



JUDICIARY OF
ENGLAND AND WALES

The Lord Chief
Justice's Report
2016

The Lord Chief Justice's Report 2016

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Introduction by the Lord Chief Justice

It is ten years since the Constitutional Reform Act 2005 came into force and vested responsibility for justice and the judiciary jointly in the Lord Chancellor and the Lord Chief Justice. That change was itself momentous and, ten years later, we reach another historic moment: the realisation of the courts and tribunals modernisation programme.¹ This is much-needed and long overdue, and work is well and truly underway. The Lord Chancellor, Senior President of Tribunals and I have recently published our joint vision for the justice system: one that is just, proportionate and accessible – a system that builds on established strengths and continues to lead and inspire the world.²



The Lord Chief Justice at the Quit Rents Ceremony with A. Mohindra and D. Kim, who won first and second prize respectively in The City of London Law Officers Essay Prize (See section 11, Outreach and Communications)

Amidst these changes, constitutional and structural, one thing has remained constant: the renown, calibre and independence of the judiciary. It should not be forgotten that our judges are the real asset of the judicial system, which is, rightly, the envy of the world. It must also be better understood that the judiciary, as guardian of the rule of law, is central to the proper functioning of our democracy. Therefore, the judiciary and its independence must neither be taken for granted nor in any way diminished.

There remain, then, a number of issues to be addressed:

- **The primacy of the Common Law must be preserved.**

The pre-eminence of our judicial system directly and indirectly contributes substantial sums to the wealth of the nation. The quality of our law, our judges, and our lawyers means that the United Kingdom is the jurisdiction of choice for international business litigation. In addition to furthering the economic success of the United Kingdom, the Common Law also underpins much of world commerce and the advancement of the rule of law in other countries. However, it also operates on an increasingly competitive and globalised plane. It is therefore crucial this long-established reputation is understood, strengthened, and promoted so that the United Kingdom remains a, if not the, leading forum for international dispute resolution.

1 As I acknowledged in my Annual Report last year (https://www.judiciary.gov.uk/wp-content/uploads/2016/01/lcj_report_2015-final.pdf), the 2015 Autumn Statement confirmed that Her Majesty's Treasury was providing some £738m for modernisation of the justice system in England and Wales.

2 <https://www.judiciary.gov.uk/publications/transforming-our-courts-and-tribunals-system-by-the-lord-chancellor-the-lord-chief-justice-and-senior-president-of-tribunals/>

- **The stature of the judiciary must be maintained.**

Whilst modernisation of the courts and tribunals is vital and will improve the administration of justice, the judiciary itself demands attention. There is, for example, very real concern about recruitment. This is particularly so in relation to the High Court, where the last two competitions failed to fill all vacancies. This emerging trend needs to be reversed as a matter of urgency, together with tackling the causes of low judicial morale.

- **The role of the judiciary and the centrality of justice to society must be better recognised.**

The Heads of Division, other senior leadership judges and I strive to ensure that the fundamental role of the judiciary as part of the British Constitution is better understood, appreciated and respected. The wider judiciary also understands that we must extend our outreach into communities to build on the work currently being done. Ensuring public understanding of the justice system, and its contribution to our cohesion and prosperity as a society, is a facet of access to justice and needs to be strengthened.

- **A proper balance between State funding for the justice system and fees must be struck.**

A properly funded justice system is a core function of the State, whether the courts are trying and sentencing those accused and found guilty of crimes, determining and declaring the private rights and obligations of individuals, or holding the democratic government to account and ensuring it acts fairly and according to law. Successive rises in fees and increasing costs of litigation are undoubtedly felt acutely in the more routine and consumer cases. Likewise, for high value and commercial litigation the wisdom of high issue fees must be questioned. It is therefore essential that a better and balanced means of financing the courts and tribunals is found.

- **Judicial diversity must be strengthened.**

Although the judiciary does not appoint judges, we work closely with the Judicial Appointments Commission. This is with a view to strengthening judicial diversity whilst maintaining quality through appointment solely on merit. The Judicial Diversity Committee of the Judges' Council has implemented initiatives to encourage applications for judicial office from under-represented backgrounds. This should make a positive difference but more must be done. I am determined to ensure that "first-entry" competitions attract candidates from the widest possible pool and that selection methods are refined so as to capitalise on that achievement.

These issues apart, the courts face significant difficulties with their caseload. I therefore draw particular attention to the passages below relating to the impact of asylum and immigration cases on the Court of Appeal's Civil Division (Section 5) and those relating to the volume of public and private law cases before the Family Court (Section 6).

We are confronting all of these matters and striving to streamline processes and increase efficiency within ever-tightening budgets. We do this in addition to the "day job", when each judge and magistrate tirelessly discharges the primary duty of deciding cases justly and proportionately. I want to thank the judiciary and magistracy of England and Wales, the staff of HMCTS and of the Judicial Office for their unwavering efforts to maintain the due administration of justice.

1. Courts and Tribunals Modernisation

In September 2016, the Lord Chancellor, Lord Chief Justice and the Senior President of Tribunals published a vision for Transforming Our Justice System with the aim of delivering “a courts and tribunals system that is just, proportionate and accessible to everyone – a system that will continue to lead and inspire the world.”³ The courts and tribunals modernisation programme is a core part of this.

The Modernisation Programme

Following the Government's commitment in November 2015 in the Autumn Statement to invest more than £700 million in the modernisation of the courts and tribunals, and a further £270 million for the criminal justice system, the Government and the judiciary have been working together to make reform a reality.⁴

The programme is intended to achieve the most radical reform since 1873. It has three main elements:

- Digitisation and the use of state-of-the-art IT for all procedures and hearings.
- Simplification of processes and procedures, so that there is a uniform, common procedural regime for civil, family and tribunals justice, and for crime.⁵
- Modernisation of the estate, so that buildings are used jointly by courts and tribunals more efficiently, are fit for purpose and support new ways of working.

This will open up opportunities for judges to be deployed more flexibly and enable them to sit in more than one jurisdiction. One justice system and one judiciary will be achieved, which will result in the more efficient and effective administration of justice.

