



JUDGES' COUNCIL

**FIRST PROGRESS REPORT OF THE STANDING COMMITTEE
OF THE
JUDGES' COUNCIL:
JUDICIAL SUPPORT AND WELFARE**

December 2007

Introduction

This is the first Progress Report to the Judges' Council, of the Standing Committee on Judicial Support and Welfare (The Committee). The Report will aim to set out details of the matters discussed and agreements reached over the previous 12 months and make appropriate recommendations to the Council for approval.

Background

In August 2005 the Judges' Council set up a working group to consider the support available to judges on career development, resources and health issues and to provide a Report. A questionnaire was devised and sent out to all judges below the level of the Court of Appeal but not including tribunals. The replies were collated and 15 recommendations were set out in a Report, (the 2006 Report), presented to the Council in October 2006

The members of the working group were Mr Justice Thyne Forbes (Chairman), Mr Justice Christopher Sumner, Her Honour Judge Jacqueline Davies, the then Senior Master, Robert Turner, Senior District Judge Tim Workman and District Judge Michael Walker.

In October 2006 the Council approved the 2006 Report and agreed that the working group should be replaced by a Standing Committee to include the then current members of the working group.

Terms of Reference

The terms of reference for the Standing Committee were approved by the Council on 15th February 2007 as follows:

1. To provide advice, support and recommendations to the Judges' Council on judicial welfare including physical and mental health, working conditions, career prospects and planning and retirement.
2. To promote the existence and objectives of the Standing Committee amongst the judiciary with a view to inviting comments and concerns. This may include liaison with Presiding Judges, Family Division Liaison Judges and other such senior judiciary, the MoJ (formerly the DCA), HMCS and other relevant bodies and welfare organisations.
3. To take forward the recommendations made in the Judges' Council Report on Judicial Support dated October 2006.
4. To ensure that all such activity should aim at providing and maintaining best practice in terms of judicial welfare and support.
5. To provide regular reports to the Judges' Council with details of its activities.

Current membership

Mr Justice Forbes –Chairman

Mr Justice Sumner

Her Honour Judge Jackie Davies

Senior District Judge Tim Workman

The Chief Chancery Master, Jonathan Winegarten

District Judge Michael Walker

Meetings

Seven meetings have been held so far, on the 31st January, 27th March, 9th May, 18th July, 10th October, 20th November and 3rd December 2007.

Business and progress

The Committee, at its first meeting in January 2007, agreed to address the recommendations made in the 2006 Report, to treat them as priority business and to take them forward as quickly as possible.

The Recommendations in the 2006 Report

These recommendations comprise five separate issues relating to :

- 1) Judicial career development,
- 2) Judicial health and healthcare,
- 3) Pre-reading and judgement writing time,
- 4) Administrative and personal support,
- 5) Retirement and a Postscript.

The First Progress Report

Each member of the Committee has taken responsibility for taking forward at least one of the issues and has written a report on progress. These progress reports are set out below.

Judicial Career Development

The Recommendations in the 2006 Report

1. That all full time judges except High Court Judges should meet with his or her Presiding or Senior Judge not less than every two years to discuss patterns of work, itinerary, promotion opportunities and welfare;
2. That there should be greater transparency and consistency in the allocation of “tickets” and the appointment of Resident and Designated Judge

Progress Report on Judicial Career Development

Recommendations 1 and 2

Since the publication of the Working Group’s Report on Judicial Support in October 2006, the importance of its recommendations in relation to Judicial Career Development and the need for those recommendations to be addressed satisfactorily as a matter of urgency has been widely accepted and acknowledged.

The Committee accepts that the successful implementation of Recommendation 1 (in particular) has significant implications in terms of both judicial time and administrative burden. However, these difficulties should not be allowed to delay unacceptably the implementation of this Recommendation and must be overcome.

There are and have been a number of local initiatives (e.g. by the Chancellor meeting with the Chancery Judges, Masters and Registrars on a regular basis, the Vice President of the Queens Bench Division meeting with the Queens Bench Masters and the North East Circuit Presiding Judges arranging meetings with individual judges of that circuit), but there is, as yet, no universal scheme or system in place. The Committee remains of the view that there is an urgent need for a properly structured system in accordance with this recommendation that is both consistent and applicable to the whole of the Judiciary of England and Wales.

The Chairman has had a meeting with Mr Justice Andrew Smith who chairs a sub-committee of the Judges' Council that is considering systems of appraisal, and they discussed Recommendations 1 and 2 in the light of the work of that sub-committee.

It was agreed that Andrew Smith's sub-committee would be considering issues and making recommendations that might have a bearing on the development and implementation of measures that will meet the requirements of both Recommendations 1 and 2. Andrew Smith's sub-committee is due to present its report in early 2008.

