



JUDICIARY OF
ENGLAND AND WALES

The Lord Chief Justice's Report

2014

The Lord Chief Justice's Report 2014

Presented to Parliament Pursuant to Section 5 (1) of the
Constitutional Reform Act 2005

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Introduction by the Lord Chief Justice

Despite obvious difficulties, throughout the past year the judiciary has administered justice by carrying out its core duties and focusing on key priorities. This report, made on behalf of the Judicial Executive Board¹, will explain these matters and, it is hoped, help Parliament and Her Majesty's Government (the two other branches of the State), the legal professions, business leaders and above all the public to understand better why justice is central to our society.

It is all too easy to take for granted the contribution that justice makes to our society. Clear case law which keeps pace with business practices and effective dispute resolution underpins our economic prosperity; no modern economy can operate without such a framework. The maintenance of a just society requires not only the fair trial and appropriate punishment of those who commit crimes, but the resolution of issues that arise ever more frequently as the structures of family life change. The maintenance of democratic and accountable government requires courts to ensure that the Government deals fairly with citizens and acts within the law. In the forthcoming year, when we celebrate the 800th anniversary of *Magna Carta*, the overriding task will be to make clear the centrality of justice for the benefit of society. There will also be much else to achieve.

Over the past year the judiciary has delivered justice in England and Wales in a way which is recognised throughout the world as being at the forefront, whilst at the same time continuing to modernise its delivery. A judge's work now falls into two distinct strands; in performing each the judiciary demonstrates a deep commitment to public service.

The first and primary duty of each judge is to ensure that cases are managed and, if not resolved prior to hearing, heard and decided economically, efficiently, but above all justly, and explained by a judgment that sets out clearly the reasons for the decision.



¹ The Judicial Executive Board and the Judges' Council are two of the key governance bodies for the judiciary. For more information about the Board see <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/how-the-judiciary-is-governed/judicial-executive-board/>, and for the Judges' Council see <http://www.judiciary.gov.uk/about-the-judiciary/the-judiciary-the-government-and-the-constitution/how-the-judiciary-is-governed/judges-council/>.

Almost invariably these cases are highly demanding on the judge, and on the participants. A judge's day frequently confronts serious criminality, significant human suffering, loss and family breakdowns; it might equally involve untangling complex business transactions or ensuring the Government acts fairly according to law.

The second duty of the judiciary is to work with others to improve and enhance the way the justice system works, for the benefit of the public. The aim is to ensure that the system which underpins day-to-day case management and decision-making operates smoothly, and that changes to the system as a whole, for example by Government policy-making, work as well as possible. Judges are uniquely placed to contribute in this way; their work in this regard is hugely important, but largely unseen. It includes outreach efforts in communities to attract a diverse range of applicants to the judiciary, working with the Government to reform the administration that underpins courts and tribunals, and carrying out training for other judges. With the aim of serving the public and strengthening the rule of law this duty has become an ever-increasing part of the work of the judiciary. The judiciary has the indispensable support of the Judicial Office in this duty and in carrying out the statutory, leadership and management functions it now undertakes.

I wish to thank the judiciary, the staff of Her Majesty's Courts and Tribunals Service (HMCTS), and the staff of the Judicial Office for their substantial achievement over the past year in supporting and enhancing the delivery of justice. Their efforts are remarkable given that they have been achieved against a background of a substantial reduction in the resources made available for justice. It has, without doubt, been a very difficult year for all those involved in the courts and tribunals. The reduction in resources made available to justice, combined with rising volumes of work in some fields, has very greatly increased the pressures on both judiciary and staff. It is a tribute to them that they have so loyally sought to deliver justice speedily and to the highest standards. Although the courts and tribunals are equipped to deal with the further serious problems they will face in delivering justice in the immediate future, it is essential that proper resources are made available for this purpose, if they are to do so justly, speedily and efficiently and without unacceptable pressures on the judiciary and staff. I therefore welcome the reform programme referred to in section 7 of this report, as it is essential to the continued ability to deliver justice in a just, timely and efficient manner.

1. Criminal Justice

In spite of the fall in recorded crime², the criminal courts at each level remain busy³. The workload has increased overall but the biggest impact has been from the very substantial increase in the number of trials involving sexual offences and violence against the person⁴, which tend to occupy more court time⁵ and have fewer guilty pleas⁶. Despite an increase in court sitting days over the past two years⁷, a backlog of cases had already built up due to the unexpected increase in work and so resources have not in fact kept pace. It is against this background that the judiciary has taken a number of steps to improve the delivery of criminal justice.

Better management of magistrates' courts business

In the course of the year a review of magistrates' courts procedure, and in particular disclosure, was undertaken. This made recommendations for improvements to disclosure and other processes⁸. These improvements and cost savings will only be realised if steps are taken to ensure that the changes are embedded and implemented by all of those who use the courts. To that end new governance arrangements for the magistrates' courts have been introduced, providing direct accountability for performance to the Judicial Executive Board and strengthened judicial management of magistrates' courts business. The overriding objective is to ensure that summary cases are dealt with speedily and simply within each locality.

Codification of criminal procedure

The Criminal Procedure Rule Committee has continued to make progress towards providing a modern and efficient criminal procedure code, making criminal justice as accessible, fair and efficient as possible. A significant achievement over the year has been the modernisation and consolidation of the Criminal Practice Directions so that they are now aligned to the Criminal Procedure Rules to provide a single procedural code.

2 Latest figures from the Crime Survey England and Wales (CSEW) show there were an estimated 7.3 million incidents of crime against households and resident adults (aged 16 and over) in England and Wales for the year ending March 2014. This represents a 14% decrease compared with the previous year's survey, and is the lowest estimate since the survey began in 1981.

3 At the start of 2012/13, the Crown Court outstanding caseload was 42,123. This increased by 21% at the start of 2014/15, where the outstanding caseload was 51,101. (This data is from the September 2014 CSQ.) The work of the Court of Appeal Criminal Division is set out in its latest report published in December 2013. See <http://www.judiciary.gov.uk/publications/appeal-court-criminal-division-annualrpt-12-13/>.