The detail of the programme is set out in the joint statement.⁶

Governance and delivery

The Modernisation Programme has received the most careful scrutiny by the requisite government bodies. In addition, a leading firm of consultants independently reviewed the programme and governance arrangements, and concluded that the breadth of the ambition of the programme was unmatched anywhere in the world. Governance arrangements have been clarified and streamlined to ensure that HMCTS itself has the capacity, finance and independence to deliver the programme under the joint direction of the Lord Chancellor and Lord Chief Justice.

3 See Note 2 above.

4 <https://www.gov.uk/government/news/ministry-of-justices-settlement-at-the-spending-review-2015>

5 The Lord Chief Justice set out the radical extent of the changes envisaged to procedural law in a speech he delivered to the Singapore Academy of Law in September 2016: <https://www.judiciary.gov.uk/wp-content/uploads/2016/10/lcj-speech-singapore-academy-of-law.pdf>

6 <https://www.judiciary.gov.uk/wp-content/uploads/2016/09/narrative.pdf>

Members of the judiciary and magistracy are fully engaged. The Senior Presiding Judge provides monthly updates; the internal publication *Benchmark* reports on reform; and, leadership judges systematically use as many events as possible to engage with their judges and magistrates face-to-face. Communications are also monitored, reviewed and evaluated to make certain that judges and magistrates are receiving the information that they need about the changes that are taking place.

Local Leadership Groups have also been established across England and Wales. These groups, in which the judiciary and HMCTS make decisions jointly, will ensure that decisions that need to be made and implemented locally are determined locally. Jurisdictional judicial and professional engagement groups have been created to ensure that the views of judges and practitioners are understood as reform proposals develop in each jurisdiction.

2. Appointments and Diversity

Recruitment

Recent campaigns have raised serious concerns about recruitment to the judiciary, in particular the ability to attract well-qualified candidates for positions in the higher levels of the judiciary. The issues have been highlighted on a number of occasions, as the impact on the administration of justice and the position of the UK in international business litigation is potentially so serious. These dangers have been acknowledged. The judiciary has been working with the Judicial Appointments Commission, the Lord Chancellor and the Government to address these. The matter is now extremely urgent.

Improving the appointments process, career progression and succession planning

The judiciary and the Judicial Office are working closely with the Judicial Appointments Commission to improve the selection and appointments process. It is necessary to draw a distinction between first appointment, which is usually to a fee-paid post (such as recorder or deputy District judge), and appointment to a full or part-time salaried post (such as District or Circuit judge), when the candidates will have experience of sitting in a fee-paid capacity. The selection for first appointment requires a method which attracts the widest pool, provides a level playing field between those with experience of practice in different areas of the law, and is aimed at the assessment of potential. The judiciary strongly supports the work being undertaken by the Judicial Appointments Commission to improve the selection methods. In selection for a salaried post, there is a need to improve the information available about the work done by candidates in a fee-paid capacity through the further development of appraisal schemes. The South Eastern Circuit has successfully undertaken a pilot for the appraisal of recorders. It is intended that this scheme will be implemented nationally over the coming year.

The Judicial Executive Board is also putting in place a strategy for judicial deployment and succession planning. As part of this, it is designing a pilot career development scheme that will ensure that judges with the requisite ability and aspiration will be able to progress. The scheme would complement the more flexible cross-deployment policies that are being introduced for the courts and tribunals.

Diversity: the position in April 2016

This year's judicial diversity statistics show an improvement but there is much more still to be done. The overall percentage of female judges in courts rose from 25% to 28%, with the figure for tribunals remaining at 45%.⁷ The number of female Circuit judges has increased from 146 to 160 (an overall increase of 3 percentage points on the previous year to 26%). Forthcoming appointments to the Court of Appeal will increase the number of female judges from eight to nine and, in the High Court, from 22 to 23.

7 <https://www.judiciary.gov.uk/about-the-judiciary/who-are-the-judiciary/diversity/judicial-diversity-statistics-2016/>

Whilst the percentage of BAME (Black, Asian and Minority Ethnic) judges under 50 years of age has edged up from 12% to 16%, improving BAME representation within the judiciary remains an absolute priority. Within the magistracy, just over half of magistrates are women and just over 10% are from a BAME background, a slight increase on last year.

The judiciary is keen to get an insight into the socio-economic diversity of the judiciary and is now using educational backgrounds as a measure.⁸ In October 2015, processes were put in place with the Judicial Appointment Commission to collect the educational backgrounds of newly appointed judges. Plans are underway to encourage the existing judiciary to provide this information.

The Judicial Diversity Committee

Whilst it is fundamental that appointment to judicial office is always on merit, the judiciary wholeheartedly supports a range of initiatives specifically aimed at encouraging those from under-represented groups to consider applying for a judicial post or to seek progression to higher office.

As part of its strategy for encouraging judicial diversity, the Judicial Diversity Committee of the Judges' Council is continuing to prioritise efforts around encouraging more women, BAME candidates, and those from less socially advantaged backgrounds to apply for mentoring, first appointment and higher office. The most recent initiative has been a High Court Support Programme (August 2016), which follows and builds on a pilot programme run last year. The Programme offers 30 places to the most talented potential candidates from under-represented groups. The Programme will give participants the opportunity to shadow a judge in the High Court and to speak to the judge about the nature of the work, in addition to intensive one-day training on the application process.

Diversity and Community Relations Judges

The Diversity and Community Relations Judges, who now number more than 100 across England and Wales, find ways to engage in their own time with schools, colleges and universities; and with civic society and community groups. They nurture talented legal professionals from under-represented groups through talks, marshalling and work shadowing, as well as working with various communities to explain the centrality of justice. They are also a source of diversity expertise for their colleagues, encouraging others to follow their example with activities such as school visits.

⁸ Data is collected against the following two questions: "(1) If you went to university (to study a BA, BSc course or higher), were you part of the first generation of your family to do so?; (2) Did you mainly attend a state or fee paying school between the ages of 11-18?".

Diversity events

In collaboration with the legal professional bodies, the judiciary has supported a series of after-work networking events in Birmingham, London and Manchester. They give lawyers from under-represented groups an opportunity they may not have had before to meet judges informally and hear expert guidance from the Judicial Appointments Commission on the appointments process. All events have been well attended and those attending said they had found them to be valuable.