So far as concerns Recommendation 2 specifically, the Committee welcomes the offer, made by the Senior Presiding Judge at the Committee's meeting on 10th October 2007, that he would prepare a letter for circulation to all Presiding Judges, identifying what he considered to be a sensible system for dealing with the allocation of "tickets". It is the Committee's view that this letter will make a significant contribution to the implementation of Recommendation 2.

The Committee also welcomes the recent process, initiated by the President of the Family Division, for the review of the family tickets held by Circuit and District Judges. This review makes provision for both expressions of interest and judicial preferences and provides the opportunity for discussion when tickets are withheld.

Health and healthcare

The Recommendations in the 2006 Report

1. The Judges' Council should press for the introduction of periodical full health checks and annual checks on eyes, heart and blood pressure as quickly as possible;
2. An awareness programme into the existence and services of LawCare should be undertaken as a matter of urgency;
3. The crucially important policy issue on responsibility for judicial healthcare, should be clarified as between the Lord Chancellor and the Lord Chief Justice.

4. Appropriate medical facilities should be made readily available and accessible at all major Court Centres. Alternative arrangements should be put in place at other individual courts.

Progress Report on the Present Healthcare Arrangements

Recommendation 1

The current provision for health and welfare services includes the following, namely:

- medical referrals and medical retirements, handled by ATOS Healthcare as the Department's Occupational Health Advisor
- ergonomic assessments and provision of equipment / support – this relates to issues such as the height of the judge's bench or desk, the type of chair provided etc. In the summer of 2007 the MoJ published its policy on how it would approach requests for "reasonable adjustment" to the workplace environment
- eye tests – regular users of visual display units such as computers are entitled to regular eye examinations paid for by the MoJ and, where appropriate, the cost of a basic pair of single lens spectacles or a more complex bifocal or multifocal lens for VDU use. Further information can be obtained from Judicial HR Branch
- a full medical every 5 years – only High Court Judges are entitled to this rolling programme, the administration of which is transferring over from the MoJ to the Judicial HR branch in the Judicial Office. In addition, High Court Judges are offered an annual flu jab. Neither provision is available to any other member of the judiciary

The issue on this recommendation is not one of funding but of commonality across the judicial family. The efficacy of full medical checks for High Court Judges has already been accepted and recognised. The Committee therefore sees no justification for singling out the High Court Bench for this particular benefit and strongly believes that these checks should be available to all members of the judicial family. Further, the modest costs of providing annual checks on eyes, heart and blood pressure to all members of the judiciary are insignificant compared to the benefits to be obtained both by HMCS, and the judiciary.

Recommendation 2

LawCare is an advisory and support service to help lawyers, their staff and immediate families to deal with health problems such as depression and addiction and related emotional difficulties. The service is free and confidential and is open to members of the judiciary. Their helpline (0800 279 6888) is open from 9am -7.30 pm weekdays and from 10am-4pm weekends and Bank Holidays.

In addition, there is now a new and confidential referral facility operated by ATOS Healthcare. This has been designed specifically for judges and their immediate resident families and is available to all salaried judges from the District Bench upwards. Take-up has been encouraging with some 30 calls in the first six months of operation. There is the need constantly to remind judges of the ATOS helpline phone number (08000 217821), as well as of that for Lawcare (0800 279 6888).

Recommendation 3

The position is quite clear, namely that pastoral (and that includes healthcare) responsibility for the judiciary has passed to the Lord Chief Justice under the Constitutional Reform Act 2005 by virtue of his position as Head of the Judiciary. However, he obviously is able to discharge that responsibility only so far as the resources allocated to him permit, and that budget is currently taken up by the cost of medical referrals (e.g. when a judge is on long-term sick leave) and on Lawcare and the ATOS helpline. Whilst the Judicial Office's budget for 2008/09 and beyond is not yet determined, the possibility of greatly increased funding for judicial healthcare, in the absence of a proper business case and on the assumption that there would be no change in the overall budget for the Judicial Office, is remote.

Recommendation 4

In the absence of resolution to recommendation 1 above, which was identified as having a greater priority to recommendation 4, this recommendation has not been pursued for the time being

Pre reading and judgment writing time

The Recommendations in the 2006 Report

1. All judges with an administrative work load, in particular Presiding, Liaison, Designated and Resident Judges, should be given regular time from sitting commensurate with their work load.
2. Judges under pressure should give appropriate notice of the need for immediate judgment writing time. In the ordinary way time should then be made available.

Recommendation 1

Regrettably there are no obvious indications that progress has been made on this recommendation. There is evidence that the administrative workload at all levels has dramatically increased since the constitutional changes and is continuing to increase. The Committee would wish to stress the importance of this recommendation and the need for it to be adequately addressed. Failure to make proper provision is likely to adversely affect the quality of the

administrative decisions being made and may adversely affect the health and family life of the members of the judiciary.

