



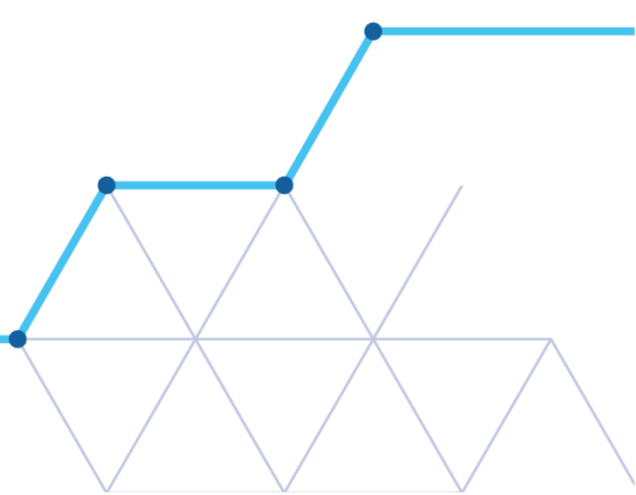
Ministry  
of Justice

# Senior Salaries Review Body

## Judiciary: Written Evidence for Annual and Major Reviews

March 2018

Protecting and advancing the principles of justice





Ministry  
of Justice

## **Senior Salaries Review Body**

Judiciary: Written Evidence for Annual and Major Review

## Contents

1. Introduction	3
2. Strategic context for the review	6
3. Current judicial organisation, pay structure and pensions	17
4. Devolution context	22
5. The annual pay award for 2018/19	24
6. The remit group	25
7. Pay and reward	34
8. Retention and outflow	43
9. Recruitment	46
10. Motivation and morale	52
Annex A: Abbreviations	54
Annex B: SSRB Commission for Evidence from the MOJ	55
Annex C: Diagram of judicial structure	60
Annex D: Ministry of Justice Judicial Salaries from 1 April 2017	61
Annex E: Ministry of Justice Judicial Fees from 1 April 2017	67
Annex F: Further data on the remit group	70
Annex G: Judicial Retirement data	74
Annex H: Northern Ireland Judicial Appointments as at 31 March 2017	77
Annex I: Northern Ireland Retirement Ages, 1 April 2010 – 31 March 2017	79
Annex J: Judicial pay bill Northern Ireland, 2016–17	82
Annex K: scheduled cases and defendants dealt with 2000–2016 Northern Ireland	83

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Judiciary: Written Evidence for Annual and Major Review

## 1. Introduction

1. This document constitutes the Ministry of Justice's (MOJ) evidence submission to the Senior Salaries Review Body (SSRB) for its 2018/19 pay review for full-time and part-time salaried judicial office holders in the courts and tribunals of the United Kingdom (the annual review). This document also includes evidence for the SSRB's Major review of Judicial Pay (the major review) which, in addition to the above remit group, considers fee-paid court and tribunal judges, judges and legal members in the devolved tribunal systems in Scotland, Wales and Northern Ireland as well as the new post of Summary Sheriff in Scotland. It responds to both the SSRB's letter of 6 February 2018, which is included at Annex B, and the Call for Evidence.
2. This document provides an overview of the context in which decisions on future judicial pay will be made, including: the reasons why a major review is needed; the need for pay discipline and the need for any pay award to be affordable to the Government and the MOJ; the financial position of the MOJ and Her Majesty's Courts and Tribunals Service (HMCTS); and the policy and operational changes that have affected the work of the judiciary. It also includes relevant data where it is available.
3. This submission also incorporates information provided by the Northern Ireland Courts and Tribunals Service about the work of the judiciary in Northern Ireland. Evidence pertaining to the devolved judiciary in Scotland and Wales will be submitted separately.
4. The Government is committed to engaging seriously with the SSRB's Annual and Major review recommendations.

### **The need for a major review**

5. The Government values the vital work undertaken by judicial office holders in the UK. It is important that the judicial remuneration package is sufficient to enable the recruitment and retention of the highest calibre individuals into judicial office. We recognise that ensuring our judges feel valued and that their contribution is recognised – including through pay – is an important part of ensuring that the most talented people from the eligible pool continue to want to become judges, and to give public service in this way. Without a continuing pipeline of high calibre judges, the effective operation and worldwide reputation of our justice system may be put at risk.
6. There are a number of reasons why the time is now right for the SSRB to undertake a major review of judicial pay. The last major review was completed in 2011; the Government at the time chose not to implement any of the recommendations. This was primarily due to the ongoing pay freeze followed by the introduction of the 1% public sector pay policy. The last major review prior to that was undertaken in 2005.
7. Since then, changes have been made across the justice system which have had an impact on the roles judicial office holders perform and the environment in which they work. Looking ahead, work continues to modernise the courts and justice system in partnership between Government and the judiciary. Developments in technology and modern ways of working will affect where, when and how judges decide cases. It is important that we ensure that the way in which judges are remunerated appropriately

reflects these changes. This major review provides the opportunity to consider these issues.

8. It is also clear from the available evidence that there is an emerging problem in relation to recruitment at certain senior levels within the judiciary. Figures relating to recent selection exercises for High Court Judges and Circuit Judges in particular provide cause for concern. This issue is explored in more detail in Chapter 9. It is also concerning that the 2016 Judicial Attitudes Survey (commissioned by the Judicial Executive Board), completed by 99% of the salaried judiciary in England and Wales, and 98% of UK non-devolved tribunals judiciary, suggests that judicial morale is at a low level. For example, of those judges who responded and who are more than five years from their statutory retirement age, 36% reported having considered leaving the judiciary in the next five years. Pay and pensions were identified as key contributing factors to this, although they were not the only factors: increased workloads, stressful working conditions and demands for out of hours work were also recognised as other key contributing factors.
9. It was in this context that, in October 2016, the then Lord Chancellor asked the SSRB to conduct a major review of judicial pay, looking at the overall pay structure, changing judicial roles, and judicial recruitment in the light of the changes in the wider legal profession, retention and motivation. This review is being carried out alongside the SSRB's annual pay review for 2018/19.
10. In considering both the 2018/19 annual review and the major review we are asking the SSRB to give due consideration to affordability and to reflect on the evidence for targeting awards on areas of the greatest need and where additional resource will have maximum benefit. Within this evidence we have set out our view on which areas we believe would most benefit from a higher level of award, and the evidence base which underpins this. The remit letter from the Chief Secretary to the Treasury to pay review bodies and departments in respect of the annual review for 2018/19 confirmed that the Government has adopted a more flexible approach to public sector pay to address areas of skills shortages and in return for improvements in public sector productivity. However, pay discipline remains central to the Government's overall approach to fiscal consolidation and departments have been funded in the current Spending Review for a 1% average increase in public sector pay awards. Any recommendations over 1% are unfunded in current plans and would need to be carefully considered in the context of other financial pressures on the Department.

#### **The scope of the review/remit group**

11. In addition to the SSRB's standard judicial remit group of salaried judges, the Lord Chancellor asked the SSRB to consider, and make recommendations on, the pay of those fee-paid judges who have comparators within the salaried judiciary.
12. This followed policy changes as a result of recent litigation which means that eligible fee-paid judicial office holders now have entitlements to a number of benefits that gives them parity with salaried judges. This review will assess, for the first time, the impact of these new policies on judicial remuneration and the equity of salaried and fee-paid positions.
13. The remit was further extended to include fee-paid judges in the devolved administrations of Scotland, Northern Ireland and Wales.

## Targeting the recommendations

14. Decisions on judicial pay will be taken in the light of the current financial context. Taking account of that, the Government would like to suggest that the SSRB pays particular attention to the following:
  - The Government's preference would be to **give some form of pay award to all members of the remit group** in 2018/19. The value and form of this award should be varied in accordance with the supporting evidence and in particular we would like the SSRB to focus its consideration on the two areas we have identified below;
  - A Recruitment and Retention Allowance for High Court Judges, designed to target a specific recruitment problem, was implemented in April 2017 (this is discussed in more detail in Chapter 2 on the strategic context for the review). On the available evidence, we believe it is necessary to continue to target resources towards the High Court, whilst noting that the specific RRA introduced last year was always intended to be a temporary measure, ahead of the major review. There is currently only limited evidence to suggest that recruitment and retention issues have arisen on the Circuit Bench, and therefore, whilst seeing merit in some form of targeted award for this group, we are clear that it should be less than that provided to High Court Judges, where stronger evidence on recruitment and retention issues exist. Further information is available in Chapters 8 and 9;
  - Finally, our medium term planning for judicial recruitment projects an increased level of recruitment in the next three years. This underlines the need to ensure we have established a pay structure that is both sustainable and attractive to potential candidates at different levels within the judiciary. We would therefore expect the SSRB to **consider whether a differential pay award, which focuses resource on more senior levels within the judiciary, is supported by the evidence.**
15. The Government's preferred approach to the 2018/19 pay award, based on the evidence available at this stage, is set out in more detail in Chapter 5.
16. We consider that other key considerations for the SSRB when undertaking the major review include:
  - **Changes to judicial pension schemes and pension tax arrangements** have reduced the value of the remuneration package offered to certain members of the judiciary. In particular, although the tax reforms have had an impact on all high earners, including a large proportion of the judiciary, our analysis shows that this has primarily affected judges in salary group 4 and above;
  - **The O'Brien and Miller judgments** mean that fee-paid office holders are entitled to pensions and other specified benefits not previously available to them. The major review offers the chance for an independent examination of the Government's policy response to this litigation and the extent of job comparability. The SSRB should consider how far there is equity between fee-paid and salaried office holders in terms of their work and responsibilities as well as their remuneration;
  - **The changing nature of leadership roles within the judiciary** and the additional remuneration tied to these.

## **2. Strategic context for the review**

### **Financial context**

17. The context in which the SSRB's annual and major reviews are being undertaken remains one of financial restraint across the public sector.
18. The remit letter from the Chief Secretary to the Treasury to pay review bodies and departments in respect of the annual review for 2018/19 confirmed that the Government has adopted a more flexible approach to public sector pay to address areas of skills shortages and in return for improvements in public sector productivity. However, pay discipline remains central to the Government's overall approach to fiscal consolidation and departments have been funded in the current Spending Review for a 1% average increase in public sector pay awards.
19. Any recommendations over 1% are unfunded in current plans and would need to be carefully considered in the context of other financial pressures on the Department.

### **MOJ's overall financial position**

20. The financial position for 2017/18 and the rest of the Spending Review (SR) is extremely challenging. The SR15 settlement means that the Department will need to deliver around £1 billion in savings by 2019/20. By the end of the SR we will have made significant reductions from our administrative spend as well as the running costs of our courts and prisons. We will also take advantage of the opportunity to further reform our courts and prisons to deliver a justice system which is more efficient and rehabilitative.
21. We ask the SSRB to be mindful of this wider context in making their recommendations and to consider the justifying evidence base for each recommendation, as well as overall value for money.

### **Spending on judicial pay**

22. Judicial pay is met from the Consolidated Fund (in the case of senior judges) and the HMCTS budget (in other cases), and has increased in line with public sector pay policy in recent years. All judicial remuneration is included in HMCTS accounts for reasons of transparency and, including for fee-paid office holders, it accounted for £484m in 2016/17 (31% of gross business-as-usual expenditure in HMCTS). The requirement is expected to rise to £519m (including the 1% pay award planning assumption for each year of the SR) in 2017/18 due to:
  - an increase in workload in the Family jurisdiction, the Social Security and Child Support Tribunal, the Civil jurisdiction and the Employment Tribunal;
  - the full impact of the *O'Brien* and *Miller* judgements on fee-paid judicial pensions and other specified benefits previously not available to fee-paid judges;



- the impact of the apprenticeship levy of 0.5%;<sup>1</sup> and
  - the impact of the Recruitment and Retention Allowance for High Court Judges.
23. Of these judicial costs, 70% relate to salaried judiciary and the remaining 30% to fee-paid judiciary for specific sitting days and other commitments such as training.
24. Any pay increase of above 1% would add to the significant pressure on HMCTS's budget, and this would need to be considered alongside other pressures.

### **The need to recruit, retain and motivate people of the right quality**

25. It is important that we are able to continue to attract the brightest and best legal minds to judicial office. The Government recognises that the remuneration package offered to judges is one of the factors taken into account as candidates consider their career choices.
26. We carefully monitor the available recruitment and retention data, and where there is clear evidence of a problem the Government has taken steps to address it. Following compelling evidence of a specific problem with the recruitment and retention of High Court Judges, the Lord Chancellor introduced a temporary additional allowance to encourage new talent to apply for the High Court and to discourage existing judges from leaving the bench early (discussed in more detail below).
27. However, the SSRB's major review provides the opportunity to gather all available evidence on this issue and consider what changes, if any, are needed to the judicial pay structure. The Terms of Reference for the SSRB's major review therefore deliberately ask that, as well as considering affordability, the review looks at the current pay structure "taking into account judicial recruitment in light of the external market, retention and motivation".

### **The recruitment and retention allowance**

28. In April 2017 the Lord Chancellor, with the agreement of the Chief Secretary to the Treasury, introduced a Recruitment and Retention Allowance (RRA) of 11% for High Court Judges in the new judicial pension scheme. This reflected the Government's growing concern about problems in recruiting and retaining judges in the High Court. This was put in place as a temporary measure (until the outcome of the major review) designed to mitigate a specific issue until the SSRB had the opportunity to consider these concerns as part of a major review.
29. The Government and the Lord Chief Justice had been concerned about recruitment and retention in the High Court specifically for some time; for example, the number of applications for High Court posts had dropped in recent years (144 applications in 2007/08, 90 applications in 2010/11, 73 applications in 2014/15) and evidence also showed that the average retirement age was falling. Also, in 2017 the Judicial Appointments Commission (JAC) reported a high number of unfilled vacancies in the

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<sup>1</sup> All employers with a pay bill over £3 million must pay the apprenticeship levy. Employers are then able to offset the cost of training for their apprentices through these levy funds. HMCTS is liable for the levy and will be able to access levy funds via apprenticeships for their staff. There will not be apprentice judges.

High Court; six out of 14 vacancies were unfilled and a further exercise was planned for another 25 vacancies.

30. The then Lord Chancellor decided not to introduce a similar RRA for Circuit Judges as the available evidence was not compelling. Instead he asked that the SSRB consider the question of allowances as part of the major review. The Government accepts a major review is the appropriate forum for a considered, evidence-based consideration of remuneration across all judicial salary groups, noting that the RRA was always intended to be time-limited. The SSRB agreed to consider the issues of recruitment and retention in depth, particularly on the High Court and Circuit benches, in the context of wider remuneration issues for the whole judicial cohort.

## **Judicial workload**

### **Time sitting**

31. Sitting days for Judges are set out in their terms and conditions and can differ slightly depending on the type of Judge. Circuit Judges, District Judges and District Judges in Magistrates Courts are all expected to sit between 210 and 215 days a year while High Court Judges are expected to sit for 189 days. However, High Court Judges terms and conditions require them to work “outside hours” and they are required to deal with a variety of judicial business (e.g. reading case papers and preparing reserved judgements) and to perform other public duties in addition to their actual sittings.
32. Salaried tribunal judges do not have a fixed number of sitting days set out in their terms and conditions, but have an entitlement to 30 days’ leave a year.
33. Current terms and conditions for fee-paid office holders, such as Recorders, Deputy District Judges and tribunal judges include an expectation that they will sit for at least 30 days a year, but may vary from time to time. This is in accordance with business needs and category of office. Certain fee-paid judges, appointed prior to 2014, also have a minimum sitting requirement, normally 15 days.

### **Litigants in person and impact on judicial workload and productivity**

34. Litigants in person have always been a feature of the justice system. Recent evidence suggests that the number of litigants in person has increased in the past few years in some areas of the law. There is no clear empirical evidence that this increase leads to an additional pressure on judges’ workload; although a number of commentators have observed that the recent developments have created an additional burden in some jurisdictions affecting the use of judicial time.
35. The legal landscape has changed significantly over recent years through a period of modernisation of court processes and proceedings, as well as substantial changes to legal aid made by the *Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)*. The ability of individuals to resolve their legal problems is vital to a just society, and we are committed to ensuring that legal support (including legal aid where necessary) continues to be available to empower people to resolve their legal problems inside and outside of the courtroom.

36. The MOJ does not have significant data on self-representation, although efforts have been made in recent years to improve the evidence base. Representation statistics in the civil and family courts are now published quarterly.<sup>2</sup>
37. The Family Court Statistics show that the numbers of cases where at least one party is self-represented have increased (from 42% in 2012/13 to 64% in 2016/17). On average, 34% of respondents and 18% of applicants are self-represented in family cases. Trends are less clear in civil cases, but this could be due to the limited number of years these data have been collected.
38. Over recent years, as the volumes of these litigants in the family courts have risen, MOJ has introduced a range of measures to provide additional information, support and guidance for litigants in person. Since 2015, working alongside a range of partners from the advice and voluntary sectors, MOJ has also invested £5m of funding to support the Litigants in Person Support Strategy to increase support to unrepresented parties. This has provided practical support and information as well as providing routes to free or more affordable legal advice services. We continue to consider how best we can support those entering the justice system without legal representation.
39. Whilst the number of litigants in person will be affected by various factors, including people's willingness to represent themselves, as well as the availability of alternative forms of legal support beyond in-court representation, clearly one of these factors will be the availability of public funding for legal representation. MOJ considered the impact of recent legal aid policy changes under LASPO in a Post-Legislative Memorandum to that Act, published on 30 October 2017.<sup>3</sup> The Memorandum noted that the reductions in scope of legal aid for family proceedings coincided with an increase in the number of litigants in person in the Family Court.
40. Alongside the publication of the Memorandum, in recognition of the extensive nature of the changes made by LASPO, the then Lord Chancellor also announced that MOJ will undertake a further evidence-based review of the effects of LASPO over the coming months. This post-implementation review will be informed by stakeholders and will assess the changes made by LASPO against its initial objectives.
41. Since the passage of LASPO, several reports have been published that consider the impact of its changes, including on the volume of litigants in person. This includes reports by the National Audit Office (2014), the Justice Select Committee (2015), and the Public Accounts Committee (2015). A summary of these reports is included in the LASPO Post-Legislative Memorandum.<sup>4</sup>

## **Complaints**

42. The Judicial Conduct Investigations Office (JCIO) is an advisory body whose role is to support the Lord Chancellor and Lord Chief Justice on areas related to judicial discipline. They advise on disciplinary issues but do not have the power to make

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<sup>2</sup> Legal representation is tracked in family court statistics since 2011 (Family Court Statistics Quarterly, July to September 2017, Table 11), and in civil court statistics since 2013 (Civil Court Statistics Quarterly, July to September 2017, Table 1.6).