4 Trial receipts for Sexual Offences have increased by 26% when comparing volumes for 2012/13 to 2013/14, and violence against the person has increased by 18% over the same period. (This data is from the September 2014 CSQ.)

5 In Q2 2014 all cases spent an average of 27 weeks in the court system (first listing to completion). For sexual offences the average time spent in the court system was 104 weeks during the same period.

6 In 2013 the guilty plea rate for all offences was 70.8%. Over the same period the guilty plea rate for sexual offences was 37.0%.

7 In 2011/12 the Crown Court sitting day allocation was 106,739, in 2012/13 it was 103,328, in 2013/14 it was 100,100 and in 2014/15 it is 106,000.

8 Magistrates' Court Disclosure Review, May 2014. See <http://www.judiciary.gov.uk/publications/disclosure-in-criminal-cases-in-the-magistrates-courts/>.

The Practice Directions now contain guidance on issues such as expert evidence⁹, ensuring that the basis on which defendants plead guilty is properly agreed and ensuring that vulnerable witnesses are dealt with appropriately. Guidance on jury issues has been incorporated. Procedure and practice are often neglected subjects. The modern, clear procedural code which is now set out will promote greater consistency, greater clarity as to what needs to be done to prepare for a trial and considerable assistance in the efficient conduct of a trial.

Evidence given by children and other vulnerable witnesses

The judiciary has continued to take steps to improve the treatment of child and other vulnerable witnesses¹⁰. For example, it has supported a pilot of the use of pre-recorded cross-examination of children and vulnerable witnesses, which has been carried out in the Crown Court at Leeds, Liverpool and Kingston under the leadership of the local judiciary. Early indications are positive, as pre-recording cross-examination is lessening the inevitable stress placed on such witnesses by the time lapse between the recording of their evidence in chief and cross-examination in the usual manner at trial, and it is particularly valuable in cases which go to a retrial. However, until the delivery of modern technology under the reform programme set out in section 7 below, it will be difficult to make the system available across England and Wales. Another step taken has been the addition of training by the Judicial College, for all judges authorised to try sexual offences, on best practice for vulnerable witnesses.

Extradition

There has been an increasing volume of work in extradition, both at first instance and appeal level¹¹. Legislative change has been accompanied by new criminal procedure rules, moving rule-making powers from the Civil Procedure Rule Committee to the Criminal Procedure Rule Committee and criminal practice directions¹². The Judicial Office has also led a project in an effort to improve co-operation between the judiciaries of the EU¹³.

Resources and disruption

All of this has been achieved against the background of the ever-decreasing provision of financial resources to the criminal courts. The investment in the reforms to court administration described in section 7 will go some way to addressing current problems. If the increase in cases involving sexual offending continues it will not be possible, without the commitment of more resources, to reverse the

9 The work on expert evidence is described in the 2014 Kalisher Lecture, given by the Lord Chief Justice. See <http://www.judiciary.gov.uk/wp-content/uploads/2014/10/kalisher-lecture-expert-evidence-oct-14.pdf>.

10 In July 2013, Lord Judge set out in a letter to the Home Affairs Committee the steps being taken by the judiciary in relation to the treatment of child witnesses in sexual exploitation cases. See <http://www.judiciary.gov.uk/publications/lord-judge-letter-to-the-chairman-of-the-home-affairs-committee-on-child-sexual-exploitation/>.

11 2,182 cases at first instance, of which 2,100 were under Part 1 of the Extradition Act 2003 (European Arrest Warrant) and 82 were under Part 2 (rest of world extradition); 582 applications to appeal, of which 555 were Part 1 and 27 were Part 2.

12 Under section 174 of the Anti-Social Behaviour, Crime and Policing Act 2014.

13 The European Arrest Warrant Judicial Network Project.

trend of longer waiting times for such cases, particularly where the defendant is on bail.

This is a matter of significant concern as the effect of delay in such cases has a particularly serious effect on both the complainant and the defendant.

In addition, over the past year the criminal courts have experienced disruption to their business because of the dispute over legal aid and other reasons beyond the control of the judiciary and the court staff. This placed a very significant burden on them. They have made every effort to try to ensure that the impact on court users was minimised.

Review of efficiency in criminal proceedings

In February 2014 the Lord Chief Justice appointed the President of the Queen's Bench Division to conduct a review to identify ways to streamline and modernise the process of criminal justice and reduce the length of criminal proceedings within the current legislative framework. The review has built on earlier work including a successful scheme to encourage defendants who are guilty to plead guilty earlier. Such pleas save substantial resources for the police and the Crown Prosecution Service, besides bringing closure of the matter to the victim. The review has attracted a high level of interest and response from people across the criminal justice system¹⁴. The report is scheduled for delivery to the Lord Chief Justice at the end of the year. In the light of this report, the Lord Chief Justice will discuss with the Government implementation of the recommendations within the present legislative framework; and also invite the Government to consider whether legislation should be brought forward in the new Parliament for any recommendations requiring primary legislation.

Courts Martial

The Judge Advocate General, as lead judge in the justice system for the armed forces, has continued to work towards bringing about an equivalence in procedure between that system and civilian courts as far as legislation permits. International interest in the example set by the armed forces justice system has been high and subjected to intense public scrutiny, particularly in a trial and sentence arising out of the operations in Afghanistan. Where there has been a variation in workload, the judges of the armed forces justice system have been deployed to the civilian courts.

¹⁴ See <http://www.judiciary.gov.uk/the-president-of-the-queens-bench-divisions-review-of-efficiency-in-criminal-proceedings/>.

2. Civil Justice

Work in the civil jurisdiction has been busy with the creation of the single County Court in April 2014 and the coming into force of the Jackson Reforms in respect of civil litigation costs. Four matters are highlighted here.

