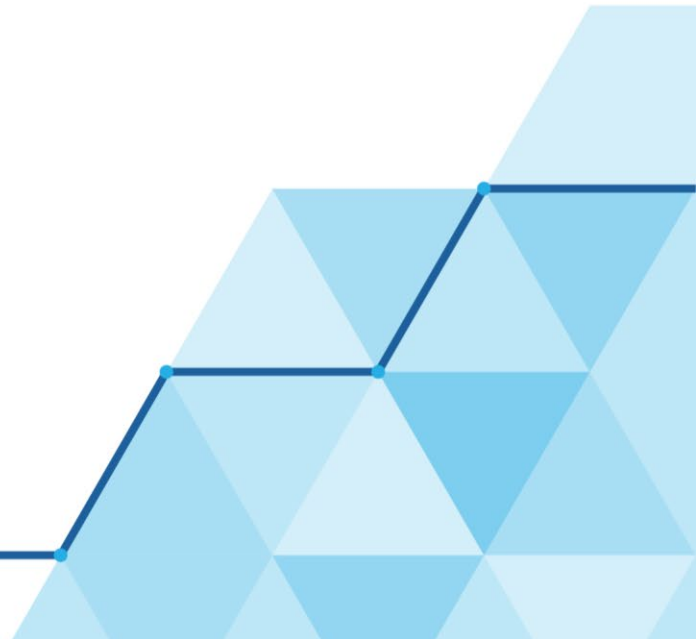




Ministry  
of Justice

# Ministry of Justice Evidence Pack: Judicial Pay Annual Award for 2025/26

20 December 2024



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# 1. Introduction

1. The Senior Salaries Review Body (SSRB) has been commissioned by the Lord Chancellor to undertake the 2025/26 judicial pay review. The Lord Chancellor has also commissioned a Major Review of the judicial salary structure which will run concurrently with the annual pay review process.
2. This document constitutes the Ministry of Justice's (MoJ) evidence to the SSRB. The purpose of this document is to:
  - a) provide evidence on the Government's key policy considerations in determining judicial pay for 2025/26,
  - b) set out the 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.
3. 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).
4. 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

5. The UK legal system is internationally recognised for its quality and stability, whether through its fairness in dispensing criminal justice, or supporting prosperity as a global trade hub. The rule of law is central to that reputation. Our system of independent judicial decision-making is a key part of the rule of law. It is a long-established safeguard for the fairness and freedoms in our society, and a cornerstone of our democracy. A strong, independent judiciary is foundational to the delivery of our services, and ensuring it is well resourced with a robust pipeline of candidates for office is important.
6. The judiciary embody the prestige of our legal system, which attracts organisations and individuals from across the world to the UK to transact legal business. As a result, 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 in 2022 was around £34bn.
7. The legal system requires resources to operate effectively in addition to paying judicial fees and salaries. The MoJ is committed to ensuring resources are used most effectively across the justice system, presenting the greatest value for money for the public. That includes funding 108,500 Crown Court sitting days this financial year and investing £26m in services supporting victims of rape and sexual violence through the Rape and Sexual Abuse Support Fund. We are also ensuring our prisons have capacity to lock up the most dangerous offenders and a commitment to building 14,000 prison spaces, alongside equipping the probation service to enforce tougher punishments outside of prison.
8. It is important that investment is put to the most effective use. To deliver the greatest benefit of investment into sitting days, the Lord Chancellor is working with the Lady Chief Justice to maximise productivity across the justice system. This includes the recently announced Independent Review of the Criminal Courts; looking at opportunities to build on the improvements the HMCTS Reform Programme introduced to the courts and tribunals through greater digitisation; improvements to case management, join up between justice partners and enabling judicial productivity.

### Organisational Structure

9. HM Courts and Tribunals Service, for which the Lord Chancellor is responsible in partnership with the Lady Chief Justice and Senior President of Tribunals, operates the courts of England and Wales, as well as tribunals in 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. Business need and resourcing outcomes vary across regions, as set out in chapter 4.

### 2024/25 Review

10. The SSRB undertook an annual pay review for the year 2024/25. The MoJ provided evidence that set out the difficult affordability position arising from the macroeconomic circumstances (high inflation of the previous year) as well as the implementation in full of the SSRB's recommendation of a 7% judicial pay award in 2023/24. This award was double the affordability figure presented by the department at the time.
11. For 2024/25, the SSRB recommended a pay award of 6% for all judicial office holders. This was on the basis that certain areas, such as salary group 7, still showed longstanding and persistent recruitment shortfalls. The recommendation reflected that judicial recruitment is largely dependent on attracting senior and experienced practitioners from the private legal sector (which is typically well-paid), although work is ongoing to expand alternative routes to judicial office (see chapter 5: *Judicial Diversity*, for more information).

12. The Lord Chancellor accepted the SSRB's recommendation for 2024/25 in full. This required challenging reprioritisation decisions from elsewhere in the justice system in order to fund in year. Pay awards over departmental affordability over several years have put increased pressure on budgets.

### 3. Judicial Remuneration

- 13. This section contains a summary of the key elements of judicial remuneration, reward, and benefits.

#### Pay

- 14. The Lord Chancellor holds a statutory power, under the relevant legislation, to determine the salaries of judges in England and Wales. The Lord Chancellor also sets the rate of remuneration for a number of devolved posts across Scotland and Northern Ireland. The judicial salary structure consists of eight salary groups. All salaried judicial offices holders are assigned to a salary group in the judicial salary structure. A schedule of judicial salaries (as well as fee-rates for fee-paid and sitting in retirement offices), is published each year on GOV.UK. The schedules for 2024/25 can be found at Annex C.
- 15. The unique constitutional relationship between executive and judiciary means that judicial pay is subject to a number of special principles that do not apply to other public sector workforces, most notably:
- 16. Salaried courts judges enjoy statutory salary protection, meaning that judges' salary cannot be reduced. Therefore, it is important for any uplifts to judicial pay or salary groupings to be clearly rationalised and well-evidenced, since they cannot subsequently be reversed. This protection is applied equally to tribunals judges by convention given the shared constitutional importance of independence.
- 17. Judicial pay is not linked to performance as this would cut across the principle of judicial independence. As part of this, judicial pay is not subject to incremental progression, and judges are paid at the single spot rate for their salary group. 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). This constitutional relationship also prevents the judiciary and government directly negotiating levels of pay.
- 18. Salaried judges are unique in public service in that there is a longstanding convention, which is set out in terms and conditions of appointment, that they will not return to legal practice after taking salaried office.
- 19. Some of these principles are linked to upholding the independence of the judiciary whereas others guide how we determine judicial pay. The latter should be carefully considered in the course of developing recommendations for the Major Review of the Judicial Salary Structure. Any recommendation of the SSRB should take the principles into account alongside the wider historical and legislative context. More information on this will be set out in a terms of reference for the Major Review in due course.
- 20. There is currently insufficient data to demonstrate whether awards of 7% and 6% in 2023/24 and 2024/25, among the highest across the public sector, have improved recruitment outcomes. The Major Review is the right place to examine the effect that pay interventions may have on recruitment, and establish a more comprehensive and robust evidence base for recommendations.
- 21. Table 1 provides details of previous pay awards from 2015/16.

