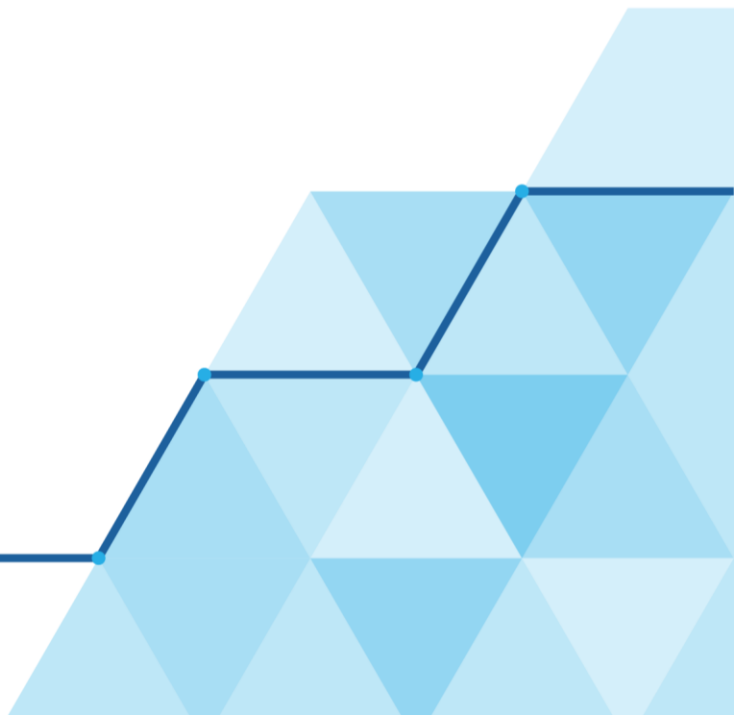




Ministry
of Justice

Ministry of Justice Evidence Pack: Judicial Pay 2024/25

29 February 2024



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1. Introduction

1. The Lord Chancellor has commissioned the Senior Salaries Review Body (SSRB) to undertake the 2024/25 judicial pay review.
2. This document constitutes the Ministry of Justice's (MoJ) evidence to the SSRB.
3. The purpose of this document is to:
 - a) provide evidence on the Government's key policy considerations in determining judicial pay for 2024/25,
 - b) set out strategic context,
 - c) explain the financial position of MoJ and His Majesty's Courts and Tribunal Service (HMCTS), and
 - d) provide a summary of policy and operational changes affecting the judiciary.
4. This document, and the associated 'Core Data Pack' (Annex A), includes evidence for all salaried judicial office holders (JOHs) in the courts and tribunals of the United Kingdom for whom the Lord Chancellor sets the rate of remuneration. Information has also been included from the Northern Ireland Courts and Tribunals Service about the work of the judiciary in Northern Ireland (Annex B).
5. MoJ has worked with Judicial Office, the Judicial Appointments Commission (JAC) and the judicial payroll administrator (Liberata) to ensure the best available data is used in this evidence. There is no single, comprehensive data source for the judiciary, and this results in differences in categorisation and collection criteria that lead to some discrepancies between data sets.

2. Background

6. The UK judiciary is world-renowned because of its reputation for excellence, objectivity, and impartiality. Every day judges take decisions which have a profound impact on people's lives: whether they are deciding care arrangements for vulnerable children, hearing serious criminal cases, giving citizens redress, or determining commercial cases of all scales. Our strong, independent judiciary is fundamental to maintaining the Rule of Law, the bedrock of our democracy, and has a key constitutional role as one of the three branches of the state.
7. The reputation of our judiciary also attracts international business to the UK, with foreign firms and individuals looking to our judges to hear their cases fairly and without favour. Legal services are a major contributor to the UK economy. The ONS approximates that the Gross Value Added to the UK economy of legal activities is around £29 billion a year. Given the importance of a high-quality judiciary to our society and economy, it is vital that the very best talent from the legal professions is attracted to join the bench.

Organisational Structure

8. The courts structure operates throughout England and Wales and the tribunals system covers England, Wales and in some cases Northern Ireland and Scotland (some tribunals in Wales, Scotland and Northern Ireland are devolved). Salaried JOHs are typically assigned to a region, but some office holders are assigned nationally, or to more than one region. MoJ does not publish data on the regional location of tribunal judges, who are organised by chamber.

Previous Reviews

9. In 2018, the SSRB's Major Review of the Judicial Salary Structure provided clear evidence of recruitment and retention problems within the judiciary, particularly in the High Court and Circuit Bench. The SSRB cited judicial pensions, taxation and public sector pay restraint as factors behind making a judicial career less attractive in comparison to remaining in private practice. This is said to have led to some members of the judiciary feeling undervalued by Government.
10. In response, the Government committed to sustainable, long-term pension reform for the whole judiciary. This was delivered with the launch of the Judicial Pension Scheme in 2022. In 2020/21, the Government was able to implement all the SSRB's recommendations with a headline pay uplift of 2% for all JOHs.
11. MoJ did not commission the SSRB to provide recommendations on judicial pay for 2021/22 due to the public sector pay freeze which resulted from economic pressures brought about by the Covid-19 pandemic. MoJ's evidence gave an update on the implementation of the SSRB's 2020/21 recommendations and further information on recruitment and retention in the judiciary.
12. As a result of the 2021 Spending Review, MoJ gave evidence that a 2% pay increase to all JOHs was affordable for the 2022/23 pay year. However due to recurrent recruitment challenges in the Circuit and District Bench as well as inflationary pressures, the SSRB recommended a flat rate increase of 3.5%. Having carefully considered the SSRB's recommendation, the Lord Chancellor awarded a 3% increase taking into account affordability and comparable senior workforces in public service.
13. The most recent review of judicial pay was undertaken by the SSRB for the 2023/24 pay year. Amid a challenging fiscal environment, MoJ provided evidence proposing a pay award of 3.5% in order to maintain parity with private sector wage growth and mitigate further increases to inflation in line with Government targets. The SSRB recommended a pay award of 7% in recognition of persistent recruitment shortfalls in the District Bench and wage growth across the economy exceeding forecasts available at the time MoJ's evidence was published. The Lord Chancellor accepted this recommendation in full in light of the

extraordinary macroeconomic context, requiring challenging reprioritisation decisions.

Judicial Attitudes Survey

14. The Judicial Attitudes Survey is designed, administered and analysed for the Judiciary by Professor Cheryl Thomas, Co-Director of the University College London Judicial Institute. The most recent report was published in April 2023 and draws on survey data from 2022. The survey ran from 14 June to 12 July 2022.¹ It is the fourth survey, with previous surveys taking place in 2014, 2016 and 2020.
15. The number of judges who believe they are paid a reasonable salary for the work they do remained broadly in line with prior years, moving from 42% to 41% between 2020 and 2022. This remains well above 2014 levels (27%). Salaried judges' earnings prior to appointment remained flat, with a slight majority (51%) of judges earning more than their judicial salary prior to taking up judicial office in both 2020 and 2022. This question does not take into account the advantages of the tax-unregistered defined benefit Judicial Pension Scheme 2022 over many private sector schemes.
16. There was a slight uptick since 2020 of 64% to 67% of salaried judges who feel that their pay and pension entitlement does not adequately reflect the work they have done and will do before retirement, although this remains well below 2014 and 2016 survey levels (78% and 74% respectively). Given the time at which the survey took place, we expect the long-term impact of the reformed judicial pension scheme (JPS 2022) alongside last year's unprecedented 7% pay uplift to be better demonstrated in responses to the 2024 survey.
17. The results of the next Judicial Attitudes Survey are expected to be published in 2025.