Mr Justice Gibbs in his capacity as one of the Presiding Judges of the Midlands Circuit has provided the Committee with a report: it makes disturbing reading. A short summary of the salient points is set out below:

- An inability to adjust sittings to do administrative work.
- A need to do the heaviest cases (without relief from s.31s and Admin court paper applications)
- A weekly average of between 70 and 75 hours work.
- A substantially increasing workload shown by a long list of recent extra work, further meetings to attend, and a weekly burden of about 150 letters, emails, and phone calls
- A realisation that the present system cannot continue.

The full Report is at **Annex A**.

Recommendation 2

To a large extent the success of this recommendation is in the hands of the individual Judge but it is hoped that the Senior Judiciary will support Judges being provided with sufficient judicial time to meet these commitments.

Administrative and Personal Support

Recommendations on the 2006 Report

1. That the Working Group reports further on mentoring once the Department has published its evaluation of the pilot scheme on the North Eastern Circuit, in view of the fact that 81% of judges supported the availability of a voluntary mentoring scheme.
2. Support should be given to the introduction of appraisals, salaried part-time working, accumulated leave and sabbaticals for all judges.
3. Career breaks should be extended to High Court Judges and made easier to obtain.

Recommendation 1

The pilot scheme has been completed and the Committee is aware that the MoJ is discussing the evaluation and a possible roll out of a scheme to District Judges in the near future. The Committee will continue to monitor the position.

Recommendation 2

The sub committee under the chairmanship of Mr Justice Andrew Smith is currently examining the feasibility of introducing appraisal schemes. Appraisal schemes are currently in operation for Deputy District Judges (civil)

and Deputy District Judges (Magistrates' Courts). The Judicial HR Division of the Ministry of Justice has now produced its second Annual Report on Salaried Part-time Working and the scheme is currently under review. A report to Ministers will be made in the summer of 2008 including recommendations and suggested next steps.

Recommendation 3

No progress has been made on this recommendation.

Retirement

The Recommendations in the 2006 Report

The three essential elements of successful retirement are:

1. part-time working before retirement;
2. a proper advisory service should be available for judges both before and after retirement;
3. a realistic assessment of post-retirement working opportunities. These should be seen as a basic entitlement for all judges and implemented without delay.

Recommendation 1

Since the publication of the 2006 Report, the Ministry of Justice has produced its second report on salaried part-time working covering the period from 2006-2007. That report demonstrates the increase in the number of judges entering the scheme from 95 to 121 with the most frequent sitting pattern being 80%. A further review is underway after which a report will be submitted to ministers which will incorporate recommendations. A questionnaire on the subject of salaried part-time working has been sent to all members of the judiciary up to and including the High Court Bench.

It is a matter of concern that the ability to work part-time before retirement is not presently available for High Court Judges. The Committee believes that salaried part time working should be available for all judges including the High Court Bench

Recommendation 2

For some time, pre-retirement courses have been available for senior members of the Civil Service (and their spouses). In July 2007, the then Senior Master attended such a course and was impressed by the content and the presentation. A copy of the programme is annexed at **Annex B**. In consequence, the Ministry of Justice has proposed that all salaried judicial office holders within two years of retirement should be invited to attend a pre retirement course. The course would be of one day's duration at venues around the country. The Committee favours a bespoke course for the judiciary but, until such time as this could be put in place, judges (and their spouses) should have the option of attending the Civil Service course. Attendance by civil servants at such a course does not involve the participant taking a day's leave or paying a fee. The Committee supports the voluntary attendance at pre-retirement courses and welcomes the recent decision of the JEB that attendance on such courses will be treated as a sitting day for all judiciary below the level of the High Court Bench.

The Committee has prepared a draft handbook of information relating to retirement, a copy of which is to be found at **Annex C**.

Recommendation 3

Although judges at all levels have the opportunity to work part-time in retirement the arrangements are different for each level of the judiciary. The Committee believes that there must be consistency in the approach to part time working post retirement

Postscript

Recommendations in the 2006 Report

1. There should be a system of voluntary attendance at JSB courses of choice for all High Court Judges on appointment. Thereafter, attendance at continuation courses should be both expected and an entitlement.
2. High Court Judges appointed from outside London should have their weekly travel expenses paid, to and from their homes, as well an allowance towards the cost of accommodation.
3. The six weeks uncompensated vacation sitting on appointment should be abolished.

Recommendation 1

This recommendation has been achieved. The Terms and Conditions of Judges of the High Court Bench have been amended as of July 2007 and the relevant paragraph reads as follows:

“Training, Judicial Studies Conferences, etc.