Year	Pay award
2024/25	6%
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 1: Level of annual judicial pay award from 2015/16 to 2024/25

## Allowances

22. The Public Service Pensions and Judicial Offices Act 2022 (in addition to other legislation) provides the Lord Chancellor with the power to also determine allowances for all JOHs for whom they have the power to determine salary and fees.
23. The allowances currently paid are set out below. Allowances are not used to remunerate core judicial work but can be used among other measures to recognise specific leadership responsibilities or address specific recruitment and retention challenges. The allowances currently paid are set out below.

### London Weighting Allowance (LWA)

24. 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.
25. London Weighting Allowance has not been reviewed in recent years, nor has it been uplifted since implementation of each component. The ongoing suitability of London Weighting, alongside whether allowances for areas outside of London where there are recruitment issues, may be considered as part of the Major Review.

### Circuit Judge Leadership Allowance (CJLA)

26. Leadership posts are sometimes held by a Senior Circuit Judge and where that is the case, are rewarded through salary. Frequently though, these posts are held by a Circuit Judge, providing leadership to a court or region, and this work was previously 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 of Designated Family Judge, Designated Civil Judge, Resident Judge and Senior Judge in the Court of Protection. The allowance is taxable and subject to National Insurance deductions but is non-pensionable and is payable for as long as the role is conducted. The allowance set at 4% of the salary was introduced in October 2020.
27. 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 or where they have responsibilities in respect to judges in a lower salary group. Remuneration in respect of leadership roles and responsibilities across the judiciary have been identified as an area of inquiry in the upcoming Major Review.

### Temporary Responsibility Allowance (TRA)

28. A Temporary Responsibility Allowance (TRA) was introduced in October 2022. 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 during a live recruitment exercise.
29. 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.

## Judicial Pensions

30. Pensions continue to form a significant part of the remuneration package for the judiciary. The introduction of the Judicial Pension Scheme 2022 (JPS 2022) in April 2022 formed a key part in addressing recruitment issues in the judiciary by making judicial careers more attractive. JPS 2022's main features are more generous for judges than the Judicial Pension Scheme 2015 (JPS 15) was, balancing the need to be fair with the need to be affordable in the long-term.
31. JPS 2022 returned judges to a tax-unregistered pension scheme, which is the position they were in prior to 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. This higher 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. While the 2023 Budget also abolished the Lifetime Allowance, JPS 22 provides security against its impact on the judiciary, and future recruitment, and should it be reintroduced in the future.
32. There is 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 compensation for lump sum commutation taxation through the Judicial Service Award (able to be up to 35.7% of the pension). Taxation on commutation lump sums remain in place for registered pension arrangements.
33. 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 employee contribution rate for JPS 2022 is a uniform contribution rate of 4.26%. The recent valuation of the judicial pension scheme set the employer contribution at 62.3%, a rise of nearly 10%. Collectively, this represents a significant investment in the judiciary.
34. 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 - JPS 15, the Judicial Pension Scheme 1993 (JUPRA) and the Fee Paid Judicial Pension Scheme 2017 (FPJPS) - were closed for future accrual. 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 implementation of the McCloud remedy has seen over 95% of judges in scope of it choose to return to JUPRA or FPJPS in relation to the relevant period of service.
35. It is difficult to evidence the pension as a specific driver to seeking judicial office, though the Judicial Attitude Survey 2022 indicates that it is an important draw to those interested in fee-paid office (65% indicated that the pension they receive for their part-time judicial work is an important aspect of the job for them). Of those salaried judges thinking of leaving the judiciary, 73% indicate that a reduction in pension benefits would be key to them doing this. With the implementation of JPS 22, and the delivery of the McCloud remedy, judicial pension reform has addressed previous issues. Pension arrangements as they now stand remain important to the judiciary, and any significant changes would likely to be fiercely resisted and impact judicial morale negatively.

## Other Expenses and Benefits

36. Judges are entitled to travel and subsistence costs relating to official judicial business. Where an overnight stay is necessary, judges can claim for the cost of a hotel, as well as a subsistence allowance and a small amount for personal incidental expenditure.
37. Salaried judges are entitled to reasonable relocation costs upon promotion or transfer as a



result of business need, particularly where their place of official business is beyond reasonable travelling distance. Judges whose new location is within daily travelling distance but is further than previous distances travelled to their hearing centre may be entitled to an excess fares allowance. Relocation costs and excess fares allowances provide a useful mechanism to aid flexible deployment of judges between regions in response to demand.

38. Judicial Lodgings can be used by the senior judiciary, principally High Court Judges and the Court of Appeal, when sitting on Circuit. They serve an important purpose in providing safe and secure accommodation for the judiciary when they are working away from home. Judges staying at Judicial Lodgings are entitled to a weekly lodgings allowance designed to cover meals and housekeeping.
39. Fee-paid judicial office holders may be entitled to a Cancellation Compensation Payment (CCP) if a sitting is cancelled at short notice by HMCTS and no alternative judicial work has been offered.
40. Judges have access to free eyecare vouchers, cycle to work scheme, salary-sacrifice childcare vouchers (though this is now for existing members only as it has now been withdrawn), official stationery, and newly appointed Recorders are entitled to receive court dress on appointment. These policies are all owned and operated by the Judicial Office.

## 4. Judicial Resourcing Strategy

41. One factor contributing to the effective administration of justice is having a properly resourced judiciary. To meet demand and reduce backlogs, the government is focused on recruiting and retaining high quality legal professionals to judicial office in the courts and the tribunals. However, an effective justice system requires strategic investment across a number of areas, as set out in chapter 6.