The next event will be held in London in November 2016.

Judicial work shadowing and judicial mentoring schemes

Judicial work shadowing enables participants to observe the work of various levels of judge, both in and out of court. The judicial mentoring scheme builds on this, but is only open to those from certain under-represented groups who intend to apply for judicial appointment within two years. Demand for both schemes continues to be high. Already, 165 judges have volunteered as role models, of whom 48% are women and 13% from a BAME background. Of these, 92 have trained to act as mentors; 17 are from the High Court and Court of Appeal. The mentoring scheme is supporting 96 mentees – women, BAME lawyers and lawyers from less socially advantaged backgrounds – in applying for their first judicial appointment or to progress to higher office.

3. Welfare, Morale, Training and Discipline

Welfare

The Lord Chief Justice regards his statutory duties in relation to the health and welfare of the judiciary as being of primary importance.

While long-term sickness absence is uncommon, policies and procedures are in place to assist leadership judges in managing ill-health cases. This is to ensure a speedy return to work, where possible, and to minimise the impact on colleagues and court business. The measures also include the provision of occupational health services in cases of serious or chronic illnesses. Human Resources Advisers have been appointed for each Circuit to assist the judiciary in these tasks, as well as in relation to human resources and management matters generally.

The Judicial Human Resources Committee is considering what additional support might be made available to improve the well-being of all judges.

Judicial morale

A Judicial Attitude Survey in 2014 showed a range of worries and concerns among the judiciary. A second Judicial Attitude Survey was conducted in July 2016; the recent results confirmed the earlier concerns. The issues raised by the surveys are being addressed by the Lord Chief Justice and the Judicial Executive Board in conjunction with leadership judges. The results of the surveys will also be used to inform future engagement with the judiciary about the action being taken.

The Modernisation Programme provides an excellent opportunity to improve basic working conditions. These improvements range from providing judges and magistrates with up-to-date equipment, which enables them to do their jobs efficiently, to ensuring the buildings from which they work are modern, secure, and fit-for-purpose. Workload pressures can be tackled by enabling specially trained staff (under judicial supervision) to undertake more routine work. In addition, modernisation will open up possibilities for both cross-deployment and flexible working. These changes will be underpinned by better support for judges and magistrates, who have to deal with increasingly complex, difficult and, in some instances, unpleasant cases.

Senior leadership judges cannot ignore that, in common with others in the public sector, the judiciary has been affected by successive years of pay restraint. Therefore, the judiciary will wholly support the Senior Salaries Review Board in undertaking a major review of the judicial salary structure through the Quinquennial Review. It will be important to learn from past quinquennial reviews and recognise that any review will take place in circumstances where the judiciary faces unprecedented difficulties. The reduction in morale, the very significant fall in pay and pensions in real terms, an increase in uptake of early retirement, recruitment difficulties, and the changes being implemented through the Modernisation Programme will all be central to the review.

Training

The Judicial College delivers training for approximately 30,000 judges, magistrates and independent legal advisers. Most are in England and Wales, although some are in reserved tribunals in Scotland and Northern Ireland.

In 2015–16, some 402 courses were attended by 15,216 participants. Whilst it has borne its share of public sector financial cuts, the College still delivers first-class training, often by increasing attendee numbers or through innovation. One example is the provision of online courses through the Learning Management System, which supports online booking, the provision of digital materials and e-learning.

Training includes induction and continuation training (in which social context and diversity issues are embedded), together with cross-jurisdictional support for case management and judgment writing. In addition, courses such as “The business of Judging” provide opportunities to consider ethical issues, whilst new leadership and management modules support leadership judges as part of an ongoing programme. A seminar on the Welsh language has also been enhanced.

The College also delivers face-to-face induction programmes, training skills courses and distance learning materials for independent legal advisers to enable them to deliver training to magistrates throughout England and Wales. Publications include the *Guidelines for the Assessment of General Damages in Personal Injury Cases*, the *Equal Treatment Bench Book*, jurisdictional bench books, *Tribunals Journal* and e-letters that provide updates in the crime, civil and family jurisdictions.

Judicial library and information services

The Judicial Office has taken over superintendence of the provision of libraries for the judiciary. Significant savings have been made by evaluating what is needed and improving access to online law reports, together with direct discussions with the law publishers.

Discipline

The Judicial Conduct Investigations Office is an independent office that supports the Lord Chancellor and Lord Chief Justice in their joint responsibility for judicial discipline. The increased focus on staff training and the improvements made to processes over the past three years have enabled complaints to be dealt with in a more timely manner.

The JCIO reports separately to Parliament.⁹

The Judicial Appointments and Conduct Ombudsman considers any complaints about the disciplinary process.

9 <http://judicialconduct.judiciary.gov.uk/wp-content/uploads/2015/12/Flag-A-Annual-Report-2015-2016-2.pdf>

4. Criminal Justice

In line with trends in previous years, the total number of individuals and companies who have been dealt with by the criminal courts of England and Wales has continued to decline and is now at a record low.¹⁰ The fall in numbers does, however, paint a simplistic picture which belies the fact that the case mix in the courts remains complex, with sexual offence cases continuing to increase.¹¹

The shift in the type of work that the courts are routinely faced with is one example of why the judiciary needs to know the emerging trends and patterns in crime types. For this reason, the judiciary has been involved in cross-criminal justice system forums, such as the Criminal Justice Board, to make significant improvements in the early collection of data. There is, as yet, an insufficient understanding of “demand” throughout the system, but the judiciary will continue to work with criminal justice departments and agencies to try to ensure earlier and better information becomes available.

Court of Appeal (Criminal Division)

Over the last year, new appeals against conviction have generally remained stable whilst those involving sentence have reduced; Attorney General's references have, however, increased. Although the current caseload has reduced in number, compared with the same time last year, the workload of the Court has increased as many of the appeals are now more complex.

This has meant that the average waiting time from filing an appeal to disposal remains out of target for conviction cases where the full court considers permission and the substantive appeal together and sentence cases; however, renewed oral applications for permission to appeal against conviction are within target. Any backlog and waiting time issues are being addressed by the judiciary with the support of court managers and Criminal Appeals Office lawyers.

