scotland to register their interest in recommendation by JABS as members of the First-tier Tribunal for Scotland Social Security Chamber (SSC).

The Social Security Chamber currently deals with appeals in connection with decisions and determinations in terms of sections 46 and 61 of the Social Security (Scotland) Act 2018.

The following information is provided to assist you in completing the Note of Interest form. **Please read it carefully before completing the form.**

The Guidance Notes cover the three roles, please disregard the information that is not relevant to the role for which you are registering your interest.

2. ROLE PROFILES

Please read the role profile and person specification for the role for which you are applying (produced by the Judicial Office for Scotland) on our website:

- [Legal member role profile](#)
- [Ordinary member with disability experience role profile](#)
- [Ordinary member with medical experience role profile](#)

If you would like further information or background about being a tribunal member in the SSC, please read *A day in the life of a tribunal member* by Andrew Veitch, Temporary Social Security Chamber President at Appendix A.

3. ELIGIBILITY

This route of application is only available to existing members of the Social Entitlement Chamber and medical members of the Mental Health Tribunal for Scotland. Any other applicants should apply through the later full recruitment process.

There is no requirement for applicants to reside in Scotland, however, it should be noted that travel expenses will only be paid for travel within Scotland.

3.1 Eligibility criteria for the roles are:

3.1.1 Legal Member

ELIGIBILITY

1. To be eligible for appointment you must:
 - Have previous engagement in practice for a period of not less than 5 years as a solicitor or advocate in Scotland; and
 - Subsequent engagement in any of the activities listed below:
 - (a) exercising judicial functions in any court or tribunal;

- (b) practice or employment as a lawyer of any kind;
- (c) teaching or researching law at or for an educational institution.

3.1.2 Disability Member

ELIGIBILITY

A person is eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland if the person is experienced in dealing with the needs of persons who have a disability within the meaning of section 6 of the Equality Act 2010(4) because the person works in a professional or voluntary capacity with a person with a disability, provides care to a person with a disability, or themselves has a disability.

*Definitions are included in the Person Specification.

3.1.3 Medical Member

ELIGIBILITY

A person is eligible for appointment as an ordinary member of the First-tier Tribunal for Scotland if the person is a fully registered person within the meaning of the Medical Act 1983(3), whether or not that person holds a licence to practise.

4. APPOINTMENT PROCESS

The appointment process for existing tribunal members is 'light touch' and does not require applicants to go through the usual full appointment process. There are two parts to the recruitment process - the completion of a note of interest form and a due diligence check on Character and Conduct.

The due diligence check on Character and Conduct will include JABS consulting with the following, or the equivalent organisation in the UK, as appropriate:

Legal member role:

- Lord President
- The Law Society of Scotland
- The Scottish Legal Complaints Commission
- The Faculty of Advocates
- The Crown Agent
- Police Scotland
- Disclosure Scotland

Disability member role:

- The Crown Agent
- Police Scotland
- Disclosure Scotland

Medical member role:

- The Crown Agent
- Police Scotland
- Disclosure Scotland
- General Medical Council

- British Medical Association.

JABS will also consult with the President of the Social Security Chamber, the Senior President of Tribunals, the President of the Scottish Tribunals and the President of the Mental Health Tribunal for Scotland as appropriate. JABS will also contact relevant professional bodies.

JABS will then make recommendations for appointment to Scottish Ministers.

5. ONLINE NOTE OF INTEREST

The first time that you apply online for a judicial vacancy through the Judicial Appointments Board for Scotland you will be required to register on our website. If you have any difficulties, please contact the JABS Business Management Unit by email mailbox@jabs.gov.scot.

When you submit your note of interest, you will receive acknowledgement by email. You should contact us if you have **not** received an acknowledgement within 24 hours of submitting your note of interest.

Note of Interest received after 12.00 (midday) GMT on the closing date, 27 March 2023 will not be accepted.

6. COMPLETING THE NOTE OF INTEREST

The online system is designed to be intuitive and includes instructions for completion within the form.

There are some areas where further guidance may be helpful and these are detailed below:

6.1.1 Personal Details

6.1.1 Full Name

It is mandatory to include your full name, including any middle names, in your application as this will be used for essential consultation purposes.

6.1.2 Social Security Chamber Role

Please ensure to select the role for which you wish to register your interest, from either legal member, medical member (ordinary member with medical experience) or disability member (ordinary member with disability experience).

6.2. Tribunal Details

Please select the Tribunal (s) of which you are currently a member.