### Annual recruitment programmes

42. To ensure judicial capacity meets demand on the justice system in the shorter term and retains the flexibility to adapt to variations in the longer term, the approach to recruitment programmes is a regular, rolling programme of recruitment exercises for the key salaried offices. This approach also looks to replenish the pool of fee paid offices from which we recruit salaried judges.
43. Annual recruitment programmes are determined with reference to supply and demand modelling, which takes account of trends in judicial departures as well as changes to demand. Demand can be affected by several factors. These can be driven from within MoJ, such as HMCTS reforms resulting in more efficient use of judicial time, or externally, such as policy changes made by other government departments that can add to or reduce the type or volume of work in a particular jurisdiction. HMCTS also draws on local intelligence to take account of geographical variations. To react to changes in demand, recruitment planning remains dynamic, with changes made ‘in year’ where needed.
44. We set out below evidence to explain the latest picture on annual recruitment and specific recruitment exercises. Analysing the key factors in successful recruitment and the link between recruitment and the impacts on productivity of the courts and tribunals to manage caseload is complex. As such, national level shortfalls against the vacancy request do not show the regional, jurisdiction or even court centre variations. These selection shortfalls can be exacerbated in the deployment (post-selection) stage when candidates may decline offers of appointment due to the specific location or jurisdiction being unsuitable.
45. The evidence of the impacts on case disposals (and therefore outstanding caseloads – see *Court Recovery*, chapter 6) from gaps in salaried judge capacity is also complex and can be difficult to quantify. Sitting higher numbers of fee-paid judges or sitting at higher average levels may mitigate salaried judge shortfalls but this is nuanced by the impacts on disposals of cases that require judge continuity, particular judicial experience or specific authorisations (or tickets), which more salaried judges may have. Additionally, shortfalls in salaried judge recruitment may have an impact on the workload of local leadership judges, with a greater number of fee-paid judges to support. This annual review evidence cannot adequately address the analysis of these factors, but it may be helpful for the SSRB to consider that the evidence provided is not the complete picture. We can consider this further as part of the evidence to support the Major Review.
46. High volume recruitment has continued, with in the region of 850 to 1000 selections made each year since 2018/19. The 24/25 programme is expected to be at a similar level.

	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24
Number of exercises reporting in year	35	30	22	26	28	23	35	35	31	36	35
Total selections made in year	806	312	340	290	749	1031	979	869	1244	1094	867

Table 2: Number of exercises reporting in a year compared to total selections

## Challenges to recruitment

47. Recruitment for many salaried judicial offices is healthy, and the headcount (at 1 April 2024) for key judicial offices including Circuit, District, Employment and First-tier Tribunal Judge, has increased from 2023. However, some salaried offices have continued to be more difficult to recruit to.

### The District Bench

48. District Judge (salary group 7) recruitment is persistently challenging, and we are still experiencing shortfalls. As a result, salaried capacity on the District bench is a source of concern. As set out in MoJ's 2024 SSRB evidence, the latest District Judge recruitment data shows shortfalls ranging from 33 to 63 in the last 6 recruitment rounds, each for around 100 vacancies. The most acute shortfalls are concentrated in London and the South East. We do not yet have evidence to demonstrate the impact of awards of 7% and 6% in 2023/24 and 2024/25 will have on this recruitment.
49. The most recent concluded District Judge recruitment round commenced in September 2023, following considerable activity by the judiciary, JAC and MoJ to promote the office and encourage applications. This included enhanced outreach, updated JAC guidance on the application process, regional events hosted by presiding judges, new case studies, and more information highlighting flexible working arrangements and the total remuneration package.
50. Anecdotal evidence from previous exercises indicated that uncertainty of location of deployment was a deterrent to some candidates. In response, regions with higher number of vacancies were identified on the JAC information pages and candidates shortlisted were asked for their preferred location down to court cluster level.
51. Despite higher than anticipated levels of interest (291 applicants, 23% more than the 2022/23 exercise), there was a significant shortfall at the interview stage. JAC were only able to recommend 51 candidates for a vacancy of 100. Deployment of successful candidates is ongoing but it is expected that, as per previous exercises, recruitment to London and the South East will have been most challenging.
52. Fee-paid judges continue to help bridge some of the gaps caused by salaried shortfalls. However, some cases require experienced salaried judges, due to their complexity or need for continuity. In areas with salaried capacity constraints, there are fewer District Judges to share a greater burden of management, administrative and training work.
53. To address the regional, and in some areas localised, nature of recruitment shortfalls, we are considering ways in which to encourage applications to locations where there are known recruitment and capacity issues. The next District Judge exercise, which launched in November 2024, is for London and the South East vacancies only, to prioritise recruitment where it is most needed.
54. JAC's recommendations are expected from December 2025. The trial of this approach will indicate whether regional recruitment for District Judges, with greater certainty of location and targeted outreach, will improve outcomes.

### Other Court positions:

55. We have seen improvements in recruitment outcomes to key offices, with the High Court remaining at full complement. A strong field saw additional judges appointed from the 2022/23 Circuit Judge exercise, filling all vacancies in civil and family, albeit some vacancies remained in crime in London and the South East. Deployment is not yet concluded but we expect to be carrying some vacancies in crime, but not civil and family, following the 2023/24 exercise, which resulted in 42 recommendations for 52 vacancies.
56. The other court judge in salary group 7, District Judges (Magistrates' Court), is a smaller

bench. Recruitment is at a lower level (averaging 25 vacancies) and biennial rather than annual. The shortfalls in the last 3 exercises have ranged from 6 to 8. The 2024/25 exercise for a vacancy request of 30 is expected to report in December 2024.

### **The Tribunals**

57. Last year's evidence flagged emerging recruitment problems with Tribunal offices in salary group 7, which includes Employment Judges and Judges of the First-tier Tribunal. This remains a concern as the Tribunals are a particular focus for recruitment in the context of an expected increase in demand in some chambers as a result of new government policies and legislation, for example, irregular migration, employment rights and property and housing reforms. In preparation, additional recruitment (through either a larger vacancy request or additional exercises) has been commenced in 2024/25 for the Property Chamber and is being planned for 2025/26 across the First tier and the Employment Tribunals.
58. The latest salaried recruitment to conclude to the First Tier Tribunal which launched in February 2023 resulted in a shortfall: 47 judges were recommended against a vacancy request for 70. Shortfalls have occurred for salaried Employment Tribunal judges, with a shortfall of 4 against 25 vacancies in 2020/21. This rose to 15 in 2022/23 and 30 in 2023/24, where there were 50 vacancies to fill each year, with challenges in specific areas. London and the South East remain difficult to fill, and specific locations have also been challenging, like Birmingham (West Midlands).