Control of the cost of litigation

There can be no doubt of the urgent need to control the cost of civil litigation. It is becoming increasingly difficult for citizens to afford the cost of retaining lawyers in circumstances where legal aid has never been available. There is also substantial concern amongst businesses that the cost of dispute resolution is often disproportionate to the amount involved. The Jackson Reforms are playing a vital role in trying to ensure that there is access to justice for the citizen and access at a proportionate cost for businesses. However, it is becoming increasingly clear that steps must be taken to examine why the cost of legal services is increasing despite the significant change in the legal market and the great number of providers of legal services. Competition should have reduced cost significantly, but this is not happening.

Another cost of litigation is the level at which court fees are set. The judiciary provided a detailed consultation response on the Government's proposals to increase a wide range of primarily civil court fees, and also introduce the concept of above-cost enhanced fees for certain commercial proceedings¹⁵. A number of reservations were expressed in the response. While court fees often represent a fraction of litigation costs, they do have an effect, particularly on litigants in person.

Litigants in person

The escalating cost of using lawyers in civil litigation in circumstances where legal aid has never been available has coincided with the major legal aid reforms under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) which took effect in April 2013. This has resulted in a very significant rise in the proportion of litigants in person. This increase together with the time taken to control the costs of litigation through cost budgeting has placed a considerable strain on the civil justice system.

Although litigants in person have been a feature of the tribunals since their inception at the beginning of the twentieth century, outside the jurisdiction of the small claims procedure they have not been a common feature of the court system. Although litigants in person are not in themselves "a problem" for the courts, the issue for the courts and the Government is that the system has not developed with a focus on unrepresented litigants, and there is now an unprecedented increase in their incidence. The judiciary's view, based on inquiries it has made albeit so far unsupported by full statistical evidence, is that cases are consequently taking longer.

¹⁵ See <https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform>, and <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Consultations/senior-judiciary-response-court-fees-proposals-for-reform.pdf>.

Cases which may never have been brought or would have been compromised at an early stage are often fully-contested, and the take up of mediation and ADR has reduced. The judiciary is actively taking steps to provide litigants in person with access to justice in a proportionate manner. The steps taken include schemes in the Queen's Bench and Chancery Division to provide *pro bono* help and simplified guides to litigation. The help that the courts have received from the Personal Support Unit and Citizens Advice Bureau has been immense. As discussed later in this section, the judiciary looks forward to further reforms to address this significant issue.

Business litigation – domestic and international

Business disputes are heard in the Commercial Court, the Technology and Construction Court and the Chancery Division. They serve the domestic and international markets and make a very significant contribution to foreign earnings of the legal sector. The services these courts provide will improve as a result of the delivery of a state of the art IT system (based on systems in use in overseas jurisdictions)¹⁶. Steps are also being taken to try to harmonise processes across these courts. Good progress has also been made in the Chancery Division in implementing the recommendations in Lord Justice Briggs's Chancery Modernisation Review¹⁷.

A judge-led working group was established in July 2014 to ensure that the needs of the financial markets were being properly addressed by the courts. As the Lord Chief Justice explained in his Mansion House speech¹⁸, there is strong international competition for dispute resolution in the financial markets of the world, and it is essential that the justice system of England and Wales remains at the forefront.

Move of the county court at Central London

In the major cities outside London, the High Court and county court have for some years worked together from the same building and thus have been able to provide greater flexibility in the management and trial of cases. This flexibility should now be available in London as in May 2014 the county court at Central London was co-located with the Royal Courts of Justice. This will make for much more efficient dispute resolution in London, once the administration of the county court has been modernised.

Further proposals

The Lord Chief Justice, in a speech to JUSTICE in March 2014, urged radical thinking about the future shape of the justice system, to enable courts and tribunals to continue providing fair and impartial justice within the funds made available by the State, and in a way that citizens can afford¹⁹. Since then, JUSTICE has established a working party entitled "Delivering Civil Justice in an Age of Austerity", and the UCL Judicial Institute has held seminars at which ideas for change have been debated. The judiciary looks forward to considering the recommendations from JUSTICE and the UCL Judicial Institute, as the judiciary continues with its own work to improve access to civil justice.

16 Under an agreement reached in April 2014 with Thomson Reuters.

17 See <http://www.judiciary.gov.uk/chancery-modernisation-review-final-report/>.

18 See <http://www.judiciary.gov.uk/announcements/speech-by-lord-chief-justice-dinner-for-her-majestys-judges/>.

19 See <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Speeches/lcj-speech-reshaping-justice.pdf>.

3. Administrative Justice

The work of the tribunals

The delivery of justice in relation to the State's treatment of citizens in many areas is carried out by the tribunals. This work is set out in the report the Senior President of Tribunals provided to the Lord Chancellor each year²⁰.

The Administrative Court

The principal business of the Administrative Court is judicial review through which the courts hold the Government and other public authorities to account for the legality of their conduct. It has always been essential that challenges to the action of public authorities are determined speedily and in an efficient manner. The vast volume of challenges to asylum and immigration decisions over recent years swamped the court and prevented its ordinary work from being dealt with in an acceptable time frame. In the course of 2013 a very substantial proportion (approximately 80%) of this work was transferred to the Upper Tribunal. The court was able to address the problems that it had faced²¹. A key aim has been to ensure that judicial review cannot be used to delay implementation of decisions where the decision has been taken lawfully. Some of the other main achievements in the Administrative Court over the past year are set out below.

Planning Court

In April 2014 a Planning Court was established and more rigorous time limits were applied to planning cases²². The target timescales for dealing with "significant" cases in the Planning Court are now set out in the Civil Procedure Rules²³.

Government's proposals for the reform of judicial review

Further proposals for the reform of judicial review were made by the Government in September 2013²⁴; the judiciary responded to these²⁵. Several would have had a materially adverse impact on the right of the citizen to challenge decisions of the Government which had not been taken in a lawful manner. The proposals were materially modified and are currently being considered by Parliament.

20 See <http://www.judiciary.gov.uk/publications/spt-annual-report-2014/>. The next report is due to be published in early 2015.