Applications from unrepresented applicants continue to increase and are now having an impact on all work of the Criminal Division. This often involves an increase in work for the staff of the Criminal Appeals Office, which compounds pre-existing pressures. To assist, the Registrar has directed, particularly in cases where voluminous documentation has been filed, that papers are sent to him at an early stage to enable him to exercise his case management powers.

10 Criminal court statistics (quarterly) March 2016 (period 1970 to March 2016), 1.7 million individuals dealt with in the 12 months ending March 2016: <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-march-2016>.

11 For a detailed breakdown of the case types coming before the Crown Court, the Crown Court Information Tool provides up to date statistics: <https://www.judiciary.gov.uk/crown-court-information/>.

The Leveson Review of Efficiency in Criminal Proceedings

The judiciary has maintained momentum in delivering the recommendations made in the Leveson Review's report.¹² This year, work has included the further revision of the Criminal Procedure Rules to improve the efficiency of jury trials. These revisions deal with issues such as provision of a written route to verdict; provision of a split summing-up (delivered in two parts – the first part prior to the closing speeches and the second part afterwards); and, streamlining the summing-up to help the jury focus on the issues.

An important practice that stemmed from the Leveson Review was the judiciary-led “Better Case Management” programme. The programme is aimed at improving the way criminal cases are processed by the system through robust case management, a reduced number of hearings, and maximum participation and engagement from all parties. The programme was rolled out nationally on 5 January 2016. There are promising signs that this is making a significant contribution to the more efficient running of the courts. There will be a formal analysis early next year once enough reliable data is available.

IT modernisation

Over the last year, the Crown Court Digital Case System has been introduced successfully to all Crown Courts. This enables the sharing of information and evidence between the parties and the court and allows cases to be managed online and without paper. The system is being improved and will be linked to the Common Platform, a document management system for use by all engaged in criminal justice.

The Digital Case System is one aspect of the wider IT modernisation in the criminal courts. New judicial laptops and web-based technologies enable the judiciary to work effectively and flexibly, whilst the installation of wifi in all criminal courts enables parties, representatives and other court users to interact with the courts with ease.

Codification

The Criminal Procedure Rule Committee has almost completed its task of ensuring that all materials relating to the conduct of criminal proceedings are collated into one document, *The Rules and Practice Directions*, and that all new material is added to that document. Together with the excellent work being undertaken by the Law Commission on codifying the law of sentencing, this should greatly improve the administration of justice. The remaining task is the codification of the substantive criminal law.¹³

12 <https://www.judiciary.gov.uk/wp-content/uploads/2015/01/review-of-efficiency-in-criminal-proceedings-20151.pdf>

13 The Lord Chief Justice reiterated the case for this in his speech at the Mansion House in July 2016: <https://www.judiciary.gov.uk/wp-content/uploads/2016/07/lcj-mansion-house-july-2016.pdf>.

Forensic science

Over the past few years, concern has been expressed both in the UK and elsewhere about the reliability of and lack of a sufficient scientific basis for certain aspects of forensic science.^{14,15} The judiciary has therefore worked closely with the Home Office, the Chief Scientific Adviser, the Forensic Science Regulator, the Royal Society and the Royal Society of Edinburgh, Professor Dame Sue Black and Professor Niamh Nic Daeid of Dundee University, the Scottish judiciary and others to strengthen the scientific basis and make the UK a world leader. One of the results of this work was the opening, in July 2016, by Her Majesty of the Leverhulme Research Centre for Forensic Science at the University of Dundee.

Another result has been the establishment, with the Royal Society and the Royal Society of Edinburgh, of a working group to take forward the writing of primers for use by the judiciary, practitioners and juries in explaining and understanding forensic science when used in court. The first primer will cover the science of DNA.

Vulnerable witnesses

During the past year, judges in Hull, Kingston and Leeds Crown Courts have continued with pilots of the pre-recording of cross-examination of children and other vulnerable witnesses. The Ministry of Justice has recently announced a wider roll-out of the pilots; plans for national implementation are being devised currently.¹⁶ The judges continue to commend it unanimously because it greatly improves the administration of justice by reducing stress and anxiety for vulnerable witnesses and encourages early guilty pleas.

Courts Martial

The Judge Advocate General has continued attempts to align the procedure of the Courts Martial with the civilian criminal courts. With this in mind, the judiciary, with support from a wide range of organisations with an interest in the Courts Martial, has adapted the Better Case Management initiative for use in the service courts. This should speed-up the passage of cases through the service justice system and generally improve the running of the Courts Martial, without compromising on the quality or fairness of justice delivered. The initiative went live on 1 September 2016.

14 See, for example, the Report of The US President's Council of Advisors on Science and Technology, September 2016: https://www.whitehouse.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_science_report_final.pdf

15 The issues were explained in the Lord Chief Justice's Kalisher Lecture in October 2014: <https://www.judiciary.gov.uk/wp-content/uploads/2014/10/kalisher-lecture-expert-evidence-oct-14.pdf>

16 <https://www.gov.uk/government/news/courts-reform-gives-stronger-protection-for-victims-and-witnesses>

5. Civil Justice

In the civil jurisdiction, the courts have spearheaded a number of reforms, and practitioners have adjusted to them, whilst continuing the conduct of litigation. The creation of the Financial List is just one way in which the courts and the judiciary are responding to the demands of commerce and industry, ever more sophisticated users with complex litigation needs, and a more specialist profession; another is the work being done on devising the Online Court or an online dispute resolution system. Further reforms are anticipated in the year ahead.

The Briggs Civil Courts Structure Review

Lord Justice Briggs was commissioned to carry out a review of the structure of civil courts in England and Wales. The review was to look at boundaries between the civil courts, family courts and tribunals, as well as private providers of civil dispute resolution services. The recommendations for change made by Lord Justice Briggs were intended to be implemented as part of the overall courts and tribunals modernisation programme.