### **Regional variations in recruitment outcomes**

59. There are regions where judicial roles are more challenging to fill and capacity issues are not felt evenly across all regions, with the most acute issues being felt in London and the South East. Recruitment exercises for Circuit Judge, District Judge and Employment Tribunal Judge have all had difficulties filling vacancies in these locations.
60. Given the regional variations in recruitment outcomes, a general pay uplift, applying across all judges in the salary group, may not be sufficiently targeted to help solve current recruitment challenges. As the SSRB noted in their last report, this may be more appropriately addressed as part of the Major Review.

### **Attractiveness of salaried office**

61. Recruitment for fee-paid offices has generally been very positive and we have a healthy cohort of Recorders, Deputy District Judges and Deputy District Judges (MC). The latest fee-paid first tier and Employment Judge exercise to conclude (which launched in March 2023) identified 230 selectable candidates, 30 over the 200 sought.
62. In 2023 MOJ commissioned qualitative social research from Dr Sophie Turenne at the Faculty of Law, Cambridge University in order to gain a better understanding of factors affecting fee-paid judges' decisions and motivation to apply to salaried office. We expect to use the findings of this report to better understand how to support an increase in salaried recruitment, and as evidence for the SSRB to consider the role of pay in doing so in the Major Review.

### **Candidate quality**

63. The 2024 SSRB report expressed concern about "where the applicant pool [for salaried office] may be weakening over time", particularly for District and Circuit Judges. We are mindful of the limitations of JAC's applicant grading data. As the JAC notes, candidate bandings are an internal assessment measure of a candidate's performance in a particular selection exercise, and not an indication of performance upon appointment.
64. However, we have considered this data further. While we identified a broad downward trend in the percentage of candidates assessed A/B (outstanding/strong) at selection day, there are variations across the years, particularly for Circuit Judge recruitment. When looking at the number of A/B candidates (as opposed to the percentage) at selection day, this also varies

across years.

65. We have also considered the data in the context of wider factors, such as the frequency of recruitment exercises and the size of vacancy requests, and size of the applicant pool. All these factors may impact the strength of the applicant pool across years. This suggests a more complex picture with no clear pattern. As such, we would emphasise caution in relying on this data.

## **Retention**

66. Judicial Office data shows that 94 salaried judges in England and Wales left the judiciary in 2023/24. Of these, 95% were for the reason of retirement. The average age of retirement was 66 for salaried courts' and tribunals' judges.
67. 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 fee-paid judges moving to salaried roles.
68. The vacancy requests set for each judge type are therefore more than maintaining headcount based on departures. They are based on an assessment of business need (which may be increasing based upon new work flowing to the courts and tribunals or increased case receipts); actual and expected leavers, whether through retirement or promotion (or just departures of fee paid judges); and to make up shortfalls from previous recruitment.

## **Mandatory retirement age**

69. Unlike most occupations, the judiciary is unusual in having 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.
70. As most individuals leaving the judiciary do so for reasons of retirement, we expected that increasing the MRA would 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. It may also increase the attractiveness of judicial appointments (for example by enabling lawyers to apply for judicial positions later in their legal careers).
71. Concerns were 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 during the passage of legislation through parliament.
72. MoJ is currently undertaking a high-level assessment of the impact of the increased MRA on recruitment, retention and diversity, following publication of the 2023 and 2024 Judicial Diversity Statistics, which now includes detail on JOHs aged 70 and above. It is too early to provide any detailed analysis, but the statistics suggest that JOHs are taking advantage of the option to work for longer. The published statistics show that in 2023, 205 judges (3.9% of the total) were aged 70 and above and this increased to 269 judges (5% of the total) in 2024.

## **Sitting in retirement**

73. A new sitting in retirement non-statutory policy commenced in October 2022, following the Public Service Pensions and Judicial Offices Act 2022. It allows relevant JOHs, including fee-paid judges, to retire from judicial office, draw their judicial pension and, where there is a business need, to be appointed to a fee-paid sitting in retirement office without a JAC selection exercise. It also allows them to 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. There is no guarantee of sitting days or an expectation that the judge will sit at a certain level.

74. The new statutory appointment power expressly allows an appointment if *“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 essentially means that appointments can only be made when there is a demonstrable business need.
75. MoJ undertakes an assessment every six months or so of the national business need which indicates in which jurisdictions and regions applications to sit in retirement may be supported. In June 2024, business need was identified in some areas, for example to boost capacity in the Immigration and Asylum Chamber and on the District Bench (Civil) particularly in London & South East, Midlands and North East.
76. The operation of the policy between October 2022 and September 2023 was reviewed and findings shared with HMCTS operational colleagues and the judiciary from March 2024. MoJ concluded that the sitting in retirement policy has met its aim to remove direct part-time worker discrimination against fee-paid judges who did not previously have a formal route to sit in retirement.
77. The numbers appointed and sitting levels recorded show that sitting in retirement helps increase capacity by using retired judges in jurisdictions where there is a capacity deficit. Sitting levels of judges sitting in retirement vary across jurisdictions but the levels largely align with the jurisdiction’s size and the business need within it as set out in the national assessment. The review also confirmed that, following the increase in the mandatory retirement age, sitting in retirement is generally used as a resourcing tool which is subsidiary to planned judicial recruitment and flexible deployment.
78. The 2024 Judicial Diversity Statistics includes numbers of office holders sitting in retirement, but their diversity characteristics are deliberately not included in the statistics of overall judicial diversity. As of 1 April 2024, there were 270 judges authorised to sit in retirement, an 11% increase on the figure of 244 in 2023. The average age of those appointed to sit in retirement in the first year of the policy was 69.