42. *The Lord Chief Justice expects all High Court Judges from time to time to attend conferences and courses organised by, or on behalf of, the Judicial Studies Board on subjects relevant to the work they do. The Lord Chancellor and the Lord Chief Justice consider that such activities are of considerable value, not only for newly appointed judges but also for those who have been in office for some time. Newly appointed Queen’s Bench Judges (and Family Division Judges who sit in the Court of Appeal Criminal Division) are expected to attend at least one Continuation Seminar organised by the Criminal Committee of the Judicial Studies Board within three years of their last attendance at such a seminar, and within twelve months of appointment to attend a Serious Sexual Cases Seminar.”*

Recommendation 2

The current Terms and Conditions for High Court Judges state as follows:

“Costs of taking up appointment

14. *A significant proportion of a High Court Judge’s sittings take place at the Royal Courts of Justice or other Central London Courts. No assistance is available from public funds towards any costs incurred (e.g. through a move of house) for a person’s relocation on appointment as a High Court Judge direct from practice. However, certain assistance may be available to a serving Judge promoted to the High Court Bench. Details are available on request at the time of appointment. “*

No allowances are available. A small exception is made in the case of former Circuit Judges where taxable travel expenses of about £5,000 a year and £30 a night is usually available for the first 5 years.

Expense of accommodation

The expenses involved are considerable. Permanent accommodation has to be provided either by purchase or renting. A modest flat on either basis near the Royal Courts of Justice costs about £20,000 a year or more, and is not chargeable against tax. It requires furnishing and equipping, probably about £10,000 to £15,000. Renting flats in the Inns is rarely cheaper unless bed sits, if appropriate, are available and then there may well be long waiting lists.

Relocating to London is not an option. The cost of moving with stamp duty and expenses is over £50,000. A greater deterrent is the greatly increased

cost of housing for newly appointed judges on a reduced income, quite apart from family upheaval and the prospect for many of new schools.

Expense of travel

The next major expense is travelling to and from home at weekends from London. First class fares are a necessity if work is to be done and a seat to be found. Cheaper fares are rarely available. The cost for those travelling long distances can exceed £300 a weekend. This is of course paid if the judge is on circuit.

Consequences

The total financial burden is therefore likely to exceed £25,000 a year. This means that for Circuit Judges sitting outside London, the appointment to the High Court will involve a loss of income. That will be greater for Senior Circuit Judges.

The effect is not only in the gross financial and geographical discrimination. It has also limited the pool of eligible appointees. It is no coincidence that no Queen's Bench Judge has been appointed from the North Eastern Circuit for 15 years.

If actual and perceived fairness in appointments is to be achieved, urgent redress is required. There has been no official complaint from those affected only because the financial burden is pointed out before appointment. However a survey of most of the 20 or so recent appointees has shown a real sense of grievance.

The Committee believes that the travel costs of all High Court Judges travelling home and back from London should be provided. On accommodation, a rate above that allowed for Deputy High Court Judges should be payable per night in London to allow for having to spend at least a 1/3rd or more of the year in London.

Recommendation 3

Following discussions with senior members of the judiciary, this recommendation is no longer being pursued.

Conclusions of this first progress report

The Committee is unanimous in its desire to take forward these 15 recommendations as a priority, on the grounds that the Judges' Council has received a clear mandate from the judiciary as to what changes are urgently needed.

The Committee is immensely grateful to the Senior Presiding Judge for the opportunities to discuss the issues and to the Presiding Judges who have set out their very real concerns and problems in dealing with the increasing amounts of administrative work that they have to bear. Valuable links have also been established with the Judicial Office on retirement issues.

Two of the recommendations have been achieved namely the attendance by judges of the High Court Bench on JSB courses and the setting up of a retirement course but 13 others remain which continue to be of great importance to the wellbeing of the judiciary. The roles of the Council and of the Committee are crucial in trying to set up systems to meet judges' needs. Progress has been difficult and slow and is clearly impeded by the lack of funding and the requirement, in effect, for all but the most senior judges to carry out full court sittings whatever their administrative burden.

The Lord Chief Justice has a clear responsibility for the welfare of the judiciary but has not been given the funding to carry out this role satisfactorily. This lack of sufficient funding remains a very serious issue.

Although sitting in court must remain a prime judicial function nevertheless, if judges have to continue to carry out administrative duties, their job descriptions must reflect these duties and time must be allowed for these duties to be carried out. This applies in particular to the recommendations under judicial career development, pre-reading and judgment writing time. The Committee recognises that more judges would need to be appointed to deal with the court sittings but considers that there is no alternative.