21 The judiciary wishes to thank the Bingham Centre for the Rule of Law for its constructive report: see Streamlining Judicial Review in a Manner Consistent with the Rule of Law, February 2014.

22 Through the implementation of Practice Direction 54E and Part 54 of the Civil Procedure Rules.

23 Rule 3.4.

24 See <https://consult.justice.gov.uk/digital-communications/judicial-review>. Much less far-reaching proposals had earlier been made in December 2012.

25 See <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Consultations/jr-phaseii-public-consultation-judicial-response.pdf>.

Chief Coroner

The Chief Coroner has progressed with his work in leading the coroners' service for England and Wales, setting new national standards and developing a national framework in which coroners operate. He has devised and developed practical reforms which provide a more modern system which treats bereaved families justly and sensitively²⁶.

Inquiries

The House of Lords Select Committee Report on the Inquiries Act 2005 and the response of the Government has been broadly welcomed²⁷. The Lord Chief Justice set out his views on the report, the Government's response, and inquiries more generally in a lecture at Bangor University²⁸. The judiciary hopes that the three branches of the State will work together to carry forward the recommendations and in particular the proposals for a better appointment and administrative process.

26 See <http://www.judiciary.gov.uk/related-offices-and-bodies/office-chief-coroner/chief-coroners-annual-report-2013-14/>.

27 See http://www.parliament.uk/documents/lords-committees/Inquiries-Act-2005/Cm8903_Government%20response%20to%20HL%20Committee%20on%20the%20Inquiries%20Act%202005_260614_TSO_Print.pdf.

28 Public Law Lecture: Bangor University October 2014, to be published in 2015 in Public Law.

4. Family Justice

The Single Family Court

The major achievement of the past year has been the creation of the new Family Court which came into existence on 22 April 2014. This replaced the previous three tiers of magistrates' courts, county courts and High Court, which required cases to be transferred between them, often causing delay and sometimes confusion. Cases can now be issued at a single centre in each area of England and Wales and immediately allocated to the correct level of judge.

Care proceedings involving the state

In addition to the creation of the Family Court, most of the recommendations of the Family Justice Review for modernisation of the court process have been carried through²⁹. This has been achieved largely through a comprehensive Practice Direction and guidance in relation to case management and the use of experts with the objective of ensuring that most cases concerning the care of children by the state will be heard within 26 weeks. An extensive training programme for judges and others involved in the process was carried out. The result has been that the average length of care cases has dropped from 55 weeks in the spring of 2011 to about 30 weeks in October 2014; the trend is downwards and progress towards the 26 week time limit continues to be made.

In October 2013 a national protocol was issued by the judiciary and the Director of Public Prosecutions, with the support of other agencies, in relation to disclosure of information in cases of alleged child abuse and linked criminal and care direction hearings³⁰. This protocol facilitates timely and consistent disclosure between the police, Crown Prosecution Service and local authorities where there are criminal proceedings and/or related care proceedings. It has been recommended as good practice.

Private disputes within families over children and financial provision

There has been a significant fall in the number of cases relating to disputes over arrangements for children after divorce or separation of the parents, as a result of the curtailment of legal aid³¹. However, there has also been a significant increase in the number of litigants in person in these cases and they continue to be an important part of the Family Court's work.

In November 2013 a judge-led working group published a proposal for the introduction of a Child Arrangements Programme to set out a clear and supportive process for cases relating to disputes over

29 Family Justice Review Final Report published by the Ministry of Justice 3 November 2011. See <https://www.gov.uk/government/publications/family-justice-review-final-report>.

30 Protocol and Good Practice Model on disclosure of information in cases of alleged child abuse and linked criminal and care directions hearings October 2013. See http://www.cps.gov.uk/publications/docs/third_party_protocol_2013.pdf.

31 The number of new cases started in the quarter April to June 2014 and the number of cases disposed of both fell by 41%.

where the child should live and how much contact the child should have with each parent. The Child Arrangements Programme deals with what should happen both before proceedings and during court proceedings. Following consultation the recommendations were published as part of the Practice Directions on 22 April 2014³². This was supported by a judicial training programme.

Openness

Substantial steps have been taken to increase the openness of the proceedings of the family courts. In January 2014 following consultation, guidance on the publication of judgments was issued³³. This has resulted in a substantial increase in the number of judgments in family cases made public and published on BAILII³⁴. In August 2014 a consultation document was issued containing proposals to make public listing of family cases more informative and to make certain court documents disclosable. It is anticipated that guidance will be given early in 2015.

Children and vulnerable witnesses

A judge-led working party has been considering the guidelines for judges seeing children in family cases and on children giving evidence in family cases. The working party has also been looking at the wider issue of vulnerable witnesses giving evidence in family proceedings. In July 2014 it published an interim report setting out proposals for changes to the rules, and seeking consultees' views³⁵; it hopes to make firm proposals by the end of 2014.

Financial needs

A judge-led working group is considering the Law Commission recommendations for guidance on how the courts make financial orders on divorce and how they assess the financial needs in each case. The first stage of this work, a guide for litigants in person, is in preparation and expected to be ready by the end of 2014.

The Court of Protection

The work of the court has significantly increased as a result of a Supreme Court decision expanding the scope of those whose deprivation of liberty requires authorisation³⁶. The President of the Court of Protection set out in a judgment a broad framework to enable the court to deal with increased numbers of deprivation of liberty cases in a timely way³⁷. Since then work has been undertaken by officials and court users to develop a streamlined operational process for deprivation of liberty cases.

32 See <http://www.justice.gov.uk/downloads/family-justice-reform/pd-12b-cap.pdf>.

33 "Transparency in the family courts: publication of judgments" practice guidance issued on 16 January 2014 by Sir James Munby, President of the Family Division. See <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/transparency-in-the-family-courts-jan2014.pdf>.

34 British and Irish Legal Information Institute: In the six months from February to July 2013 109 judgments of the High Court were published and six judgments of Circuit Judges. The figures for the corresponding period in 2014 were 146 and 109 respectively.