¹ Judicial Attitude Survey 2022, [Judicial Attitude Survey 2022 - Courts and Tribunals Judiciary](#)

3. Strategic Context

18. This section sets out the impact of recent and ongoing reforms on the courts and tribunals system and the role of JOHs.

Court Recovery

19. The enormous efforts of the judiciary and courts staff kept justice moving during an unprecedented pandemic. MoJ remains committed to driving down the outstanding caseload to ensure the swift delivery of justice for all court users.
20. During the pandemic, the outstanding caseload in the Crown Court reached a high of around 60,400 cases in June 2021. MoJ were able to reduce it to around 57,300 by the end of March 2022. However, the disruptive action by the Criminal Bar Association increased the caseload to 62,000 cases at the end of October 2022.
21. In addition to the ongoing impacts of the barristers' disruptive action, there has been a recent increase in the number of cases entering the Crown Court, with receipts up 10% in December 2023 compared to December 2022. Demand throughout 2023 was higher than expected and as a result the outstanding caseload increased to 65,200 at the end of December 2023.
22. We have taken extensive action to expand the capacity of the system, improve efficiency, and manage growing levels of demand in the criminal courts. We funded over 100,000 sitting days in the 2022/23 financial year and are aiming to deliver the same again for 2023/24. We will continue to use 20 Nightingale Courtrooms throughout 2024.
23. Our investment in judicial recruitment since 2017 has resulted in annual recruitment of c.1,000 judges and tribunal members across all jurisdictions which has resulted in an overall increase in the number of judges in the Crown Court. By the end of 2023/24 we expect to have up to 450 salaried Circuit Judges and 770 fee paid Recorders available across England and Wales to hear criminal cases.
24. As a result of these efforts, judicial capacity is no longer the primary constraint facing the system, as capacity pressures are likely to move to the broader legal sector and criminal justice system.
25. MoJ continues to work closely with the judiciary, HMCTS and broader CJS to drive improvements in court performance and ensure cases move through the court as efficiently as possible. The Crown Court Improvement Group (CCIG) aims to improve the overall performance of the Crown Court and is chaired by the Senior Presiding Judge and attended by cross-system partners who share this common aim.
26. In the magistrates' courts, the outstanding criminal caseload fell from 445,000 in July 2020 to 334,000 in June 2022, a reduction of 25%. We have recently seen an increase in the number of cases coming to court and as a result, the outstanding caseload in the magistrates' courts has slightly increased. However, the caseload remains well below its peak during the pandemic and stood at 353,700 at the end of August 2023.
27. In the family courts, partners across the system are working together to drive forward a range of measures to improve timeliness of both public and private law cases. MoJ has increased funding to improve waiting times in the civil and family courts and tribunals. This includes increasing funding to the Children and Family Court Advisory and Support Service (Cafcass) to £145m for 2023/24 - an increase of £4m on the original allocation for 2022/23.
28. In March 2021, MoJ launched the Family Mediation Voucher Scheme to support separating parents to resolve their differences outside of court. As of 1 December 2023, over 24,000 families have used the scheme to help resolve disputes, minimising the distress caused to children involved and freeing up court capacity. The scheme has had its funding extended

several times, with now up to £23.6m invested, with the intention that this will allow the scheme to run up to March 2025.

29. Alongside these initiatives the President of the Family Division re-launched the Public Law Outline in January 2023, which sets out the maximum number of hearings and the time required at each stage in order to resolve public family law proceedings within 26 weeks. MoJ are working closely with the judiciary to support this.
30. On 26 January MoJ published a response to its consultation on early resolution in private family law. The response sets out a programme of reform that puts dispute resolution and the best interests of the child at the heart of support for separating families. Key proposals include launching a new online portal to provide trusted information for parents and carers, a pilot to test the impact of funded early legal advice for parents seeking to agree child arrangements, and expansion of the ground-breaking pathfinder court model to two new family court areas.
31. In the civil courts, continued use is being made of remote hearings technology which helps mitigate judicial capacity pressures on the District Bench in London and the South East, by making use of available national Deputy District judge resource through judges sitting in the 'virtual region'.
32. The National and Virtual Regional pool enables judges across jurisdictions to be deployed flexibly to hear cases outside their regional circuit, either in person or virtually, maximising existing judicial resource to hear as many cases as possible.
33. The tribunal system continues to recover from the pressures and challenges presented by the Covid-19 pandemic. In the Employment Tribunal (ET), various steps have been taken to increase capacity, such as the recruitment of additional judges, the deployment of legal officers, the establishment of an ET virtual region by the judiciary and a new electronic case management system. As a result of these measures, the outstanding caseload in the ET has continued to fall below its pandemic peak of 51,700 single plus lead multiple cases in July 2021 to 36,669 cases in December 2023.
34. The caseload in the Immigration and Asylum Chamber of the First-tier Tribunal (FtT (IAC)) has increased significantly since September 2023, mainly driven by increased receipts, given HO priority to clear the 'legacy' backlog. As of December 2023, outstanding cases are over 41,000.
35. MoJ are working on completing their programme of reform in the Immigration and Asylum Chamber and the judiciary have recently introduced a virtual region pilot to provide additional capacity and flexibility in how appeals are heard and disposed of.
36. Measures in the Illegal Migration Act (IMA), will, when commenced, lead to a significant increase in work in the Immigration and Asylum Chamber of the Upper Tribunal (UT (IAC)). The Government remains committed to delivering these reforms, with the Safety of Rwanda (Immigration and Asylum) Bill currently before Parliament.
37. MoJ are working closely with the judiciary to take sensible actions to increase the Upper Tribunal's capacity, including to have enough judges to hear appeals arising from the provisions in the IMA. This includes scaling up existing IAC judicial recruitment and the flexible deployment of other judges, using provisions in the IMA, which extended the Senior President of Tribunal's existing powers, to request that experienced and eligible judges from the First-tier can act as a judge of the Upper Tribunal.

Condition of the court and tribunal estate

38. The Government has made £220m available for essential modernisation and repair work over the two years to March 2025, meaning annual investment will increase to £120 million by March 2025, to minimise disruptions caused by old buildings. This two-year capital maintenance allocation enables HMCTS to plan major estate projects in advance and with certainty. HMCTS are working to ensure that those buildings most in need of investment get it, and this investment is a step forward in improving the quality of the court estate.

39. HMCTS have a planned pipeline of future works to improve the resilience and quality of the court estate, and this is kept under regular review. Spending is prioritised to ensure that buildings are safe, secure, meet statutory requirements and protect continuity of service. HMCTS will continue to work closely with local judiciary and operational colleagues to identify and address the areas of the highest maintenance priority.

HMCTS Reform

40. In 2016 the Lord Chancellor, Lord Chief Justice and Senior President of Tribunals released a joint statement regarding the future of HMCTS, announcing an investment of over £1.3 billion in the courts and tribunals system. Court reform has introduced new technology and modern ways of working to the justice system, for the benefit of everyone who uses it.
41. For the judiciary, reform means operating in a modernised court system, using updated and upgraded IT systems, and with revised procedures to ensure judges have the time to conduct the key role of hearing cases, rather than seeing to administrative tasks or dealing with cases that need not be before them.
42. We have already gone live with digital services in the civil and family courts covering divorce and financial remedy, family public law, probate, civil money claims and damages (for certain values and case types). In tribunals, the services for the Immigration and Asylum and Social Security and Child Support tribunals are live nationally. In addition, Common Platform is now live in 100% of criminal courts in England and Wales, and we continue to roll out the Single Justice Procedure.
43. In February 2024, in response to wider pressures including the long-lasting impact of the pandemic and the number of outstanding cases waiting for hearings, HMCTS announced revisions to plans to deliver the final stage of the Reform Programme. These changes, reflecting feedback received from HMCTS staff and partners, will ensure stability in the experience for all users of the courts and tribunals system, including the judiciary. These plans have the support of the Lord Chancellor, the Lady Chief Justice and the Senior President of the Tribunals.