<sup>3</sup> <https://www.gov.uk/government/publications/legal-aid-sentencing-and-punishment-of-offenders-act-2012-post-legislative-memorandum>

<sup>4</sup> Ibid

findings on whether judicial office holders have committed misconduct nor do they have the power to impose disciplinary sanctions.

43. In 2016/17 the JCIO received 2,126 complaints compared to 2,609 in 2015/16. The highest number of complaints in 2016/17 were about the District Bench (944) followed by the Circuit Bench (590). This was similar to the number of complaints received about the District Bench in 2015/16 (963) although the second largest number of complaints during this period were about Coroners (556). Outcomes from complaints are broken down into three categories: rejected, dismissed or upheld. In 2016/17 a total of 1257 cases were rejected and 779 were dismissed. Only 42 investigations in 2016/17 resulted in the Lord Chancellor and Lord Chief Justice taking disciplinary action which was similar to the 43 investigations that took place in 2015/16.<sup>5</sup>

## **Wider reform context**

### **Court reform**

44. In the MOJ's evidence last year it was noted that the then Lord Chancellor, the former Lord Chief Justice and the Senior President of tribunals had announced plans to reform the justice system, taking forward a large programme of investment and transformation. Good progress is already being made to transform our courts and tribunals, and make our justice system more modern, swift and accessible through digitising services and the use of new technology.
45. Improving system productivity is an important driver of this reform programme; digital services will be easier to use and new modern and robust technology across all courts will make the lives of our judiciary – and users – easier. We hope that these reforms will improve judicial morale. We are making good progress, and professional and lay users are already seeing the benefits of our reforms; for example, by piloting our online applications for probate and civil money claims.
46. This investment is enabling HMCTS and the judiciary to work to create a system that is just, proportionate and accessible. This means: simpler processes for simple cases, to free up time for complex ones; new online systems to enable disputes to be settled outside the courtroom – with assistance for those who need help with digital services; fewer, better, more flexible court buildings will be used more efficiently; and world-class digital systems will manage cases seamlessly from the police and Crown Prosecution Service (CPS) through the criminal courts.
47. For those who operate it – be they judges or staff – there will be much greater use of video and audio technology to support more flexible working and much less paper-based administration. There will be fewer buildings and much better support for judges from court staff.
48. These reforms aim to improve efficiency in the system by protecting and therefore making more better use of judicial time. This will have an impact on the day-to-day work of the judiciary: we envisage that the judiciary will have to do less lower level, process-related work, subject to the passage of legislation and new court rules which will delegate these functions to authorised court staff. This change will make sure that

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<sup>5</sup> Further information can be found at <https://judicialconduct.judiciary.gov.uk/reports-publications/>

decisions are made at a suitable level, focussing judicial expertise where it is needed, reserving judicial time for the most complex case management decisions and final determinations, making better use of time. This will make sure the most valuable (and expensive) time is used for the most complex and sensitive work.

### *Technology*

49. We expect the introduction of new technology to help the judiciary work more flexibly and make more better use use of judicial time. Making more use of audio and video hearings will reduce inconvenience and increase the efficiency of the courts. The judiciary will have more options from which to choose how a case should progress, removing the requirement for formal hearings where these are unnecessary.
50. We are already establishing new online procedures which will enable users to access technology that enables them to better navigate the legal system and resolve disputes without necessarily needing a formal hearing in court. It is expected that many cases will be able to be resolved entirely online and, where they are not, we expect that the technology will better enable users to articulate and present their case in court which will mean that judicial time is used more effectively.
51. Several services have been developed and are now being tested with members of the public:
  - an online court for the issue and response stages of civil money claims;
  - online probate for non-contentious probate cases;
  - claimants can now initiate divorce proceedings online;
  - online tax for applicants who appeal against HMRC tax decisions; and
  - a 'track my appeal' service in Social Security and Child Support tribunals.
52. In criminal cases for example, we expect that there will be a more joined up digital courtroom meaning there is a seamless movement of cases and information from police to prosecutors to judges. Courts will be equipped to handle the new evidence – body worn cameras, phone data – that is produced in an era of digital crime.
53. In civil and family courts and tribunals, new technology will facilitate simpler processes and a blend of smart online mediation and resolution processes will mean citizens can use the court or tribunal to resolve cases online between themselves, quickly and easily. This will remove reliance on cumbersome and paper based processes. Judges will always know what is happening and who has what information; information will be organised and easy to digest; and updates and changes will be made online and instantly communicated.

### *Flexible operating hours*

54. From April 2018, a series of pilots are planned to test different ways of working in the court with the aim of establishing whether or not increased flexibility would mean increased system productivity and better use of judicial time. The pilots are being held in the Crown Court, Magistrates' Courts, and Civil and Family Courts. As part of these pilots no individual judge or HMCTS employee should be required to attend court for longer than they currently do as the pilots blend different jurisdictions together, such as a Crown Court and Magistrates Court, or runs an early morning or late afternoon session in the Civil, Family and Magistrates Courts. This has the

potential to give judges and employees more options around their working patterns, improving our productivity and range of working hours across the system.

55. HMCTS has not made any decisions about whether or not flexible operating hours will be rolled out as part of a future operating model. It is expected that the results of the pilots, which will be evaluated, will be published in early 2019.

#### *Other work*

56. In accordance with the recommendations of the Briggs Review<sup>6</sup> we are considering raising the financial threshold between the County Courts and the High Court from £100k to £250k. If implemented, this would bring higher value cases into the County Courts – a change we think the County Court judiciary are equipped to deal with. We expect that there will be some additional work for the County Court although we anticipate that this will be mitigated by an increase in judicial resource in the County Court. This will benefit the High Court by alleviating some of the pressure by diverting cases to the County Court.
57. A pilot is underway in the Immigration and Asylum Chamber (IAC) which aims to ensure better use of judicial time by decreasing the time judges need to spend writing up cases through use of a proforma. More case workers are being employed to carry out simple work in the IAC, particularly case management reviews. Work is also underway with the Home Office to improve the initial decisions made in immigration and asylum cases in order to decrease the high volume of appeals in this tribunal.
58. The small claims limit for personal injury claims is being increased; from £1,000 to £5,000 for road traffic claims, and from £1,000 to £2,000 for all other personal injury claims. These measures are part of a wider whiplash reform programme, which included primary legislation to set a tariff of payments for pain, suffering and loss of amenity for whiplash claims, and to ban settlement of such claims without medical evidence.
59. Whilst increasing the small claims track limit does have the potential to increase the number of litigants in person in the small claims track, and potentially increase the workload of the judiciary, this is against a backdrop of reduced claims volumes overall. It is also the intention to develop a new accessible portal based IT system for low value personal injury claims, which will support the majority to continue to settle pre-court as they do now. MOJ officials are working closely with stakeholders from across the sector, including from the judiciary, to develop the new system. It is intended that the whiplash reforms will be implemented as a package in April 2019.

#### *The courts and tribunals estate*

60. In the joint statement “Transforming our Justice System” the then Lord Chancellor, former Lord Chief Justice and Senior President of Tribunals stated that,
- “as the courts and tribunals are modernised we will need fewer buildings, used more efficiently, with courtrooms which are more adaptable.”*

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<sup>6</sup> <https://www.judiciary.gov.uk/wp-content/uploads/2016/07/civil-courts-structure-review-final-report-jul-16-final-1.pdf>

61. On 18 January 2018 a public consultation on proposals to shape future decisions on the court and tribunal estate was launched, seeking views on how the estate can change to support the transformation programme.<sup>7</sup>
62. Following an earlier consultation in July 2015, HMCTS has been closing some underused and dilapidated courts which are not necessary to deliver effective justice. When this is complete, HMCTS will occupy around 340 court and tribunal buildings providing face to face services. Over 90% of these will be less than 15 miles from another court or tribunal, and the majority will be less than 5 miles away. £114.7 million has already been raised from building sales, which has been ploughed back into modernising court and tribunal services and making it easier for people to access justice.
63. The changes introduced through digital reforms will mean there are many more ways to access justice without the need to travel or physically attend court. For those that do need to go to court, there will be more modern and well-connected courtrooms.
64. This process of consultation enables individual members of the judiciary to provide views on the impacts of the proposals and on the possible relocation of workloads. The consultation process will then consider those views before any final decisions are made.
65. HMCTS is working to adapt and improve facilities within court and tribunal buildings and bring them together in a new court and tribunal design guide. Future design of courts and tribunals will ensure that: technology is an integral part of design, rather than a later addition; we have hearing rooms and workspaces that support digital ways of working; and flexibility is provided where it is needed. We also need to ensure that the fullest advantage is taken of modern construction techniques to enable us to maximise our investment.
66. Flexibility of layout within hearing rooms is a key principle of the new design guide, which identifies two types of hearing room space: formal and standard. As an example, a standard type hearing room is most appropriate for magistrates' or Immigration Appeal Chambers hearings, but could also be used for Crown Court hearings without juries, and civil, family and tribunal hearings where custodial facilities are not required. Building flexibility into the hearing rooms will increase the use of our space, making our investment in the estate go further.
67. The purpose of the design guide is to make sure that our buildings become flexible and appropriate settings for the delivery of justice. HMCTS has developed a set of principles which will framework for design decisions when updating or improving court and tribunal spaces. Our buildings should be:
  - Appropriate: buildings must provide the right setting and service for each user and every hearing, and reflect the dignity and authority of the court and tribunals.
  - Effective: buildings must provide a safe and secure environment for everyone and help each user fulfil their role.
  - Accessible: buildings must be easy to use and find the way around.

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<sup>7</sup> <https://consult.justice.gov.uk/digital-communications/transforming-court-tribunal-estate/>

- Flexible: buildings must be adaptable, both for day-to-day requirements and longer-term change, and
- Sustainable: the estate must be affordable to resource and maintain.

### **Changes in terms and conditions**

68. In 2015, the Government consulted on “Modernising Judicial terms and Conditions”. The Government will proceed with the proposal to amend terms and conditions for fee-paid court judges by having an expectation – rather than guarantee – of a number of days existing fee-paid court judges are required to sit. This will bring their terms and conditions in line with fee-paid office holders in the tribunals, which were modernised in 2010, and recent fee-paid appointments in the courts.
69. When Parliamentary time allows, the Government will introduce legislation to increase the flexible deployment of fee-paid judges, to assist senior judges in managing court and tribunal business and improve system productivity. We aim to do this by introducing a measure to allow Recorders to sit in the Upper Tribunal, extend the range of High Court Judges who can sit as judge-arbitrators, and extend the range of courts and tribunals in which temporarily appointed Deputy High Court Judges can sit.
70. The aim is to utilise the judiciary as productively as possible, aligning resources with workload pressures and matching judicial experience and expertise to the demands of the different jurisdictions. This is explored further in the following section on Cross-assignment/deployment.

### **Cross-assignment/deployment**

71. The Senior President of Tribunal’s Annual Report 2017<sup>8</sup> sets out the judicial recruitment principles, developed by the Lord Chancellor, that the judiciary must have regard to internal cross-assignment/deployment opportunities before proceeding to a request for recruitment through the JAC.
72. There have been a number of Expressions of Interest (EOI) exercises recently that have matched under-utilised judges to those jurisdictions that have experienced significant workload increases, most notably the FTT Immigration and Asylum Chamber (IAC). For example, in 2014, 198 judges from the Employment Tribunals (ET) and the Social Entitlement Chamber were assigned for a period of two years. In 2016, 139 successfully sought extensions to their assignment in a process overseen by the IAC President. More recently, following an EOI, the SPT assigned another 37 judges from the ET to the IAC.
73. Similar exercises were held during 2016/17 in the Special Education Needs jurisdiction of the Health, Education and Social Care Chamber (HESC) which held an EOI exercise for fee-paid judges and special members. Over 200 applications from fee-paid judges were received for the 10 posts and 140 applications from specialist members from which 12 were appointed.

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<sup>8</sup> <https://www.judiciary.gov.uk/wp-content/uploads/2017/07/The-Senior-President-of-Tribunals-Annual-Report-2017-2.pdf>



74. Other examples of assignment include:

- Social Entitlement Chamber salaried judges bringing their skills and expertise to War Pensions;
- a significant number of High Court judges who are assigned to sit in the Upper Tribunal Immigration and Asylum Chamber;
- Circuit Judges deployed into the Mental Health jurisdiction of HESC;
- a number of Employment Judges continue to sit in the County Court, and an assessment of this pilot exercise is now underway. The SPT reported that “This has the potential to demonstrate the case for true flexible deployment across court and tribunal jurisdictions”.

#### **Increasing diversity within the remit group**

75. The December 2017 government response to the Lammy review of the treatment of Black, Asian and Minority Ethnic (BAME) individuals in the criminal justice system stated that “it is important for the quality, independence and impartiality of our judges that we always appoint the most talented candidates on merit, and we know that there are many talented potential candidates from a diverse range of backgrounds”.
76. The Lord Chancellor is committed to working with Lord Chief Justice and Chair of the Judicial Appointments Commission (JAC) and other Judicial Diversity Forum (JDF) partners to build on the improvements in gender and ethnic diversity in recent years.
77. Judicial diversity remains a complex issue as the requirement for judges to be qualified lawyers with many years’ legal experience, means that many lawyers apply for judicial office later in their legal careers, resulting in an applicant pool that is less diverse than society as a whole. This is relevant for all types of judicial appointment to a greater or lesser extent. Whilst all posts are open to legal professionals, the alternative requirement for previous judicial experience for some of the more senior roles means that the eligible pool is less diverse. The eligible pool does tend to be less diverse for salaried positions than fee paid posts in the courts. Conversely, not all roles in tribunals require legal practice experience and as such tribunals tend to be more diverse.
78. The MOJ works as part of the JDF, alongside legal professional bodies, judicial representatives and the JAC to coordinate action to increase judicial diversity. The JAC, judiciary and legal professions deliver outreach events, pre-application workshops, judge shadowing and mentoring schemes to attract and support eligible candidates, with programmes specifically targeted at under-represented groups, including women and candidates from non-barrister and socially disadvantaged backgrounds.
79. In December 2017, in response to the House of Lords Constitution Committee’s report, MOJ confirmed that as part of the consideration of how to attract and develop a diverse range of talented candidates to the salaried and fee-paid judiciary (as an important route to increasing the diversity of the salaried bench), it will work with relevant partners to review progression routes to and within the judiciary for Crown Prosecution Service and government lawyers, solicitors and Chartered Institute of Legal Executive fellows; and review the impacts on diversity of policies such as the mandatory retirement age and salaried part-time working.

## **Brexit**

80. On 29 March 2017, the Government triggered Article 50 and so began the formal process to remove the UK from the European Union.
  
81. Since then, the MOJ has been working to identify the issues affected by the UK's exit from the European Union. One area where there is likely to be an impact is on the UK justice system, specifically the volumes and the nature of cases in courts and tribunals. Although government continues to plan for every potential outcome, it is difficult to predict in detail, and with a degree of certainty, what the implications will be for volumes of cases in each jurisdiction and each level of court and tribunal. The eventual impacts on the justice system are dependent on future negotiated outcomes and future Government policy.

### 3. Current judicial organisation, pay structure and pensions

#### The structure of courts and tribunals in England and Wales

82. Annex D shows the current structure of courts and tribunals in England and Wales.

#### Judicial pay

83. The current structure of judicial pay remains broadly the same as we reported in our evidence to the SSRB last year.

84. Salaried judicial office holders are paid a spot rate based on their salary group. Judicial salaries are not subject to incremental progression and judges do not receive bonuses or performance related pay. There is no evidence to show that incremental progression or performance related pay would have either a positive or negative impact on judicial career progression. This is because these elements of pay have never been awarded to the judiciary and there is no consistent performance management, with considerable fluctuation between jurisdictions.

**Table 1: 2017/2018 judicial salaries by group**

Salary Group	Salaries with effect from 01/04/2017 (£)
1	252,079
1.1	225,091
2	217,409
3	206,742
4	181,566
5	145,614
6.1	134,841
6.2	126,946
7	108,171

85. Annex E shows the current salary schedule for the salaried judges in scope for this review.

86. Fee-paid judges in scope for this review are generally paid a day-rate based on the salary of their salaried comparator judge with a divisor applied.

87. Annex F shows the current fee schedule for those fee-paid judges in scope for this review.

#### Fee-paid judges

88. Fee-paid judges play an important and valued role in our judicial system. It is important that there is flexibility and mechanisms within the system to deal with the peaks and troughs in workload in our courts. The deployment of fee-paid judges is one way of managing this as such judges can be called in at short notice to meet an

unforeseen need or incorporated into work plans to meet fluctuating demands nationally or locally.

89. Previous judicial experience is normally a condition for salaried appointment, so fee-paid appointment is also an important pipeline of talent. Fee-paid posts enable potential applicants for salaried positions to test whether such a career is for them and to gauge their suitability to the office. The Judicial Appointments Commission asks judicial referees (independent assessors) to draw on appraisal evidence where an applicant had previously held a fee-paid post where it is available and it is appropriate to draw on for assessing in salaried recruitment exercises.
90. Despite the above benefits, which ought not to be under-estimated, there are some restrictions affecting the flexibility of fee-paid judges:
- their need to juggle their main career with sitting requirements makes it more difficult to assign them to longer cases (i.e. up to 10 days). They may also have to cancel booked sittings at short notice where they feel they must prioritise their main work;
  - the combination of the annual limits on sitting and the training requirements in the first year greatly limit their availability. For example, all newly-appointed Deputy District Judges must complete a period of sitting-in with an experienced District Judge for a minimum of 2 and no more than 3 days before their induction training. A further 2 days can be completed after induction training. They are then expected to attend a 5 day induction course arranged by the Judicial College. There is therefore a delay between appointment and being able to deploy fee-paid judges to full effect;
  - more generally, fee-paid judges are typically less experienced than their salaried counterparts and so will tend to undertake less complex work.
91. Traditionally, HMCTS has adopted a forecasting model in the courts based on 80–85% of sitting days being undertaken by salaried judges, with the remaining 15–20% undertaken by fee-paid judges. In tribunals, the ratio is approximately 25% of sitting days undertaken by salaried judges, with 75% undertaken by fee-paid judges.

## **Leadership**

92. Currently the way in which leadership is rewarded is not consistent in terms of how those who take on additional leadership responsibilities are rewarded in the judiciary; for example, a Circuit Judge may be appointed as a Designated Civil Judge, with all the extra leadership responsibilities of that post, but receive no uplift to their salary. By contrast, other judicial posts do carry a leadership allowance or salary uplift. It is also the case that those individuals who take on such responsibilities and are given additional pay to account for this may continue to attract this additional pay even if they resign their leadership post.
93. In 2011, as part of its major review, the SSRB recommended that the additional remuneration tied to leadership posts be standardised and that this additional amount should only be paid while an individual is in the relevant post.
94. As the deployment of judges, including into leadership roles, is a matter for the Lord Chief Justice, his evidence will cover leadership in more detail. However, the Government hopes that based on the recommendations of the SSRB we are able to

move to a more consistent approach that rewards those who take on additional responsibility.