35 Published 15 August 2014. See <http://www.judiciary.gov.uk/publications/president-of-the-family-divisions-consultation-interim-report-of-the-children-and-vulnerable-witnesses-working-group-31st-july-2014/>.

36 *Cheshire West and Chester Council v P and another* [2014] UKSC 19, [2014] PTSR 460, [2014] COPLR 313. See https://www.supremecourt.uk/decided-cases/docs/UKSC_2012_0068_Judgment.pdf.

37 *Re X* [2014] EWCOP 25.

At section 5 below the work being undertaken for more flexible deployment between courts and tribunals is set out. In the summer, flexible deployment provisions were put to practical effect in asking for expressions of interest from judges from the Social Entitlement Chamber where work is falling, to sit in the Court of Protection on these cases.

International family justice

The Judicial Office for International Family Justice provides an essential service in the ever increasing number of disputes where there is a cross-jurisdictional element. It receives increasing numbers of enquiries regarding practical questions on how to obtain information from foreign authorities, and how to liaise with them to make arrangements if the court considers another jurisdiction best-placed in the interests of the child to hear the case.

5. Appointments and Diversity

By an amendment to the Constitutional Reform Act 2005 (made in 2013) the Lord Chief Justice has a statutory duty to encourage judicial diversity. This duty codifies what has long been understood to be the position of the judiciary of England and Wales. A number of steps have been taken to increase the diversity of the judiciary, some of which are described below, under the guiding principle that to guarantee public confidence, appointment to judicial office should be on the basis of merit alone. First, however, a brief snapshot of statistics sets out the current position.

The statistics

A complete breakdown of judicial diversity statistics appears on the judiciary website. These figures are updated once a year. The most recently published figures show the position as at 1 April 2014. They show that 31% of those sitting in courts and tribunals (excluding magistrates and non-legal members) are women and 7% of those who have declared their ethnicity are from an ethnic minority background. There are more women sitting as magistrates than men: over 52% out of a total of 21,626, and just under 9% of all magistrates are from an ethnic minority background.

There has been slow but significant progress in recruiting more women to the judiciary. Eight of the 38 judges in the Court of Appeal are women; there are 21 female judges in the High Court out of a total of 108. The number of female Circuit Judges increased from 121 in April 2013 to 131 in April 2014 and currently stands at 137 (i.e. one in five). Two years ago, there were four women in the Court of Appeal, 17 women in the High Court and 114 female circuit judges. The position is therefore one of improvement but it is clear that more progress must be made, particularly in recruiting those from BAME backgrounds.

Judges have worked extensively over the past year on a range of initiatives, some of which are outlined below.

Co-ordination through the Judicial Diversity Committee of the Judges' Council

This Committee was established in December 2013 to coordinate the work that the judiciary directly undertakes. It is focussing its efforts in targeting women, BAME candidates and social mobility by concentrating on the areas of appointment, mentoring and career progression.

Diversity and Community Relations Judges

The 79 Diversity and Community Relations Judges (DCRJJs) have taken part in numerous outreach events at schools, colleges and local communities. The purpose of these events is to encourage a wide range of individuals from different backgrounds to consider a career in the judiciary.

Judicial work shadowing scheme and mentoring

The DCRJs and other judges carry out a work shadowing scheme which gives eligible lawyers the opportunity to see judicial life at close quarters. In addition, a positive action mentoring scheme, due to launch in January 2015, will encourage and support women, BAME lawyers, and lawyers from non-traditional backgrounds, intending to apply for their first judicial appointment. Similarly, the scheme will also support judges from the same background (both fee-paid and salaried) who wish to progress to higher office.

Judicial role models

Over 80 judges from across the judiciary were appointed in 2014 to act as judicial role models to inspire others to apply for a judicial appointment and improve the overall perception of the judiciary. They will participate in outreach events, offer case studies and act as mentors.

Events

The judiciary has hosted five networking events targeted at legal academics, women, government and Crown Prosecution Service lawyers, and BAME lawyers. The events have provided potential candidates with an opportunity to learn from the experiences of judges from similar backgrounds, ask questions about the role and receive advice on the judicial appointments process.

Flexibility in work and career development

The provisions of the 2013 Act provide greater opportunities for judges to be cross-deployed between courts and tribunals. Work is proceeding to see how these complex provisions can be best utilised not only for the better management of the deployment of the judiciary in the ever-changing workload that the courts and tribunals face, but also to provide opportunities for career development. The preceding section set out how these provisions were first used.

Working with the Judicial Appointments Commission

The judiciary and the Judicial Office work closely with the Judicial Appointments Commission (JAC) in its work in ensuring that those who are selected for judicial appointment are selected on merit, as the persons best suited to hold the particular judicial office. Day-to-day work is supplemented by regular meetings between the Chair of the JAC and the Lord Chief Justice, as well as meetings between the Lord Chief Justice, Lord Chancellor and Chair of the JAC.

6. Training, Welfare and Discipline

The Judicial College

An outstanding achievement over the past year has been the consolidation of the standing of the Judicial College³⁸. This is illustrated by its recognition as having the highest number of best practices of any judicial training system in the European Union³⁹.

The Judicial College delivers induction and continuation training for approximately 30,000 judges, members and magistrates in courts and tribunals as well as training for coroners. The work includes providing training for UK wide tribunals in Scotland and Northern Ireland⁴⁰. In 2013-14 the Judicial College delivered 459 courses attended by a total of 18,495 judges and members. In addition to this direct training, the Judicial College also provided training materials for delivery to magistrates and 20 distance learning/training packs. It also provided a number of other publications and e-learning programmes⁴¹.

Members of the judiciary continue to be able to choose and book courses from an on-line prospectus now available on the College's Learning Management System. The system has been enhanced recently and also provides 24/7 access to training materials. The College has also included new courses on matters such as case management, judgment writing and ethics. A course to develop judicial leadership and management skills has again been provided with the intention of providing better support to those with judicial leadership roles.