The Judges' Council has a clear role set out in its Constitution, that is to say, to promote the professional and pastoral interests of the judiciary and to advise the Lord Chief Justice of the views of the judiciary on matters falling within his responsibility (in this case those relating to judicial welfare). The Council is urged to continue to back the Committee in its work to provide solutions to the recommendations set out in the 2006 Report.

Thayne Forbes
Chairman of the Standing Committee
December 2007

Annex A
Judicial Support for Administrative Work
A President's View

I am not able to adjust my sittings to undertake administrative works save on the very rare occasions that a chance non-sitting half-day or day arises of which I can take advantage. Even then, it is devoted normally to catching up with paperwork, reserved judgments, and non-priority admin. which has been neglected.

As a priority before getting down to admin, Presidents are expected to hear the heaviest cases on circuit, to bear their fair share of work when at the RCJ (which has become a rapidly intensifying treadmill in the last three years, especially in the Administrative Court), and also to do their fair share of s31s and Administrative Court paper applications. We are given limited relief in that the s31s are restricted to sentence appeals; on the other hand, there is always a paper applications backlog in the Administrative Court for which we are regularly "volunteered".

The point has to be made that even the day job is usually too busy to accommodate in ordinary working hours. Much of it has to be done outside "normal" working hours – preparation for big cases, judgment writing, annotating, preparing summings-up, etc. Administrative work is virtually all done in what would otherwise be the remainder of our private time, though of course we try to do what we can in the course of short adjournments, jury breaks etc.

I agree with the estimate from Colman Treacy (my fellow President) of the number of hours needed for a Junior President. I have found that as Senior President I have regularly spent significantly more of my own private time than 15 hours a week on circuit admin. During one busy period early in my term of office I decided to keep a record over two weeks of time spent. I clocked up an average including sittings, preparation and circuit admin. of 13-14 hours a day plus six hours each weekend: 70-75 hours a week. This is fairly normal – though sad as a way of life.

During my time as President, and I anticipate for several years before, there has been a substantial year-on-year increase in what is required. The causes are various but not difficult to find. They arise because of substantial additions to the traditional tasks of Presidents.

The traditional tasks include: keeping a general eye on the efficient despatch of work on the circuit; allocating the more serious criminal and civil cases; recommending candidates for "tickets"; providing references for judicial appointments; consulting with the circuit administration on courtrooms, lodgings, resources etc.; keeping in contact with resident and designated judges about the judges in their areas, and where necessary intervening if there are problems, whether pastoral, disciplinary or otherwise "judicial"; carrying out as far as possible the directives and guidance from the SPJ and the Heads of Division, especially the SPJ; and liaising with other Presidents to

arrange for the transfer of cases between circuits, and applications by judges to move to another circuit.

The reasons for increases in the workload include:

- an intensification of the tasks mentioned above, especially in the light of the regular and continuing reduction by the government in the resources available to HMCS to support the legal system;
- the implications of the Constitutional Reform Act in our assumption of responsibility for the efficient organisation of the itineraries of Circuit and District Judges; this was initially a huge undertaking for us, as radical revision was necessary at all levels;
- the Act also assigns to Presiders responsibility for Magistrates; this involves for example participation (in liaison with the Senior District Judge) in issues such as the deployment of nominated DJ(MC)s as Community Judges and Designated DJ(MC)s; and keeping abreast of bench affairs including the implementation of CJSSS, proposed bench amalgamations etc.;
- for similar reasons, the responsibility has been assigned to us for applications for time-off for quasi-judicial activities: e.g JSB, ETAC, membership of boards, committees, working groups, consultative bodies and many more; for permission to carry over leave; for applications to work part-time; for chasing up Recorders who fail to sit their allotted days, etc. Each individual case requires our personal attention.
- the proliferation of boards, groups, forums and committees to which judges must be appointed, either by us or on our recommendation, and whose roles in them must be monitored by the Presiders;
- a constant stream of new pilots and initiatives, of varying quality, many of them with very short deadlines imposed in response to perceived political pressures;
- an increase in the number of consultations to which we are invited/required to respond at short notice;
- the increasingly bureaucratic system of appointment and tickets, leading to unacceptable delays, the need to spend time plugging gaps and constantly putting pressure on the various people and bodies involved to get decisions taken, so that the work of the circuit does not suffer;
- the creation of a “judicial civil service” for the most senior judiciary which, whilst small in the scheme of things, has an unintended but inherent tendency to generate extra paper and e-mail traffic for Presiders and others.

Examples of bodies which we now have to monitor, appoint judges to and/or attend (at least from time to time) are: Regional Management Boards, Bench Chairmen’s meetings, Magistrates’ Association meetings, local criminal justice boards, courts boards, probation boards, community justice project boards, area judicial forums and regional meetings of NOMS. These are in addition to Presiders’ meetings, circuit seminars, national and circuit Regional and Designated Judges’ meetings, some though not all of which count as sitting days – though pre-reading for them does not. The latter meetings have always been attended by Presiders, though their frequency has increased.