## **Judicial pensions**

95. In undertaking the major review, the SSRB should have regard to a number of developments on judicial pensions entitlement in recent years.
96. First, it will need to consider the significant changes that have been made to both the features and tax status of the judicial pensions scheme, in line with wider public sector pensions reforms which took effect in 2015.
97. Some judges within the same salary group will have an overall remuneration package that differs in value because, due to various factors including age, the date on which they were appointed and whether they are members of different pension schemes. Details on the different schemes which make provision for both salaried and fee-paid members of the judiciary, and who is eligible under which scheme, are set out below in Chapter 7 on Pay and Reward.
98. Second, pension provision has now been made, for the first time, for fee-paid judges. Salaried members of the judiciary have historically been entitled to pensions, full salary for attending a training event, sick pay, maternity/ paternity pay, holiday pay, and London weighting (where relevant). However, fee-paid judges did not historically have pension benefits. Following the O'Brien decision and related litigation, the MOJ was required to provide pension and other pay related benefits to eligible fee-paid judges. This includes pension provision retrospectively from the 7 April 2000 when the Part-time Worker Regulations (Protection from Less Favourable Treatment) 2000 came into force. The Fee-Paid Judicial Pension Scheme (introduced on 1 April 2017) makes the pension provision back to 7 April 2000. However, litigation is ongoing in respect of this date, and if the O'Brien case is successful, MoJ may be required to provide pensions and other benefits before that date.
99. There has not yet been an opportunity to assess the impacts of these changes, so the Lord Chancellor asked the SSRB to include fee-paid judges who have a salaried comparator in this major review for the first time. This review therefore presents a timely opportunity for the SSRB to consider and make recommendations on the pay of fee-paid judges, in comparison with the relevant salaried comparator judge.
100. Third, the SSRB will want to take into account the impact of the tax changes announced by the government in its 2015 budget.
101. From April 2016, higher earners, including judges had to pay more tax on the pensions they accrue. This is because, for those with incomes of over £150,000 (salary plus pension accrued in the year, less the contribution paid) the Annual Allowance level was reduced on a taper. So, for those with the highest incomes, their Annual Allowance on the sum on which they do not pay tax decreased from £40,000 to £10,000. This has had an impact on higher earners nationally, including the judiciary.
102. MOJ analysis has found that changes in the Annual Allowance has reduced the overall remuneration of judicial office holders who are members of the Judicial Pension Scheme 2015 in all salary groups, other than members of salary group 7

who are based outside of London. It has, though, primarily affected salary group 4 and above. More detail is provided in the section on Pay and Reward at Chapter 5.

103. Additionally, the lifetime allowance (LTA) has been reduced in stages from £1.5 million in 2012 to £1 million now. The reduction in the LTA means that at current levels there will be taxation when a judge has pension savings valued at over £1 million. This would impact on a judge who has also made contributions to a registered pension scheme before appointment. Taken together, both personal and the judicial pension contribute towards their LTA. Given that the judiciary are largely drawn from the legal professions (and the earning potential in that career) we would expect the LTA threshold of £1m would be exceeded for most judges, with the greatest impact likely for higher earners, eg. at senior levels of the judiciary (High Court and above).

104. For background the Government introduced the LTA on 6 April 2006 at £1.5m and increased it each year to £1.8m in 2011/12. It was then reduced to £1.5m from 6 April 2012, to £1.25m from 6 April 2014, to £1m from 6 April 2016. The changes were announced as follows:

- Brought in by the Finance Act 2004 at £1.5m (increasing each year)
- Budget 2011 – reduction from £1.8m to £1.5m
- Budget 2012 – reduction from £1.5m to £1.25m
- Budget 2015 – reduction from £1.25m to £1m

105. The MOJ has not thus far carried out analysis of the long term impact of LTA changes.

### **Measurement of performance**

106. As reported in the Government's last evidence pack there are no consistent or systematic structures for appraisals of salaried members of the judiciary.

107. Newly appointed District Judges in the Magistrates' Court, Circuit Judges deployed to sit in the Mental Health Tribunal, fee-paid tribunal judges, Deputy District Judges (Magistrates' Court) and Deputy District Judges are subject to appraisals. Following a pilot appraisal scheme for Recorders in London and the South East an appraisal scheme was rolled out nationally in November 2017. Newly appointed Recorders will be appraised twice within four years of appointment. Their first appraisal will be within 18 months to two years of appointment, with the second appraisal 12 to 18 months thereafter. Established Recorders (those who have passed their first renewal period) will normally be appraised every four years and Recorders who are within three years of retirement will not normally be appraised.

### **Returning to Practice after a Judicial Career**

108. There is a longstanding convention (last reviewed in 2006) that appointments to judicial office are intended to be for the remainder of a person's professional life, and that judges who accept appointment do so on the understanding that at the end of their appointment they will not return to private practice as a barrister or a solicitor. However they can pursue some related activities, for example becoming a commercial arbitrator.

109. The Government indicated in its response to the House of Lords' Constitution Committee's 7<sup>th</sup> Report of Session (2017–19) on Judicial Appointments that it would

seek the views of the judiciary and legal professions on the likely implications of a change to the convention.

### **The mandatory retirement age**

110. Having a mandatory retirement age for judges is intended to promote and preserve judicial independence by avoiding the need for individual assessments of capacity, and maintaining public confidence in judicial decision-making. The current age limit of 70 was standardised in 1993, however extensions may be granted to judges below the High Court where this is considered desirable in the public interest. These extensions are granted for one year at a time and no judge may be granted an extension beyond the age of 75. There are also opportunities for retired courts and tribunal judges to sit on a fee-paid basis until they are 75. Approximately 5.1%<sup>9</sup> of the judiciary are currently sitting in retirement. This includes judges who are sitting after reaching retirement at 70 and those who retired before reaching 70 and have returned.
111. The Government has indicated in its response to the House of Lords' Constitution Committee's 7<sup>th</sup> Report of Session (2017–19) on Judicial Appointments that it will consider further whether the mandatory retirement age should change.

### **Judicial security**

112. The 2016 Judicial Attitude Survey revealed that there are concerns about personal security across the judiciary.
113. Currently work is being undertaken to improve District Judge chambers' facilities. HMCTS has undertaken a review of these rooms across the whole HMCTS estate, taking into account input from the judiciary. As a result a number of chambers have been identified for enhancements to their layout to improve security; for example, the installation of wall to wall barriers. These works are currently either being instructed or delivered, with all works to be completed by the end of the 2017/18 financial year.
114. These security enhancements will supplement a range of security controls already in place across all courts/tribunals which ensure the safety of court users and judiciary. This includes deployment of Court/Tribunal Security Officers, CCTV systems for monitoring suspicious activities, and modern security search-on-entry systems to identify and confiscate objects of concern (potential weapons).

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<sup>9</sup> This is a snapshot as 2 February 2018.

## **4. Devolution context**

### **Devolution of Reserved Tribunals to Scotland**

115. On 27 November 2014, the Smith Commission published its report outlining commitments for further devolution of powers to the Scottish Parliament. Paragraph 63 of the Smith Commission Agreement specified that all powers over the management and operation of reserved tribunals should be devolved to the Scottish Parliament. The underlying substantive rights and duties applied by those tribunals would continue to be reserved to Westminster. All reserved tribunals are to be transferred except the functions of national security tribunals, regulators and the Comptroller-General of Patents, Designs and Trade Marks. The Government accepted the Smith recommendations in full and Section 39 of the Scotland Act 2016, which received Royal Assent in March 2016, fulfils this commitment.
116. In July 2017, the Lord Chancellor wrote to Annabelle Ewing, Minister for Community, Safety and Legal Affairs in the Scottish Government, to recommend that the transfer of affected jurisdictions should take place in two broad phases. The first-tier tribunal Social Security and Child Support, Employment, Tax and the Employment Appeal Tribunal (EAT) are due to be transferred by April 2020. All other tribunals are due to be transferred, to a timetable to be agreed, after 2020, between the UK Government and the Scottish Government.
117. The Scottish Government has agreed that the respective judiciary will be invited to transfer on a 'no detriment' basis – i.e. they will be given an option of whether to transfer and will be offered a package of terms and conditions of appointment broadly consistent with what they currently receive.
118. The pay of judiciary in the Scottish tribunal system is a devolved matter for Scottish Ministers. These judiciary are therefore not part of the SSRB's judicial remit group for the annual review. It has been agreed with the Scottish Government however that for the major review this cohort would be included so that a broader evaluation of pay within the Scottish tribunal system can be conducted.
119. Currently there is no separate Scottish judicial pension scheme. Members of the Scottish courts judiciary are members of UK pension judicial schemes. Unlike those in the reserved UK tribunal system, judiciary in the Scottish tribunal system do not receive a pension.

### **The Judiciary in Northern Ireland**

120. The information below about the work of the judiciary in Northern Ireland, has been provided by Northern Ireland Courts and Tribunals Service (NICTS).
121. Non-jury ('Diplock') cases continued to be heard in Northern Ireland in 2018 although at the time of this report, not all cases certified by the Director of Public Prosecutions had reached court and therefore have not been reflected in the figures. An increase in cases is expected for both this year and the next. This is in contrast to the last few years which saw a decrease in the number of cases being certified and, therefore, a



decrease in the number of trials being disposed of. It should be noted that non-jury trial provisions have recently been extended to 31 July 2019.

122. In terms of recruitment, the Northern Ireland Judicial Appointments Commission has confirmed that there have been two issues this year. The first, is in relation to the recruitment of High Court Judges, which is currently being addressed particularly given the current situation with judicial morale in light of pension and taxation changes, and the overall acknowledgement that senior judicial roles may not be as attractive as they were in previous years.
123. The second issue is in relation to the recruitment of Specialist/Consultant members of the Appeals Service Team (TAS) although notably TAS Specialist/Consultant members do not fall under the remit of the SSRB and is not a pensionable office.

## **5. The annual pay award for 2018/19**

124. The Autumn Budget 2017 re-confirmed the Government's intention to move away from the 1% public sector pay award policy for 2018/19 to a more flexible approach to address both areas of skills shortages and in return for improvement to public sector productivity. However, pay discipline remains central to the Government's overall approach to fiscal consolidation and Departments have been funded in the current Spending Review for a 1% average increase in public sector pay awards.
125. The Government believes that all members of the judiciary should receive a pay award of some form for 2018/19, backdated to 1 April 2018. The form and value of this award should, however, be varied and we believe resource should be focused on the areas where there is strong evidence of recruitment and retention issues. This is particularly relevant for High Court Judges, and there is some more limited evidence pertaining to Circuit Judges and others in salary groups 5 and 6.1.
126. MOJ is committed to serious consideration of both the annual and the major review when the SSRB presents its report to the Lord Chancellor.

## 6. The remit group

127. The MOJ has worked with colleagues in Judicial Office (JO) and the Judicial Appointments Commission to ensure that we use the best data available throughout this evidence. As there is no single, comprehensive data collection system that can provide all of the information requested, this has involved using a variety of sources. Each of these sources is referenced throughout.
128. The MOJ has found that differing categorisations and collection criteria utilised by different organisations have, in places, produced discrepancies between data sets. In each case the evidence presented is the most accurate and up-to-date data available at present, and sources have been clearly indicated at every stage.
129. The MOJ expects increased consistency between data sets, and the ability to provide data at a more granular level, as new electronic HR systems bed in and expand further.
130. For this chapter the MOJ has relied on data held by its judicial payroll administrators, Liberata, and information held within the Judicial Office's e-HR system.

### Judicial grades

131. **Table 2** shows the number of judicial office holders in post in each salary group in England and Wales on 31 March 2017 in terms of overall headcount and full time equivalent numbers. This data is from the judicial payroll administrators, Liberata. Further detail of the numbers of judges, and the numbers of those leaving and joining the remit group between April 2016 and March 2017, are provided at **Annex G**.

**Table 2: Headcount and full time equivalent numbers of salaried judicial office holders in post in England and Wales on 31 March 2017, Salary Group Number in post FTE in post<sup>10</sup>**

Salary	Number in post	FTE in post
1	1	1
1.1	2	2
2	14	14
3	37	37
4	97	95.6
5+	1	1
5	78	77.1
6.1	649	637.2
6.2	19	19
7 <sup>11</sup>	942	895.05
<b>Total</b>	<b>1840</b>	<b>1778.95</b>

<sup>10</sup> This data differs slightly from the published figures available here <https://www.judiciary.gov.uk/wp-content/uploads/2017/07/judicial-diversity-statistics-2017-1.pdf> This is because they relate to a different snapshot date and a different dataset.

<sup>11</sup> Includes salaried medical members

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

132. The courts structure operates throughout England and Wales; the tribunals system covers England, Wales, and in some cases Northern Ireland and Scotland. Salaried judicial office holders are typically assigned to a regional location. Some office holders, however, are assigned nationally or to more than one region.

133. The data we have obtained from our payroll administrators shows that as of 31<sup>st</sup> March 2017 there were 1393 salaried courts judges and 447 salaried tribunal judges.

## Ethnicity

134. Ethnicity data is published in the Judicial Diversity Statistics and comes from Judicial Office's e-HR system.

135. **Table 3** shows the ethnicity of court judges and **Table 4** shows the same for tribunal judges.

**Table 3: Ethnicity of Judges in Courts in England and Wales, by primary appointment, as at 1 April 2017**

Appointment name (ordered by tier of court)	Total in post	Ethnicity <sup>1</sup>								Declaration rate <sup>3</sup>	
		White	Total BAME <sup>2</sup>	Asian or Asian British	Black or Black British	Mixed	Other Ethnic Group	% BAME (of those declaring an ethnicity) <sup>2</sup>	Unknown		
				<i>of which:</i>							
Heads of Division	5	3	-	-	-	-	-	-	2	<b>60%</b>	
Lords Justices of Appeal <sup>12</sup>	38	28	-	-	-	-	-	-	10	<b>74%</b>	
High Court Judges <sup>13</sup>	97	82	4	2	-	-	2	<b>5%</b>	11	<b>89%</b>	
Deputy High Court Judge <sup>14</sup>	66	25	4	2	1	-	1	~	37	~	
Judge Advocates, Deputy Judge Advocates	6	6	-	-	-	-	-	-	-	<b>100%</b>	
Masters, Registrars, Costs Judges and District Judges (Principal Registry of the Family Division)	32	25	-	-	-	-	-	-	7	<b>78%</b>	
Deputy Masters, Deputy Registrars, Deputy Costs Judges and Deputy District Judges (PRFD)	58	31	2	-	1	-	1	~	25	~	
Circuit Judges	635	551	24	10	3	4	7	<b>4%</b>	60	<b>91%</b>	
Recorders <sup>15</sup>	920	670	57	21	12	17	7	<b>8%</b>	193	<b>79%</b>	
District Judges (County Courts)	438	378	33	20	4	6	3	<b>8%</b>	27	<b>94%</b>	
Deputy District Judges (County Courts)	595	455	35	14	6	9	6	<b>7%</b>	105	<b>82%</b>	
District Judges (Magistrates' Courts)	138	111	8	6	-	2	-	<b>7%</b>	19	<b>86%</b>	
Deputy District Judges (Magistrates' Courts)	106	73	6	3	1	1	1	<b>8%</b>	27	<b>75%</b>	
<b>Total</b>	<b>3,134</b>	<b>2,438</b>	<b>173</b>	<b>78</b>	<b>28</b>	<b>39</b>	<b>28</b>	<b>7%</b>	<b>523</b>	<b>83%</b>	

<sup>12</sup> The statutory number of Court of Appeal Judges was increased to 39 in 2015.

<sup>13</sup> Twelve vacancies were being held in the High Court as at 1 April 2017.

<sup>14</sup> Prior to 2016, only a very limited number of appointments of Deputy High Court Judges have been made under the provisions of s9(4) of the Senior Courts Act 1981. As a result, the number of judges who hold this appointments are relatively low. However, a total of 18 Deputy High Court Judges were appointed in 2016 following an open JAC selection exercise. The results of a more recent competition will be reflected in the statistics to be published in 2018.

<sup>15</sup> The total number of Recorders in post does not reflect the outcome of a JAC selection exercise which launched in February 2017.

**Table 4: Ethnicity of Judges in Tribunals (excluding non-legal members) by Jurisdiction, based on primary appointment, as at 1 April 2017**

Jurisdiction	Total in post	Ethnicity <sup>2</sup>		of which:						
		White	Total BAME <sup>3</sup>	Asian or Asian British	Black or Black British	Mixed	Other Ethnic Group	% BAME (of those declaring an ethnicity) <sup>4</sup>	Unknown	Declaration rate <sup>4</sup>
Employment Appeal Tribunal <sup>16</sup>	-	-	-	-	-	-	-	-	-	-
Employment Tribunal - England and Wales	310	281	23	9	9	3	2	8%	6	98%
Employment Tribunal – Scotland	29	28	-	-	-	-	-	-	1	97%
First Tier General Regulatory Chamber	17	15	-	-	-	-	-	-	2	88%
First Tier Health Education and Social Care Chamber	228	207	15	7	2	3	3	7%	6	97%
First Tier Immigration and Asylum Chamber	304	230	63	29	14	8	12	22%	11	96%
First Tier Property Chamber	123	64	7	3	1	3	-	~	52	~
First Tier Social Entitlement Chamber	630	554	38	21	4	4	9	6%	38	94%
First Tier Tax Chamber	45	31	6	3	-	-	3	16%	8	82%
First Tier War Pensions and Armed Forces Compensation Chamber	6	4	2	-	-	-	2	*	-	100%
Upper Tribunal Administrative Appeals Chamber	33	26	3	-	-	1	2	10%	4	88%
Upper Tribunal Immigration and Asylum Chamber	51	37	10	3	1	6	-	21%	4	92%
Upper Tribunal Lands Chamber	2	1	-	-	-	-	-	-	1	~
Upper Tribunal Tax and Chancery Chamber	8	7	1	-	1	-	-	*	-	100%
<b>Total</b>	<b>1,786</b>	<b>1,485</b>	<b>168</b>	<b>75</b>	<b>32</b>	<b>28</b>	<b>33</b>	<b>10%</b>	<b>133</b>	<b>93%</b>

<sup>16</sup> There are two classes of members of the Employment Appeal Tribunal: Nominated members, who are appointed from English and Welsh circuit judges, judges of the High Court and the Court of Appeal as well as at least one judge from the Court of Session; Appointed members, who must have special knowledge or experience of industrial relations. Although Nominated members are Circuit Judges, their appearance in Employment Appeal Tribunals is as a fee-paid member. As such, no tribunal judge sits on Employment Appeal Tribunals.