6.3 Character and Conduct

You are asked to disclose any criminal convictions as well as any other issues which may call into question an individual's suitability for judicial office. Since judicial appointment is an excepted office in terms of Part 2 of Schedule 4 of The

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions)(Scotland) Order 2013, you should include any spent convictions and any convictions for which disposal was by fixed penalty (such as traffic offences).

6.4 Conflict of interest

You should declare any potential conflict of interest you may have though a relationship with any JABS Board member or any other reason that you think could give rise to a potential conflict.

Details of the full Board membership are on the JABS website.

7. Enhanced Disclosure

We are required to carry out an Enhanced Disclosure check for judicial appointments.

You will be required to pay the cost of the Disclosure check, which is £25. Please note this cost is not reimbursed.

The link to the online application form has been provided below:

[Basic, standard or enhanced disclosure application form - mygov.scot](https://mygov.scot/basic-standard-or-enhanced-disclosure-application-form)

A Microsoft Teams meeting will be arranged with JABS to complete the identification checks as part of the Disclosure process. We are looking to complete these checks between 29 March to 19 April. We will email you a Microsoft Teams link to join the meeting, this should not take longer than 10 minutes.

A Guidance note for further information is provided at Appendix B.

8. TIMETABLE

DATE	Event
6 March 2023	Advertisement published
27 March 2023	Closing date for note of interest
29 March 2023	Due diligence check on Character and Conduct Disclosure Scotland check

We expect to be in a position to notify applicants of the outcome and to make recommendations for appointment to the Scottish Government during April 2023.

9. REASONABLE ADJUSTMENTS

We are committed to considering any reasonable adjustment requests, to ensure that you can participate in the appointment process fairly.

We will consider requests on a case-by-case basis and the information you give will not be used in the appointment process.

If you are recommended for appointment, you should discuss any reasonable adjustment requests with the Judicial Office for Scotland.

10. COMPLAINTS

If you are dissatisfied with any aspect of the handling of your note of interest, you should refer to the [Complaints Handling Procedure](#) on our website.

A day in the life of a tribunal member

My name is Andrew Veitch and I am the Temporary President of the Social Security Chamber (SSC). I have been a tribunal judge for 30 years and hope that this further information below will assist prospective tribunal members in deciding whether they wish to apply for a tribunal post with the SSC.

This is a snapshot of a typical day in the SSC and relates to all tribunal members. This is based on my own experience. If you are appointed, training will be provided in all aspects of tribunal practice and procedure.

The SSC hears appeals from decisions taken by Social Security Scotland, who will always be a party in the proceedings. Appeals relate to benefits either being refused or not given at the level claimed by the appellant. The benefits which you will be principally involved with are Adult Disability Payment (ADP) and Child Disability Payment (CDP). These appeals are heard by a legally qualified tribunal member (the Convener), a medically qualified member and a disability qualified member. An appellant is a claimant who has appealed the decision as regards their benefit claim.

Legal members sitting alone do hear appeals relating to certain benefits and training will be given in respect of those benefits.

Most hearings will be dealt with in under two hours, although occasionally they last longer. No tribunal should feel under time constraint and each hearing must take as long as is necessary to ensure that the appellant has had a fair and just hearing. Appellants must be treated with dignity and respect. It is important to remember that the benefits that are being discussed and under appeal may be the only source of income that the appellant has. The granting or refusal of the appeal will have serious consequences. It is very important, therefore, that tribunals reach a fair, just and considered decision.

Some hearings can be contentious particularly if it becomes apparent that the tribunal is not only considering refusing the appeal but also taking an existing award of benefit away. This can and does happen on occasion. There are procedures to be followed if this is likely, and these will be discussed in training.

Hearings are principally dealt with by telephone so that means you could have a legal member in Inverness, a medically qualified member in Dundee, a disability qualified member in Dumfries and an appellant in Motherwell. There will also be a hearings clerk.

In person hearings will be held at venues throughout Scotland and for those hearings, a security guard will be in attendance. It is possible in respect of any hearing that there will be a representative for the appellant and a presenting officer from Social Security Scotland.

As a tribunal member you will access your papers through the SSC members' secure portal. You will be told in advance of the date of the hearing and the nature of the hearing for example, a CDP appeal to be conducted by telephone hearing.

Approximately 30 minutes before any hearing you will preview the appeal listed for that session with your tribunal colleagues. You will be expected to have read the papers and be able to discuss any issues that you consider arise from them.