International work

The College is also a leader in international training, and its training is used as a model around the world. This is borne out by the attendance of many overseas judges at its courses and invitations to provide training courses for other judiciaries both in European and Commonwealth countries but also more generally. For example, in the last year the judiciary has hosted visitors, delivered training to or shared materials with countries including Canada, New Zealand, India, Sri Lanka, Rwanda, Nigeria, Chile, St. Kitts and South Africa.

38 This was acknowledged by the Lord Chief Justice in his speech at the Mansion House in July 2014. See <http://www.judiciary.gov.uk/wp-content/uploads/2014/07/lcj-speech-mansion-house-dinner-for-hm-judges.pdf>.

39 The European Commission Report "Study on Best Practices in training of judges and prosecutors" [under the heading Assessing the Current Situation], see https://e-justice.europa.eu/content_the_european_judicial_training_policy-121-en.do?clang=en.

40 Social security, immigration and asylum, tax, general regulatory chamber, asylum support, criminal injuries compensation and employment.

41 12th edition of the Judicial College Guidelines for the Assessment of General Damages in Personal Injury Cases, the Equal Treatment Benchbook, other Benchbook updates and e-letters, Tribunals Journal (3 times a year), and Guide to Reason Writing in Tribunals.

Welfare

The Lord Chief Justice and the Senior President of Tribunals share responsibility for the welfare of the courts and tribunals judiciary. A review is currently taking place of policies and procedures for managing sick absences with the aim of assisting those judges who are unwell whilst at the same time safeguarding the interests of their colleagues who have to carry out their duties in their absence.

Discipline

The Judicial Conduct Investigations Office (JCIO) is an independent office which supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The benefit of the revision to the rules which govern the conduct of discipline has been apparent over the past year. The JCIO reports separately to Parliament⁴². The Judicial Appointments and Complaints Ombudsman considers any complaints about the process⁴³.

42 See <http://judicialconduct.judiciary.gov.uk/index.htm>.

43 See <https://www.gov.uk/government/publications/jaco-annual-report-2013-to-2014>.

7. Reform to Courts and Tribunals Administration

It has been clear for a very long time that significant investment was required in IT systems and the modernisation of the court and tribunal estate. As long ago as the mid-1990s the need for modernisation was recognised, but no investment was made available. The failure to make the investment coupled with year-on-year cuts to resources and the loss of experienced staff has put unacceptable strains on the courts and tribunals system.

In March 2014, after several months of intensive work, the Lord Chancellor secured from Her Majesty's Treasury an investment package totalling £713 million. This included up to £380 million to be made available between 2014/15 and 2019/20, which will enable investment to be made in IT and for the reconfiguration of the estate, funding of £150 million already provided via the Ministry of Justice for the Criminal Justice System IT and Common Platform programmes, and £145 million to support the upgrading of the estate. On completion of delivery of the reform programme, it is expected annual savings in excess of £100 million will be realised. This was a very significant achievement on the Lord Chancellor's part and should be viewed as one of the most important opportunities for effective reform for very many years.

HMCTS has been working closely with the judiciary, the Ministry of Justice and Her Majesty's Treasury in ensuring that the investment proceeds in an efficient and orderly manner. Steps are being taken to ensure that the investment is properly taken forward and the serious mistakes of the past, particularly in relation to design and procurement, are avoided⁴⁴. The Board of HMCTS has been significantly strengthened under the leadership of its Chairman, Robert Ayling, by the appointment of a new Chief Executive, Natalie Ceeney⁴⁵, and the appointment of three new Non-Executive Directors. The judiciary looks forward to taking the reform programme forward with them.

The reform programme is underway with a Programme Board having been established that includes senior judicial members. On the criminal justice front, wi-fi is being enabled in Crown and magistrates' courts, in-court presentation facilities that will allow the Crown Prosecution Service to display evidence on screens at the click of a button are being fitted in magistrates' courts, and a case management system is being built.

The courts and tribunals of England and Wales receive national and international acclaim for the manner in which they deliver justice. Without this investment their continued ability to do so would have been gravely imperilled. Managed decline would have been inevitable; and the outlook, given the international competition, would have been bleak for London as an international dispute resolution centre. That is because most of the IT systems are significantly out of date, there are no

44 In May 2014 the Lord Chief Justice analysed previous attempts at modernisation in his lecture to the Society for Computers and the Law, under the Chairmanship of the Lord Chief Justice's Adviser for IT, Professor Richard Susskind. See <http://www.judiciary.gov.uk/announcements/it-for-the-courts-creating-a-digital-future/>.

45 See <https://www.gov.uk/government/news/new-hm-courts-tribunals-service-chief-executive-appointed>.

longer the resources available to manage a paper-based system and accurate and comprehensive data essential to managing the system are lacking. There is also a very significant maintenance backlog in the court estate which is not properly suited to the delivery of justice⁴⁶ in the modern era and there are insufficient resources to enable it to be staffed properly. The judiciary is therefore committed to delivery of the reform programme and is confident of significant improvements resulting from it.

46 The workload of the courts and tribunals is set out in the latest statistics covering the period April to June 2014, and published by the Ministry of Justice in September. See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358230/court-statistics-quarterly-april-to-june-2014.pdf.

8. The Legal Professions and Justice Out of London

The legal professions

The judiciary maintains strong and constructive relationships with the legal professions. In particular, the Lord Chief Justice has regular meetings with the leaders of the Bar, the Law Society and CILEX, as well as the young Bar and the Junior Lawyers' Division of the Law Society. The judiciary takes the view that the high standard demanded of legal professionals in England and Wales helps to reinforce the pre-eminence of its legal system, and ultimately to uphold the rule of law.

The changing market in legal services being brought about by new regulatory arrangements and rules is a matter in which the judiciary have a direct interest so that the integrity and quality of the legal profession is maintained at the highest standards. As it is an unfortunate aspect of the legislation that the judiciary is not represented on any of the regulatory bodies, it has remained necessary for the judiciary to communicate its views by regular productive meetings with regulators.