In addition, there are one-to-one meetings, both regular, and as the need arises, with individual judges, Regional and Area Directors, Court Managers and others connected with the court system, including importantly visits to court offices to speak to staff. The stress on individual judges increases, so that our need to speak to them about their difficulties does not diminish.

As regards post, telephone and e-mail, taking last week as a random example: I was on circuit, hearing a firearms murder all week, interrupted by several PCMHs and applications in pending cases; summing up Thursday and Friday (5 hours out-of-court time needed). During the week I had about 20 letters, I received over 70 circuit-connected e-mails, sent 47 such emails, and of course had the usual dozen or so phone calls.

We are not taught to be administrators but are learning fast. Most of us are not workaholics and try to keep workload to a minimum consistent with looking after our circuits, by delegating, prioritising etc. Steps taken in that direction in the last four years have been to streamline the case allocation and release procedure and transfer it all to e-mail; to delegate decisions as far as possible, subject to our guidance, to the Circuit Judicial Secretariat, and the relevant Circuit Judges e.g. Resident JJ, Magistrates Liaison JJ etc.; subject to the approval of the SPJ, to devise protocols and guidance on topics such as the carrying over of judicial leave, days out of court for quasi-judicial business, judicial security, part-time working applications and other topics which would otherwise lead to hours of debate with judges on individual cases. We hope that at least some time has been saved by these initiatives.

In summary therefore, if a 40 hour week is the norm, I spend more hours per week than that in non-presider work, i.e. preparing and hearing cases, and other court related paperwork. In addition I do the equivalent of two extra days per week of administrative work as Presider in my own time. My predecessor as Senior Presider of the Circuit summed it all up as “complete madness”. I suspect it has got worse since then.

Solutions are not easy to devise. Anthony May (May LJ) has given us one admin. day per term out of court. It is genuinely welcome as a goodwill gesture but does no more than scratch the surface of the problem. Colman Treacy says:

“It seems to me that we are unlikely to be able to continue like this. Either admin is part of the job or it isn't. The reality is that it must be part of the job. In this case appropriate time allowance should be made for those who carry the burdens. That will necessarily entail creating and paying for more judges in order to fulfil the commitments of those who do the admin. In the end something has got to give.”

I agree. My one caveat is to question whether the burgeoning bureaucratisation of the system does anything to improve it. But assuming that it is here to stay, his analysis must be right. As it stands, most of the extra work has to be personally done by us. Administrative support as such would

be of limited use. We can already get letters typed and instruct our clerks and the judicial secretariat to do routine things.

Four further points:

- (i) I found the time to write this when the jury was out and between applications; and finally after 10 o'clock at night;
- (ii) Despite the hassle, I have enjoyed being responsible for trying to make a success of the circuit, to which over the years I have owed a lot; but I'll be glad when it's over.
- (iii) Any improvements which may result from your review will not be enjoyed by me, but I hope some relief will be given to my successors.
- (iv) Others higher and lower in the judicial hierarchy will I know have similar tales to tell, but I leave that to them.

I don't mind at all putting my name to this!

Richard Gibbs

16th July 2007

Annex B

You are invited to attend a

CIVILSERVICE

PRE RETIREMENT COURSE

At

7th Floor, Clive House

70- Petty France,

London, SW1H 9EX

On

Friday 14th September 2007

09:30 until 16:30



Eligibility

- Approximately age 58 +
 - or
 - leaving service due to ill health or early retirement
- (Partners welcome to attend)

Course Objectives

- To provide useful information about a range of retirement issues and how to take it forward.
- To encourage an exchange of perspectives and ideas among delegates
- To raise awareness of some of the planning steps that may need to be taken before retirement and of the importance of planning well ahead.
- To give reassurance and guidance and encourage a positive approach to retirement.

One Day Agenda

9.30 – 4.00 pm

Welcome & Introduction

Managing Change

Identifying delegate concerns
Understanding lifestyle changes
(*status, relationships, time, lifestyle*)
Finding solutions

Creating a new future

Using time effectively
Volunteering
Leisure & Learning Opportunities
Part time work

Maintaining health

Mental, emotional & physical
Practical steps - a holistic approach

Money Management

Budgeting
Redeeming loans, mortgages & savings plans
Inflation, its real impact & how to minimise effects
Use of income and capital

Civil Service Support Associations

Support & benefits for retired civil servants

Personal taxation & national insurance contributions

Tax code
Taxation of pension income and capital
Tax tips
Self Assessment

Pension benefits

State pension & other benefits
Civil Service pension schemes
Commutation & allocation options
Repackaging options for early retirements
AVC, FSAVC, Personal Pensions, Stakeholder
Annuities, open market option