Judicial HR Support

44. The Judicial Human Resources team continues to provide support to the senior judiciary, leadership judges and JOHs on a regional basis. This includes providing strategy and policy advice, welfare support, taking forward wellbeing action plan and diversity and inclusion strategy, diversity and inclusion resource and insightful planning of resources to shape the size, skills and capabilities of the judiciary.
45. Work is continuing to ensure that all JOHs have clear and agreed job descriptions, ensuring consistency and clarity about expectations and responsibilities to support appraisals (for fee-paid judges) and career discussions (for salaried judges).
46. The Strategy and Modernisation team continues to support the judiciary with the implementation of reform, working closely with the lead reform judge and the Judicial Executive Board. Support is also provided to the senior judiciary to deliver its strategic aims, including strengthening unity across the judiciary (e.g. One Judiciary).

One Judiciary

47. The judiciary and MoJ have a longstanding shared ambition to create 'One Judiciary'. The principal aim of 'One Judiciary' is to bring the courts and tribunals closer together to make better use of resources and to demonstrate that judges, whether they sit in courts or tribunals, are part of a single judicial family. Under the existing setup, leadership responsibilities for tribunals are statutorily separate from those for the courts, resulting in duplication. Delivering the 'One Judiciary' project will increase opportunities for cross-deployment and bring greater efficiency to our justice system.

48. As part of the project, the Government launched a public consultation last May, on its proposals to reform the office of Senior President of Tribunals. The reform would bring the tribunals within the overall leadership of the Lady Chief Justice, alongside the court jurisdictions. The reformed office of Senior President of Tribunals would continue to provide leadership, through delegated powers, for the tribunals, but would retain independent leadership of reserved tribunals that operate outside the England and Wales jurisdictions as these are protected under separate statutory powers. Implementing these reforms would require primary legislation. The Government plans to publish its response to the consultation early this year.

Sitting Expectations for Fee-paid Judges

49. While the specific wording of terms and conditions varies by jurisdiction, fee-paid judges are generally expected to be available for a minimum of 30 days of sittings a year. Older terms and conditions may refer to a guarantee of 15 sitting days, or an expectation of 20 days, and may have a specified maximum limit. HMCTS try to allocate sittings equally where possible, however minimum sittings are not guaranteed and a maximum number of sitting days may be set as required by HMCTS' business need.

Non-Legal Members in Tribunals

50. In February 2021 the Lord Chancellor commissioned the SSRB to undertake a review of fees for Non-Legal Members (NLMs). Fees for NLMs have not been reviewed since 2007 when the First-tier Tribunal and Upper Tribunal were formed, and before the tribunals were brought into a unified courts and tribunals service in 2011. While remuneration for salaried and fee-paid judges in the tribunals was aligned with the courts' judiciary, the fees paid to NLMs in the tribunals were not. As a result, in contrast to legal members of tribunals, there are a wide range of daily sitting fee rates paid to NLMs, from £214 for Employment Tribunal lay members to £559 for a medical member in the Mental Health Tribunal.
51. In March 2023, the SSRB submitted their report on NLM fees setting out their recommendations.² The Lord Chancellor agreed with the SSRB that there is a need for greater consistency in the fee structure for NLMs, and supported the principles behind the following recommendations:
- a) a standard sitting fee, as well as the use of enhanced fee rates for roles with demonstrable recruitment difficulties and labour market evidence that support a higher fee;
 - b) the daily fee for NLMs of tribunals should not exceed the equivalent daily fee of the tribunal judge;
 - c) the same standard fee level for all NLMs in non-devolved tribunals in England, Wales and Scotland, and devolved tribunals in Northern Ireland
 - d) future fees should not be differentiated by the number of sitting days undertaken during a year; and
 - e) a NLM acting as a tribunal chair should be paid the same sitting fee as the tribunal judge.
52. There are no immediate changes to the NLM sitting fee structure following publication of the SSRB's report on NLM fees due to the ongoing work of the additional fees review. Opportunities will be considered to move to a more consistent fee structure and address the wider SSRB recommendations once this has concluded, subject to the outcome of future spending reviews.

Additional Fees for Fee-Paid Judicial Office Holders in Tribunals

53. Additional fees are currently paid for activities undertaken by fee-paid JOHs in tribunals –

² Non-Legal Members Fees Review, SSRB Report 2023 and the Lord Chancellor's response, [Non-Legal Members Fees Review - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118442/Non-Legal-Members-Fees-Review-2023.pdf)

judges and non-legal members (NLMs) – beyond sitting and hearing a case. These fees include payments for activities including preparation, writing-up and travel time. Additional fees for fee-paid JOHs in tribunals have not been reviewed since the unification of the tribunals in 2007.

54. In order to bring greater consistency to the fee arrangements across courts and tribunals, in July 2022, the Lord Chancellor decided to begin a review of additional fees. The review sought to understand whether the current arrangements are fit for purpose, with an aim to have a consistent approach for remunerating fee-paid JOHs for non-sitting activities.
55. MoJ ran a consultation from November 2022 to January 2023 titled: 'Additional Fees – the case for reform', to seek the views of the judiciary on the options for reforming the additional fees system. The consultation proposed to pay JOHs by reference to their booked period, which should consider the total time required to complete both sitting and non-sitting activities. In August 2023 the Government published its response to the consultation and provided clarification of the proposed policy.
56. Whilst the Lord Chancellor has the statutory responsibility for deciding judicial pay, allowances, and expenses it is for the independent judiciary to manage deployment, including how JOHs use their time and how they are assigned to hear cases. The judiciary are developing Working Practices Guidance (WPG) which will consider the total time associated with hearing cases by jurisdiction, including for preparation and writing up, where applicable. It is planned that this work will be completed in 2024.
57. Given the potential implications to the pay policy of the WPG, the Lord Chancellor will make a final decision on the reform of additional fees following the conclusion of this work.

