

## **Guidance on lay assessors for discrimination cases in the County Court under the Equality Act 2010**

The Equality Act 2010 (the 2010 Act) replaced the large number of existing discrimination laws with a single Act designed to simplify, harmonise and strengthen legal protection from discrimination and other conduct prohibited under the Act.

There is a presumption that a judge will appoint a lay assessor in cases about discrimination because of disability, sex, race, religion and belief, and sexual orientation to assist them at trial hearings unless satisfied that there are good reasons not to do so. The person appointed must have suitable skills and experience, but there are no other restrictions on the selection of assessors - judges may choose a suitably qualified and experienced person from any source.

### **(1) Cases concerning discrimination occurring before 1 October 2010 or cases where it occurred on a ship or hovercraft**

Cases that are brought to the civil courts concerning all types of discrimination that occurred before 1 October 2010 will be dealt with under the old legislation and the old arrangements for appointing lay assessors will apply. The same is the case if the matter concerns discrimination which has taken place at any time on a ship or a hovercraft. The old arrangements for lay assessors are that a judge is usually assisted at the trial by two lay assessors in hearing cases about race discrimination and may be assisted by one or more assessors in sex discrimination cases.

**Please contact the Civil Operations Team for information on appointing lay assessors in these cases.**

### **(2) Cases concerning discrimination occurring after 1 October 2010**

Cases concerning any type of discrimination that occurred on or after 1 October 2010 will be brought under the 2010 Act. Previously only 16 county courts had jurisdiction to hear discrimination cases whereas now the County Court sitting at any location has jurisdiction to issue and hear these claims.

Under the 2010 Act there is a presumption that judges will appoint a single assessor to assist them at the trial hearing unless satisfied that there are good reasons not to do so. There is no statutory role for government in maintaining a list of potential assessors. Instead it will be for a judge to use his or her discretion to appoint an assessor with suitable skill and experience as set out in the County Courts Act 1984 (section 63(1)).

However, one way of ascertaining such individuals is to approach Employment Tribunal lay members. When approaching Employment Tribunal panel members, courts should bear in mind that these are drawn from employer or employee representative groups and that it is for the judge to satisfy him or herself that any assessor, whether from the panel or another source, has the knowledge and experience needed for the particular case.

It is stressed that courts do not have to use an Employment Tribunal panel member and an assessor can be appointed from any source with the approval of the trial judge.

If courts do wish to use an Employment Tribunal panel member they must contact the relevant Personal Secretary to the Regional Employment Judge for their area using the list provided on the HMCTS Intranet. Courts should be aware that any existing bookings to sit in the Employment Tribunal will remain the priority.

Any request to the Personal Secretary of the Regional Employment Judge should take place as early in the proceedings as possible, to allow the timescale of 21 days to pass before appointment. The Personal Secretary will provide details of lay members which the court may wish to contact along with the CVs or supporting statements of those lay members. Once the

judge has decided which lay member to propose the court should notify the parties of this appointment. The court should also provide the details and CV of the lay assessor to parties, however, should ensure personal details (for example the personal address and telephone number) contained within the CV are redacted before disclosure takes place. The parties are permitted to object to the proposed lay member, and should this happen the court will need to refer the objection to the judge for consideration.

**Payment**

Payment of lay assessors should be made by the court hearing the case following the same process as other part time judiciary are paid, such as Deputy District Judges. Finance offices should note that the payment rate for county court appointed assessors is specifically detailed in the fees schedule for fee paid judiciary and tribunal appointments.

**If there are any queries regarding the appointment or payment of lay assessors please email the Civil Operations Team on [Civil&xxxxxxxxxxxxxxxxxxxxxx@xxxxx.xxx.xxx.xx](mailto:Civil&xxxxxxxxxxxxxxxxxxxxxx@xxxxx.xxx.xxx.xx)**