## 5. Judicial Diversity

79. The Lord Chancellor and the Lady Chief Justice of England and Wales have statutory duties to take steps they consider necessary to encourage judicial diversity. In recent years MoJ has worked closely with members of the Judicial Diversity Forum (JDF), which includes the judiciary, the JAC, the legal professions and the Legal Services Board (LSB). The JDF's objective is to resolve issues of common concern, and coordinate agreed activities aimed at increasing diversity in the judiciary. The JDF provides strategic direction in the areas of:
- a) ensuring an inclusive and supportive culture in the judiciary and legal professions.
  - b) addressing barriers to successful applications and eliminating any actual barriers to appointments as operated.
  - c) eliminate structural barriers in access by different professional groups to the judiciary; and
  - d) address barriers to senior legal and senior judicial positions for women, people from ethnic minority backgrounds and those with disabilities (and other groups as agreed).
80. In July 2024, the fifth annual 'Diversity of the Judiciary' statistical report was published, which brought together data from JDF members. The report is central to understanding diversity in the legal professions, those applying for judicial appointments and in the judiciary, and informs the JDF's actions to improve judicial diversity. This year's report included more detailed analysis of ethnicity data to highlight differences within the high-level ethnic groups which have previously been reported on.
81. While significant work is required to improve representation in the judiciary, particularly at more senior roles, there continues to be progress. 50% of all (salaried and fee-paid) new entrants to the judiciary were women and 13% of all (salaried and fee-paid) new entrants to the judiciary were from an ethnic minority background in 2023-2024. Other key points from the 2024 report include:
- a) Sex: As of 1 April 2024, 43% of all judges were women, with 38% of all court judges and 53% of all tribunal judges being women. The proportion of court judges who are women has increased by 14 percentage points from 24% in 2014. The proportion of tribunal judges who are women increased by 10 percentage points over the same period.
  - b) Ethnicity: Across all legal exercises in 2023-2024, ethnic minority individuals accounted for 31% (1995) of applicants, and for 16% (111) of those recommended for appointment. As of 1 April 2024, 11% of all judges were from ethnic minority groups (10% in courts and 13% in tribunals). Between 2014 and 2024, the proportion of court and tribunal judges from an ethnic minority group has increased by 4 percentage points in each group.
  - c) Age: As of 1 April 2024, over two-thirds (69%) of judges were aged 50 and over – with similar proportions in the courts (68%) and tribunals (71%). 5% of court judges and 6% of tribunal judges were aged 70 and over.
82. Representation of women and ethnic minority judges was higher in the tribunals than in the courts. Improvement in the diversity of senior court judicial posts continues to be slow, with 60% of Heads of Division and 74% of Court of Appeal judges being white men with barrister backgrounds. As judicial careers span many years, it takes time for new diverse appointments to make an impact, but we remain committed to increasing the diversity of the judiciary, including those in senior judicial roles.
83. MoJ continued to support the JDF's Pre-Application Judicial Education programme (PAJE), aimed at mid-career lawyers seeking information on a judicial career. 874 participants have attended judge-facilitated discussion group courses since 2019; 5198 of those participated in 2023. Evidence from the 2022-2023 PAJE evaluation was encouraging, with analysis of candidates who had attended the course from 2019 to 2022 showing that:

- a) For the 608 participants who completed PAJE at least a year ago, 68% (414) have since applied for a judicial role. 20% (124) of those have been recommended for appointment.
- b) Overall, Asian and black participants have been shortlisted and appointed to judicial office at higher rates than those who did not attend PAJE over the last three years.
- c) Black PAJE participants continue to be appointed at a rate more than double in comparison to the wider pool of black candidates who have not completed PAJE and have applied in the last three years.

## **Salaried Part-time Working**

- 84. The Salaried Part-Time Working (SPTW) policy supports the provision of a flexible working environment and a more diverse judiciary. It enables judicial office holders to achieve a better balance between their working and non-working lives. It is a means of enabling those who cannot, or choose not to, commit to a full-time judicial post, to either apply for a salaried judicial office, or continue in their current judicial role.
- 85. Based on this year's 'Diversity of the Judiciary' statistics, as at 1 April 2024, 43% of salaried tribunal judges and 17% of salaried court judges work part-time. Overall, 475 judges work a SPTW pattern, an increase of 145 since 2021. The highest percentage of salaried tribunal judges who work part-time are Employment Judges at 56%. Of salaried court judges, District Judges (County) are the group with the highest percentage of part-time judges at 29%.
- 86. In the 2022 Judicial Attitude 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 compulsory 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.



## 6. Wider Context

### Court Recovery

#### Criminal Court

87. The Crown Court outstanding caseload remains one of the biggest challenges facing the Criminal Justice System – refer to chapter 4 for more information on resourcing. The caseload has risen substantially over recent years as a result of the pandemic and, more recently, an increase in the number of cases coming before the criminal courts.
88. The following section sets out the current caseload position in the Crown Court and the steps being taken to increase capacity. Alongside this, we have invested consistently in the recruitment of judges. As a result of these efforts, judicial capacity is not the primary capacity constraint facing the criminal courts.
89. The latest published data shows that as of September 2024, the outstanding caseload stood at 73,105. Prior to the pandemic and the disruptive action of the Criminal Bar Association, the caseload stood around c.38,000 at the end of December 2019. We are taking a range of actions to tackle the outstanding caseload, set out below, through increasing the capacity available to hear cases and taking steps to better manage the demand in our criminal courts.
90. Despite a challenging fiscal position, funding was found to deliver an additional 500 Crown Court sitting days this financial year to ensure the system has more capacity to hear cases. As a result, 108,500 sitting days have been funded at the Crown Court for 24/25 - more than in six out of the last seven years. Whilst action has been required to bring sitting day levels back within budget for this financial year, the impact is being managed closely to minimise disruption to the hearing of cases. The Lord Chancellor is committed to working closely with the Lady Chief Justice and Senior President of Tribunals to agree the funding for the next financial year.
91. There are a range of costs associated with hearing cases besides judicial salaries and fees, which increase with a rise in sitting days. These include staff costs and, in the criminal courts, juror expenses and interpretation services. In addition to costs associated with sitting days, there are also costs arising from maintaining the physical and digital estate of the court service (see condition of the HMCTS estate at paragraph 109).
92. With regards to the physical estate, to ensure we have sufficient capacity to hear cases, we continue to use 16 Nightingale Courtrooms across seven venues across all jurisdictions.
93. Most recently, in efforts to reduce the number of cases in the Crown Court, we have announced plans to allow magistrates' courts to hand down custodial sentences of up to 12 months for a single triable either way offence – doubling their current powers. Allowing magistrates to deal with more cases will save up to 2,000 sitting days in the Crown Court, so that time can be reserved for the more serious and complex cases. The Government announced the Independent Review of the Criminal Courts on 12 December which is being led by Sir Brian Leveson. It will consider the merits of longer-term reform and, with agreement of the Lady Chief Justice, review the efficiency and timeliness of processes.
94. In the magistrates' courts, the outstanding caseload has also increased, as a result of more cases entering the criminal courts. The latest published data shows that as of September 2024 there were 333,349 outstanding cases at the magistrates' court, although this remains well below the pandemic peak of 362,309 cases in June 2020.
95. Cases continue to be dealt with swiftly at the magistrates' court. The average number of days from charge to completion was 68 days in Q3 2024. Although above pre-pandemic timeliness levels (54 days in Q4 2019), it is a marked improvement on the time taken during the pandemic (104 days in Q4 2020).