4. Financial Context

58. On 22 November, the Chancellor delivered the Autumn Statement which set out the country's economic outlook. Economic growth has been resilient over the last year, with cumulative growth of 0.5% during the first three quarters of 2023, in contrast to previous expectations for a contraction. However, increases in interest rates, necessary to bring down inflation, have weighed on growth.
59. Inflation has fallen significantly since its peak in Autumn 2022 of over 11%, but remains well above the 2% target to an average of 4.8% over Q4 2023. In their most recent November 2023 forecast, the OBR expects CPI inflation to continue to fall and average 3.0% in 2024-25, before returning to the target rate of 2.0% by the first half of by 2025. However, there remains considerable uncertainty over the outlook and the Monetary Policy Committee (MPC) of the Bank of England has judged that risks to inflation remain skewed to the upside.
60. To combat high inflation, the Bank of England has raised interest rates to 5.25%. This has resulted in additional borrowing costs for many mortgage-holders, businesses, and government. The government is committed to supporting the MPC to bring inflation back to target by aligning fiscal with monetary policy. Further borrowing, above what is forecast, would add to inflationary pressure which would put upward pressure on interest rates.
61. Within this context, the Chancellor set out priorities to halve inflation, grow the economy and reduce debt, emphasising the need for responsible decision making on public spending. As part of this, the Autumn Statement announced the launch of a Public Sector Productivity Programme to place public sector spending on a sustainable footing in the long term.
62. At SR21 the Ministry of Justice secured record levels of investment to aid recovering from the impacts of Covid-19 and meeting the increased demand from the additional 20k police officers. In 2023/24 the department budgeted £22.3 million for a 3.5% increase in judicial salaries, although as set out in previous sections of this advice, the LC chose to accept the SSRB recommendation of 7%, which required difficult choices to reduce other parts of the MoJ budget. The department will continue to target funding where most needed, carefully prioritising spend to continue to reduce reoffending, protect the public and ensure swift access to justice in a fiscally responsible manner. However, given the fiscal constraints across government in 2024/25, an unaffordable recommendation would require trade-offs elsewhere in departmental budgets and as a result have impacts on the effective and efficient delivery of wider justice system objectives.

Judicial Pay Costs

63. Judicial remuneration amounted to £632 million in 2022/23. The funding requirement rises to approximately £677 million in 2023/24 due to the implemented pay increase and changes to sitting activity. Of these judicial costs in 2023/24, 69% relate to salaried judiciary and the remaining 31% to fee-paid judiciary for specific sitting days and other commitments such as training and statement writing.
64. Judicial pay is met from the Consolidated Fund (in the case of Circuit Judges and above), and from voted funds in HMCTS' budget (in other cases). All judicial remuneration is included in HMCTS accounts for reasons of transparency.
65. Table 1 below provides a breakdown of judicial pay costs for 2022/23.

	2022/23			
<i>figures in £000's</i>	Senior Judiciary	Other Judiciary	Fee Paid	Total
Wages & Salaries	145,757	111,357	136,711	393,825
Social Security Costs	20,546	15,571	14,885	51,002
Employers Pensions Contribution	74,202	57,297	55,419	186,918
Total Payroll Costs of the Judiciary	240,505	184,225	207,015	631,745

Table 1: Total judicial pay costs for 2022/23

5. Judicial Remuneration

66. This section provides a summary of the key elements of judicial remuneration, reward, and benefits.

Pay

67. The Lord Chancellor has the power, under the relevant legislation, to pay salaries to judges in England and Wales. There are also a number of devolved posts in Scotland and Northern Ireland where the Lord Chancellor sets the rate of remuneration. All judicial offices are assigned to a salary group in the judicial salary structure. A link to the Judicial Salary Schedules for 2023/24 can be found at Annex C.
68. Judges do not receive incremental pay progression, and judges are paid at a spot rate determined by the salary group in which their judicial office is situated. No aspect of judicial pay or judges' overall remuneration package is performance related. A small number of JOHs receive a different salary to others in their salary group due to transitional arrangements or legacy pay arrangements (which cease once the individual JOH leaves that office).
69. Under statute, a JOH cannot have their salary reduced.³ This makes it particularly important for any changes to judicial pay or salary groupings to be well-evidenced since they cannot subsequently be reversed.
70. Salaried judges are unique in public service in that there is a longstanding convention that they will not return to legal practice after taking salaried office. Entering salaried judicial office is, in effect, a 'one-way street'.
71. Table 2 below provides details of previous pay awards from 2015/16.

Year	Pay award
2023/24	7%
2022/23	3%
2021/22	0%
2020/21	2%
2019/20	2%
2018/19	2%
2017/18	1%
2016/17	1%
2015/16	1%

Table 2: Level of annual judicial pay award from 2015/16 to 2023/24

Allowances

72. The Public Service Pensions and Judicial Offices Act 2022 provides the Lord Chancellor with the power to determine allowances for all JOHs for whom he has the power to determine salary and fees.
73. With statutory pay protection of judicial salaries, allowances enable a more flexible way to remunerate JOHs. It is not possible within the current legal framework to pay an allowance for core judicial work, for example hearing cases, so allowances are used to recognise additional

³ The statutory provision only applies to courts' judiciary, but, for reasons of the constitutional importance of judicial independence, we equally apply this to the tribunals' judiciary.

leadership responsibilities or address recruitment and retention issues. The allowances currently paid are set out below.

London Weighting Allowance (LWA)

74. A London Weighting Allowance of £4000 per annum, made up of a £2000 salary lead and an additional London allowance of £2000 is paid to judges in salary groups 7 whose principal court or hearing centre is based in London.

Circuit Judge Leadership Allowance (CJLA)

75. The 2018 Major Review highlighted the issue of unremunerated leadership responsibilities amongst the judiciary. The majority of leadership roles are in a higher salary group than the judges they lead, this is to recognise the extra leadership component of the role. In the courts however, there are key leadership posts of Designated Family Judge, Designated Civil Judge, Resident Judge and Senior Judge in the Court of Protection.
76. These posts are sometimes held by a Senior Circuit Judge and where that is the case, are rewarded through salary. Frequently, this post is held by a Circuit Judge, providing leadership to a court or region, and this work was carried out without any further reward. The SSRB recommended in their 2020/21 annual report that a leadership allowance should be introduced to reward judges who take on these vital local leadership roles. The allowance is taxable and subject to National Insurance deductions but is non-pensionable and is payable for as long as the role is being conducted. The allowance set at 4% of the salary was introduced in October 2020.

Temporary Responsibility Allowance (TRA)

77. In October 2022 the Lord Chancellor decided to implement a Temporary Responsibility Allowance (TRA). This was in response to the need to be able to provide a consistent approach for additional remuneration to judges who cover leadership posts in a higher salary group on a temporary basis. The allowance is available for 3-12 months to facilitate cover for circumstances such as vacancy, long-term sickness; cover for maternity or parental leave, as well as while a recruitment exercise is ongoing.
78. The allowance is paid at a level of 90% of the difference between the judges' current salary and the salary of the leadership post they are undertaking. TRA payments are subject to deductions for tax and National Insurance and the payments are non-pensionable.

Other Expenses and Benefits

79. JOHs are entitled to travel and subsistence expenses relating to official judicial business. Where an overnight stay is necessary, judges can claim for the cost of a hotel, as well as subsistence payments with small amounts for personal incidental expenditure as appropriate. These rates are kept under review, with the last update to hotel rates made in September 2023.
80. Salaried judiciary may be entitled to relocation and excess fares where they have successfully applied to a salaried position on promotion, or they are compelled to move their primary court/tribunal at the request of HMCTS or the senior judiciary.
81. Judicial Lodgings are provided for use by the senior judiciary, principally High Court Judges and the Court of Appeal, when sitting on Circuit. Judges staying at Judicial Lodgings are also entitled to a weekly lodgings allowance designed to cover meals and housekeeping.
82. JOHs are entitled to maternity, paternity and shared parental or adoption leave, compassionate leave, sick leave, and free eyecare vouchers. Judges have access to a cycle to work scheme, salary-sacrifice childcare vouchers, official stationery, and are entitled to receive court dress on appointment.

Judicial Pensions

83. Pensions form a significant part of the remuneration package for the judiciary. The

Government's introduction of the Judicial Pension Scheme 2022 (JPS 2022) in April 2022 formed a major part of addressing recruitment issues in the judiciary by making judicial careers more attractive.