## Age Distribution

136. As at 1 April 2017, the average age of courts judges was 57.6 and for tribunals was 57.5. This includes both salaried and fee-paid appointments and is based on information in JO's e-HR system.

137. During 2016/17, the average age of new primary appointments as at date of appointment was 49.3 for court judges and 55.1 for tribunal judges. This includes both salaried and fee-paid appointments and is based on information in JO's e-HR system.

138. The average age on retirement during 2016/17 according to JO's e-HR system was 68.4 years for court judges and 68.9 for tribunal judges.

139. **Table 5** shows the age distribution of court judges and **Table 6** shows the same for tribunal judges. These include both salaried and fee-paid appointments and this is from JO's e-HR system.

**Table 5: Primary appointment of Judges in Courts in England and Wales as at 1 April 2017<sup>17</sup>**

Appointment name	Age			
	Under 40	40–49	50–59	60 and over
Heads of Division	-	-	-	5
Lords Justices of Appeal <sup>18</sup>	-	-	6	32
High Court Judges <sup>19</sup>	-	2	45	50
Deputy High Court Judge <sup>20</sup>	-	7	18	41
Judge Advocates, Deputy Judge Advocates	-	-	1	5
Masters, Registrars, Costs Judges and District Judges (Principal Registry of the Family Division)	-	3	11	18
Deputy Masters, Deputy Registrars, Deputy Costs Judges and Deputy District Judges (PRFD)	-	6	14	38
Circuit Judges	-	53	239	343
Recorders <sup>21</sup>	14	172	332	402
District Judges (County Courts)	6	86	167	179
Deputy District Judges (County Courts)	33	156	195	211
District Judges (Magistrates' Courts)	3	23	52	60
Deputy District Judges (Magistrates' Courts)	9	24	28	45
<b>Total</b>	<b>65</b>	<b>532</b>	<b>1,108</b>	<b>1,429</b>

<sup>17</sup> Previously published in Judicial Diversity Statistics 2016/17

<sup>18</sup> The statutory number of Court of Appeal Judges was increased to 39 in 2015.

<sup>19</sup> Twelve vacancies were being held in the High Court as at 1 April 2017.

<sup>20</sup> Prior to 2016, only a very limited number of appointments of Deputy High Court Judges have been made under the provisions of s9(4) of the Senior Courts Act 1981. As a result, the number of judges who hold this appointments are relatively low. However, a total of 18 Deputy High Court Judges were appointed in 2016 following an open JAC selection exercise.

<sup>21</sup> The total number of Recorders in post does not reflect the outcome of a JAC selection exercise which launched in February 2017.

**Table 6: Primary appointment of Judges in Tribunals<sup>22</sup> (excluding non-legal members) by Jurisdiction as 1 April 2017<sup>23</sup>**

Jurisdiction	Age			
	Under 40	40–49	50–59	60 and over
Employment Appeal Tribunal <sup>24</sup>	-	-	-	-
Employment Tribunal - England and Wales	9	72	128	101
Employment Tribunal - Scotland	-	2	16	11
First Tier General Regulatory Chamber	-	1	4	12
First Tier Health Education and Social Care Chamber	-	18	79	131
First Tier Immigration and Asylum Chamber	4	37	106	157
First Tier Property Chamber	-	19	51	53
First Tier Social Entitlement Chamber	27	133	213	257
First Tier Tax Chamber	3	8	21	13
First Tier War Pensions and Armed Forces Compensation Chamber	-	-	2	4
Upper Tribunal Administrative Appeals Chamber	-	2	12	19
Upper Tribunal Immigration and Asylum Chamber	2	9	17	23
Upper Tribunal Lands Chamber	-	-	1	1
Upper Tribunal Tax and Chancery Chamber	-	-	5	3
<b>Total</b>	<b>45</b>	<b>301</b>	<b>655</b>	<b>785</b>

<sup>22</sup> The statistics exclude Welsh tribunals not administered by HMCTS, and tribunals not within the responsibility of SPT. First-tier and Upper tribunals includes office holders in Scotland/Northern Ireland in jurisdictions that have a GB/UK-wide remit.

<sup>23</sup> This table differs from that previously published in Judicial Diversity Statistics 2016/17

<sup>24</sup> There are two classes of members of the Employment Appeal Tribunal: Nominated members, who are appointed from English and Welsh circuit judges, judges of the High Court and the Court of Appeal as well as at least one judge from the Court of Session; Appointed members, who must have special knowledge or experience of industrial relations. Although Nominated members are Circuit Judges, their appearance in Employment Appeal tribunals is as a fee-paid member. As such, no tribunal judge sits on Employment Appeal tribunals.



## Gender

140. 28% of the salaried judiciary in the courts are female. In tribunals the proportion of salaried female judges is 45%. These figures are from the Judicial Office e-HR system.

141. **Table 7** shows the gender split of courts judges and **Table 8** shows that of tribunal judges.

**Table 7: Gender split of Judges in Courts in England and Wales by primary appointment, as at 1 April 2017**

Appointment name (ordered by tier of court)	Total in post	Gender		% Female
		Male	Female	
Heads of Division	5	5	-	-
Lords Justices of Appeal <sup>25</sup>	38	29	9	<b>24%</b>
High Court Judges <sup>26</sup>	97	76	21	<b>22%</b>
Deputy High Court Judge <sup>27</sup>	66	52	14	<b>21%</b>
Judge Advocates, Deputy Judge Advocates	6	6	-	-
Masters, Registrars, Costs Judges and District Judges (Principal Registry of the Family Division)	32	23	9	<b>28%</b>
Deputy Masters, Deputy Registrars, Deputy Costs Judges and Deputy District Judges (PRFD)	58	38	20	<b>34%</b>
Circuit Judges	635	463	172	<b>27%</b>
Recorders <sup>28</sup>	920	738	182	<b>20%</b>
District Judges (County Courts)	438	272	166	<b>38%</b>
Deputy District Judges (County Courts)	595	382	213	<b>36%</b>
District Judges (Magistrates' Courts)	138	90	48	<b>35%</b>
Deputy District Judges (Magistrates' Courts)	106	70	36	<b>34%</b>
<b>Total</b>	<b>3,134</b>	<b>2,244</b>	<b>890</b>	<b>28%</b>

<sup>25</sup> The statutory number of Court of Appeal Judges was increased to 39 in 2015.

<sup>26</sup> Twelve vacancies were being held in the High Court as at 1 April 2017.

<sup>27</sup> Prior to 2016, only a very limited number of appointments of Deputy High Court Judges have been made under the provisions of s9(4) of the Senior Courts Act 1981. As a result, the number of judges who hold this appointments are relatively low. However, a total of 18 Deputy High Court Judges were appointed in 2016 following an open JAC selection exercise. The results of a more recent competition will be reflected in the statistics to be published in 2018.

<sup>28</sup> The total number of Recorders in post does not reflect the outcome of a JAC selection exercise which launched in February 2017.

**Table 8: Gender split of Judges in Tribunals (excluding non legal members) in England and Wales, by primary appointment, as at 1 April 2017**

Jurisdiction	Total in post	Gender		
		Male	Female	% Female
Employment Appeal Tribunal <sup>29</sup>	-	-	-	-
Employment Tribunal - England and Wales	310	182	128	<b>41%</b>
Employment Tribunal - Scotland	29	15	14	<b>48%</b>
First Tier General Regulatory Chamber	17	11	6	<b>35%</b>
First Tier Health Education and Social Care Chamber	228	115	113	<b>50%</b>
First Tier Immigration and Asylum Chamber	304	188	116	<b>38%</b>
First Tier Property Chamber	123	83	40	<b>33%</b>
First Tier Social Entitlement Chamber	630	298	332	<b>53%</b>
First Tier Tax Chamber	45	27	18	<b>40%</b>
First Tier War Pensions and Armed Forces Compensation Chamber	6	3	3	*
Upper Tribunal Administrative Appeals Chamber	33	21	12	<b>36%</b>
Upper Tribunal Immigration and Asylum Chamber	51	29	22	<b>43%</b>
Upper Tribunal Lands Chamber	2	2	-	-
Upper Tribunal Tax and Chancery Chamber	8	6	2	*
<b>Total</b>	<b>1,786</b>	<b>980</b>	<b>806</b>	<b>45%</b>

## Disability

142. No data is held on the proportion of judicial office holders registering a disability.

## Geography

143. **Table 9** displays an approximate indication of the regional location of court judges, rather than an exhaustive breakdown of the location of all salaried judicial office holders. This data has been obtained from the JO's e-HR system. The base location data for tribunals' judiciary is not collected by this database, as tribunals' judiciary are segregated by the chamber to which they belong rather than geographically. The total number of tribunals' and non-legal personnel is recorded in **Table 10**.

<sup>29</sup> There are two classes of members of the Employment Appeal Tribunal: Nominated members, who are appointed from English and Welsh circuit judges, judges of the High Court and the Court of Appeal as well as at least one judge from the Court of Session; Appointed members, who must have special knowledge or experience of industrial relations. Although Nominated members are Circuit Judges, their appearance in Employment Appeal Tribunals is as a fee-paid member. As such, no tribunal judge sits on Employment Appeal Tribunals.

**Table 9: Regional location of salaried courts judges in England and Wales (including non-devolved tribunal office holders in Scotland) as at 1 April 2017**

<b>Courts Judiciary by Region</b>	<b>Total</b>
London & South East	1,280
Midlands	427
North East	344
North West	443
South East	206
South West	294
Wales	138
Location unknown	2
<b>Total</b>	<b>3,134</b>

**Table 10: Number of tribunal judges in England and Wales (including non-devolved office holders in Scotland), by primary appointment as at 1 April 2017**

<b>Appointment name</b>	<b>Total in post</b>
Presidents, Chamber Presidents, Deputy and Vice Presidents	14
Upper Tribunal Judge	67
Deputy Upper Tribunal Judge	25
Tribunal Judge	1,315
Regional, Deputy Regional Tribunal Judge	29
Employment Judge	324
Regional Employment Judge	12
<b>Total</b>	<b>1,786</b>

## 7. Pay and reward

### Base pay

144. Judges are assigned to a salary group in the judicial salary structure. Members of the remit group are paid a spot rate determined by the salary group in which their judicial office is situated.

### Other reward elements

145. The pay of those in the judicial remit group is not subject to incremental progression. Judges do not receive bonuses or performance-related pay.

146. As set out above, fee-paid judges now have a level of benefits which is largely equivalent to their salaried counterparts although there are some notable differences.

**Table 11: Pay and reward comparisons for salaried and fee-paid judges**

	<b>Salaried Judges</b>	<b>Fee-paid Judges</b>
Salary	<p>Judges are assigned a salary group and paid a spot rate based on this.</p> <p>Part-time office holders receive a salary proportionate to their sitting level.</p>	<p>The daily rate for most fee-paid judges is calculated by reference to the salary of the salaried comparator judge. The calculation uses a divisor, depending on the type of judge, which is one of the following: 210/215/218/220.</p> <p>Fee-paid judges do not receive an additional allowance for writing-up. This is either included in the daily rate, or they receive a specific fee.</p> <p>For a full list of fee-paid judges in scope and the relevant divisor, see Annex F.</p> <p>Cancellation fees are paid if HMCTS cancels a sitting with late notice.</p>
Holiday pay	<p>Paid entitlement of six weeks for a full-time judge (pro-rata for part-time). Allowed to sit a maximum of 10 additional days per year for each of three years enabling a maximum total accumulation of six weeks.</p>	<p>A pro rata allowance for annual leave and public and privilege holidays is built into the daily fee.</p>
Time in lieu	<p>Can sit up to a maximum of 10 additional days per year for each of 3 years enabling him/her to apply for accumulated leave of up to six weeks per year.</p>	<p>In exceptional circumstances, may claim more than the normal daily hours or can claim with prior approval of the relevant leadership judge.</p>

	<b>Salaried Judges</b>	<b>Fee-paid Judges</b>
Home to work travel	No entitlement	Yes. Fee paid judges can claim separate expenses for travel in connection with sittings, training and other judicial duties.
Excess fares	Yes	No, however they are entitled to Personal Incidence Expenditure when staying away from home overnight as well as day and night subsistence.
Relocation	Yes	No
Judges lodgings	Yes for Circuit judges and above.	No
Cycle scheme/ childcare vouchers	Yes	Yes
Maternity	Yes	Yes, eligibility is based on a number of sitting days.

### **The impact of past pay and reward decisions**

147. The judiciary have received pay increases in line with the 1% public sector pay policy since 2013/14.

**Table 12: Judicial Pay Awards**

<b>Year</b>	<b>Pay Award</b>
2017/18	1% (some High Court Judges were awarded a temporary recruitment and retention allowance of 11% in April 2017)
2016/17	1%
2015/16	1%
2014/15	1%
2013/14	1%
2012/12	0%
2011/12	0%
2010/11	0%

### **The recruitment and retention allowance**

148. In April 2017, the RRA was implemented to encourage new talent to apply for the High Court and to discourage existing exceptional judges from leaving the bench early. This is a temporary, taxable, non-pensionable allowance for new appointees and existing members of the High Court bench who are in the 2015 Judicial Pension Scheme. The allowance amounts to 11% of the High Court salary. Any High Court Judge who is in receipt of the RRA and who is promoted to the Court of Appeal continues to receive it. The allowance can be removed at any time but is planned to remain in place until the outcome of the major review.

149. Given the structure of our court system, retention of High Court Justices is particularly crucial. High Court judges handle most of the more serious and complex cases across the whole spectrum of the court system, presiding over the most difficult and sensitive criminal trials. They resolve the most valuable and legally complex civil disputes and ensure, particularly through cases in the Administrative Court and in the Tribunal service, that the government behaves towards the citizen in a lawful and fair manner. Justices in the Court of Appeal are normally recruited from the High Court. Similarly, Supreme Court Justices are primarily, although not exclusively, recruited from the Court of Appeal.

### **Pensions: scheme details, contribution rates, value**

150. The Lord Chancellor is responsible for administration of the overall Judicial Pensions Scheme (JPS). There is more detail on each of the schemes below, but in summary, the JPS now comprises three schemes:

- **Judicial Pensions and Retirement Act 1993** (The JUPRA 1993 Scheme). This is the historic scheme for salaried judges only. It is a final salary scheme and non-registered for tax purposes. It is closed to new members, but remains open for those members with transitional protection. (ie. members remain in the scheme for a period of time based on age).
- **Judicial Pensions Scheme 2015** (JPS 2015). This was introduced in 2015 as part of a wider set of public service pension reforms. It is for both salaried and fee-paid judges. It is a career average scheme and registered for tax purposes. It is open for new joiners.
- **Fee-Paid Judicial Pension Scheme** (FPJPS 2017). This is for eligible fee-paid judges only. This mirrors JUPRA and makes pension provision for service from 7 April 2000 to 31 March 2015 and, for those with transitional protection (i.e. members remain in the FPJPS for a period of time based on age), also for service from 1 April 2015 onwards. It is closed to new members.

151. As set out in the following sections, which explain the features of the schemes in more detail, which scheme an individual judge is eligible for depends on a number of factors including age and the date at which they took up office.

152. The total pension liability across all three schemes, as at 31 March 2017, was £4,502,684,000 (£4.503bn).

### **The Judicial Pensions and Retirement Act 1993**

153. The JUPRA 1993 Scheme (JUPRA) is set out in the Judicial Pensions and Retirement Act 1993 and its regulations. It is a final salary, defined benefit, employer-financed retirement benefits scheme. It is unregistered for tax purposes, which means that it is not subject to the pensions tax regime (tax relief subject to annual and lifetime allowances) that applies to registered pensions schemes under the Finance Act 2005. The scheme is divided into two; Part 1 deals with earnings up to the pension's cap (£154,200 in 2017/18), and Part 2 for earnings above that. The contribution rates are shown in the table below.

**Table 13: JUPRA contribution rates since April 2015**

Member Contributions	Contributions towards dependents	Total Contributions	Salary
2.61%	1.8%	4.41%	0–£150k
4.43%	0	4.43%	Anything above £150k

154. On 31 March 1995, JUPRA became operational, and all judges first appointed to salaried office on or after that date became members. Judges who were members of one of the older schemes could elect to transfer into JUPRA at any time during service or up to 6 months after retirement. With the exception of High Court Judges or above, any judge who changed office after 31 March 1995 had to transfer into the 1993 scheme.

155. The Public Service Pensions Act 2013 closed JUPRA on 31 March 2015 to future accrual, except for those judges who are entitled to either transitional or tapering protection.

156. The benefits are earned at a rate of 1/40th per year of reckonable service and there is a limit of 20 years on the amount of pensionable service that can be accrued within the scheme.

157. Contributions are payable by the judges, and The Judicial Pensions (Contributions) (Amendment) Regulations came into force on 5 February 2016 to align the contribution rates of earlier pension schemes with that of the 2015 scheme. The rate of contribution will, however, be reduced to take account of the fact that no tax relief is available on the contributions. The contribution paid by the employer is 38.45% of the gross earnings of all members of the scheme. Of this, the amount required for cost of accrual of benefits over the period 2015/19 is 31.0% of pay; 7.2% relates to deficit contributions; and 0.25% is an administration charge.

158. The Normal Pension Age of the scheme is 65. An automatic lump sum of 2.25 times the pension is payable on retirement. As the scheme is non-registered the lump sum is taxed, but for the lump sum that is attributable to Part 1 of the scheme a further sum is paid (known as the service award) to compensate for the tax taken. Death in service benefits, medical retirement benefits and early retirement are all features of the scheme. Benefits for surviving spouses/registered civil partners and eligible children are available.

159. As at 31 March 2017 there were 1,883 members in the scheme.

#### **Judicial Pension Scheme 2015**

160. The Judicial Pension Scheme 2015 (JPS 2015) came into force on 1 April 2015 following the Government's 2011 paper *Public Service Pensions; good pensions that last*.<sup>30</sup> In broad terms that paper accepted the recommendations made by the Independent Public Service Pensions Commission and outlined the preferred design of the reformed public service pension schemes. This included transitional protections for those nearest retirement age. In effect, judges in post on 1 April 2012

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<sup>30</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/205837/Public\\_Service\\_Pensions\\_-\\_good\\_pensions\\_that\\_last\\_Command\\_paper.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205837/Public_Service_Pensions_-_good_pensions_that_last_Command_paper.pdf)

aged over 55 (within ten years of normal retirement age) were given transitional protection enabling them to stay in the 1993 scheme until their retirement. Judges aged between 51.5 to 55 on 1 April 2012 were also provided with limited protection (tapering protection) which allowed them to stay in their existing scheme for a time-limited period.