## **Family Court**

96. The number of High Court Family Division sitting days has increased by 23% and County Court Family Law sittings by 12% since 2019. In addition, the flexibility for judges to sit virtually has been provided (where appropriate) across regional boundaries, enabling available capacity to be targeted where it is most needed. However, the family court continues to face significant pressure following a peak in outstanding public and private law cases during the pandemic.
97. Partners across the system are working together to drive forward a range of measures to improve timeliness and to reduce the outstanding caseload in both public and private law. In March 2024, the Family Justice Board, which includes the President of the Family Division as an observer, agreed system wide targets for reducing delay in 24/25. Within these targets, there is a clear focus on closing the longest running cases and increasing the proportion of public law cases concluded within the statutory 26-week timeframe.
98. The latest available data (up to September 2024) shows some improvement nationally for private family law. The number of open cases has continued to fall - from 42,385 in March 2024 to 40,558 at the end of August. During August, the average case duration for private law cases was 38.5 weeks, compared to 42.2 weeks in March. When considering public law performance, there has not been much change in the number of open cases when comparing March (10,694) to August 2024 (10,778) or with case duration, which was 37.7 weeks in March and 34.0 weeks during August. However, there is significant regional variation between Designated Family Judge areas, with London facing particular challenges.
99. To reduce the number of cases coming to court, in March 2021, the Ministry of Justice launched the Family Mediation Voucher Scheme. The scheme provides up to £500 towards the cost of mediation to eligible families to help resolve disputes outside of court where this is safe and appropriate. Since launch over £15m of vouchers have helped over 36,000 separating parents to access mediation. Further work to support separating families to resolve their issues earlier will be set out in due course.
100. There are a range of pilots across the system to increase efficiency and ensure cases are ready to be heard when they reach court. This includes the private law Pathfinder pilot which was launched in Dorset and North Wales in 2022 and expanded into South East Wales and Birmingham court area in Spring of this year. Courts operating the Pathfinder model are making very positive progress in addressing delays, with Dorset and North Wales demonstrating significant progress in reducing delays across both private and public law.

## **Civil Court**

101. The civil courts remain under pressure. Whilst most claims (95%) do not require a hearing, for those cases that do, in July to September 2024 it took an average of 50.7 weeks between a small claim being issued and the claim going to trial. For multi/fast track claims, it took on average 76.8 weeks to reach a trial. There is regional variation within this metric, with longer waiting times experienced in London and the South East.
102. The civil jurisdiction uses Deputy District Judges extensively, as well as District Judges. Judges in the county courts often sit across both civil and family cases and judicial capacity is a key enabler for improving performance. The issues with salaried judicial capacity described above mean this is a particular issue in London and the South East.
103. The Ministry of Justice is working closely with the senior judiciary to improve performance across the jurisdiction by reducing demand, increasing capacity and introducing efficiencies.
104. To address the challenges in London and the South East we are making use of a National and Virtual Regional Pool which enables judges to hear cases outside their regional circuit, maximising judicial capacity in the county court. This includes, both in person (with judges travelling to London and the South East), and virtually, where cases are dealt with remotely by judges in other regions.

105. Demand is being reduced by encouraging pre-action dispute resolution and the increased use of mediation. For example, the Official Injury Claim service – a pre-action dispute resolution portal - has handled over 897,000 low value road traffic cases since its launch on 31 May 2021 and 30 September 2024. Whilst HMCTS' Small Claims Mediation Service has conducted over 21,000 mediations over the 12 months to June 24, with a 50% settlement rate.
106. Efficiencies are being introduced through the delivery of the £1.3 billion HMCTS Reform Programme, where over £50m has been invested in civil justice. HMCTS Reform is already driving performance improvements. For example, through the new Online Civil Money Claims service which enables a case to be ready for hearing three times faster than legacy systems (9 weeks compared to 27 weeks). The new digital Damages Claims Service has also increased efficiencies. The service has achieved an average time of just under 13 weeks from claim issue to a directions order, compared to 37 weeks on paper in 2023/24.

### **Tribunals**

107. The Tribunals system, comprising the First-tier Tribunal, Upper Tribunal, the Employment Tribunals and the Employment Appeal Tribunal, continues to face a challenging environment. We have seen an increase in the volumes of appeals, claims and references to the tribunals over the last three years, particularly in Immigration, Social Security and Special Educational Needs. As a result, the outstanding caseload has increased across most tribunal jurisdictions over that period. Between March 2021 and March 2024, the volume of outstanding cases increased:
  - a. In Social Security appeals by 76%;
  - b. In Immigration by 105%;
  - c. In Special Educational Needs and Disability by 209%; and
  - d. In Employment (single claims) decreased by 22%.
108. We are taking steps to increase capacity through the recruitment of additional judicial office holders, the deployment of legal officers and other measures to improve efficiency, include, for example, the introduction by the judiciary of a virtual region in the Employment Tribunals.
109. We continue to work with other government departments to look for ways to reduce demand, boost capacity and improve efficiency and effectiveness of the Tribunals. However, we expect that the current legislative programme will increase pressures on tribunal capacity. They will require a significant increase in recruitment to judicial office over the next three to five years. This includes legislation to:
  - a. enhance workplace rights, through the Employment Rights Bill;
  - b. provide for greater judicial oversight of those detained under the Mental Health Act, through the Mental Health Reform Bill;
  - c. strengthen tenants' rights, through the Renters Rights Bill, as well as enhancing the rights of leaseholders under the Freehold and Leasehold Reform Act which received Royal Assent just before the General Election.
110. There are also exceptional demand pressures in the Immigration and Asylum Chamber of the First Tier Tribunal, driven primarily by the Home Office's asylum backlog clearance.

### **HMCTS Reform**

111. Since 2016, we've been modernising our justice system to make it more accessible, and efficient, with the programme concluding in March 2025.
112. Digital services are now live for various cases, including immigration, divorce, and civil claims, and the Common Platform is used in all criminal courts in England and Wales. We've

streamlined the court estate, centralised administration into five hubs, and implemented new digital tools.