Investing in retirement

Investment principles
Ethical investments
Investing for income and/or growth
Reducing investment risk (Case Study)

Legal issues

- Arranging a will
- Deed of variation
- Enduring power of attorney
- Mitigating inheritance tax
- Long Term Care

Thinking about the future

- Planning further ahead
- Seeking professional advice
- Independent or Tied or Portfolio Manager
- Regulatory protection for the consumer
- Cost of investing

Review & Close

Annex C

Retirement Issues

In October 2006, the Judges Council received a report relating to Judicial Support. It covered a number of areas of concern including retirement. The Working Party set up after the publication of the Report has now addressed that issue and prepared a handbook of information which it hopes will assist judges who are contemplating, or preparing for retirement.

A) Retirement

The current Terms of Appointment do not require a judge at any level to specify a period of notice of intended retirement. It is submitted however that the giving of reasonable notice is important: it enables a judge to plan for retirement and to ensure the timely receipt of his or her pension. The Ministry of Justice can then take steps to replace the judge and to ensure that the listing of cases is not obstructed. It should help colleagues who remain in office with their work plan.

(a) High Court Judges

Notice of intended retirement should be given to the relevant Head of Division

(b) Circuit and District Judges

Notice should be given to the Regional Director. Once a date for retirement is agreed the Regional Director will liaise with the Post Appointment Department of the Ministry of Justice to put in place the necessary arrangements.

(c) High Court Masters, Bankruptcy Registrars, District Judges of the PRFD and Supreme Court Costs Judges

Notice of intended retirement should be given to the Lord Chancellor, the relevant Head of Division and the relevant Chief or Senior Master, Registrar or Judge

(d) District Judge (Magistrates Court)

Notice of intended retirement should be given to the Senior District Judge

B) Medical Retirement

Statutory Requirement

The Judicial Pensions and Retirement Act 1993 requires that *'the appropriate person is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, the person is incapable of discharging the duties of his qualifying judicial office and that the incapacity is likely to be permanent'*. In practice, the satisfaction of infirmity that the Act requires is considered to be met on receipt of a Medical Retirement Certificate from the Occupational Health Service. The Medical Retirement process can only be taken forward if there is a Medical Retirement Certificate (MRC) signed by the Department's Occupational Health Physician advising that the judge is unable to work on grounds of ill-health and the condition is likely to be permanent.

The Lord Chancellor must consult the Lord Chief Justice before recommending that a judge be granted a pension in the following circumstances:

- if he has been removed for incapacity or misbehaviour; or
- if the Lord Chancellor is satisfied, by means of a medical certificate, that by reason of mental/physical infirmity he is incapable of discharging his duties and the incapacity is likely to be permanent.

Background

The Medical Retirement process commences when a medical referral to the Occupational Health Service Provider, Atos Origin, results in a Medical Retirement Certificate

The initial referral will have been made for one of the following reasons:

- The judge has a serious or life-threatening illness such as cancer, heart disease, multiple sclerosis, depression or stress-related illness.
- The judge has had a total of 90 days sick leave in the previous two years.
- The judge has requested a medical referral and may also have applied for medical retirement.
- When the Judicial Secretariat has raised concerns.
- When there have been judicial complaints raising doubts about the individual's health.

The referral to the Occupational Health Service can only be made with the consent of the judge. The Ministry of Justice cannot ask the Occupational Health Service to recommend a Medical Retirement as that is a medical decision but it can ask the Occupational Health Service physician to advise whether medical retirement is appropriate.

C) Pensions

(a) Judicial Pensions

Judges at all levels now receive forecasts of their judicial pensions on an annual basis but they can also be obtained by contacting

The Judicial Pay and Pensions Administrator
Ministry of Justice
Selborne House
54-60 Victoria Street
London
SW1E 6QW
Telephone 0207 210 894

Forecasts can usually be obtained within about two weeks. If a judge is planning to retire before his 65th birthday, the forecast covers immediate and preserved pensions, and if a judge was appointed before the implementation of the 1993 Act, the forecast also covers the situation if the judge wishes to opt in to the new scheme.

(b) State pensions

A judge may also obtain a forecast of his state pension by contacting the Department of Works and Pensions.

Retirement Pension Forecasting Team
Future Pension Centre
The Pension Service
Tyneview Park
Whitley Road
Newcastle upon Tyne
NE98 1BA

Telephone 0845 3000 168. Lines are open between 8am and 8pm Mondays to Fridays and 9am and 1pm on Saturdays

A comprehensive booklet called “Understanding Your State Pension Forecast” will accompany your forecast and provides useful additional information.