161. When the JPS 2015 was launched in April 2015, 544 (approximately 28%) of salaried judicial office holders became members while all other members remained in JUPRA due to their eligibility for transitional or tapering protection. The JPS 2015 is also open to eligible fee-paid judicial office holders of which 1,680 became members at the time the scheme was launched.

162. The Normal Pension Age for the scheme is linked to the individual's State Pension Age. There is no automatic lump sum, although it is possible at retirement to commute part of the pension into a lump sum. Death in service benefits, medical retirement benefits and early retirement are all features of the scheme. Benefits for surviving adults and eligible children are available. The scheme also offers the ability to buy added pension, and to take partial retirement.

163. Eligible salaried or fee-paid members are judicial office holders appointed to judicial office for the first time on or after 1 April 2015, and serving (salaried or fee-paid) judiciary who have joined the scheme at the end of their transitional protection. It is a defined benefit scheme based on career average revalued earnings, and is registered for tax.

164. The benefits are earned at a rate of 2.32% per year and there is no limit on the amount of pension that can be accrued within the scheme. The benefits accrued are revalued each year in line with the consumer price index (CPI).

165. Judicial office holders are required to pay contributions. The rate payable depends upon the annualised rate of pensionable earnings provided in Table 6. Further detail about the rate of contributions across the three pension schemes is also explained at below.

**Table 14: Judicial Pension Scheme 2015–19 Member contribution rates**

<b>Annualised rate of pensionable earnings 2015/16</b>	<b>Member contribution rate</b>
Up to and including £15,000	4.60%
£15,001 to £21,000	4.60%
£21,001 to £47,000	5.45%
£47,001 to £150,000	7.35%
£150,001 and above	8.05%

166. The contribution paid by the employer is 38.45% of the gross earnings of all members of the scheme. Of this, the amount required for cost of accrual of benefits over the period 2015/19 is 31.0% of pay; 7.2% relates to deficit contributions; and 0.25% is an administration charge.



167. The scheme has an employer cost cap of 25.7% of pensionable earnings of members. If the costs of the scheme vary from this figure by a margin of 2 percentage points, the Lord Chancellor must consult the Scheme Advisory Board as to what steps should be taken to return the costs to the cost cap figure. Such measures could include increasing or decreasing member contributions, or changing the accrual rate.
168. As at 31 March 2017 there were 2,782 members in the scheme.
169. As an alternative to the main scheme members can take out a Partnership Pension Account which is administered by the Prudential, who provide a range of investment funds. The individual contributes a minimum of 3% of salary and the employer 19%.

### **The Fee-Paid Judicial Pension Scheme 2017 (FPJPS 2017)**

170. Historically, there was no pension scheme for fee-paid judges. However, following court rulings in O'Brien and related decisions, the arrangements for fee-paid judges now mirror those for their salaried comparators, as far as is practically possible. Fee-paid judges are now provided with pensions through either the Fee-Paid Judicial Pension Scheme (FPJPS) or the Judicial Pension Scheme 2015, depending on factors including their age, the date at which they took up office and whether the tribunal originated in a different government department. Those fee-paid judges who are not eligible under the FPJPS are eligible instead under the JPS 2015.
171. The FPJPS 2017 is set out in the Judicial Pensions (Fee-Paid Judges) Regulations 2017 and came into force on 1 April 2017. It is an unregistered final salary, defined benefit, employer financed retirement benefits scheme; which means that it is not subject to the pensions tax regime (tax relief subject to annual and lifetime allowances) that applies to registered pensions schemes under the Finance Act 2004.
172. The FPJPS 2017 is for eligible current and former fee-paid judges in respect of their service from 7<sup>th</sup> April 2000 (when the Part-Time Work Directive became UK law) and also in respect of their service from 1<sup>st</sup> April 2015 if entitled to transitional protection. All those holding qualifying a fee-paid office on 2<sup>nd</sup> December 2012 are automatically entitled to membership in respect of service in that office.
173. As the FPJPS 2017 is designed to mirror JUPRA, it also mirrors the transitional protection provided to salaried judges in JUPRA. Judges who were in post on 1 April 2012 and were aged over 55 (which is within ten years of Normal Pension Age) were given transitional protection enabling them to stay in the FPJPS until their retirement. To avoid a 'cliff edge impact', judges aged 51.5 to 55 on 1 April 2012 were given limited protection (tapering protection) enabling them to stay in their existing scheme for an extended, but not indefinite, period.
174. Members of FPJPS are required to pay contributions. From 1 April 2015, the rates of member contributions for all judicial pension schemes were changed and are consistent across the schemes.
175. As a result of the introduction of FPJPS, the department now pay increased employer's pension contributions of £30m annually.

**Table 15: FPJPS contribution rates since April 2015**

<b>Annual Rate of Pensionable Earnings 2015/16</b>	<b>Personal Contributions</b>	<b>Dependant Contributions</b>	<b>Total Member Contributions</b>
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001–£21,000	0.96%	1.80%	2.76%
£21,001–£47,000	1.47%	1.80%	3.27%
£47,001–£150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

<b>Annual Rate of Pensionable Earnings 2016/17</b>	<b>Personal Contributions</b>	<b>Dependant Contributions</b>	<b>Total Member Contributions</b>
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001–£21,210	0.96%	1.80%	2.76%
£21,211–£48,471	1.47%	1.80%	3.27%
£48,472–£150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

<b>Annual Rate of Pensionable Earnings 2017/18</b>	<b>Personal Contributions</b>	<b>Dependant Contributions</b>	<b>Total Member Contributions</b>
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001–£21,422	0.96%	1.80%	2.76%
£21,423–£51,005	1.47%	1.80%	3.27%
£51,006–£150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

176. The benefits are earned at a rate of 1/40th per year of reckonable service and there is a limit of 20 years on the amount of pensionable service that can be accrued within the scheme. Where an individual has membership of both FPJPS and JUPRA the total pensionable service that can be accrued under both schemes is 20 years.

177. The Normal Pension Age of the scheme is 65. An automatic lump sum of 2.25 times the pension is payable on retirement. As the scheme is non-registered the lump sum is taxed, but a further sum is paid (known as the service award) to compensate for the tax taken. Death in service benefits, medical retirement benefits and early retirement are all features of the scheme. Benefits for surviving spouses/registered civil partners and eligible children are available.

178. As the FPJPS has only been operational since 1 April 2017, we are unable to provide annual figures consistent with the periods reported for both JUPRA and the JPS 2015 scheme. We can report that as of 30 September 2017 there were 4,386 members in the scheme.

179. Both JUPRA and the FPJPS 2017 are unregistered schemes, and therefore the contributions made by the members do not qualify for tax relief. However, for consistency the rate of member contributions in relation to these schemes is reduced by 40–45% to compensate these members for the tax relief that a member of JPS 2015 (which is a registered scheme) receives. The reason behind this is the policy

decisions taken to not register JUPRA and to also compensate members for the loss of tax relief. As a result the net contribution rates that members pay is the same across the three schemes.

### **The Judicial Service Award (JSA)**

180. Members of non-registered judicial pensions schemes (e.g. JUPRA and FPJPS 2017) also receive a judicial service award payment, which is paid on retirement. This sum is equal to and compensates for the tax paid by the judicial office holder (currently 45%) on their automatic lump sum payment when they retire from office. The service award is not part of the legislation that establishes the schemes, but is put in place under a separate Determination made by the Lord Chancellor under the power to remunerate judges.

### **Pay comparisons with other legal roles/groups**

181. Data concerning pay comparisons between the judiciary and legal practitioners is both limited and dated and is currently being reviewed by the SSRB as part of this major review.

182. The Government would like the SSRB to consider other possible comparator groups across the public sector when formulating recommendations for judicial pay; for example Senior Civil Servants or very senior managers in the NHS.

183. Detailed pay comparisons between judicial office holders, the pre-appointment earnings of those joining the judiciary and the earnings of legal practitioners who, due to their level of experience, are potential applicants for judicial office, are not held by the Department.

184. The salary levels of barristers are not readily available for a number of reasons: practitioners' income varies depending on practice area e.g. crime, chancery, commercial, family work. The vast majority of the Bar is self-employed; income is therefore not stable year-on-year. While there are published statistics on the payments made to barristers from legal aid, a considerable swathe of the Bar does not undertake publicly-funded work. As self-employed practitioners, barristers have to pay overheads as a result of their employment status, as well as paying tax.

185. Our evidence around solicitor earnings stems from the 2011–2016 Law Society surveys. Annual research conducted from this survey showed that median earnings for;

- assistant/associate solicitors increased by 17.5% since 2011 (from £40,000 in 2011 to £47,000 in 2016);
- equity partners increased by 7.8% since 2011 (£90,000 to £97,000); and
- salaried partners decreased by 7.1% since 2011 (£70,000 to £65,000).

186. This data does not provide a clear comparison with the pay of the judiciary as it measures the earnings of all solicitors, rather than those eligible to apply to join the judiciary.

187. **Table 16** shows the number of judicial applications and recommendations for solicitors from 1 April 2015 to 31 March 2017.

**Table 16: Solicitor applications and recommendations for judicial roles from April 2015 to 31 March 2017, excluding non-legal applications<sup>31 32</sup>**

		<b>Applications</b>	<b>Shortlisted</b>	<b>Recommended</b>
2015/16	Total	296	45	10
	Proportion	13%	7%	4%
2016/17	Total	1924	342	149
	Proportion	43%	12%	4%

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<sup>31</sup> This is based on declarations of current legal role, so will not reflect those who had previously been a solicitor.

<sup>32</sup> The 2015/16 figures should be interpreted with caution as a large number of applicants in the Circuit Judge, Recorder and District Judge exercises did not complete this section of the diversity monitoring form. Source – [https://jac.judiciary.gov.uk/sites/default/files/sync/about\\_the\\_jac/official\\_statistics/statisticsbulletin-jac-2015-16-revised.pdf](https://jac.judiciary.gov.uk/sites/default/files/sync/about_the_jac/official_statistics/statisticsbulletin-jac-2015-16-revised.pdf)

## 8. Retention and outflow

### Outflow data

#### Salaried judges

188. This data is provided by the judicial payroll providers, Liberata.

189. 158 salaried judicial office holders in England and Wales left the judicial remit group in 2016/2017. This was 8.6% of the total number of salaried judges in England and Wales.<sup>33</sup>

190. From the recorded exit data, six were due to death in office, six were resignations and 146 were retirements. The average age of retirement was 67 and 4 months and 2 weeks. Further details of judicial retirements are provided at **Annex H**.

**Table 17: Number of retirements of salaried judges in England and Wales between 2001/2012 and 2016/2017 and average age at departure**

Year	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
Number of retirements	126 (6 DIO, 3 MR)	145 (8 DIO, 6 MR)	91 (3 MR)	145 (7 DIO, 2 MR, 2 RFO)	138 (5 DIO)	146 (6 DIO)
Average age	66.58	65.95	66.85	66.08	66.68	67.38

Key: DIO – Death in Office, MR – Medical Retirement, RFO – Removal from Office

191. There were more judicial retirements overall during 2016/2017 than in 2015/2016 and the average age at retirement increased from 66.68 to 67.38.

192. Overall the trend in average retirement age has been relatively stable since 2011/12, although there are differences in retirement age between different salary groups with judges in salary group 7 having the earliest average age at retirement.

193. In 2016/17 11 High Court Judges retired which represented 11.3% of the total number of judges at this level. This represents an increase from 2015/16 in which 5 High Court Judges retired making up 4.7% of the total. In 2016/17, of the 11 High Court Judges that retired, 2 were within the 70 or over age group, retiring at the mandatory retirement age, while the remaining 9 retired before 70, within the 60–69 age group.

194. In salary group 6.1, which includes most Circuit Judges, there is some stability around the numbers of judges retiring, even when expressed as a proportion of the total, and the average age at which Circuit Judges choose to retire. In 2016/17 44 Circuit Judges in salary group 6.1 retired which represented 7.8% of the total number of Circuit Judges.

195. See Annex H for more information.

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<sup>33</sup> This is based on headcount rather than FTE.

### Fee-paid judges

196. According to the Judicial Office’s e-HR system, 81 individuals retired from fee-paid office in 2016/17. This includes both courts (46) and tribunals (35).<sup>34</sup>

### Exit interview data

197. The MOJ does not conduct exit interviews with departing members of the judiciary. We understand that the Lord Chief Justice will be providing further information in his evidence submission.

### Promotions and transfers within the remit group

198. A high proportion of newly appointed salaried judges have previously served in fee-paid office.<sup>35</sup> Barring High Court appointments, those at the higher end of the salary scale are more likely to have been promoted from other salary groups rather than the fee-paid judiciary or outside.

199. **Table 19** details the number of moves by existing salaried judicial office holder in England and Wales to another judicial office that attracted a different salary from April 2014 to March 2017. **Table 20** shows the proportion of total appointments to each salary group in England and Wales. Both tables are based on information from judicial payroll.

**Table 18: Number of salaried judicial office holders moving between salary groups in England and Wales**

Original Salary Group	New Salary Group	2014/2015 Changes	2015/2016 Changes	2016/2017 Changes
2	1.1	0	0	1
3	2	0	1	1
4	3	4	4	6
5	4	2	0	0
6.1	4	2	1	0
6.1	5	8	1	10
6.1	6.2	1 (office holder retained higher pay)	0	0
6.1	Non-MOJ salaried post	1	0	0
6.2	5	0	0	1
6.2	6.1	0	3	0
7	6.1	14	14	2
7	6.2	0	0	1
7	Non-MOJ salaried post	1	0	0

<sup>34</sup> This data is based on primary appointments.

<sup>35</sup> Data will be available on this from 2018/19.

**Table 19: Number of salaried judicial office holders being appointed between judicial salary groups in England and Wales**

<b>2016/2017</b>			
<b>Salary Group</b>	<b>Total appointments</b>	<b>Number of moves to group from existing salaried judges</b>	<b>Percentage of internal moves</b>
1.1	1	1	100%
2	1	1	100%
3	6	6	100%
4	7	0	0%
5	14	11	79%
6.1	50	2	4%
6.2	1	1	100%

<b>2015/2016</b>			
<b>Salary Group</b>	<b>Total appointments</b>	<b>Number of moves to group from existing salaried judges</b>	<b>Percentage of internal moves</b>
2	1	1	100%
3	4	4	100%
4	14	4	40%
5	1	1	100%
6.1	73	17	23.28%

<b>2014/2015</b>			
<b>Salary Group</b>	<b>Total appointments</b>	<b>Number of moves to group from existing salaried judges</b>	<b>Percentage of internal moves</b>
2	-	-	-
3	4	4	100%
4	12	4	33%
5	9	8	89%
6.1	59	14	24%
6.2	1	1	100%

## 9. Recruitment

### Numbers of appointments to the judiciary

200. The Judicial Appointments Commission ran twenty-four selection exercises (excluding senior judicial) for judicial offices in England and Wales between 1 April 2016 and 31 March 2017. Five of these exercises were for non-legal posts and nineteen were for legal posts. From these exercises, seventeen were for court posts and seven for tribunals. A total of 282 recommendations for immediate appointment were made during this period, of which 146 were for court posts and 136 were for tribunal posts.
201. 142 individuals took up judicial office in 2016/17. 133 in courts and 9 in tribunals. Of these, 122 were on a salaried basis and 20 were fee-paid.<sup>36</sup> This data is from the Judicial Office e-HR system.
202. The difference between the total number appointed and the number recommended by the JAC in each year is due to the fact that judges will not necessarily take up office in the same financial year as they are recommended for appointment. In addition, candidates may also decline the offer.
203. Between April and December 2017, a further 16 exercises were reported; 14 exercises for salaried posts and one exercise a for fee-paid post. This does not represent a complete reporting year but 2,173 applications were received and 327 selections were made. The JAC evidence gives fuller detail of these exercises.
204. The below table indicates the number of salaried court exercises and the number of selections made from 1 April 2016 to 31 March 2017.

**Table 20: Salaried courts selection exercises and the number of selections made in each group (multiple exercises were completed in some areas) from 1 April 2016 to 31 March 2017**

Exercise title	Number of vacancies	Selections made
Senior Circuit Judge, Resident Judge	1	1
Senior Circuit Judge, Designated Civil Judge	1	1
Specialist Civil Circuit Judge	2	2
Senior District Judge, Chief Magistrate	1	1
Circuit Judge	55	44
Senior Circuit Judge, Resident Judge	3	3
Specialist Civil Circuit Judge	3	3
High Court Judge	14	8
Circuit Judge/Senior Judge at the Court of Protection	1	1

<sup>36</sup> The number of appointments differs from the number of selections because individuals may be selected in one year and not take up their post until the following year.



<b>Exercise title</b>	<b>Number of vacancies</b>	<b>Selections made</b>
Senior Circuit Judge, Designated Civil Judge	1	1
Circuit Judge at the Central Criminal Court	7	7
Specialist Civil Circuit Judge, Mercantile	1	1
Senior Circuit Judge, Resident Judge	1	1
Deputy Senior District Judge	1	1

**Table 21: Salaried tribunal selection exercises and the number of selections made for each group from 1 April 2016 to 31 March 2017**

<b>Exercise title</b>	<b>No. of vacancies</b>	<b>Selections made</b>
Resident Judge of the First-Tier Tribunal, Immigration and Asylum Chamber	2	2
President of the Valuation Tribunal for England	1	1
Resident Judge of the First-Tier Tribunal Immigration and Asylum Chamber	1	1
Deputy Regional Valuer of the First-tier Tribunal Property Chamber	1	1

**Table 22: Selection exercises for Senior Judiciary and the number of selections made for each group from 1 April 2016 to 31 March 2017**

<b>Exercise title</b>	<b>No. of vacancies</b>	<b>Selections made</b>
Court of Appeal	6	6 Lord or Lady Justices
Master of the Rolls	1	1
Chancellor of the High Court	1	1
Court of Appeal Criminal Division	9	9 Circuit Judges

### **Quantity of applicants**

205. The JAC ran 24 selection exercises (excluding the senior judiciary) from 1 April 2016 to 31 March 2017. This includes non-legal posts in both the courts and tribunals for salaried and fee-paid positions. Five of these exercises were for non-legal posts. There were 17 exercises for courts and 7 for tribunals.

206. This means that there were slightly more exercises in 2016/17 (excluding senior judicial exercises); 24 compared to 22 in the previous reporting year however there was a decrease in the number of applications (2,190 against 2,588 in the previous year).