The final report of his comprehensive review was published in July 2016.¹⁷ It followed an exhaustive consultation and fact-finding process involving numerous visits, meetings and written submissions. The report made a series of recommendations, which are now being considered, including:

- *Online Court* – developed with staged case progression for all money claims up to £25,000 (save for specific exclusions), with funding and development of digital assistance for users who require it.
- *Case officers* – expansion of the court lawyers and officials who will relieve judges of lighter duties, under supervision and after appropriate training.
- *Jurisdictional reform* – more work to be moved out of London and the civil bench to be strengthened. Financial limits to be increased so that a greater range of cases can be heard outside the High Court.
- *Enforcement* – unification of service across civil courts.
- *A new Procedural Code* – for transfers between the High Court and County Court.

Court of Appeal (Civil Division)

The increase in work (and pressure) on the Court of Appeal's Civil Division has also been a marked feature of this year and, seemingly, is part of a relentless trend. Applications for permission

17 <https://www.judiciary.gov.uk/civil-courts-structure-review/civil-courts-structure-review-ccsr-final-report-published/>

to appeal have increased by 50% in the past five years, particularly in the field of asylum and immigration; court hearings have also risen. There can be no doubt that the asylum and immigration caseload is having a serious, adverse impact on the work of the Court. Meanwhile, there has been no increase in the number of judges of the Court in this period.

The senior judiciary, as intimated last year, has responded to the dramatic increase in the Court's work with a series of reform proposals. These were explored in the Briggs Review and necessary procedural rule changes were consulted on in May 2016 by the Civil Procedure Rule Committee.¹⁸ With effect from October 2016, the measures being taken to reduce the backlog of cases which has arisen from the sustained (and continuing) rise in the volume of appeal applications include:

- Dealing finally with more applications without the need for an oral hearing.
- Re-routing some appeals from the County and Family Courts to the High Court as the next court and judicial tier.
- Extending the number of sittings by two (rather than three) judges enabling more sittings to take place.
- Increasing the number of judicial assistants supporting the judges.
- Streamlining court processes e.g. limiting the size of court bundles and skeleton arguments.

Control of litigation costs and disclosure

Controlling the costs of civil litigation continues to be a concern. The Jackson Review reforms are now largely bedded down.¹⁹ The year has seen a combination of further implementation and refinement of costs management – such as amendments to cost budgeting rules – and anticipation of further reforms.

The cost of disclosure greatly impacts the overall cost of litigation, especially in the context of big commercial cases. The judiciary is working with general counsel from a number of large companies, as well as partners in law firms and some specialist barristers, to consider the best approach to disclosure in an electronic era – an era where disclosure can involve reviewing millions of documents. The merits of predictive-coding-assisted disclosure are being explored in the wake of the first decision in this jurisdiction allowing its use.²⁰ Amendments to Part 31 are also being considered.

One area that the judiciary has consistently pressed to see implemented is the widespread adoption

18 <https://www.judiciary.gov.uk/publications/moj-consultation-appeals-to-the-court-of-appeal-proposed-amendments-to-civil-procedure-rules-and-practice-direction/>

19 <https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Reports/jackson-final-report-140110.pdf>

20 <http://www.bailii.org/ew/cases/EWHC/Ch/2016/256.html>

of fixed recoverable costs across the range of fast-track cases, and, potentially, to the lower reaches of the multi-track. This would help to ensure that litigation costs are reasonable and proportionate, enabling parties to proceed with greater certainty. However, the costs must be fair, and information gathering will be required before recoverable costs are fixed. The Government has signalled its intention for further reforms, and, in particular, extending the application of fixed recoverable costs to further areas of civil litigation. The judiciary has indicated that it will assist with a review that will help to develop proposals.

Fees

Another aspect of legal costs is court and tribunal fees. The judiciary has voiced its concern and opposition to the succession of significant fee increases which have been proposed and, largely, implemented. These have not been confined to the civil jurisdiction, but civil justice has been the main focus for large fee rises (at present the fee is based on 5% of the value of the claim up to £10,000 – although the Government is consulting on fees of up to “at least” £20,000).

The judiciary remain very concerned about the implications for access to justice (for the more mainstream, lower value, and consumer cases) and the economic wisdom of the course being followed (in terms of business and commercial litigation, and the competitiveness of England and Wales as the jurisdiction of choice for international disputes). Members of the senior judiciary gave evidence on this to the Justice Select Committee in January 2016 and welcomed the Committee's Report published in June 2016.²¹

Litigants-in-person

The judiciary continues to play an active role in developing services and resources for litigants-in-person, working closely with the advice and pro bono sector, the professions and the Government. This has included developing new training materials for judges and extending pro bono representation for unrepresented parties in the Court of Appeal.

Judicial representatives are involved in or leading work by HMCTS and the Civil Justice Council to improve resources and to ensure that the Modernisation Programme is sensitive and accessible to litigants-in-person. A great deal of work is being done to support unrepresented parties in the family courts, nationally and locally, for example judge-led information sessions held in Bristol.

Financial List

The Financial List, launched on 1 October 2015, is already providing a forum for the clear and speedy resolution of complex financial disputes for global markets and businesses. It also introduces, for the first time anywhere in the world, a market test case procedure, which enables parties to submit a case for resolution by a judge of the List where there is no live dispute between the parties, but there is a point of uncertainty in the law and the financial markets would benefit from a steer from the courts as to how they would determine the issue at hand.

21 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/courts-and-tribunals-fees-and-charges/oral/28990.html>

It has proved to be popular, handling a number of important cases. To date, 15 cases have been issued directly into the Financial List and seven have been transferred to it. Of those 22 cases, four were discontinued, 14 are ongoing, and four have already had their judgments handed down.²²

In addition, to ensure that the Financial List remains relevant to court users, a Financial List Users Committee has been established. It has a broad membership drawn from representatives of legal and market associations, as well as Financial List judges.

Procedure “à la carte”

During consultation on the proposed Financial List, court users repeatedly expressed the need for shorter and more flexible trial options for business litigation. A working group was established to address this and to find a solution that could be applied across the jurisdictions. The aim was (1) to foster a change in litigation culture, which recognises that comprehensive disclosure and a full, oral hearing is often unnecessary for justice to be achieved; (2) to bridge the gap between summary judgment and full trial; and, (3) to produce significant savings in the time, cost and complexity of civil litigation.