(c) Receipt of Pension

A judge can expect to receive his/her judicial pension at the end of the month in which retirement occurs, together with the lump sum which will now be net of tax at the higher rate. The balancing payment representing the tax deducted from the lump sum will normally be paid the following month.

(d) Pension Entitlement

Information about the Judicial Pension schemes is contained in the Appendices. The Appendices have different dates, and what is now the Ministry of Justice is therein described as either the Lord Chancellors Department or the Department of Constitutional Affairs.

D) Sitting in Retirement

(a) High Court Judges

High Court Judges wishing to sit in retirement must apply to the relevant Head of Division

(b) Circuit and District Judges

The procedure for circuit and district judges wishing to sit part time in retirement is as follows:

1. The judge confirms his retirement date in a letter to the Regional Director and expresses a wish to be considered for appointment as a Deputy.
2. Regional Director consults the Area Director/Regional Judicial Liaison Officer as to whether there would be a business need for an additional Deputy to the pool.
3. Once/if a business need is established, the Presiding Judges are consulted. If they are content, the Regional Judicial Liaison Officer sends a business case to Judicial HR (Judicial Office) requesting that the Lord Chief Justice and Lord Chancellor grant the retiring judge the authority to sit as a Deputy. (If family tickets are being retained, the President of the Family Division will also receive the business case). This is not usually done until a few months before the retirement date. If the Lord Chancellor and the Lord Chief Justice agree, confirmation is generally only received on or shortly after the retirement date.

NB In view of the President's recent announcement on tickets I am not sure how this will affect retired judges

4. Deputy judges are appointed initially for a period of 2 years and may sit up to 70 days each year. The Circuit/Region may seek a renewal for a further year once the two year period expires, if the Presiders are content and if there is a business need.
5. The current daily rate for Deputy Circuit Judges is £556 (will rise to £560 from 1 Nov 2007) and £446 (rising to £450 from 1 Nov 2007) for Deputy District Judges. This figure is calculated by reference to the current salary for a full time appointment. They are entitled to claim expenses (in the same way as a Recorder would).

Appointment as a deputy is not automatic and is dependent on a business case being made out. There is no guarantee and it is not possible to give any assurance. The final decision rests with the Lord Chief Justice and the Lord Chancellor, who will only consider the request when the retirement is confirmed and is about to happen.

(c) High Court Masters, Bankruptcy Registrars, District Judges of the PRFD and Supreme Court Costs Judges

High Court Masters, Bankruptcy Registrars, District Judges of the PRFD and Supreme Court Costs Judges_ must apply to the relevant Head of Division and the relevant Chief or Senior Master, Registrar or Judge.

(d) District Judge (Magistrates Court)

1. The application should be made to the Senior District Judge and then to the Senior Presiding Judge.
2. The maximum number of sitting days permissible is 107. In practice, former full time District Judges who then sit as Deputy Deputy District Judges usually sit the contractual period of 15 to 50 days
3. The current daily rate is £499.52.

E. Part-Time Sitting Prior t Retirement

Since the 1st April 2005 it has been possible to possible for all judges below the High Court to apply to sit part-time subject to the establishing of a business case. Further information is available in “Judicial Part-Time Working: A Practical Guide” which is available from Judicial Liaison Officers, the Judicial Office and Judicial Resources Division.

F. Miscellaneous

(a) LINK laptop

A judge will normally relinquish the Link laptop on retirement but most courts have a “pool laptop” which visiting judges can use.

(b) Law Reports and Periodicals

Entitlement to these ceases on retirement

(c) Retirement Courses

Following the recommendation of the Working Party, the Ministry of Justice has agreed to set up retirement courses for the judges within two years of retirement similar to those available for senior members of the Civil Service (and their spouses). Until such time as a bespoke course is available for the judiciary, attendance at the Civil Service course will be offered.

(d) **Professional subscriptions**

Circuit Judges are entitled to retain their membership of the Council of Circuit Judges and pay a reduced subscription, currently £10 per annum. Their interests are represented by a co-opted member who is a retired Circuit Judge and they receive the Council's Updates and invitations to the Annual Dinner and Spring Lunch. If a judge wishes to dispose of his robes, the Secretary to the Council also maintains a list which is sent out to members on a regular basis.

District Judges (and Supreme Court Group members of the Association of District Judges remain as life members of the Association of District Judges and pay no subscription; they cease to have voting rights at General Meetings but continue to receive the bulletin.

(Passim herein "he" includes "she" and "his" includes "hers")

December 2007

POSTSCRIPT

A few thoughts from a retired judge

- In anticipation of retirement, plan your finances in advance
- Organise a "focus" for your retirement but be cautious about taking on too much, too soon
- Have "generosity of spirit"

August 2007