113. These reforms have had a significant impact, especially for the vulnerable in our society, improving productivity and access to justice. For the judiciary, we've created a modern court system with upgraded IT and revised procedures, allowing judges to focus on their primary role of hearing cases. It means that judges now routinely use more IT in their day-to-day business and that for many jurisdictions cases are handled digitally rather than with paper bundles.
114. However, the journey hasn't been easy. Completing a programme of this scale in a live operational environment presented challenges. We've learned valuable lessons and are now focused on maintaining system quality and performance. The MoJ, HMCTS and the judiciary will continue to work towards maximising system productivity building on the improvements of the this programme.
115. Throughout our reform journey, we have engaged with the judiciary and will continue to gather feedback as we improve and build upon the established foundations. Our ambition is to continue to improve the systems which have been implemented and to continue digitalising those services which currently remain paper-based.

## **Condition of HMCTS Estates**

116. The 2022 Judicial Attitudes Survey found a majority of District Judges (Mags), Circuit Judges and close to a majority of High Court Judges and District Judges (County) said the physical quality of their court building was poor or unacceptable. And a majority of all salaried judges said the maintenance at their court or tribunal was poor or unacceptable.
117. HMCTS has a facilities management contract with Equans for undertaking routine court maintenance which has delivered over 30,000 routine maintenance jobs across the court and tribunal estate from April to October 2024.
118. Capital maintenance funding is prioritised to sites that need it most to ensure that buildings are safe, secure, meet statutory requirements and able to ensure the continuity of court and tribunal business for the longer term. HMCTS has a range of capital estate projects planned for financial year 2024/25, including 31 roof, 16 lift and 15 boiler replacements. In addition to this we will deliver 16 planned reconfigurations, 14 air conditioning installations and 34 security related projects.
119. Last year HMCTS completed the fit out of new premises for the Leeds Employment Tribunal and this year added four new hearing rooms for the Leeds Business and Property Court. Forward court replacement projects (replacing court buildings with a new build) include replacing the ageing Mayor's and City of London Court, and the City of London Magistrates' Court, with a purpose-built, 18-room court, providing ten extra courtrooms and modern facilities
120. HMCTS will continue to work closely with local judiciary and operational colleagues to identify and address the areas of the highest maintenance priority.

## **Judicial HR Support**

121. The Judicial Human Resources team continues to provide support across the judiciary. This includes providing strategy and policy advice and wellbeing and welfare support; realising the objectives within the Judicial Health and Wellbeing Strategy through the delivery of actions as set out in the wellbeing action plan. This also includes supporting the delivery of the diversity and inclusion strategy, managing a range of diversity and inclusion outreach initiatives. Additionally insightful planning of resources to shape the size, skills and capabilities of the judiciary.

122. Judicial office holders also have access to a variety of other support, designed to address their individual circumstances. These include provisions on parental leave, compassionate leave, sickness absence, part-time working, and career break policies, which offer JOHs flexibility throughout their careers. This is supported by a dedicated reasonable adjustments policy to support JOHs with additional needs in their roles.
123. JOHs also receive a package of benefits as set out in paragraphs 36-40.
124. 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).
125. Table 3 below provides a list of the core welfare support services available to the judiciary.

<b>Health and wellbeing provision</b>	<b>Detail</b>
Judicial Helpline	A 24-hour telephone helpline accessible to all judicial office holders. The helpline provides confidential access to a qualified professional.
Counselling sessions	Judicial office holders can access up to six free counselling sessions per contractual year.
Bereavement support	Guidance to support judicial office holders experiencing bereavement.
Professional support conversations	An annual confidential conversation with a qualified professional. The service is provided to judges working in Crime, Family, the reserved Immigration and Asylum Chamber with the aim of providing an opportunity for judges to discuss any impact, including cumulatively, that the cases that they preside over may be having on their wellbeing.
Critical incident support	Welfare support for judiciary following a critical incident, for example, an assault on a member(s) of the judiciary, while they are carrying out their judicial role or any traumatic incident which arises because of their judicial office.
Occupational Health Services	Access to the occupational health (OH) provision. OH, consultations for the judiciary are conducted by consultant occupational health physicians.
Stress support tool	The stress support tool is voluntary. It can be used by judicial office holders to identify the impact and causes of stress and to support meaningful conversations between a judicial office holder and their judicial leader.
Pre-retirement courses	The course is an interactive one-day event, aimed at helping participants plan for a positive and fulfilled life in retirement.

Carers support	Guidance outlining the support available to Judicial office holders who have caring responsibilities.
Harassment on social media – support	Judicial HR support judicial office holders in instances where material posted on websites and or social media platforms is either threatening, defamatory, discriminatory or constitutes harassment.

Table 3: core welfare support services available to the judiciary

## Judicial Attitudes Survey

126. 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.<sup>1</sup> It is the fourth survey, with previous surveys taking place in 2014, 2016 and 2020.
127. The results of the next Judicial Attitudes Survey are expected to be published in 2025. We anticipate it will prove useful in providing qualitative evidence for the upcoming Major Review of the Judicial Salary Structure.

## Sitting expectations for fee-paid judges

128. 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 or 30 days of judicial business each year. Older terms and conditions may refer to a guarantee of 15 sitting days, or an expectation of 15 or 20 sitting or judicial business days, and some 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.
129. MoJ continues to explore whether the availability of high sitting levels among fee-paid judges may be a contributing factor in the relative attractiveness of salaried judicial office, and whether the minimum level of sittings might make a fee-paid judicial role less attractive to employed legal professionals, who are the future pipeline of salaried office and can help improve the diversity of the judiciary.

## Non-Legal Members Fees Review

130. In February 2021 the then Lord Chancellor commissioned the SSRB to undertake a review of fees for Non-Legal Members (NLMs). The structure of 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 – though NLMs have received annual pay awards in line with the wider judiciary during this time. 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 £227.68 for Employment Tribunal lay members to £593.16 for a medical member in the Mental Health Tribunal.
131. In March 2023, the SSRB submitted their report on NLM fees setting out their recommendations. The then Lord Chancellor agreed with the SSRB that there was 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.
132. There are no immediate changes to the NLM fee structure following publication of the SSRB's report on NLM fees due to the ongoing work on 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**

133. Additional fees are currently paid for activities undertaken by fee-paid JOHs in tribunals – 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.
134. To bring greater consistency to the fee arrangements across courts and tribunals, in July 2022, the then Lord Chancellor decided to review additional fees. The review examined whether the current arrangements are fit for purpose, with an aim to develop a more consistent approach for remunerating fee-paid JOHs for non-sitting activities.
135. 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 to confirm that the review is ongoing, provided clarification on the proposed policy, and that no decision as of yet had been taken on the reform of additional fees.
136. 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 senior judiciary have developed Working Practices Guidance which considers the total time associated with hearing cases by jurisdiction, including for preparation and writing up, where applicable. A consultation with the judiciary on the guidance commenced on 11 November 2024, it is expected to close on 13 January 2025.
137. Given the potential implications to the pay policy of the Working Practices Guidance, the Lord Chancellor will make a final decision on the reform of additional fees following the conclusion of this work.

