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Your ref: 1700853/2007 & Others

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Dear Sirs

Miller & Others v Ministry of Justice Consecutive Salaried Office Holders - Clarification

In the consultation process for the formulation of the Fee-Paid Judicial Pension Scheme and in discussions before the Employment Tribunal in Miller and others the MoJ has stated that there are no salaried judges who hold more than one salaried judicial office (as opposed to being assigned or deployed to different roles while holding a single office).

It has now come to MoJ's attention that there is one example, which MoJ believes to be unique. In 2014 a salaried Judge of the First-Tier Tribunal (who was undertaking the duties of Principal Judge) was separately appointed to the further office of President of the War Pensions and Armed Forces Compensation Chamber. The arrangement was and is that the two offices are held together on a full-time basis and that no separate salary (or pension) is paid for the second office.

Like Judges who are assigned or deployed to a second role while holding a single office, the Judge retained the salary (and pension) attributable to the original office which in this case was in a higher band than would otherwise have applied to the second office. The purpose was to enable the appointment of the successful applicant for the second (more senior) office without a reduction in pay. Such a reduction would otherwise have occurred because of the terms on which the Judge in question transferred into the First-Tier Tribunal in 2009.

Whilst wishing to correct any misleading impression as to the existence or otherwise of a salaried Judge holding concurrent offices, the MoJ does not believe that these circumstances give rise to any issues under the Part-Time Workers Directive or Regulations. It is not aware of any part-time Judge whose circumstances are comparable and in any event, full-time or salaried status is not the reason for this Judge's pay arrangements. Those arrangements also are, in the MoJ's view, objectively justified by the need to secure the appointment of the candidate selected as President of the War Pensions and Armed Forces Compensation Chamber.

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Yours faithfully

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