207. In the period from April 2017 to December 2017 a further 16 exercises reported. Additional exercises are ongoing.

**Table 23: Applications for JAC exercises and recommendations made in England and Wales from 2011 to 2017/18<sup>37</sup>**

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18 (to Dec 2017)
Applications	5,491	4637	5,591	2,356	2,588	2,199	2,173
Recommendations	746	597	806	310	340	290	327
Ratio of applications to recommendations	7.4:1	7.8:1	6.9:1	7.6:1	7.6:1	7.6:1	6.7:1 <sup>38</sup>

208. 22 of the total 26 selection exercises (including senior judiciary) identified sufficient high-quality candidates. However, four of the exercises made selections but left vacancies, specifically:

- High Court Judges (8 selections, 14 vacancies);
- Circuit Judges (44 selections, 55 vacancies);
- Fee-paid drainage members of the First-tier Tribunal Property Chamber (2 selections, 4 vacancies); and
- an exercise identifying judges who could be authorised to act as a judge of the High Court (38 vacancies overall, with all vacancies in the Chancery Division and the Queen's bench Division filled, but only 20 selections for the 24 vacancies in the Family Division).

209. There were 14 salaried exercises that reported between April and December 2017. All but four of these exercises identified enough high-quality candidates to fill the vacancies identified:

- High Court (17 selections, 25 vacancies). This means that there has been a shortfall in selections for the High Court in the last three exercises;
- Circuit Judge (104 selections, 116.5 vacancies). This means that there has been a shortfall in selections for the Circuit Bench in the last two exercises;
- Salaried Judge of the First-tier Tribunal (63 selections, 65 vacancies); and
- District Judge (Civil and Family) (96 selections, 100.5 vacancies).

210. Last year, the MOJ's evidence to SSRB reported a potential emerging problem in recruiting and retaining suitable candidates for senior judicial offices such as the High Court. Notwithstanding the recruitment and retention allowance, there continues to be an issue with High Court exercises. **Table 24** provides a breakdown of this situation for High Court judges and **Table 25** illustrates the same for Circuit Judge posts.

<sup>37</sup> 2017/18 data only includes exercises run between April and December 2017.

<sup>38</sup> This ratio has decreased from previous years but a significant increase in application numbers is anticipated in 2017/18 once the Recorder exercise reports.

**Table 24: Applications for High Court Judge exercises and recommendations made in England and Wales from 2011/12 to 2017/18<sup>39</sup> (no exercises completed in 2015/16)**

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18 (to Dec)
<b>Vacancies</b>	5	14 <sup>40</sup>	10 <sup>41</sup>	11	N/A	14 <sup>42</sup>	25 <sup>43</sup>
<b>Applications</b>	51	86	73	73	N/A	56	129 <sup>44</sup>
<b>Recommendations</b>	5	14	10	10	N/A	8	17
<b>Ratio of applicants to vacancies</b>	10.2:1	6.1:1	7.3:1	6.6:1	N/A	4:1	5:1
<b>Ratio of applicants to recommendations</b>	10.2:1	6.1:1	7.3:1	7.3:1	N/A	7:1	7.6:1

211. **Table 24** shows that the last three recruitment exercises for the High Court have left vacancies. In 2014/15 there were 11 vacancies advertised of which 10 were filled and in 2016/17 there were 14 vacancies of which 8 were filled. The most recent exercise was for 25 vacancies and 17 recommendations were made. Should this level of unfilled vacancies be sustained this would impact the efficient running of the High Court. As outlined earlier, in Chapter 5 on Pay and reward, the High Court is particularly crucial to our courts system. It not only handles most of the more serious and complex cases, Justices in the Court of Appeal and ultimately the Supreme Court often start their judicial careers in the High Court.

**Table 25: Applications for Circuit Judge exercises and recommendations made in England and Wales from 2011/12 to 2017/18<sup>45</sup>**

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18 (to Dec)
<b>Vacancies</b>	N/A	N/A	54	32	62	55	116.5
<b>Applications</b>	N/A	N/A	293	232	246	184	401
<b>Recommendations</b>	N/A	N/A	54	53	62	44	104
<b>Ratio of applicants to vacancies</b>			5.4:1	7.3:1	4:1	3.3:1	3.4:1
<b>Ratio of applicants to recommendations</b>			5.4:1	4.4:1	4:1	4.2:1	3.9:1

212. **Table 25** highlights the recruitment issues for Circuit Judges. In 2016/17 there were 55 vacancies, 45 for immediate appointment of which 42 were filled, and 10 for future appointment, of which 2 were filled. In the most recent exercise there were 116.5

<sup>39</sup> 2017/18 data only includes exercises run between April and December 2017

<sup>40</sup> This exercise launched with 11 vacancies and then was increased to 14 post close application.

<sup>41</sup> This exercise launched with 9 vacancies and then was increased to 10 posts close of application.

<sup>42</sup> This exercise launched in 2015 with 15 vacancies but was reduced to 14 posts close of application.

<sup>43</sup> This exercise launched in 2016, fee-paid experiences was waived, the RRA was announced after applications closed.

<sup>44</sup> This represents a significant increase in the number of applications, but the high volume of vacancies (in part relating to the shortfalls from previous recruitment exercises) could not be met

<sup>45</sup> 2017/18 data only includes exercises run between April and December 2017

vacancies, 100.5 were for immediate appointment of which 98 were filled, and 16 for future appointment of which 6 were filled.

213. The Department is continuing to work with the JAC and the senior judiciary to find new ways of attracting high quality candidates for future exercises including using more widespread outreach, streamlining application processes, and for certain roles, focusing less on judicial experience as a criterion. Further information is included above in the Strategic Context chapter.

## **Future planning**

214. The scale of judicial recruitment forecast for the next two years is much higher than in recent years both in terms of numbers of judges required and the number of exercises. JAC completed 26 exercises in 2016/17 for 290 selections. The business requirement in 17/18 is in the order of approximately 1,000 selections across 23 exercises commencing for High Court and below (plus senior selection panels); including both single post and high-volume exercises. The picture in 2018/19 is expected to be between 27 and 41 exercises for High Court and below – with at least three exercises for which there will be 150 selections; and in excess of 1,100 selections in total.

215. Planning the recruitment programme is a joint responsibility between the senior judiciary, JO, MOJ, HMCTS and JAC. The forecasting that underpins the detailed annual plans considers changes in business demand across jurisdictions and efficiencies that will be the outcome of court reform measures. The supply forecasting is based on projected retirements (based on the mandatory retirement age) which will be at higher levels over the next few years and projected consequential recruitment arising from promotions to higher courts or from fee-paid to salaried offices. The current indications are that large scale recruitment will be needed in both 2018/19 and 2019/2020. This scale of recruitment is clearly important when looking at the level of remuneration which will be required to attract a large enough high quality field.

## **Quality of applicants**

216. This year, on a trial basis, the JAC sought formal feedback on the quality and accuracy of its selection assessments for the first time. The trial, which was undertaken in close consultation with Judicial Office and tribunals judiciary, followed the finding in the Government's 2015 Triennial Review that the JAC should "try to develop performance metrics to help it assess the quality of appointees". This development was welcomed by those judges who participated, and the JAC is now working with the Judicial Office to identify next steps.

217. JAC selection panels grade candidates into one of four categories following a selection day: outstanding; strong; selectable; or not presently selectable. In 2016/17, the percentage of strong or outstanding candidates for salaried posts decreased by 9% from 2015/16; there was also a decrease of 6% in the same calibre candidates for fee-paid posts. Overall, the total percentage of strong or outstanding candidates decreased from 85% to 77%.

**Table 26: Candidate assessment results from selection exercises during the period 1 April 2016 to 31 March 2017**

	<b>2016/17</b>
Strong or outstanding candidates selected total	224 of 290 (77%)
Strong or outstanding candidates selected court posts	124 of 151 (82%)
Strong or outstanding candidates selected tribunal posts	100 of 139 (72%)
Strong or outstanding candidates selected salaried posts	58 of 80 (73%)
Strong or outstanding candidates selected fee-paid posts	166 of 210 (79%) 68 of 73 legal (93%) 98 of 137 non-legal (72%)

## **10. Motivation and morale**

### **Survey results**

218. The 2016 Judicial Attitudes Survey (JAS), published in February 2017, was the second such survey of its kind. All salaried judges in courts and tribunals in England and Wales were invited to participate; in 2016 99% of the salaried judiciary in England and Wales, and 98% of UK non-devolved tribunals judiciary completed a return.

219. Levels of motivation and morale continue to be a concern. That JAS indicated that 36% of judges in England and Wales considered leaving the judiciary in the next five years compared to 31% reported in 2014. High Court Judges were the most likely to say they were considering leaving early. In contrast, those appointed since 2010, who were more likely to have known about pension changes on appointment, were less likely to say that they were considering leaving than those appointed between 1995 and 2009. This survey also reported that only 2% of judges felt valued by the Government (which remains the same as what was reported in 2014). 27% said they felt valued by the senior judiciary in the latest survey, slightly down from the 33% who responded in this way to this question in 2014.

### **Working conditions**

220. Over three quarters of judges (76%) felt that working conditions have become worse over the past 2 years. This suggests that working conditions for judges haven't improved since that last survey in 2014, and at that time 85% of judges surveyed noted that their working conditions were worse than they were five years before.

221. A key contributing factor was the perception by the judiciary of low morale amongst court and tribunal staff, with 64% of judges surveyed citing this. The amount of administrative support offered and the maintenance of the building also featured heavily.

222. The deterioration in working conditions was felt disproportionately. Circuit Judges had the highest proportion (46%) who felt that their working conditions had become significantly worse since 2014.

### **Salary and pensions**

223. A substantial proportion of judges reported that they had felt a negative effect as a result of salary and pensions changes in the last two years. In 2014, 75% of judges surveyed reported there had been a decline in their net earnings. In 2016 this proportion was 78%. A further 74% said their pay and pensions were not adequate entitlements for the work they carried out or the work they intended to do before retiring from the role which is a slight decrease from that reported in the previous survey (78%). Pay was also reported to be a significant factor in the deterioration of morale amongst the judiciary, with 63% saying it was a factor; again very similar to the 65% reported in 2014. A further 61% reported in the latest survey that changes to their pension had left them feeling disenchanted.

### **Workload**

224. The latest survey found that 57% of judges would be prompted to leave the judiciary early if there was an increase in workload; however, the majority said their caseload and workload over the last 12 months had been manageable (little change in position since 2014). Specifically, 38% in 2016 reported that the workload was too high while 58% said it was manageable and 4% said it was too low. Circuit Judges (51%) and Court of Appeal Judges (46%) felt their caseload was too high.

### **Opportunities, support, training and personal development**

225. Judicial training had a much more positive rating with 74% of judges saying they were happy with the quality of judicial training, similar to the 75% reported in the previous survey. Similarly, there was a positive response when asked about training with 61% of judges saying they were satisfied with the training available to them. In contrast, less than half were satisfied with the time allotted to undertake training (45%) in comparison to 57% who reported that they were not satisfied in 2014. In addition, fewer judges were satisfied with the options available for personal development which averaged a score of only 32% in comparison to 64% who reported dissatisfaction in this area in 2014.

### **Improving judicial morale**

226. Responsibility for judicial morale and the specific factors relating to low morale ratings are split between the Lord Chancellor and the Lord Chief Justice. Looking beyond pay and pensions, we hope that the court reform programme will improve morale by introducing simpler, digital processes, new technology and more flexibility; thus protecting judicial time for more complex cases and improving system productivity. Similarly, HMCTS will be piloting flexible operating hours from April 2018 and are currently working to adapt and improve facilities in the court and tribunal estate to ensure that our buildings are flexible, modern and have integrated technology. Further information is included above in the Strategic Context chapter.

227. We expect that information on other key aspects of morale such as leadership and personal development will be provided by the Lord Chief Justice.

### **Sickness absence**

228. The MOJ does not collate data on judicial sickness absence. The data will be provided by the Judicial Office in support of the LCJ's evidence submission.

### **Leave taken**

229. No data is held on leave taken by judicial office holders. Allowances vary for different judicial office holders and are specified within the judicial terms and conditions.

### **Working hours**

230. No data is held on judicial working hours.

## **Annex A: Abbreviations**

Appeals Service Team (TAS)

Black, Asian and Minority Ethnic (BAME)

Consumer Price Index (CPI)

Crown Prosecution Service (CPS)

Fee-Paid Judicial Pension Scheme (FPJPS)

Her Majesty's Courts and Tribunals Service (HMCTS)

Immigration and Asylum Chamber (IAC)

Judicial Appointments Commission (JAC)

Judicial Attitude Survey (JAS)

Judicial Conduct Investigations Office (JCIO)

Judicial Diversity Forum (JDF)

Judicial Office (JO)

Judicial Pensions Scheme 2015 (JPS)

Judicial Pensions and Retirement Act 1993 (JUPRA)

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)

Lifetime allowance (LTA)

Ministry of Justice (MOJ)

National Audit Office (NAO)

Northern Ireland Courts and Tribunals Services (NICTS)

Recruitment and Retention Allowance (RRA)

Senior Salaries Review Body (SSRB)

Spending Review (SR)



## Annex B: SSRB Commission for Evidence from the MOJ



Office of Manpower  
Economics

Sarah Jennings, Ministry of Justice  
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Sam Sprague, Judicial Office for England and Wales

[email only]

6 February 2018

Dear Sarah and Sam,

### SSRB MAJOR REVIEW OF THE JUDICIARY: REQUEST FOR DATA

I am writing on behalf of the Senior Salaries Review Body (SSRB) to ask you to submit data for the Major Review of the Judiciary by **Friday 16 March 2018**. This is in addition to the Call for Evidence and other evidence-gathering strands. Your support for the Review to date is hugely appreciated by the SSRB and I hope it can continue into this next important phase.

#### Context

This is a joint request to the Ministry of Justice and the Judicial Office for England and Wales. It would be helpful if you could agree collectively who is best positioned to provide what data, involving the SSRB secretariat as appropriate.

Data requests are also being sent to: the Scottish Government and the Judicial Office for Scotland; the Northern Ireland Government and the Judicial Office for Northern Ireland; the Welsh Government; the Judicial Appointments Commission for England and Wales; the Judicial Appointments Board for Scotland; and the Northern Ireland Judicial Appointments Commission.

#### The quantitative data request

**Annex A** shows the SSRB's quantitative data requirement, with the request to the Ministry of Justice and Judicial Office for England and Wales highlighted. This sets out what data would be relevant, based on an assessment of what might plausibly exist. Where the information is held and is accessible, I would be grateful if it could be provided. Nevertheless, certain data may fall into other categories, including:

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

- The data are held, but in a form that is not easily amenable to immediate collation (e.g. in individual documents rather than in a database).
- The data are held, but there are concerns over resource requirements or timings.
- The data are held by another body.
- The data are not held in the exact form requested, but alternative data are available which would be useful for similar purposes.

In such cases, early discussion with the SSRB secretariat would be helpful. Given the central importance of this exercise to the Major Review, all possible support in identifying practical solutions to any barriers will be appreciated.

Where possible, all data provided should generally adhere to the following principles:

- It should relate only to the posts in scope of the Major Review.
- It should distinguish between courts and tribunals; between fee-paid and salaried roles; and between jurisdictions (e.g. Chancery and Family).
- It should distinguish between different judicial posts and levels, particularly in terms of the larger judicial groups (e.g. Circuit Judge, District Judge, First-Tier Tribunals, Upper Tribunals).
- It should show trends over time, ideally going back to at least the last implemented Major Review in 2005 or otherwise as far as possible, and be broken down by year, ideally 1 April - 31 March.

Where data are not held and are not possible to obtain, please explicitly confirm this. In such cases, a qualitative assessment of the position is requested.

Please note that the Office for Statistics Regulation has recommended that all Pay Review Bodies check whether the sources of evidence presented to them are in the public domain; provide full citation details, including links to supporting data; and in particular make clear where data quoted in their reports are unpublished. Therefore, the public status and source of any evidence needs to be made clear when evidence is submitted. Please also notify the SSRB secretariat of any changes to status thereafter and indicate where data provided is of a sensitive nature and explain why.

### Qualitative data

In addition, the Review has identified various requirements for qualitative information about which we will liaise with you and other bodies separately. It is expected that this requirement will include the following topics:

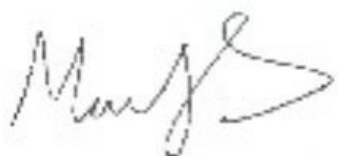
- Jurisdictional rules in terms of which judges hear which types of cases.
- Changes to sentencing powers over time.
- Changes to required or desired qualifying criteria for judicial posts.
- Remuneration rules and arrangements outside the spot rate arrangements that exist for most members of the salaried judiciary.
- Remuneration rules and arrangements for the fee-paid judiciary, including the entitlement for additional allowances.
- Entitlements to administrative support.

- Appraisal processes.

Thank you in advance for your assistance in this important exercise.

I am copying this letter to Annabel Burns and Sir Geoffrey Vos.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Franks', with a stylized flourish at the end.