84. Since 1 April 2022, JPS 2022 is the only judicial pension scheme that is open for both salaried and fee-paid judges. All other legacy schemes - the Judicial Pension Scheme 2015 (JPS 15), the Judicial Pension Scheme 1993 (JUPRA) and the Fee Paid Judicial Pension Scheme 2017 (FPJPS) - were closed for future accrual.
85. Any benefits accrued in the previous legacy schemes are frozen, but a final salary link of accrued benefits remains for JUPRA and FPJPS. Therefore, when a judge retires, they may have a combination of judicial pensions from two, three or four different schemes.

The Judicial Pension Scheme 2022

86. In MoJ's response to the SSRB's 2018 Major Review, it was indicated that the judicial pension scheme would be reformed. As a result, MoJ implemented the reformed JPS 2022, which provides significant improvements on the previous scheme. There are currently 7704 members of JPS 2022. JPS 2022 together with judicial pay offers a remuneration package which is attractive to potential candidates for judicial office.
87. The JPS 2022's key features are more generous for judges than JPS 15 was, balancing the need to be fair with the need to be affordable in the long-term. It has the following features:
- a) Tax-unregistered, where pensions accrued will not count either towards annual or lifetime allowances.
 - b) No service cap, where, unlike some previous schemes, there is no 20-year service cap for members.
 - c) Defined benefit, career average scheme.
 - d) Annual accrual rate of 2.5% of pensionable earnings.
 - e) A uniform contribution rate of 4.26% of pensionable earnings.
 - f) Linked to the state pension age.
88. Table 3 below shows how JPS 2022 compares to the previous judicial pension schemes.

	Fee-Paid Judicial Pension Scheme FPJPS	Judicial Pensions and Retirement Act 1993 Scheme JUPRA	New Judicial Pension Scheme 2015 NJPS or JPS 15	Judicial Pension Scheme 2022 JPS 2022
Membership	Fee-paid judges	Salaried judges	Salaried & fee-paid	Salaried & fee-paid
Defined benefit category	Final salary	Final salary	Career-average	Career-average
Service cap	20-year reckonable service cap		No cap	No cap
Tax status	Unregistered	Unregistered	Registered	Unregistered

Table 3: Comparison of JPS 2022 to previous judicial pension schemes

89. JPS 2022 returned judges to a tax-unregistered pension scheme, which is the position they were in prior to the JPS 15. This means that benefits accrued under the scheme will not count towards the individual's annual allowance or lifetime allowance. The annual allowance is currently £60,000. There is also a more generous increase in the value of annual pension accrual in JPS 22 compared to the JPS 15. This is due to the higher accrual rate in JPS 22, and additional taxation compensated for lump sum commutation (able to be up to 35.7% of the pension) which remains in place for registered pension arrangements.
90. Following the Spring Budget, our analysis indicates that the increases in value of the combined remuneration package for judges specifically attributable to the JPS 22 scheme are:
 - a) Court of Appeal Judge by 16%
 - b) High Court Judge by 10%
 - c) Crown Court Judge by 6%
 - d) District Judge by 5%
91. The higher annual allowance threshold introduced in the 2023 Budget together with the unregistered taxation status of JPS 2022 allows judges to utilise Additional Voluntary Contributions and other alternative registered pension arrangements to potentially increase their savings in a tax-efficient manner.
92. Member contributions in a tax-unregistered scheme do not receive tax relief. Therefore, the contribution rate in JPS 2022 was set at a lower rate, to ensure members pay roughly the same contribution rates to the scheme, net of tax, compared to JPS 15. The contribution rate for JPS 2022 is a uniform contribution rate of 4.26%.
93. MoJ gave members of JPS 2022 the option to make reduced contributions (3%) to the scheme in return for a commensurate reduction in the accrual rate (2.42% rather than 2.5%). Members were given until 30 June 2022 to exercise this election. This option will last for a fixed period of three years, after which judges who have taken the option will move to the uniform contribution and accrual rate. Providing this option allowed judges to adjust to the new contribution rate, particularly where some members would see an initial reduction in their take home pay when they moved to JPS 2022. The number of judges who chose a lower contribution rate is 503, of which 284 were salaried.
94. The Government Actuary's Department (GAD) estimate (using assumptions used for the 2016 valuation) the cost of JPS 2022 to be 37.2% of judicial payroll in terms of employer contributions in 2024/25. Based on a projected payroll of £380 million per year, this would equate to £141m per year. The new scheme costs £35 million more than if judges had remained in JPS 15. This is a sizeable investment in the judiciary and the costs will be borne by MoJ. New figures, from the GAD valuation as at 31st March 2020, are due shortly.

Delivering the *McCloud* Remedy

95. In the case of *McCloud v MoJ*, the Court of Appeal held, in December 2018, that transitional protections provided to older judges as part of the 2015 judicial pension reforms constituted unlawful direct age discrimination.
96. In 2020, MoJ confirmed that the *McCloud* remedy for most judges would take the form of an 'options exercise' for in-scope judicial pension scheme members, where members are given three months to make a choice of returning to their legacy pension scheme (JPA 1981, JUPRA or FPJPS) or to remain in the 2015 pension scheme (JPS 2015 or Northern Ireland Judicial Pension Scheme (NIJPS)) for the remedy period: 1 April 2015 to 31 March 2022....
97. Following primary and secondary legislation in 2022 and 2023 respectively, the options exercise commenced in October 2023 for the majority of members with the rest being provided their options' packs in the following months. On completion of the options exercise, individual member remedies will be implemented, including any changes to their pension scheme

membership, tax updates, and the receipt of any compensation that they may be owed.

6. Recruitment and Retention

98. The effective administration of justice requires a properly resourced judiciary. Salaried judges are the backbone of our judiciary, supported by fee-paid judges who provide vital flexibility, specialist expertise and a talent pipeline for the future. The recruitment pool for the judiciary is made up of an expert, and often highly paid, group of individuals. To encourage these individuals to take up salaried office it is essential to ensure all aspects of the role are attractive, including, competitive remuneration and terms and conditions, a positive work environment and a manageable workload – whilst balancing this with the need to ensure value for the taxpayer.
99. The Judicial Attitudes Survey, published in early 2023, included some questions for fee-paid judges on their intentions to apply for salaried office and the factors that influence that decision. MoJ has also commissioned social research with fee-paid judges to better understand the incentives and disincentives around applying for salaried office. MoJ will be considering the findings alongside the results of the survey to understand where MoJ can influence these.

Recruitment

100. A high volume of judicial recruitment has continued since the 2023/24 annual review. The Lord Chancellor initially approved the current 2023/24 programme for around 860 vacancies, but the number has risen to almost 1100 as the business need was reviewed and updated in-year. Table 4 below shows number of exercises and total selections since 2013/14.

	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23
Number of exercises reporting in year	35	30	22	26	28	23	35	35	31	36
Total selections made in year	806	312	340	290	749	1031	979	869	1244	1094

Table 4: Number of exercises reporting in a year compared to total selections

101. The annual recruitment programme is determined with reference to supply and demand modelling that enables us to consider judicial recruitment needs over the coming years. This takes account of trends in judicial departures (retirements, promotions and other exits), as well as changes to demand (as measured by sitting days). Demand is affected by a number of factors including the court reform programme and policy changes made by other government departments which result in either new criminal offences or the prospect of administrative appeals against decisions made by government departments or other public bodies. HMCTS workforce planning also draws on jurisdictional and local intelligence to take account of geographical variations. Recruitment planning remains dynamic to react to significant changes. For example, recruitment exercises that include judges for the Immigration and Asylum tribunals were increased in 2022/23 and 2023/24 to prepare for the impacts expected in 2024 from the Illegal Migration Act 2023.
102. We continue to take an approach of having a balanced programme made up of the rolling programme (on a 12, 18, or 24-month basis) of recruitment exercises for the key high-volume offices, and recruitment for vacancies in leadership offices and small jurisdictions as they arise. The teams involved in the end-to-end recruitment process collaborate to continue to improve the programming, for example, to ensure sufficient time between the key exercises so that the

deployment of new judges can be finalised before the vacancies are confirmed for subsequent recruitment.