The Shorter Trials Scheme involves tight control of the litigation process by the court, in order to resolve disputes to a commercial timescale. Litigation can be commenced in this scheme or transferred-in on application. Cases are docketed to judges and trial and judgment take place within eleven-and-a-half months of issue. Interim applications are disposed of on paper by default, whilst disclosure is limited by proportionality and oral evidence is kept to the minimum necessary to do justice. Finally, trials are limited to four days and costs are assessed summarily rather than being subject to costs management and detailed assessment. Part of the inspiration for this scheme comes from the success of the Intellectual Property Enterprise Court (IPEC), which has demonstrated what can be achieved when the court exercises greater control over procedure. The IPEC has been particularly successful in improving access to justice for small and medium-sized enterprises, which the Shorter Trials Scheme will aim to do for other commercial cases.

The Flexible Trials Scheme alternatively places the parties in control of process, subject to necessary intervention by the court. The scheme enables parties, by agreement, to adapt procedure to suit their particular case, and, in that sense, enables cases to proceed in a similar manner to arbitrations. Both sides must, of course, agree to the measures taken.

22 Judgments at first instance can be found at: <https://www.judiciary.gov.uk/court/financial-list/>

6. Family Justice

Digitisation of divorce and probate applications

Since April 2016, work has been progressing on two important projects in the courts and tribunals modernisation programme – the digitisation of applications in divorce and probate with the aim, as a pilot project in the wider Modernisation Programme, of providing an online application process for each. The judiciary has contributed considerable knowledge and expertise in order to assist in the design and development; these two pilot projects will form part of a single, unified IT system for all civil, family and tribunals justice.

Care proceedings involving the State

The average case duration for public law cases now stands at 27 weeks and has remained steady for the last 12 months.²³ The statutory time limit for public law cases is 26 weeks: 60% of cases are now dealt with in less than 26 weeks, compared with 55.7% in the same quarter in 2015. This performance has been delivered against a backdrop of an increasing workload and static judicial resources.

The number of cases commenced between January and March 2016 was 4,833, up 24% on the same quarter in 2015. The increase in workload is a source of concern as the reasons for it are not well understood at present; if the increases continue, they will, inevitably, soon start to have an adverse impact on case duration. The President of the Family Division recently described the “clear and imminent crisis” faced.²⁴

Given the sustained increase in public law cases, it is especially important to look to innovative “problem solving” models like the Family Drug and Alcohol Court, the PAUSE programme and the judiciary-led pilots of settlement conferences.^{25 26} These approaches merit further consideration, as the judiciary considers that there is an urgent need for action to be taken to address the growing caseload.

The judiciary is also supportive of proposals to examine the tandem model of representation in children's cases to ensure that the most appropriate use is made of scarce Legal Aid resources in funding legal representation and the most effective use is made of Children's Guardians.

23 Family Court Statistics (Quarterly), April to June 2016.

24 <https://www.judiciary.gov.uk/wp-content/uploads/2014/08/pfd-view-15-care-cases-looming-crisis.pdf>

25 PAUSE – A therapeutic intervention model that works with mothers who have had more than one child removed from their care to help them break the cycle. The model is being piloted in Doncaster, Greenwich, Hackney, Hull, Islington, Newham and Southwark until the end of 2016 when it will be evaluated.

26 Settlement conferences have been a part of the Canadian public law system for many years. The judiciary is currently piloting this model in Bristol, Cardiff, Cheshire and Merseyside, Devon and Cornwall and Central London. The pilots will run for six months and then be evaluated by researchers from Analytical Services in the Ministry of Justice.

Private law cases

The Family Court Statistics for the second quarter of 2016 show a 16% increase in new private law cases, compared with the same quarter in 2015, to 12,203.²⁷ This, in combination with the increase in public law cases, is a major concern for the judiciary. Again, the reasons for the increase are not well understood and the majority of the private law cases that come before the Family Court now feature litigants-in-person, increasingly on both sides. As with public family law cases, measures to address the growing caseload need to be considered.

Procedural changes

The Family Procedure Rule Committee has considered the participation in proceedings and the giving of evidence by children and vulnerable witnesses, building on the conclusions of the Child and Vulnerable Witnesses Working Group (further to their final report published on 17 March 2015).²⁸ It is anticipated that the rules relating to vulnerable adults will be ready for implementation by early 2017, after which the rules relating to children will be implemented.

A further area of Committee work has been in relation to the re-routing of appeals from the Family Court, as already mentioned in relation to the reform being undertaken in the Court of Appeal's Civil Division. The effect of this is the route of appeal from decisions of a Circuit judge or Recorder sitting in the Family Court is, with some exceptions, to the High Court rather than the Court of Appeal.

Court of Protection

Since 5 October 2015, Court of Protection cases have been able to be heard across England and Wales and are no longer heard only in London. The number of judges able to deal with this work has been increased and a Lead Judge for each English region and for Wales, responsible for the allocation of Court of Protection work, has been appointed. This has encouraged efficiency in delivering a quicker turnaround of work and reducing delays in the system.

In January 2016, a "transparency" pilot in the Court saw the public and media gain access to hearings across England and Wales for the first time. The pilot has been extended for a further year. This is in conjunction with the launch of a Case Management Pilot, on 1 September 2016, which aims to reduce further the number and length of hearings required in contested cases and to promote judicial continuity. It will also seek to encourage an early resolution of a property and affairs case at a Dispute Resolution Hearing.

27 See Note 23 above.

28 <https://www.judiciary.gov.uk/wp-content/uploads/2015/03/vwcwg-report-march-2015.pdf>

7. Administrative Justice

The work of the Tribunals

The work of the Tribunals largely comprises the resolution of disputes between the State and its citizens. The work is summarised in the annual report of the Senior President of Tribunals.²⁹

The Administrative Court and the Planning Court

Building on the successful introduction of the Planning Court in 2014, steps have been taken since January 2016 to improve the general working of the Administrative Court. The changes have been along three main lines.

First, the Court has published a Judicial Review Guide.³⁰ It is designed to make it easier for parties to litigate by drawing together relevant statutory provisions, rules of procedure, practice directions and case law on the procedural aspects of judicial review. It provides general guidance as to how litigation should be conducted in order to achieve the overriding objective of dealing with cases justly and at proportionate cost. The Guide has been prepared with all court users in mind (including litigants-in-person). As one of the busiest specialist courts within the High Court, it is imperative that its resources, including the time of the judges, are used efficiently. That has not uniformly been the case to date and bad practices have developed. The Guide sets out in clear terms what is expected. Sanctions may be applied if parties fail to comply. The Guide will be reviewed on a regular basis and there is a dedicated email address for feedback.