Mark Franks  
Deputy Director responsible for SSRB secretariat

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

### Annex A

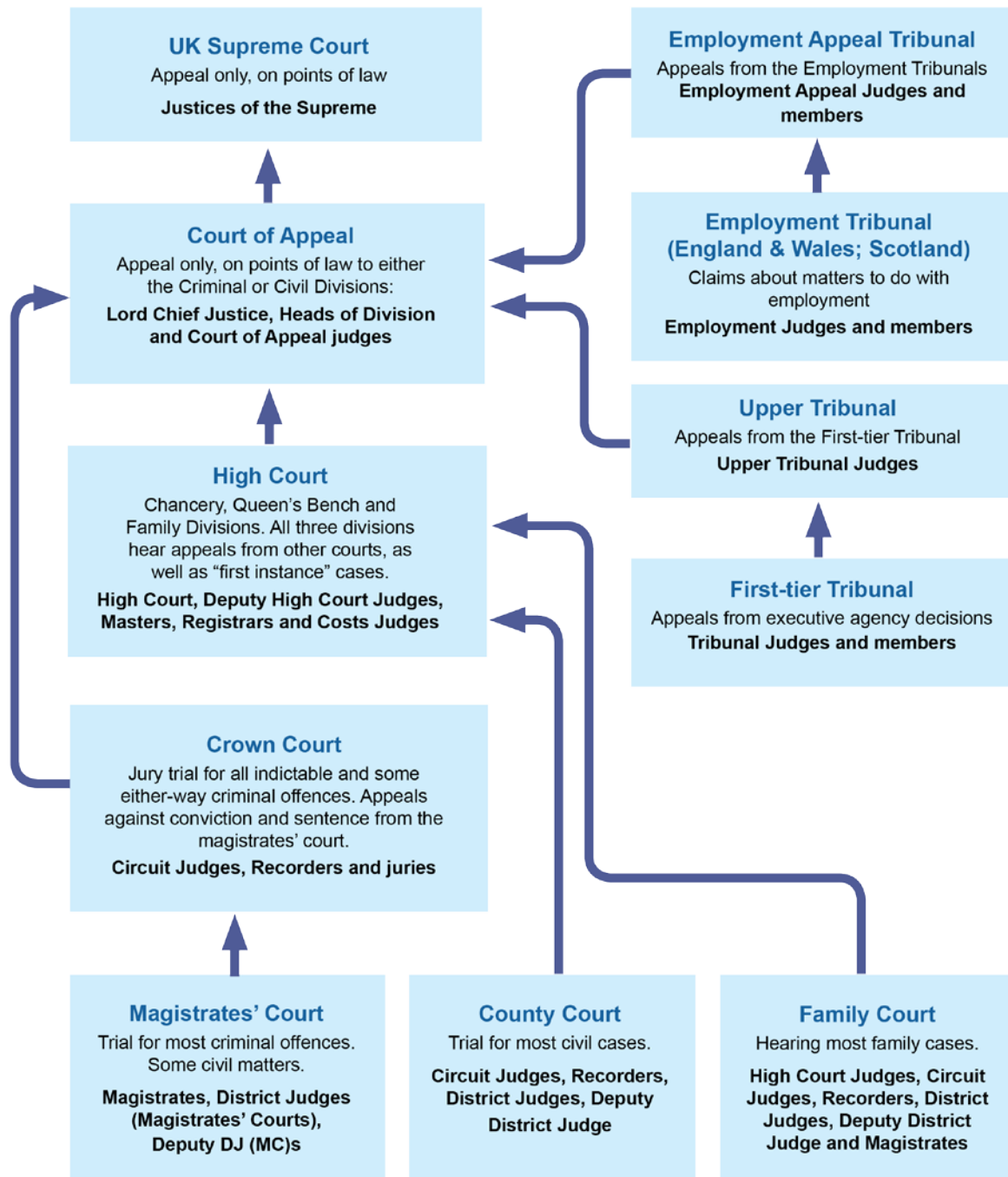
#### Data requirement for the Major Review of the Judiciary (part 1)

Ref no.	Topic heading and data requirement	Gvt/JO bodies				Appointments bodies			Comments
		E&W	Scotland	NI	Wales	JAC	JABS	NIJAC	
<b>A) Strategic context</b>									
A1	Measures of volume of workload – e.g. number of cases (per judge).	X	X	X	X				Other data that might indicate extent of workload also helpful.
A2	Forecasts or planning assumptions for volume of cases or workload.	X	X	X	X				
A3	Numbers of judges forecast to be needed – e.g. in 3 years time								
A4	Measures of type / complexity / level of workload – e.g. extent of crossticketing.	X	X	X	X				Other data that might indicate extent of workload also helpful. Will require data to calculate on a per-judge basis.
A5	Numbers of litigants in person.	X	X	X	X				
A6	Numbers of complaints or appeals.	X	X	X	X				
A7	Numbers of administrative and support staff.	X	X	X	X				
<b>B) The remit group</b>									
B1	Numbers of judges.	X	X	X	X				
B2	Gender breakdown.	X	X	X	X				
B3	Average age and age distribution.	X	X	X	X				
B4	Proportion registering a disability.	X	X	X	X				
B5	Average age on appointment and	X	X	X	X				
B6	Average age on leaving and	X	X	X	X				
B7	Location / region.	X	X	X	X				Regional information of most interest for England, but other information on
B8	Measures of learning and development – e.g. number of days L&D.	X	X	X	X				Other data on support offered to judges or assessing how judges are being prepared for change in content of roles helpful.
B9	Numbers in officially-recognised leadership roles – e.g. through job title	X	X	X	X				Other data indicating extent of leadership responsibilities helpful.
<b>C) Pay and reward</b>									
C1	Pay, allowances and increments.	X	X	X	X				Important to understand pay for roles outside spot-rates recommended by SSRB including fee-paid positions and extent and level to which additional allowances and increments are paid, split by type.
C2	Pay bill costs.	X	X	X	X				Split by pay, pensions, NI and other components.
C3	Numbers enrolled in different pension	X	X	X	X				
C4	Pension taxation – e.g. numbers subject to charge for exceeding Annual Allowance threshold; extent of such charges.	X	X	X	X				Information on Lifetime Allowance charges also helpful, but likely to be harder to obtain / calculate.
C5	Comparator salaries – e.g. solicitors; barristers.	X	X	X	X				SSRB secretariat carrying out separate analysis of this, but any information held nevertheless requested.
C6	Pre-appointment earnings.					X	X	X	SSRB secretariat carrying out separate analysis of this, but any information held nevertheless requested. NIJAC has previously provided such information.

**Data requirement for the Major Review of the Judiciary (part 2)**

Ref no.	Topic heading and data requirement	Govt/JO bodies				Appointments bodies			Comments
		E&W	Scotland	NI	Wales	JAC	JABS	NIJAC	
<b>D) Retention and outflow</b>									
D1	Numbers leaving, broken down by reasons for doing so.	X	X	X	X				e.g. distinguish between voluntary retirements, voluntary exits and other exits, forced exits and other exits.
D2	Reasons for leaving and destinations after leaving.	X	X	X	X				LCJ for E&W has previously provided SSRB with results from a survey of recently retired judges. Similar information from other jurisdictions would be helpful.
D3	Vacancies and duration of vacancies.	X	X	X	X				
<b>E) Recruitment</b>									
E1	Numbers of selections/appointments to first judicial posts, split according to roles occupied prior to appointment e.g. solicitor; barrister.	X	X	X	X	X	X	X	
E2	Numbers of current members of the judiciary appointed to higher salary groups.	X	X	X	X	X	X	X	
E3	Number of members of the fee-paid judiciary appointed to the salaried judiciary.	X	X	X	X	X	X	X	
E4	Amount of experience (e.g. as solicitors, barristers or fee-paid judges) prior to selection/appointment.	X	X	X	X	X	X	X	Also require information on minimum post-qualifying criteria for judiciary application and changes over time.
E5	Quality rankings of selected/appointed candidates.	X	X	X	X	X	X	X	
E6	Proportions of offered positions rejected by the applicant	X	X	X	X	X	X	X	
E7	Size of eligible pool of applicants (e.g. number of barristers, solicitors with sufficient experience for minimum application criteria)	X	X	X	X	X	X	X	SSRB has commissioned its own research into reasons for not applying to join the judiciary, but information held on this topic still helpful.
<b>F) Motivation and morale</b>									
F1	Attitude survey results	X	X	X	X				SSRB has seen 2016 Judicial Attitudes Survey. Further information helpful.
F2	Sickness absences	X	X	X	X				
F3	Measures of increased time spent working: time sitting; working hours; foregone leave.	X	X	X	X				

## Annex C: Diagram of judicial structure



## Annex D: Ministry of Justice Judicial Salaries from 1 April 2017

Salary Group	Salaries with effect from 01/04/2017 (£)
1	252,079
1.1	225,091
2	217,409
3	206,742
4	181,566
5	145,614
6.1	134,841
6.2	126,946
7	108,171

Judge Title and Salary Group	Other Judges in Scope or Jurisdiction	Salary (£)
<b>Salary Group 1</b>		
Lord Chief Justice		252,079
<b>Salary Group 1.1</b>		
Lord Chief Justice of Northern Ireland		225,091
Lord President of the Court of Session		225,091
Master of the Rolls		225,091
President of the Supreme Court		225,091
<b>Salary Group 2</b>		
Chancellor of the High Court		217,409
Deputy President of the Supreme Court		217,409
Justices of the Supreme Court		217,409
Lord Justice Clerk		217,409
President of the Family Division		217,409
President of the Queen's Bench Division		217,409
Senior President of Tribunals		217,409

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

Judge Title and Salary Group	Other Judges in Scope or Jurisdiction	Salary (£)
<b>Salary Group 3</b>		
Inner House Judges of the Court of Session	includes: <ul style="list-style-type: none"> <li>• President of Scottish Tribunals</li> </ul>	206,742
Lords/Lady Justices of Appeal	includes: <ul style="list-style-type: none"> <li>• Senior Presiding Judge</li> <li>• Deputy Senior Presiding Judge</li> <li>• Deputy Head of Civil Justice</li> <li>• Vice President of the Court of Appeal (Civil Division)</li> <li>• Vice President Queen's Bench Division</li> </ul>	206,742
Lords/Lady Justices of Appeal (Northern Ireland)		206,742
<b>Salary Group 4</b>		
High Court Judge	includes: <ul style="list-style-type: none"> <li>• Vice-Chancellor of the County Palatine of Lancaster</li> <li>• Presiding Judge</li> <li>• Family Division Liaison Judge</li> <li>• Business &amp; Property Courts Supervising Judge</li> <li>• President of the Employment Appeal Tribunal</li> <li>• President of the Upper Tribunal (Administrative Appeals, Immigration &amp; Asylum, Tax &amp; Chancery, Lands)</li> </ul>	181,566
High Court Judges (Northern Ireland)		181,566
Presiding Coroner (Northern Ireland)		108,171
Outer House Judges of the Court of Session		181,566
<b>Salary Group 5+</b>		
Judge of the First Tier Tribunal (Social Entitlement Chamber) and Deputy Judge of the Upper Tribunal		154,149
<b>Salary Group 5</b>		
Chairman, Scottish Land Court / President, Lands Tribunal for Scotland		145,614



<b>Judge Title and Salary Group</b>	<b>Other Judges in Scope or Jurisdiction</b>	<b>Salary (£)</b>
Chamber President of First-tier Tribunals	<ul style="list-style-type: none"> <li>• Immigration and Asylum Chamber</li> <li>• General Regulatory Chamber</li> <li>• Health, Education &amp; Social Care Chamber</li> <li>• Property Chamber</li> <li>• Social Entitlement Chamber</li> <li>• Tax Chamber</li> </ul>	145,614
Chief Social Security Commissioner and Child Support Commissioner (Northern Ireland)		145,614
Senior Circuit Judge	includes: <ul style="list-style-type: none"> <li>• SCJ at the Central Criminal Court in London (Old Bailey Judges)</li> <li>• Specialist Circuit Judges, Chancery, Circuit Commercial, Patents (IPEC) &amp; Technology &amp; Construction Court</li> </ul>	145,614
Judge Advocate General		145,614
Circuit Judge of the Employment Appeals Tribunal		145,614
President, Employment Tribunals (England & Wales)		145,614
President, Employment Tribunals (Scotland)		145,614
Recorder of Belfast		157,263
Senior District Judge (Chief Magistrate)		145,614
Sheriffs Principal		145,614
Vice Presidents of the Upper Tribunal (Immigration and Asylum Chamber)		145,614
<b>Salary Group 6.1</b>		
Senior Masters and Registrars	Includes: <ul style="list-style-type: none"> <li>• Chief Bankruptcy Registrar</li> <li>• Chief Chancery Master</li> <li>• Senior Master – Queen’s Bench Division</li> <li>• Senior Costs Judge</li> <li>• Senior Judge of the Court of Protection</li> </ul>	134,841
Circuit Judge		134,841

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

Judge Title and Salary Group	Other Judges in Scope or Jurisdiction	Salary (£)
County Court Judge (Northern Ireland)		145,614 <sup>46</sup>
Deputy Chamber President, Health, Education & Social Care Chamber		134,841
Deputy Chamber President, Property Chamber – Upper Tribunal Lands		134,841
Regional Tribunal Judge, Social Entitlement Chamber		134,841
Resident Judge, Asylum and Immigration Chamber		134,841
Regional Employment Judge		134,841
Registrar of Criminal Appeals		134,841
President, Appeals Tribunal (Northern Ireland)		134,841
President, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)		134,841
President, Lands Tribunal Northern Ireland		134,841
Sheriffs		134,841
Social Security and Child Support Commissioner (Northern Ireland)		134,841
Upper Tribunal Judge	<ul style="list-style-type: none"> <li>• Administrative Appeals Chamber</li> <li>• Immigration and Asylum Chamber (also known as Senior Immigration Judge)</li> <li>• Tax and Chancery Chamber</li> </ul>	134,841
Vice-President, Employment Tribunal (Scotland)		134,841
<b>Salary Group 6.2</b>		
President, Mental Health Review Tribunal (Wales)		126,946
Chamber President of the First Tier Tribunal, War, Pensions and Armed Forces Compensation Chamber		126,946
Deputy Senior District Judge (Magistrates' Courts)		126,946
Designated Judge, First Tier Tribunal, Immigration & Asylum Chamber		126,946

<sup>46</sup> These judges get an uplift for hearing diplock trials

<b>Judge Title and Salary Group</b>	<b>Other Judges in Scope or Jurisdiction</b>	<b>Salary (£)</b>
Principal Judge, First-tier Tribunal, Property Chamber – Land Registration		126,946
Member, Lands Tribunal (Northern Ireland)		126,946
Surveyor Members, Lands Tribunal (Scotland)		126,946
Surveyor Members, Upper Tribunal (Lands)		126,946
Vice-Judge Advocate General		126,946
Vice-President, Industrial Tribunals and Fair Employment Tribunal (Northern Ireland)		126,946
<b>Salary Group 7</b>		
Assistant Judge Advocates General		108,171
Employment Judge (Northern Ireland)		107,100
Chief Medical Member, First-tier Tribunal	<ul style="list-style-type: none"> <li>• Social Entitlement Chamber</li> <li>• Health, Education &amp; Social Care Chamber</li> </ul>	108,171
Coroners (Northern Ireland)		108,171
District Judge	<ul style="list-style-type: none"> <li>• Civil</li> <li>• Family</li> </ul>	108,171
District Judge (Northern Ireland)		108,171
District Judge (Magistrates' Courts)		108,171
District Judge (Magistrates' Courts) (Northern Ireland)		108,171
Employment Judge	<ul style="list-style-type: none"> <li>• England and Wales</li> <li>• Scotland</li> </ul>	108,171
Judge of the First-tier Tribunal	<ul style="list-style-type: none"> <li>• Health, Education &amp; Social Care Chamber</li> <li>• Immigration and Asylum Chamber (also called Immigration Judge)</li> <li>• Property Chamber</li> <li>• Social Entitlement Chamber</li> <li>• Tax Chamber</li> <li>• General Regulatory Chamber</li> <li>• War Pensions and Armed Forces Compensation Chamber</li> </ul>	108,171

**Senior Salaries Review Body**

Judiciary: Written Evidence for Annual and Major Review

<b>Judge Title and Salary Group</b>	<b>Other Judges in Scope or Jurisdiction</b>	<b>Salary (£)</b>
Masters and Cost Judges	Includes: <ul style="list-style-type: none"><li>• Master of the Queen's Bench Division</li><li>• Chancery Division</li><li>• Cost Judge</li></ul>	108,171
Bankruptcy Registrar		108,171
Masters of the Court of Judicature (Northern Ireland)		108,171
Presiding District Judge (Magistrates' Courts) (Northern Ireland)		116,825
Presiding Master of the Court of Judicature (Northern Ireland)		108,171
Presiding District Judge (Northern Ireland)		108,171
Full-time Salaried Legal Member of the Appeal Tribunal (Chair) (Northern Ireland)		107,100
Regional Judge, Property Chamber		108,171
Deputy Regional Judge, Property Chamber		108,171
Deputy Regional Valuer, Property Chamber		108,171
Salaried (Regional) Medical Members, Social Entitlement Chamber		85,954
Summary Sheriff (Scotland)		108,171

## Annex E: Ministry of Justice Judicial Fees from 1 April 2017

Judge Title	Other Judges in Scope or Jurisdiction	Fee (£)	Divisor
Retired Lord of Appeal/Retired Supreme Court Justice		988.22	220
Lord Justice of Appeal (sitting in retirement) England and Wales		939.74	220
Lord Justice of Appeal (sitting in retirement) Northern Ireland		948.36	218
High Court Judge (sitting in retirement) England and Wales		864.60	210
High Court Judge (sitting in retirement) Northern Ireland		832.87	218
Deputy High Court Judge England and Wales		864.60	210
Deputy High Court Judge Northern Ireland		832.87	218
Temporary Judge of the High Court under section 7(3) of the Judicature (Northern Ireland) Act 1978		832.87	218
Deputy Masters and Cost Judges	Includes: <ul style="list-style-type: none"> <li>• Deputy Master of the Queen’s Bench Division</li> <li>• Deputy Taxing Master</li> <li>• Deputy Costs Judge</li> <li>• Deputy Master of the Chancery Division</li> </ul>	515.10 (534.15 in London)	210
Deputy Bankruptcy Registrar		515.10 (534.15 in London)	210
Deputy Circuit Judge – sitting in retirement		642.10	210
Recorder		642.10	210
Deputy District Judge	<ul style="list-style-type: none"> <li>• Civil</li> <li>• Family</li> </ul>	503.12 (521.72 in London)	215
Deputy District Judge (Magistrates’ Court)		503.12 (521.72 in London)	215

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

Judge Title	Other Judges in Scope or Jurisdiction	Fee (£)	Divisor
First-tier Tribunal Judge (where a legal qualification is a requirement of appointment)	<ul style="list-style-type: none"> <li>• Health, Education &amp; Social Care Chamber</li> <li>• Immigration and Asylum Chamber (these judges are also called Immigration Judges)</li> <li>• Property Chamber</li> <li>• Social Entitlement Chamber</li> <li>• Tax Chamber</li> <li>• General Regulatory Chamber</li> <li>• War Pensions and Armed Forces Compensation Chamber</li> </ul>	491.69 (509.87 in London)	220
Upper Tribunal Judge (where a legal qualification is a requirement of appointment)	<ul style="list-style-type: none"> <li>• Administrative Appeals Chamber</li> <li>• Immigration and Asylum Chamber (these judges are also called Senior Immigration Judges)</li> <li>• Tax and Chancery Chamber</li> </ul>	612.91	220
Deputy Judge Upper Tribunal (where a legal qualification is a requirement of appointment)		612.91	220
Surveyor member (Chair only) Upper Tribunal Lands		577.03	220
Legal Chair, Criminal Injuries Compensation Appeals Panel		491.69 (509.87 in London)	220
Non-legal Chair, Criminal Injuries Compensation Appeals Panel		411.10	N/A
Judge of the Employment Tribunal (where a legal qualification is a requirement of appointment)		491.69 (509.87 in London)	220
Temporary Assistant Judge Advocate General		491.69	220
Valuer Chair, First-tier Tribunal (Property Chamber) Residential Property		491.69	220