103. Despite the steps taken by all partners, delivering a recruitment programme of the scale of recent years has consequences for the length of time it takes from vacancies arising or recruitment approval to judges commencing sitting. This is a result of:
- a) Large volume exercises having an end-to-end timeline of up to a year, including matching candidates to geographical jurisdictions and for undertaking required induction training and sitting-in.
 - b) Scheduling exercises to efficiently use the JAC's and JO's resources. The accompanying Core Data Pack (Annex A) contains the available detailed data on recruitment, with additional information being provided directly by the JAC in their evidence.
104. MoJ has been closely monitoring judicial recruitment outcomes. At the time of the last Major Review, the positions of most concern were in the High Court and on the Circuit Bench. High Court recruitment is now healthy and is (as of November 2023) at its statutory headcount of 108 with a healthy pool of Deputy High Court Judges to both support the work of the High Court and provide the pipeline for future High Court vacancies.
105. Following a few years of a challenging picture for recruitment of Circuit Judges, the last exercise (in the 2022/23 recruitment programme) resulted in a higher number of appointable candidates than had been forecast. When all 91 new judges take up their appointment (by the end of 2023), we will have closed the business need gap nationally in family and civil but will still have a small need in Crown (with vacancies in London, South East and Wales). Of the 91 Circuit Judges recommended for appointment in 2023, 26 came from the District Bench including seven family/civil District Judges who are now appointed to sit as Crown Court Circuit Judges. The 2023 Circuit Judge recruitment underway (52 vacancies) is prioritised to fill the Crown Court need - JAC will report outcomes in summer 2024. Continued healthy Recorder recruitment will supplement the need in all regions.
106. In its 2023 report, the SSRB had continued concerns about District Bench recruitment, including about the decline, compared to 10 years ago, of the quality ratings of appointed candidates.
107. We reported in the evidence for the 2023/24 pay round that recruitment of District Judges remained a challenge but that the recruitment in the 2021/22 programme (reported by JAC in 2022-23) had a shortfall of 33% which was smaller than the previous three DJ exercises. The 2023/24 District Judge recruitment commenced in September following considerable activity by the judiciary, JAC and MoJ to promote the opportunities and the benefits enjoyed by District Judges. This included a Minister's op-ed in the legal press about the important role of District Judges and MoJ investment in the courts; regional events hosted by presiding judges; new case studies; and more information highlighting flexible working arrangements and the total remuneration package. More information was included in campaign materials about the location of vacancies and a commitment to provide shortlisted candidates with detailed information on vacancy location (down to court cluster level rather than just region). Initial indications are positive with an increase in the number of applications compared to 2022, but the outcome will not be known until the JAC makes its recommendations in June 2024.
108. Table 5 below shows the District Judge recruitment exercises run since 2017.

Reporting year	Vacancies (s87 & s94)	Applications	Total selections (s87 & s94)	Shortfall against vacancies
2017-18	100.5	271	96	5
2018-19	-	-	-	-
2019-20	110	190	47	63

2020-21	75	141	24	51
2021-22	106	249	57	49
2022-23	100	247	67	33
2023-24	100	290	Expected June 2024	

Table 5: District Judge (DJ) recruitment exercises run since 2017

109. The SSRB had concerns last year that the District Bench recruitment problem was spreading to the Magistrates' Courts, as for the first time in many years, 24% of District Judge (Magistrates' Court) vacancies were unfilled in 2022. The next recruitment will commence in 2024. It is notable that the JAC was easily able to fill the vacancy request for 15 Deputy District Judges (Magistrates' Court) in the 2023 recruitment, which concluded in November 2023.
110. Tribunals, which have a smaller ratio of salaried to fee-paid judges than the courts, have not tended to see the same recruitment challenges. However, there was a shortfall of around 50% in the recommendations for salaried Employment Judges in the 2023 exercise, which followed shortfalls of 42% (2021) and 37% (2020), whilst fee-paid Employment Judge recruitment has been more successful. Recruitment for 70 salaried First-tier Tribunal Judges is currently underway (JAC is expected to report in spring 2024). This is the first salaried First-tier Tribunal recruitment since 2020, which had a shortfall of 29%.

Retention

111. Judicial Office data shows that 96 salaried JOHs in England and Wales left the judiciary in 2022/23. Of these 95% were for the reason of retirement. The average age of retirement was 67 for salaried courts' judges and 64 for salaried tribunals' judges.
112. Further data on judicial retirements, including trends since 2016-17, is provided in the accompanying core data pack, this includes data on the movement between salary groupings, promotions and movement between fee-paid to salaried roles.

Mandatory Retirement Age

113. Unlike most occupations the judiciary is unusual in that there is a mandatory retirement age (MRA). On 10 March 2022, the Public Service Pensions and Judicial Offices Act 2022 raised the MRA from 70 to 75 across the judiciary (including Scotland and Northern Ireland). All judges who were in office on 10 March 2022 automatically benefitted from the increase to the MRA (though the increase in the MRA did not automatically extend the term of appointment of judges sitting in retirement (see further below)).
114. Given that most individuals leaving the judiciary do so for reasons of retirement, we expect that increasing the MRA will retain judges for longer (our impact assessment estimated an additional 400 judges, inclusive of fee-paid judges and tribunal members, could be retained per year) and may increase the attractiveness of judicial appointments (for example by enabling lawyers to apply for judicial positions later in their legal careers).
115. Concerns have been raised around the impacts on the diversity of the judiciary by extending the MRA, as office holders remaining longer in post might limit opportunities for progression for younger, more diverse, cohorts. These concerns were particularly expressed in relation to the effect on the diversity of the senior judiciary in the passage of legislation through parliament.
116. MoJ had expected to be able to undertake an initial assessment of the impact of the increased MRA on recruitment, retention and diversity, following publication of the 2023 Judicial Diversity Statistics which now includes detail on JOHs aged 70 and above. The statistics show that 205 judges, or 3.9% of the total are in this age band, but one years' data is insufficient to undertake proper analysis and we will revert to this when we have the 2024 data.