The past year has seen disputes between the Government and the legal professions in relation to legal aid. The judiciary has always taken the position that maintaining the quality of the legal profession is fundamental to the proper delivery of justice, but that the setting of legal aid fees is a matter between the professions, the Government and Parliament.

Justice out of London

For the reasons the Lord Chief Justice explained in the Birkenhead Lecture in October 2013⁴⁷, there is a real need to provide greater access to justice outside London. Although the Mercantile, Chancery, Technology and Construction and Administrative Law courts sit in Birmingham, Bristol, Cardiff, Manchester and Leeds, and these courts have excellent judges, much work unnecessarily comes to London. In pursuance of this policy, during the past year, the Lord Chief Justice has sat in the Court of Appeal (Criminal Division) in Liverpool, Leeds, Birmingham, Bristol and Canterbury. The Court of Appeal Civil Division sits twice a year in Wales and the Criminal Division of the Court of Appeal has sat on five occasions in Wales in 2014. The Lord Chief Justice has also sat in the Divisional Court in Cardiff and, by the end of the calendar year, will have sat in Manchester. By the end of 2014 it is expected that the Divisional Court will have dealt with 18 separate cases (including two involving coronial matters) in Cardiff, Manchester, Birmingham and Leeds.

The position of the legal professions outside London

The success of this work will also depend on the ability of the profession out of London to secure and carry out work of equal quality to that done by the London professionals but at far less cost.

47 See <http://www.judiciary.gov.uk/announcements/lcj-birkenhead-lecture-21102013/>.

An encouraging sign has been the strength of the Administrative Law Bar in Manchester⁴⁸, but much still needs to be done to encourage more work that is badged as first rank work done in the regions and not back office work fronted through London.

Role of leadership judges

The High Court judges assigned to leadership roles on the circuits and the local leadership judges in the criminal, civil and family courts have worked under the very difficult conditions referred to in this report to strengthen the delivery of justice in the regions. Their continued ability to do this will depend on the reform of the court administration.

48 See S Nason "Justice Outside London? Five Years of 'Regional' Administrative Courts" (2014) 19(3) Judicial Review 188.

9. Justice in Wales

The impact of devolution and the acquisition of primary legislative powers by the National Assembly for Wales has become more marked this year. Until relatively recently Welsh legislation had primarily impacted on cases heard in the Administrative Court in Wales⁴⁹. However with the Social Services and Wellbeing (Wales) Act 2014 there was a substantial reform of the structure of social services in Wales for adults and children. This has had an impact on family law cases in Wales with emerging differences in the law. Over the past year significant further progress has been made by the Standing Committee on the Welsh Language to improve implementation of the provisions of the Welsh Language Act 1992 in the courts⁵⁰.

Although the administration of justice is in large part not a devolved function⁵¹, laws passed by the Welsh Assembly cannot be implemented without the involvement of the courts, tribunals and the judicial system. The judiciary has therefore continued the relationships established between Lord Judge and the First Minister, Counsel General and Permanent Secretary to the Welsh Government. However, it will be necessary to develop further long term arrangements to ensure that the single court system of England and Wales continues to deliver justice efficiently and fairly, as the law applicable in Wales continues to diverge.

As the Lord Chief Justice outlined in an address in Cardiff in November 2014⁵², the delivery of justice in Wales – in the broadest sense, both in legislative development and its implementation in courts and tribunals – is integral to continued development and economic prosperity of Wales. This is in part because of the opportunities which exist for the legal profession in Wales which could serve to strengthen its financial position, but also as the HMCTS reform programme presents an opportunity to shape IT and court infrastructure in a way which meets the particular needs of Wales. Moreover, it will be essential, going forward, to build on the existing constructive relationships between the judiciary and the Welsh Government. In this way the judiciary can contribute, as it does already with HM Government, technical advice and assistance in the development of policies and legislation relating to justice, and in doing so contribute to the good governance of Wales.

49 This was established by Lord Irvine in 1999.

50 Including a further seminar for Welsh speaking judges and the provision of an appointment process that ensured the appointment of a Welsh speaking judge to the Magistrates' Courts in North Wales.

51 The Welsh Ministers are responsible for a number of tribunals which only have jurisdiction within Wales.

52 See <http://www.judiciary.gov.uk/announcements/speech-by-lord-chief-justice-cardiff-business-club/>.

10. Parliament, Government and the Judiciary

Over the past year a number of steps have been taken to strengthen the relationship with the other branches of the State, and existing ties with the judiciary have been continued.

Parliament

The judiciary's contact with Parliament occurs in different ways. As is customary the Lord Chief Justice gave evidence to both the Justice Committee and the Constitution Committee in the course of the year⁵³. The judiciary has also provided views to Parliamentary committees on technical matters affecting the justice system: for example judges gave evidence on the Mental Capacity Act 2005⁵⁴, and provided a written submission in respect of the civil legal aid provisions of LASPO⁵⁵. The dialogue with Parliament ensures that the views of judges as experts in the justice system can be heard by Parliamentarians and the public more generally, whilst ensuring the responsibility for policy-making remains with the Government and Parliament. Nonetheless, judicial evidence to Parliamentary committees remains exceptional.

In addition, during the year meetings were held between the Lord Chief Justice and the Chair of the Justice Committee, as well as with the Clerk of the House and other senior Parliamentary officials. Members of the Justice Committee also visited the courts; these visits were welcomed by the judiciary as a way of increasing understanding of their work, and the justice system generally. Further work is underway to encourage more visits and to put in place a structure to enable this to happen on a regular basis.

Government

The Lord Chief Justice has regular meetings with the Lord Chancellor, the Permanent Secretary of the Ministry of Justice, the Attorney General and Solicitor General and the Home Secretary. He has continued the practice established by Lord Judge of annual meetings with the Prime Minister and the Cabinet Secretary, and has meetings with other Permanent Secretaries or Ministers from time to time. Other members of the senior judiciary also have bi-lateral meetings with relevant Ministers. All these meetings serve to ensure that the views of the judiciary as a whole are conveyed to the Government by the Lord Chief Justice, or by specifically designated judges, in accordance with the Lord Chief Justice's statutory duty⁵⁶.