Secondly, there have been changes to the way the Court's lawyers work, following a consultation with the judges. They are an invaluable resource for the judges in dealing with the heavy caseload and it is essential that their skills and knowledge are used to the best advantage. Reforms, since 2012, have included greater specialisation among the lawyers and their working in teams with the case progression officers. The recent changes have built on this earlier work. For example, the briefings which lawyers provide to judges on individual cases have been sharpened and the lawyers are working on more detailed briefings on specialist areas of law with which non-specialist judges may be less familiar.

Thirdly, changes are being made to the internal procedures of the Court. Partly this has been driven by financial constraints and the difficulties in recruiting administrative staff. Partly, also, it has followed reviews of whether existing mechanisms can be justified in the present climate. One approach has been to place a heavier onus on those using the Court to ensure filings are well prepared beforehand, rather than having staff checking filings and requiring users to correct any mistakes. The judge in charge now meets with staff for regular "health checks" to ensure different parts of the operation are

29 <https://www.judiciary.gov.uk/wp-content/uploads/2016/02/The-Senior-President-of-Tribunals-Annual-Report-2016-final-1.pdf>

30 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/540607/administrative-court-judicial-review-guide.pdf

co-ordinated, cases are proceeding smoothly on a day-to-day basis and any difficulties are addressed. A more robust approach has been adopted to tackle cases which seem to have become dormant or those stayed pending a test case or appeal.

Chief Coroner

The Chief Coroner has continued his programme of reform which began with his appointment in 2012. There have been a number of positive developments this year, including a significant reduction in the number of cases older than 12 months and the publication of the Model Coroner Area document. More information can be found in the Chief Coroner's Annual Report 2015-16.³¹

31 <https://www.judiciary.gov.uk/publications/chief-coroners-annual-report-2015-16/>

8. Wales

Justice in Wales

During the course of the year, the judiciary has, in accordance with its published Guidance on engagement with the Executive, worked with the Ministry of Justice, the Secretary of State for Wales, the Welsh Government and other bodies on issues relating to the Wales Bill.³² Dialogue between the senior judiciary and UK and Welsh Governments remains of fundamental importance as the next phase of devolution in Wales is developed through the Bill. The judiciary is appreciative of the intent from both Governments to engage with them in respect of implementation of legislation of the National Assembly for Wales in the courts and tribunals.

The Justice in Wales Working Group has been established by the Ministry of Justice with membership from various UK Government departments and the Judicial Office; Welsh Government representatives attend as observers. Its principal remit will be to address how the justice function in respect of Welsh law can be addressed and to ensure that the necessary underpinning mechanisms are in place to enable legislation to operate effectively. The judiciary is encouraged by the recognition of this previously neglected area and look forward to seeing the options for change proposed by the Working Group.

The Lord Chief Justice and the Judges' Council Committee for Wales continue to accentuate the importance of ensuring that access to justice in rural parts of Wales remains a firm commitment and a consideration as part of the courts and tribunals modernisation programme, particularly in terms of the closure programme. Work is underway to ensure that access to justice is provided in Welsh through the development and application of new digital platforms.

Welsh Law

The judiciary continues to monitor and assess the impact of the increasing volume of primary legislation produced by the National Assembly within the fields of devolved competence. They are grateful to the continual engagement and willingness from the Welsh Government to look at ways to improve the flow of information and promotion of early policy engagement in areas touching the justice system.

Two particular areas of divergent law affecting the judiciary relate to family law and housing. The Social Services and Well-Being (Wales) Act 2014 will impact family judges; an information day was organised in Wales to raise awareness of the changes. In respect of the Housing (Wales) Act 2014 and Renting Homes (Wales) Act 2016, after court seminars were organised for the Welsh Circuit and District benches. Further judicial training is under consideration for 2017. It will also be necessary to direct training at raising the awareness of judges who sit in England that, in certain cases, the law in Wales will be different.

32 See section 10, Working with Parliament, Government and other Judiciaries of the United Kingdom, below.

The complexity and accessibility of law in Wales is an area that requires urgent attention. The patchwork of primary and secondary legislation is difficult to navigate and understand, as evidenced, for example, in relation to the field of education: the National Assembly has enacted 13 pieces of primary legislation in this area since receiving primary law-making powers. In addition, Westminster has continued to legislate on education in Acts which occasionally apply to Wales on the basis of legislative consent motions. The law on education applicable in Wales is now contained in up to 40 Acts of Parliament, seven Assembly measures, six Assembly Acts and hundreds of Statutory Instruments.

The judiciary welcomes the Law Commission's recommendations and efforts to work with the Welsh Government to explore options to codify the law which would create coherent and accessible legislation, designed for the benefit of the citizen and businesses.

The use of Welsh in the courts

The number of court cases where Welsh is used remains significant, with over 570 cases, including a judicial review, recorded during the period 2015–2016. Judicial Appointments Commission processes have been adapted to recruit judges to posts requiring Welsh Language skills and/or an understanding of the impact of devolution in Wales. These appointments allow Welsh to be used both in the formal setting of a courtroom and more generally in the administration of justice.

9. The legal professions and Justice out of London

The legal professions

The importance of the Common Law internationally

The pre-eminent international standing of our legal professions goes hand-in-hand with the world-class reputation of English Common Law and the judiciary. The judiciary is therefore working closely with the Lord Chancellor and with professional bodies, such as TheCityUK, to ensure that everything possible is being done to promote the use of English law.³³ The Lord Chief Justice and other senior judges have also highlighted how the high reputation of the English and Welsh courts and judges supports UK commerce and trade, noting the vital role that the Common Law plays.³⁴

Engagement on the courts and tribunals modernisation programme

The judiciary welcomes the constructive engagement of the professions in relation to the Modernisation Programme. Input from the professional users of the courts and tribunals is critical to ensuring the reforms are successfully and effectively implemented.