# 7. Affordability and Economic Context

## Judicial Pay Costs

138. Judicial remuneration amounted to £678m in 2023/24. The funding requirement rises to approximately £759m in 2024/25 due to the implemented pay increase and changes to sitting activity. Of these judicial costs in 2024/25, 68% relate to salaried judiciary and the remaining 32% to fee-paid judiciary for specific sitting days and other commitments such as training and statement writing.
139. 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.
140. Table 4 below provides a breakdown of judicial pay costs for 2023/24.

	2023-24 (£)			
<i>figures in £000's</i>	Senior Judiciary	Other Judiciary	Fee Paid	Total
<b>Wages &amp; Salaries</b>	158,821	120,249	144,285	423,355
<b>Social Security Costs</b>	21,447	16,338	15,099	52,884
<b>Employers Pensions</b>	81,320	62,868	57,747	201,935
<b>Total Payroll Costs of the Judiciary</b>	261,588	199,455	217,131	678,174

Table 4 judicial pay costs for 2023/24

## Macroeconomic Context

141. The rate of UK economic growth since the global financial crisis (GFC) of 2008 has been substantially lower than in previous decades. Annual real productivity growth (GDP per hour worked) fell by around 1.5 percentage points, from an average of 2.1% in the decade prior to the GFC, to 0.6% between 2010 and 2019. Higher productivity enables higher wages and living standards. Only sustained productivity growth over the medium-term can deliver sustainable long-run economic growth and real-terms wage rises.
142. The government is fixing the foundations of the economy and beginning a decade of national renewal. Through the growth mission, the government is restoring stability, increasing investment, and reforming the economy to drive up prosperity and living standards across the UK.
143. The UK economy has faced unprecedented shocks, including the pandemic and Russia's illegal invasion of Ukraine, which contributed to the largest increase in inflation in almost 50 years. Low and stable price inflation is an essential element of a stable macroeconomic environment, and a pre-requisite for sustainable economic growth and improving living standards. Inflation is normalising after these shocks and is expected to remain close to the 2% target throughout the OBR's forecast period, and average 2.6% across 2025/26.
144. The UK economy is exposed to risks from geopolitical tensions, shifts in global trade, global spillovers from declining demand in China, and any sudden increases in financial market volatility which could tighten financial conditions. Overall, risks are elevated and skewed to the downside.

## Labour Market Context

145. Settlement data are the most comparable data to Pay Review Body decisions, as they are a



direct measure of consolidated pay awards, and are not directly affected by other factors such as changes to working hours or changes to the composition of employment. According to Brightmine, median settlements across the economy were at 4.8% in 2024 Q2, and 4.0% in 2024 Q3. The OBR's forecast is for average earnings growth to average 4.5% across 2024/25 – 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. Against both of these, the 2024/25 award for the judiciary was ahead of the wider economy.

146. Average earnings growth is forecast to moderate further over the coming months, with the OBR expecting earnings growth to fall to 3% in 2025/26. Survey evidence also points to an easing in wage growth, with Brightmine's survey showing that settlements are expected to average 3% in 2025. The Government has brought forward the pay round this year, which makes it particularly important that Pay Review Bodies consider forecasts for wage growth.

## **Affordability**

147. The MoJ's priority remains to balance the need to have a remuneration package which helps attract individuals with the right skills, knowledge and experience to take up, and remain in, judicial office, with the need to ensure value for money for taxpayers and meet increasing demands on the justice system.
148. As set out recently by the Chancellor in this year's budget and in the Economic Evidence and Financial Context section above, the current fiscal backdrop is challenging, both for the MoJ and wider Government. Thus, any recommendations must be considered against the challenging financial position that the Government is facing.
149. The department has made funding available for a 2025/26 judicial pay award of 2.8%. Pay awards above this level would be unfunded and would require further trade-offs in the MoJ's budgets. This would have a knock-on effect on efficiencies in delivery, and wider trade-offs for public service delivery.
150. An award of 2.8% would cost an additional £21.3m in 2025/26, with each 1% increment costing an additional £7.6m.

## **Major Review**

151. The Lord Chancellor shares the view of the senior judiciary and the SSRB that a Major Review of the Judicial Salary Structure is important to address persistent and longstanding issues affecting the judiciary. A Major Review allows for a more comprehensive assessment of judicial remuneration in the round than cannot be achieved through the annual review process.
152. As set out in paragraphs 14-19, judicial remuneration is subject to a number of foundational principles. This recognises the unique constitutional status of the judiciary as an independent branch of government, but also means the Lord Chancellor's ability to implement pay interventions as issues arise is limited. The independent and expert analysis that the SSRB could undertake through a Major Review provides a valuable opportunity to assess the benefits and impacts of any pay interventions, with the above constitutional principles in mind.
153. As referenced in chapter 3 (pensions), the 2018 Major Review resulted in the Government enacting fundamental pensions reform through the introduction of the Judicial Pension Scheme 2022. This significantly improved High Court Judge recruitment outcomes. The last major review also underpinned the introduction of allowances to reflect previously unremunerated leadership responsibilities (see paragraphs 26-29).
154. As set out in chapter 4 (recruitment), the judiciary is facing persistent recruitment shortfalls isolated to certain jurisdictions and geographical locations. Both of these areas could form the

focus of the next Major Review. These issues have been cited by the SSRB as rational for substantial pay rises in recent years, as has the need for a Major Review. It is the position of the MoJ that a Major Review presents the best opportunity to address them in the most effective way, delivering greater value for the taxpayer than a flat rate pay uplift that is applied equally to all salary groups.

155. The SSRB should consider the role of the upcoming Major Review in making their recommendation this year. We do not have evidence to demonstrate the impact of awards of 7% and 6% in 2023/24 and 2024/25 on the number of salary group 7 recruitment applications or final outcomes. Budgets into the next Spending Review period are extremely tight, and pressure arising from an unaffordable annual pay award may constrain the department's ability to implement recommendations from the Major Review, diminishing its long-term benefit. We have started work to finalise a Terms of Reference for the Major Review which we hope to have agreed in early 2025 and we are working closely with the SSRB to understand overall reporting timeframes.

## 8. Annexes

1. 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 2024/25



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