In addition, the judiciary on occasions assists by providing views to the Government on technical aspects of policy or legislation which affect the justice system. The benefit of this can be seen from the input provided by the judiciary on the sentencing provisions of LASPO; in contrast to the

53 See <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/the-work-of-the-lord-chief-justice/oral/8415.html> and <http://www.parliament.uk/documents/lords-committees/constitution/annual%20oral%20evidence%20sessions%202013-2014/CONST070514EV1.pdf>.

54 See <http://www.parliament.uk/documents/Mental-Capacity-Act-2005/mental-capacity-act-2005-vol1.pdf>.

55 See <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/impact-of-changes-to-civil-legal-aid-under-laspo/written/9472.html>.

56 Section 7, Constitutional Reform Act 2005.

Criminal Justice Act 2003, there have been relatively few issues that have needed to be resolved in putting this into practice.

The judiciary also plays a central role in the implementation of legislation.

The judiciary is very grateful to the UCL Constitution Unit and to the Institute for Government for their most helpful assistance in arranging seminars to discuss issues affecting the judiciary and its work with the other branches of the State. These programmes helped to build understanding of the role of the judiciary, and identify the benefits of a constructive relationship between the judiciary and the other branches of the State.

The heads of the judiciary of Northern Ireland, Scotland, and the Supreme Court of the United Kingdom

Relationships between the heads of the judiciaries of the jurisdictions within the UK are important to the justice system of the UK as a whole. Topics of mutual interest and concern are discussed at regular meetings between the Lord Chief Justice and the President of the Supreme Court. At the start of the legal year the heads of the jurisdictions meet in London and it is proposed for the coming year that there should be a termly meeting held in alternate jurisdictions throughout the year.

11. Broadcasting and the Media

Broadcasting

In October 2013 the longstanding legal restriction on broadcasting from the Court of Appeal was lifted. The Lord Chief Justice said at the time that this would help a wider audience to understand and see for themselves how the Court of Appeal goes about its work. At no public expense and subject to conditions to ensure the administration of justice is unaffected, broadcasters have recorded at least one case on most sitting days. Footage of more than 50 cases has been broadcast. The cameras have followed the Court of Appeal to three cases out of London, heard in Nottingham, Canterbury and Cardiff. The current process, limited to cases in the Court of Appeal, provides an important means of further opening courts up to the public while ensuring that the rights of the victims, their families and other participants in the court system are respected. An evaluation of this broadcasting, and of issues that have arisen in other jurisdictions is being carried out so that decisions in relation to the future conduct of broadcasting can be made.

Guidance on court reporting

Updated guidance on reporting restrictions in the criminal courts was published jointly by the Judicial College and the media organisations in May 2014⁵⁷. This, together with guidance in the Practice Directions, will greatly assist judges and the media in understanding and applying the law and reporting accurately in this complex area. The media organisations have been particularly helpful in ensuring that the guidance was framed in terms that could be readily applied by reporters in courts across the country. Similar guidance has been provided in the Family Courts⁵⁸.

Judicial website and judicial intranet

These were updated in June 2014 with a new layout and structure. It is very much hoped that these will be easier to use and provide more information. A Twitter account is used to ensure that up-to-date news is made available.

57 Reporting Restrictions in the Criminal Courts, May 2014, produced jointly by the Judicial College, the Media Lawyers' Association, the Newspaper Society and the Society of Editors. See <http://www.judiciary.gov.uk/wp-content/uploads/2014/06/Reporting-Restrictions-Guide-2014-FINAL.pdf>.

58 See <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/family-courts-media-july2011.pdf>.

12. International Work

The international work of the judiciary has two main strands in addition to international family justice referred to at section 4 and the international work of the Judicial College referred to in section 6.

The European Union and Council of Europe

The first is the judiciary's engagement with the courts at Luxembourg and Strasbourg and other institutions of the European Union and the Council of Europe. In July 2014 senior members of the judiciary across the UK had discussions in Strasbourg with the European Court of Human Rights; in early October 2014 there was a meeting in London between members of the judiciary and members of the Court of Justice of the European Communities. In holding such meetings, the judiciary is following a practice that has been developed with other Member States and is of mutual benefit in providing a greater understanding of the way each court approaches and decides its cases.

The European Committee of the Judges' Council is responsible for providing direction and focus in respect of legislative developments in the EU. The Committee considers the impact of EU legislation on all jurisdictions, seeks to enhance understanding of EU law, institutions and legislation amongst the courts and tribunals judiciary and aims to improve justice systems in the EU and in Candidate States. Judges continued to participate in European judicial networks such as the European Network of Councils for the Judiciary (ENCJ) and in international associations. All of these efforts have the aim of improving cooperation and mutual understanding and so bolstering the rule of law and democracy.

Work with judiciaries across the world

The second strand of work is wider engagement with judiciaries across the world. The judiciary provides assistance to countries across the world in the development of their legal systems and institutions. It notably supports the work being undertaken by organisations such as the Slynn Foundation, the Commonwealth Magistrates' and Judges' Association, the Department for International Development and other organisations.

It is particularly important that the judiciary maintains its links with other common law jurisdictions so that the development of the common law and of procedural reforms proceeds with the best understanding of what is being done in other States. Judges participated in exchanges with other European judiciaries in relation to legal developments on the Continent; and the judiciary received visits from a number of overseas countries. In the past year judges from 38 different countries visited, including from Indonesia, South Korea, Croatia, Israel, Bangladesh and Hong Kong. Visitors studied a variety of subjects, ranging from the administration of courts to procedural rules, helping ultimately to strengthen the rule of law and economic prosperity around the world.

Published by Judicial Office
11th floor Thomas More Building
Royal Courts of Justice
Strand
London
WC2A 2LL

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