Tribunal papers can vary between 30 to 40 and 150 to 200 pages or more. Training will be given as to how to approach these papers. They will include a submission from Social Security Scotland, a copy of the appeal and whatever medical evidence is available.

Medical members should be in a position to answer any medical questions that may arise from the papers. For instance, is the medication prescribed in respect of the conditions claimed what might be reasonably expected.

The disability member may be asked whether the aids provided are those that might be expected for someone with the disabilities claimed.

The legal member will be expected to have a working knowledge of the law applicable, to make introductory remarks and to ensure that the tribunal is conducted in a fair and just way.

Each member therefore brings skills to the tribunal, which the tribunal will rely on. In reaching an ultimate decision, each tribunal member has an equal say. The statement of reasons for the decision which all parties will be given a copy of will be drafted by the legal member, but all members will have an opportunity to input into the final version.

Having previewed the papers, the tribunal will normally start at 10 AM or 2PM. If the hearing is by telephone, then all parties will be invited to join the call. If the hearing is in person, then the parties will be invited into the hearing room. The convener will make introductory remarks, emphasising the independence of the tribunal and the powers that it has. Tribunals are recorded.

The presenting officer should be invited to address the tribunal on the view of Social Security Scotland and the representative on the grounds of appeal. If there is no representative the appellant should be invited to address the tribunal.

Having heard these submissions the tribunal will proceed to hear evidence. In the preview the tribunal will have agreed an approach on asking the appellant questions and which member will cover which area. A common approach is that the medical member asks questions about the conditions that the appellant claims they are affected by, their medication and treatment and then mobility if this is an issue. The disability member will normally ask questions about care needs and aids used but may also ask questions to clarify how the person is affected by their conditions. This is a matter for each individual tribunal.

Training is provided on techniques of questioning witnesses and appellants. It may be necessary and appropriate to challenge appellants and/or witnesses particularly if there is a question in relation to the consistency or veracity of their evidence.

If the appellant has a representative then they should be given an opportunity to ask questions after the tribunal members and after the presenting officer has asked any

questions they may have. This allows the representative to clarify any issues that may have arisen during the course of such questions.

If there are any witnesses the tribunal should then hear from them on the same basis as the appellant.

Having heard all the evidence, the presenting officer should then be invited to make a final submission and then the representative to make their final submission.

The tribunal will then adjourn and the tribunal members will discuss amongst themselves what their view of the appeal is and what the decision should be based on the applicable law and the evidence both written and oral before them.

The decision will normally be given orally to the parties by the Convener, who will then prepare the statement of reasons. Before issue, the terms of the statement of reasons should be agreed between all three members.

Some appeals are dealt with on the papers without a hearing and with no parties present. These are not recorded.

Once the statement of reasons has been prepared and agreed the tribunal is effectively completed.

ENHANCED DISCLOSURES GUIDANCE NOTE

All applicants must complete the Enhanced Disclosure process, to ensure recommendations can be made within set timescales. Disclosure Scotland are only accepting online forms. The form can be downloaded here: [Basic, standard or enhanced disclosure application form - mygov.scot](#)

Please note that the Enhanced Disclosure is required for anyone intending to work in Scotland irrespective of where you live in the UK.

Form

- Please complete sections **1 to 6** of the form.
- Payment is required to be paid by the applicant, JABS do not reimburse this fee.
- Disclosure Scotland will accept an electronic signature from you either typewritten or a scanned signature. You do not need to print and sign the form by hand.
- Once you have completed the form, please email it to mailbox@jabs.gov.scot
- Please ensure the form is returned to JABS as soon as possible.

Virtual Identification checks

- A Microsoft Teams meeting will be arranged by the Business Management Unit of JABS to complete an identification check. You must have three forms of identification on hand. At least one of these must be photographic. The other documents must contain your name, your current home address and/or date of birth.
- The link, date and time to your Microsoft Teams meeting will be sent to you.
- A member of the JABS staff will carry out the required verification checks and complete sections **7 – 13** before the form is sent to Disclosure Scotland.
- JABS will receive your Disclosure Certificate, a copy will also be sent to your home address.

Payment

The cost of the Enhanced Disclosure check is currently £25. Payment can be made by credit or debit card and must be completed before your virtual ID check. The link to the payment portal is included at section 6 of your Disclosure Form. You will be provided a payment reference number once payment has been completed, please include this in section 6.

Help or guidance

Should you require any help or guidance filling out your Disclosure Scotland Form, please email us – mailbox@jabs.gov.scot