Sitting in Retirement

117. It has been over a year since the new sitting in retirement (SIR) policy commenced in October 2022 with the provisions in The Public Service Pensions and Judicial Offices Act 2022, eligibility regulations and a new non-statutory policy. This permits relevant JOHs, now including fee-paid judges, to retire from judicial office, draw their judicial pension and where there is a business need, be appointed to a fee-paid office, without a JAC selection exercise. They can also continue to accrue judicial pension in the Judicial Pension Scheme 2022 (JPS 2022). JOHs must return to office within two years of retirement, appointments are for a single two-year term; and there is no guarantee of sitting days nor an expectation on a judge for minimum sitting days. A review of the operation of the policy is underway.
118. The new statutory appointment power expressly permits an appointment to be made where “it appears to the appointing authority that it is expedient to make the appointment to facilitate the disposal of business in any court or tribunal to which a person appointed to the office in question may be deployed”. This in essence means that appointments may only be made where there is a business need to do so.
119. MoJ undertakes an assessment every six months or so of the national business need which indicates in which jurisdictions applications to SIR may be supported. An example (from July 2023) is:
- a) Crown – sitting in retirement may be justified in order to meet business need.
 - b) Family – sitting in retirement on the District Bench, in both public and private law, may be justified in some regions and not others, to meet business need. This will likely include London and the South East, or business need in the virtual region.
 - c) Civil – sitting in retirement may be justified in some regions and not others depending on the specific local need. This will likely include London and the South East, or business need in the virtual region.
 - d) Tribunals – sitting in retirement in the Immigration and Asylum chamber may be justified to meet business need. This applies to judges from other jurisdictions who retain the relevant authorisations and have recent experience and training in Immigration work. There is generally not a business need for judges to sit in retirement in other chambers but it may be justified in some jurisdictions for judges with particular authorisations in order to tackle backlogs of relevant case types, until enough salaried and fee-paid judges have the necessary experience and expertise to be authorised for this work.
120. The 2023 Judicial Diversity Statistics included numbers of SIR office holders, but they were not included in the overall diversity analysis. As of 1 April 2023 there were 244 judges, including previous fee-paid judges that could apply to SIR for the first time and 1 (previously salaried) tribunal member with a new SIR appointment. Many of these SIR judges would have been SIR previously under the old provisions. We expect to undertake analysis in 2024 to assess the impact of the changes on the retention of salaried and fee-paid judges or to explore what extent SIR assists with increasing capacity by utilising previously retired judges in jurisdictions for which there is a capacity deficit.

7. Judicial Diversity

121. The Lord Chancellor and the Lady Chief Justice of England and Wales have statutory duties to take such steps as they consider necessary to encourage judicial diversity. MoJ continues to work closely with the members of the Judicial Diversity Forum (JDF), which includes the judiciary, the JAC, the legal professions and the Legal Services Board. The JDF provides strategic direction in the areas of challenging structural barriers to appointment, analysing and addressing the reasons behind how people's careers progress, and the gathering and use of data and evidence. The Forum's objective is to resolve issues of common concern, and coordinating agreed activities aimed at encouraging greater judicial diversity.
122. 2023 was the fourth year that data from JDF members was brought together in a comprehensive 'Diversity of the Judiciary' statistical report. This year the report included a detailed analysis of ethnicity and wider diversity characteristics, with the addition of new data sets, which include judges in sitting in retirement offices, and magistrates' applications.
123. While there remains significant work to be done to improve representation, there continues to be progress in the diversity of the judiciary with 55% of all (salaried and fee-paid) new entrants to the judiciary being women in 2022-23. Other key points from the 2023 report include:
- a) Sex: as of 1 April 2023, 42% of all judges were women, with 37% of all court judges and 52% of all tribunal judges being women. The proportion of court judges who are women has increased by 13 percentage points from 24% in 2014. The proportion of tribunal judges who are women increased by 9 percentage points over the same time period.
 - b) Ethnicity: Across all legal exercises in 2022-2023, ethnic minority individuals comprised 27% (1,767) of applications, and 16% (128) of those recommended for appointments. Overall, 18% of all new entrants to the judiciary in 2022-23 were from non-white groups. As of 1 April 2023, 11% of all judges (10% in Courts and 13% of tribunal judges) were from ethnic minority groups. Between 2014 and 2023, the proportion of court judges, tribunal judges and non-legal members of tribunals from ethnic minority groups has increased by 4 percentage points in each group.
 - c) Age: the age profile of the judiciary reflects the fact that most join the bench after a successful legal career and, as of 1 April 2023, over two-thirds of judges were aged 50 and over - with 70% in courts and 67% in tribunals. 4% of judges in courts and tribunals were aged 70 and over.
124. Overall, representation of women and those from ethnic minority backgrounds was higher in the tribunals than in the courts. Improvements in diversity in senior court judicial posts has been slow, with over 60% of senior judges being white men, predominantly with barrister backgrounds.⁴
125. MoJ continued to support the JDF's Pre-Application Judicial Education programme (PAJE), aimed at mid-career lawyers seeking initial information on a judicial career, with around 151 participants in 2023. The evidence from the 2022-2023 PAJE evaluation is encouraging, with analysis of 608 candidates who had attended the course from 2019 and 2022 showing that:
- a) For the 608 participants who completed PAJE at least a year ago and have applied for a judicial role, 13% have been successfully appointed to a role they applied for after completing PAJE, a 3-percentage point increase since last year's evaluation.
 - b) In the past 18 months, there have been 66 successful judicial applications made by 55 PAJE participants. Since the programme started in 2019, 82 past PAJE participants have successfully been appointed, to a total of 102 positions.

⁴ Diversity of the Judiciary: Legal Professions, new appointments and current post-holders-2023 statistics, 'Figure 39: Representation of sex-ethnicity-profession groups by primary appointment, April 2023,' [Diversity of the judiciary: Legal professions, new appointments and current post-holders - 2023 Statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2023-statistics)

- c) All solicitor background PAJE participants (regardless of sex and ethnicity) outperform other candidates with similar characteristics at being appointed over the last three years.
 - d) Overall, for all lawyer types, Asian and black PAJE participants have been shortlisted and appointed to judicial office at higher rates than those who did not attend PAJE over the last 3 years. Black PAJE participants are appointed at a rate more than double in comparison to the wider pool of black candidates over the last 3 years.
126. The JDF's 2024 action plan, published in January 2024, included a wide range of actions JDF members have committed- both individually and collectively- to increase judicial diversity by seeking the widest possible pool of talent. In 2023, MoJ committed to the following:
- a) Coordinate the Pre-Application Judicial Education (PAJE) programme, working closely with Bar Council, CILEX and The Law Society and supported by the Judiciary and JAC.
 - b) Work to remove barriers for employed lawyers considering fee-paid judicial office.
 - c) Work to remove barriers for Crown servant lawyers considering a fee-paid judicial office.
 - d) Work to review the barriers faced by professional groups such as legal academics and those regulated legal professions who are not currently eligible for judicial office.
 - e) Produce the publication of the annual 'Diversity of the Judiciary' statistics.
 - f) Implement the necessary steps for increasing CILEX's eligibility for a wider range of judicial roles.⁵
127. MoJ will be reviewing the application process and barriers for legal professional groups under-represented in the judiciary. The four groups, which have been identified as priorities due to their size and diversity, include: employed barristers, in-house solicitors, Crown servants and legal academics. They are more diverse in sex and ethnicity than the serving judiciary. Reducing barriers to members of these legal professional groups considering applying for a judicial post will increase application and appointment rates and would potentially contribute to encouraging diversity and reducing recruitment shortfalls within the judiciary.
128. As a member of the JDF, the Judiciary's priorities for 2024 is also highlighted in the annual action plan.⁶ The Judiciary, like the legal professions and the Judicial Appointments Committee, has distinct areas of focus and activity in recognition of the role it plays in candidates' journey to judicial appointment. Key activities for the Judiciary include:
- a) Work shadowing and mentoring schemes (averaging 250 and 90 participants per year respectively) and judge-led seminars (averaging 4K sign ups per year) to encourage candidates from currently underrepresented groups to apply for judicial office.
 - b) An internship scheme offered to lawyers from underrepresented groups to increase their chances of securing pupillage/preparing them for professional life at the Bar. Circa 30 interns have benefited across two cohorts of the scheme so far.
 - c) The JAC's Targeted Outreach programme which has seen 100+ Judges play an important part in acting as guides to scheme participants.
 - d) The Judiciary support MoJ led Pre-Application Judicial Education Programme through the provision of learning resources from the Judicial College
129. The 2023 progress update for the Judicial Diversity and Inclusion Strategy was recently published and sets out what the judiciary plan to achieve in 2024.⁷ Two main areas for focus are the current underrepresentation of black judges and ensuring the needs of disabled judges