<b>Judge Title</b>	<b>Other Judges in Scope or Jurisdiction</b>	<b>Fee (£)</b>	<b>Divisor</b>
Legal Member of Pensions Appeal Tribunal for Northern Ireland appointed under paragraph 2 of the Schedule to the Pensions Appeal Tribunals Act 1943		478.43	218
President and Deputy President of Pensions Appeal Tribunal for Northern Ireland appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943		491.69	220
Deputy County Court Judge (Northern Ireland)	To be grouped with County Court Judge (Northern Ireland)	618.53	218
Deputy District Judge (Magistrates' Court) (Northern Ireland)	To be grouped with District Judge (Magistrates' Court) (Northern Ireland)	496.20	218

## Annex F: Further data on the remit group

### Salaried Office Holders

Number taking up post 1 April 2016 – 31 March 2017:

	Number taking up post 01/04/16 – 31/03/17
<b>England &amp; Wales</b>	
<b>Group 1 – Total:</b>	<b>0</b>
Lord Chief Justice of England and Wales	0
<b>Group 1.1 – Total:</b>	<b>0</b>
Master of the Rolls	0
President of the Supreme Court	0
<b>Group 2 – Total:</b>	<b>0</b>
Chancellor of the High Court	0
Deputy President of the Supreme Court	0
Justices of the Supreme Court	0
Lord Justice Clerk	0
President of the Family Division	0
President of the Queen's Bench Division	0
Senior President of Tribunals	0
<b>Group 3 – Total:</b>	<b>0</b>
Lord Justices of Appeal	0
<b>Group 4 – Total:</b>	<b>7</b>
Puisine Judge of the High Court	7
Vice Chancellor of the County Palantine of Lancaster	0
<b>Group 5+ – Total:</b>	<b>0</b>
Former Chief Asylum Support Adjudicator, Asylum Support Tribunal (now judge of the First-tier Tribunal (Social Entitlement Chamber) and Deputy Judge of the Uper Tribunal)	0



<b>England &amp; Wales</b>	<b>Number taking up post 01/04/16 – 31/03/17</b>
<b>Group 5 – Total:</b>	<b>3</b>
Circuit Judges at the Central Criminal Court in London (Old Bailey Judges)	0
Former Deputy President, Asylum and Immigration Tribunal	0
Judge Advocate General	0
Permanent Circuit Judge, Employment Appeals Tribunal	0
Presidents of the First-Tier Tribunal (Immigration and Asylum Chamber; General Regulatory Chamber; Health, Education and Social Care Chamber; Property Chamber; Social Entitlement Chamber; and Tax Chamber)	0
President Employment Tribunals	0
Recorder of Liverpool	0
Recorder of Manchester	0
Senior Circuit Judge	2
Senior District Judge (Chief Magistrate)	0
Specialist Circuit Judge	1
Vice President of the Upper Tribunal (Immigration and Asylum Chamber)	0
<b>Group 6.1 – Total:</b>	<b>48</b>
Chief Registrar and Senior and Chief Masters	0
Circuit Judges	48
Deputy Chamber President of the First-tier Tribunal (Health, Education and Social Care Chamber)	0
Judge of First-Tier Tribunal Social Entitlement Chamber (Former Regional Chairmen, Appeals Tribunals)	0
Regional Employment Judge (formerly Regional Chairman, Employment Tribunal)	0
Registrar of Criminal Appeals	0
Resident Judge, First Tier Tribunal (Immigration and Asylum Chamber)	0
Senior Costs Judge	0
Senior District Judge, Principal Registry of the Family Division	0
Senior Judge of the Court of Protection	0
Upper Tribunal Judge (Tax and Chancery Chamber)	0

**Senior Salaries Review Body**

Judiciary: Written Evidence for Annual and Major Review

	<b>Number taking up post 01/04/16 – 31/03/17</b>
<b>England &amp; Wales</b>	
<b>Group 6.2 – Total:</b>	<b>0</b>
Chamber President of First-tier Tribunal (War Pensions and Armed Forces Compensation Chamber)	0
Deputy Senior District Judge (Magistrates' Courts)	0
Principal Judge, First-tier tribunal (Property Chamber)	0
Surveyor Members, Lands Tribunals (Scotland & Northern Ireland)	0
Surveyor Members, Upper Tribunal (Lands Chamber)	0
Vice-Judge Advocate General	0
Vice-President, Industrial Tribunals and Fair Employment Tribunal (NI)	0
<b>Group 7 – Total:</b>	<b>20</b>
Assistant Judge Advocates General	0
Chairperson of the Appeals Tribunal NI	0
Chairmen, Industrial Tribunals and Fair Employment Tribunal (NI)	0
Chief Medical Members, First-tier tribunal (Health, Education and Social Care Chamber and Social Entitlement Chamber)	0
Coroner (NI)	0
Costs Judge	0
District Judges	20
Employment Judges	0
First-tier Tribunal Judges	0
Masters of the Senior Court	0
Registrar of the Supreme Court	0
Masters of the Supreme Court (NI)	0

Number leaving post 1 April 2016 – 31 March 2017:

<b>England &amp; Wales</b>	<b>Number leaving post 1/04/16 – 31/03/17</b>
Group 1	0
Group 1.1	1
Group 2	1
Group 3	6
Group 4	11 (1 DIO)
Group 5+	0
Group 5	19
Group 6.1	53 (2 DIO)
Group 6.2	1
Group 7	54 (3 DIO, 6 RESIGN)

Number in post 1 April 2016 – 31 March 2017:

<b>England &amp; Wales</b>	<b>Number in post as at 31/03/17</b>
Group 1	1
Group 1.1	2
Group 2	14
Group 3	37
Group 4	97
Group 5+	1
Group 5	78
Group 6.1	649
Group 6.2	8
Group 7	953

## Annex G: Judicial Retirement data

The tables below provide data on the total number of individuals leaving the salaried judiciary in England and Wales from 2016/17, 2015/16 and 2014/15.

### 2016/17

Salary Group	No. of retirements	Under 50	50–54	55–59	60–64	65–69	70–75	Percentage Strength
<b>1</b>	0	0	0		0	0	0	0%
<b>1.1</b>	1	0	0		0	0	1	50%
<b>2</b>	1	0	0	0	0	0	1	7.1%
<b>3</b>	6	0	0	0	0	0	5	16.2%
<b>4</b>	11 (1DIO)	0	0	0	0 (1 DIO)	9	2	11.3%
<b>5</b>	19	0	0	0	2	12	5	24.4%
<b>6.1</b>	53 (2 DIO)	0	0	0	3 (2 DIO)	39	11	8.2%
<b>6.2</b>	1	0	0	1 (1DIO)	0	1	0	5.3%
<b>7</b>	54 (3 DIO)	0	0	1 (1DIO)	9	38 (2 DIO)	6	5.7%
<b>Total</b>	146 (6 DIO)	0	0	1 (1 DIO)	15 (3 DIO)	99 (2 DIO)	31	7.9%

2015/16

Salary Group	No. of retirements	Under 50	50–54	55–59	60–64	65–69	70–75	Percentage Strength
1	0	0	0	0	0	0	0	0%
1.1	0	0	0	0	0	0	0	0%
2	1	0	0	0	0	0	1	6.7%
3	2	0	0	0	0	2	0	5.4%
4	5	0	0	0	2	1	2	4.7%
5+	0	0	0	0	0	0	0	0%
5	4	0	0	0	1	1	2 (1 DIO)	4.3%
6.1	54	0	0	0	3 (1 DIO)	37	14	8.3%
6.2	4	0	0	0	0	3	1	20%
7+	0	0	0	0	0	0	0	0%
7	68	0	1	1 (1 DIO)	11 (2 DIO)	48	7	6.8%
7-	0	0	0	0	0	0	0	0%
<b>Total</b>	<b>138 (5 DIO)</b>	<b>0</b>	<b>1</b>	<b>1 (1 DIO)</b>	<b>17 (3 DIO)</b>	<b>92</b>	<b>27 ( DIO)</b>	<b>7.4%</b>

2014/15

Salary Group	No. of retirements	Under 50	50–54	55–59	60–64	65–69	70–75	Percentage Strength
1	0	0	0	0	0	0	0	0%
1.1	0	0	0	0	0	0	0	0%
2	0	0	0	0	0	0	0	0%
3	3	0	0	0	0	0	3	7.9%
4	9	0	0	0	2	3	4	8.5%
5+	0	0	0	0	0	0	0	0%
5	7	0	0	0	2	4	1	7.9%
6.1	48 (2 DIO)	0	0	1 (DIO)	3 (1 DIO)	33	11	7.4%
6.2	8 (3 DIO)	0	0	0	2	4 (3 DIO)	2	29.6%
7+	0	0	0	0	0	0	0	0%
7	69 (2 DIO; 2 MR; 2 RFO)	0	3 (1 DIO; 1 RFO)	1	18 (1 DIO; 1 MR; 1 RFO)	43 (1 MR)	4	6.9%
7-	1	0	1	0	0	0	0	14.3%
<b>Total</b>	<b>145 (7 DIO; 2 MR; 2 RFO)</b>	<b>0</b>	<b>4 (1 DIO; 1 RFO)</b>	<b>2 (1 DIO)</b>	<b>27 (2 DIO; 1 MR; 1 RFO)</b>	<b>87 (3 DIO; 1 MR)</b>	<b>25</b>	<b>7.5%</b>

## Annex H: Northern Ireland Judicial Appointments as at 31 March 2017

Northern Ireland	Number in post as at 31/3/15	Number in post as at 31/3/16	Number taking up post 1/4/16 – 31/3/17	Number leaving post 1/4/16 – 31/3/17	Number in post as at 31/3/17
<b>Group 1.1</b>					
Lord Chief Justice	1	1	0	0	1
<b>Group 3</b>					
Lord Justice of Appeal	3	3	0	0	3
<b>Group 4</b>					
High Court Judges	9	10	0	0	10
<b>Group 5</b>					
Chief Social Security and Child Support Commissioner	0	1	0	0	1
Recorder of Belfast	0	1	0	0	1
<b>Group 6.1</b>					
County Court Judges <sup>(1)</sup>	17	18	2	2	18
Social Security and Child Support Commissioner	1	1	0	0	1
President, Appeal Tribunals	1	1	0	0	1
President, Industrial Tribunals and Fair Employment Tribunal	1	1	0	0	1
President, Lands Tribunal <sup>(2)</sup>	1	1	0	0	1

## Senior Salaries Review Body

Judiciary: Written Evidence for Annual and Major Review

Northern Ireland	Number in post as at 31/3/15	Number in post as at 31/3/16	Number taking up post 1/4/16 – 31/3/17	Number leaving post 1/4/16 – 31/3/17	Number in post as at 31/3/17
<b>Group 6.2</b>					
Member, Lands Tribunal	1	1	0	0	1
Vice President, Industrial Tribunals and Fair Employment Tribunal	1	1	0	0	1
<b>Group 7</b>					
Presiding District Judge (Magistrates' Court)	1	1	0	0	1
District Judge (Magistrates' Court) <sup>(3)</sup>	20	20	2	2	20
District Judge	4	4	0	0	4
Masters of the Supreme Court	6	7	0	0	7
Coroner <sup>(4)</sup>	3	2	1	0	3
Chairman, Industrial Tribunals and Fair Employment Tribunal	7	7	0	0	7

(1) Increase in complement from 17 to 18 in May 2015

(2) Currently held by a High Court Judge

(3) Includes 2 part time

(4) Total Coroner Complement is 11 – which includes 3 full time Coroners and 8 salaried judges who hold the role of Coroner concurrently with their other judicial post



## Annex I: Northern Ireland Retirement Ages, 1 April 2010 – 31 March 2017

### 2011/12

Office	No of retirements	50–55	55–60	61–65	66–70	71–75
Higher Judiciary	0	0	0	0	0	0
CCJ	1	0	0	0	1	0
DJ(MC)	0	0	0	0	0	0
DJ	1	0	0	0	0	1
Sup Ct	1	0	0	1	0	0
CSSC&CCSC	1	0	0	1	0	0
SSC&CSC	0	0	0	0	0	0
Tribunals	0	0	0	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>

### 2012/13

Office	No of Retirements	50–55	55–60	61–65	66–70	71–75
Higher Judiciary	0	0	0	0	0	0
CCJ	2	0	0	1	1	0
DJ(MC)	0	0	0	0	0	0
DJ	0	0	0	0	0	0
Sup Ct	1	0	0	1	0	0
CSSC&CCSC	0	0	0	0	0	0
SSC&CSC	0	0	0	0	0	0
Tribunals	1	0	0	0	1	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>

**2013/14**

Office	No of retirements	50–55	55–60	61–65	66–70	71–75
Higher Judiciary						
CCJ	1			1		
DJ(MC)	2				1	1
DJ						
Master	1		1			
Supreme Court						
CSSC & CCSC						
SSC & CSC						
Tribunals						
<b>Total</b>	<b>4</b>		<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>

**2014/15**

Office	No of retirements	50–55	55–60	61–65	66–70	71–75
Lord Justice of Appeal	1				1	
CCJ	1					
DJ(MC)						
DJ						
Master	2		1 (MR)	1		
High Court					1	
CSSC&CCSC						
SSC&CSC						
Tribunals	1				1	
<b>Total</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>0</b>

**2015/16**

Office	No of retirements	50–55	55–60	61–65	66–70	71–75
Lord Justice of Appeal	2				2	
CCJ						
DJ(MC)						
DJ						
Master	1			1		
High Court						
Coroner	2	1 (MR)			1	
CSSC & CCSC						
SSC & CSC						
Tribunals	1*				1	
<b>Total</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>4</b>	<b>0</b>

**2016/17**

Office	No of retirements	50–55	55–60	61 – 65	66–70	71 – 75
Higher Judiciary	0	0	0	0	0	0
CCJ	1	0	0	0	1	0
DJ(MC)	2	0	0	1	1	0
DJ	0	0	0	0	0	0
Sup Ct	0	0	0	0	0	0
CSSC&CCSC	0	0	0	0	0	0
SSC	0	0	0	0	0	0
Tribunals	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>

**Annex J: Judicial pay bill Northern Ireland, 2016–17**

	<b>Salary</b>	<b>ERNI</b>	<b>ASLC</b>	<b>Total</b>
<b>Consolidated Fund</b>	£7,780,770.33	£1,044,506.32	£2,814,252.17	£11,639,528.82
<b>Departmental Vote</b>	£1,992,449.46	£254,326.18	£766,096.24	£3,012,871.88
<b>Total</b>	<b>£9,773,219.79</b>	<b>£1,298,832.50</b>	<b>£3,580,348.41</b>	<b>£14,652,400.70</b>
<b>Note</b>				
<b>Consolidated Fund Judiciary:</b>				
Lord Chief Justice				
Lord Justice of Appeal				
High Court Judge (Inc. President Lands Tribunal)				
Recorder of Belfast				
County Court Judge				
District Judge (Magistrates' Courts)				
Lands Tribunal Member				
<b>Departmental Vote Judiciary:</b>				
Chief Social Security and Child Support Commissioner				
Social Security and Child Support Commissioner				
Senior Coroner				
Coroner				
District Judge (Civil)				
Master of the Supreme Court				
President Appeals Tribunal				
Legal Member Appeals Tribunal				

Includes devolved posts for which NICTS are responsible.

\*Costs for The Appeals Tribunal are charged back to the NICS Department with statutory responsibility (Department for Communities).

Includes service awards paid to judiciary who retired.

## Annex K: scheduled cases and defendants dealt with 2000–2016 Northern Ireland

### Non-Jury Crown Court Defendants Dealt With

Year	High Court Judge	Column1	County Court Judge	Column2	Total	Column3
	Number	%	Number	%	Number	%
2000	23	26%	66	74%	89	100%
2001	17	27%	45	73%	62	100%
2002	23	20%	90	80%	113	100%
2003	32	29%	79	71%	111	100%
2004	24	31%	53	69%	77	100%
2005	29	32%	61	68%	90	100%
2006	18	20%	73	80%	91	100%
2007	30	27%	83	73%	113	100%
2008	25	35%	47	65%	72	100%
2009	20	49%	21	51%	41	100%
2010	20	71%	8	29%	28	100%
2011	10	43%	13	57%	23	100%
2012	26	47%	29	53%	55	100%
2013	3	5%	62	95%	65	100%
2014	13	21%	50	79%	63	100%
2015	4	16%	21	84%	25	100%
2016	0	0%	15	100%	15	100%

### Non-jury Crown Court Cases Dealt With

Year	High Court Judge		County Court Judge		Total	
	Number	%	Number	%	Number	%
2007	14	22%	50	78%	64	100%
2008	12	36%	21	64%	33	100%
2009	9	53%	8	47%	17	100%
2010	10	59%	7	41%	17	100%
2011	4	29%	10	71%	14	100%
2012	7	33%	14	67%	21	100%
2013	3	8%	33	92%	36	100%
2014	1	4%	27	96%	28	100%
2015	2	12%	15	88%	17	100%
2016	0	0%	12	100%	12	100%

**Senior Salaries Review Body**

Judiciary: Written Evidence for Annual and Major Review

**Crown Court Defendants Dealt with by County Court Judge**

Year	Non-Scheduled		Scheduled		Total	
	Number	%	Number	%	Number	%
2000	1093	94%	66	6%	1159	100%
2001	1013	96%	45	4%	1058	100%
2002	958	91%	90	9%	1048	100%
2003	1113	93%	79	7%	1192	100%
2004	1384	96%	53	4%	1437	100%
2005	1340	96%	61	4%	1401	100%
2006	1374	95%	73	5%	1447	100%
2007	1620	95%	83	5%	1703	100%
2008	1560	97%	47	3%	1607	100%
2009	1454	99%	21	1%	1475	100%
2010	1518	99%	8	1%	1526	100%
2011	1900	99%	13	1%	1913	100%
2012	2137	99%	29	1%	2166	100%
2013	2481	98%	62	2%	2543	100%
2014	2062	98%	50	2%	2112	100%
2015	1351	98%	21	2%	1372	100%
2016	1980	99%	15	1%	1995	100%

**Crown Court Defendants dealt with by High Court Judge**

Year	Non-Scheduled		Scheduled		Total	
	Number	%	Number	%	Number	%
2000	61	73%	23	27%	84	100%
2001	17	20%	68	80%	85	100%
2002	23	28%	59	72%	82	100%
2003	32	32%	68	68%	100	100%
2004	24	19%	103	81%	127	100%
2005	29	29%	71	71%	100	100%
2006	18	19%	77	81%	95	100%
2007	30	26%	85	74%	115	100%
2008	25	20%	101	80%	126	100%
2009	61	75%	20	25%	81	100%
2010	35	64%	20	36%	55	100%
2011	25	71%	10	29%	35	100%
2012	23	47%	26	53%	49	100%
2013	45	94%	3	6%	48	100%
2014	38	75%	13	25%	51	100%
2015	18	82%	4	18%	22	100%
2016	30	100%	0	0%	30	100%



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