⁵ Judicial Diversity Forum- Priorities and Actions for 2024, ([Judicial-Diversity-Forum-Priorities-and-Actions-for-2024.pdf](https://www.judicialappointments.gov.uk/judicial-diversity-forum-priorities-and-actions-for-2024.pdf) ([judicialappointments.gov.uk](https://www.judicialappointments.gov.uk)))

⁶ [Judicial-Diversity-Forum-Priorities-and-Actions-for-2024.pdf](https://www.judicialappointments.gov.uk/judicial-diversity-forum-priorities-and-actions-for-2024.pdf) ([judicialappointments.gov.uk](https://www.judicialappointments.gov.uk))

⁷ [Judicial Diversity and Inclusion Strategy Update 2023](https://www.judiciary.uk/judicial-diversity-and-inclusion-strategy-update-2023/) ([judiciary.uk](https://www.judiciary.uk)) <https://www.judiciary.uk/wp-content/uploads/2024/01/Judicial-Diversity-and-Inclusion-Update-2023.pdf>

are accommodated.

Salaried part-time working

130. In September 2021, the Lord Chancellor revised the Salaried Part-Time Working (SPTW) policy to support the provision of a more flexible working environment within the judiciary, and to support aims to improve diversity. The revised policy's objective is to further encourage and support applications from diverse existing salaried JOHs, with the intention of encouraging applications from those for whom a full-time working pattern is not conducive to their personal circumstances. It also aims to encourage applicants to work part-time but who do not wish to apply for a fee-paid judicial role. The September 2021 revision removed an already suspended policy which prevented salaried part time judges from undertaking fee-paid roles on their non-working days.
131. Based on this year's 'Diversity of the Judiciary' statistics, 39% of salaried tribunal judges and 13% of salaried court judges work part-time. Overall, 380 judges work a SPTW pattern, an increase of 60 since 2022. The highest percentage of salaried tribunal judges who work part-time are Employment Judges at 53%. Of salaried court judges, District Judges (County) have the highest percentage of part-time judges at 23%.⁸
132. In the 2022 Judicial Attitudes Survey, 47% of salaried judges felt that it was important to have opportunities to sit part-time. This was 3 percentage points higher than the 2020 response. 42% of salaried judges felt that the opportunity to work part-time would make them more likely to stay in the judiciary until their mandatory retirement age. 31% of salaried judges felt that an inability to move to salaried part-time working would make them more likely to leave the judiciary early.⁹

⁸Diversity of the Judiciary 2023 statistics: data tables, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1183274/2023_JD_S_tables.ods

⁹ Judicial Attitudes Survey 2022, [England Wales UK Tribunals JAS 2022 Report for publication \(judiciary.uk\)](https://www.judiciary.uk/2022/07/28/england-wales-uk-tribunals-jas-2022-report-for-publication/)

8. Affordability Considerations for 2024/25

Macroeconomic Context

133. The economy fared better last year than many forecasts had predicted at the start of 2023 and revisions to gross domestic product (GDP) show that the economy also recovered more strongly from the pandemic than previously thought. However, in recent months, the economy has been more subdued with increases in interest rates, necessary to bring down inflation, having weighed on growth in advanced economies including the UK. The economy ended 2023 in a technical recession, having contracted over the final two quarters of the year.
134. Inflation has more than halved from its peak in late 2022 but remains above the 2% target. Returning inflation to the 2% target is critical for sustainable growth, though it will not fall in a straight line to get there with domestically driven pressures continuing to have an impact. The Bank of England forecast that inflation will return to the 2% target in the second quarter of 2024 before rising slightly again, towards the end of the forecast period.
135. To combat high inflation, the Bank of England has raised interest rates to 5.25%. This has resulted in additional borrowing costs for many mortgage-holders, businesses, and government. The government is committed to supporting the MPC to bring inflation back to target by aligning fiscal with monetary policy. Further borrowing, above what is forecast, would add to inflationary pressure which would put upward pressure on interest rates potentially causing them to stay higher for longer.
136. Settlement data are the most comparable data to PRB decisions, as they are a direct measure of consolidated pay awards, and so are not affected by broader labour market factors such as changes to working hours. According to XpertHR, median settlements across the economy have been between 5.0% and 6.0% so far in 2023-24, making the award for the judiciary slightly ahead of the wider economy.
137. Wage growth has started to ease from the historically high levels, seen in the summer of 2023, and is forecast to moderate further as the labour market loosens. In their November 2023 Economic and Fiscal Outlook, the OBR forecast that earnings growth will fall below 4% this year and to around 2% in 2025. This measure of average earnings growth has historically been higher than average pay settlements, as it is affected by compositional changes in the labour force and factors such as changes to working hours.

Affordability

138. MoJ's priority remains to recruit and retain proficient and capable legal professionals for judicial office to enable the effective running of our courts and tribunals. While remuneration plays a role in this, it is important to consider in the context of the wider judicial benefits package outlined in section 5. In doing so, any pay award must be balanced against the need to ensure value for money for taxpayers and increasing demands on the justice system.
139. As set out in the Financial Context section of this evidence, the current fiscal backdrop is challenging, both for MoJ and the wider Government, and challenging reprioritisation decisions had to be made to meet the SSRB's recommendation for a 7% award in 23/24. Last year's 7% pay award was 3.5% above the figure set out in MoJ's affordability evidence.
140. The cumulative impact of pay awards above departmental affordability have required difficult decisions and trade-offs in the MoJ's budgets, efficiencies in delivery, wider trade-offs for public service delivery, and risking the fight against inflation through further Government borrowing.

Major Review

141. A Major Review of judicial pay usually takes place every 5 years. However, MoJ understand

the SSRB's concerns about starting a Major Review before a new judicial lead and permanent chair of the SSRB are appointed.

142. MoJ delivered on major pension reforms with the successful introduction of JPS 2022 in response to SSRB's recommendations made following the 2018 Major Review. This has resulted in a more generous overall remuneration package for all JOHs, of which MoJ is working to understand the long-term impact.
143. Recruitment exercises across salary group 7 jurisdictions (including the District Bench and First-tier Tribunal) continued to see, or for those underway, give concern that there will be shortfalls. The level of fee-paid judges applying for salaried office also continues to be an issue. These areas are likely to be the focus of the next Major Review, which the Lord Chancellor expects to commission once the SSRB's vacant posts are filled.

Implementation

144. MoJ's proposed approach is to make any award at the same level for all JOHs. By not differentiating between judges, this demonstrates the value that the Government places on the work of all judges, regardless of their specific responsibilities or jurisdiction. This is consistent with MoJ's longstanding approach to judicial pay and robust evidence and rationale is likely to be required to depart from this approach.

Costs

145. Each 1% increase in judicial pay would cost £6.8m on budgeted 2023/24 payroll costs (this excludes further NI and Pension contribution adjustments).

9. Annexes

146. The following Annexes have been submitted as part of this evidence pack:

- a) Annex A: Core Judicial Data Pack
- b) Annex B: Northern Ireland evidence
- c) Annex C: Judicial Salary Schedules 2023/24

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