Regulation

The senior judiciary has continued to engage with representatives of the professional bodies, the regulators, and the Legal Services Board on a range of matters affecting the administration of justice and the conduct of litigation. At present, there is much debate about the legal professions and the regulation of legal services. It is absolutely essential that, if there are any changes made to the current framework, high professional standards and the overriding duty practitioners owe to the court are preserved and that the judiciary is represented on the boards of regulatory bodies, so as not to put the integrity of our legal system at risk.

33 For example, at the launch of TheCityUK's Legal Services Report 2016: <https://www.judiciary.gov.uk/wp-content/uploads/2016/10/lcj-speech-launch-of-thecityuk-legal-services-report-2016.pdf>

34 In the 2016 BAILII lecture, the Lord Chief Justice raised the question of rebalancing the relationship between the courts and arbitration to ensure the development of English Common Law: <https://www.judiciary.gov.uk/wp-content/uploads/2016/03/lcj-speech-bailli-lecture-20160309.pdf>.

Justice out of London

The judiciary is continuing to address strengthening the provision of hearings, in all types and levels of case, in cities outside of London and to assist in the strengthening of the professions in those cities. In 2016, the Court of Appeal (Criminal Division) sat in Cardiff, Birmingham, Bristol, Leeds, Liverpool, Manchester and Norwich. The Civil Division continues to sit twice a year in Cardiff. The senior judiciary is committed to increasing the number of sittings of both Divisions of the Court of Appeal outside of London and the feasibility of this is being reviewed.

In the context of the Modernisation Programme, one of the tasks of the Local Leadership Groups will be to ensure that the reforms are conceived and implemented in a way that achieves local justice. This will be fully supported by the senior judiciary, in particular by ensuring that High Court judges hear cases on Circuit on a regular basis. Already, the Administrative Court has regular sittings in Cardiff, Birmingham, Bristol, Leeds and Manchester. Separately, there remains a healthy flow of chancery work in the main chancery centres outside of London. The Court of Protection is now established in Cardiff, Birmingham, Bristol, Leeds, Manchester, Newcastle and Reading, allowing an increasing number of these sensitive cases are heard closer to where the parties live.

A further welcome consequence of the recent re-routing of certain appeals from the Court of Appeal to the High Court is the increase in Queen's Bench and Chancery Division cases being heard locally. There is also a preference for appeals to be heard locally and the President of the Queen's Bench Division and the Chancellor of the High Court have agreed to deploy judges to hear appeals on Circuit where possible.

10. Working with Parliament, Government and other Judiciaries of the United Kingdom

Parliament

It is now a well-established convention that the Lord Chief Justice will appear annually before Select Committees of both Houses of Parliament to discuss his Annual Report.³⁵ In addition, other judges have given evidence to Parliamentary Committees on matters ranging from courts and tribunals fees to the role of the magistracy. Adherence to Judicial Executive Board Guidance on such appearances, which relies on close and collaborative working between Select Committee clerks and Judicial Office staff, continues to ensure that judicial evidence is relevant, useful, and within the constitutional boundaries.³⁶

The Lord Chief Justice has met with both the Chair of Justice Select Committee and the Clerk of the Commons, together with other Parliamentary officials, to discuss areas of mutual interest. Meetings with members of the House of Lords (jointly with Justices of the Supreme Court) have also continued along a similar vein. Such meetings are crucial to increasing insight into the role and work of the various institutions and to ensuring that effective relationships between the judiciary and Parliament are maintained.

The Industry and Parliament Trust's Courts and Tribunals scheme is now live, and four Parliamentarians (the scheme is open to both MPs and Parliamentary officials) have each completed five days of varied courts and tribunals visits. Feedback is universally positive and the programme will be continued this year.

Government

The Lord Chief Justice, Heads of Division, Senior President of Tribunals and Senior Presiding Judge continued to meet regularly with the Lord Chancellor, other Justice Ministers and the Permanent Secretary to the Ministry of Justice. These regular meetings, and those with Ministers and Permanent Secretaries of other Government departments, are both necessary and constructive.

Guidance to judges on engagement with the Executive has now been published.³⁷ This Guidance is a product of a series of seminars hosted by the Institute for Government and recognises that the judiciary has a legitimate interest in assisting the Executive with the development of policy and legislation that concerns the administration of justice, the operation of the courts, or the rule

35 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/justice-committee/lord-chief-justices-report-for-2015/oral/29604.html> and <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/constitution-committee/lord-chief-justice/oral/32610.html>

36 https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/select_committee_guidance.pdf

37 <https://www.judiciary.gov.uk/wp-content/uploads/2016/07/guidance-to-the-judiciary-on-engagement-with-the-executive.pdf>

of law. However, as engagement is only permissible if the constitutional boundaries are respected, the Guidance details the best practice to be adopted. This will ensure that any engagement is both appropriate and confined to technical and procedural matters of policy and legislation, so as to make certain that judicial independence is not put at risk.

Justices of the UK Supreme Court and the Judiciaries of Scotland and Northern Ireland

The Lord Chief Justice and other senior judges have excellent working relationships with their counterparts in Scotland and Northern Ireland. Together with the President of the Supreme Court, regular meetings take place to discuss matters of international, cross-jurisdictional and local interest and concern.

11. Outreach and Communications

Outreach

The judiciary has for some time undertaken considerable work to promote the better understanding of the work of the courts and tribunals by outreach into the wider community. The work of the Diversity and Community Relations Judges has already been mentioned. Examples of other work include open days and broadening attendance at ancient ceremonies.

Open days are held at Crown Courts, with the objective of informing the public about all of those who work in and with the criminal justice system. An open day recently held at Reading Crown Court is a typical example. It included stalls run by the police, Crown Prosecution Service, solicitors, barristers' chambers, the Magistrates Association, the Witness Service, Probation and Young Offenders team and charities, such as Drugfam (working with families of those addicted to alcohol or drugs), Browns (working with women, both offenders and those-in-need through, for example, domestic violence). There were opportunities for activities such as fingerprinting, examining pieces of police equipment and wearing electronic tags designed for those on home detention curfew. Tours of the court building, the secure van used to bring prisoners to court and explanations about facilities, such as video links, were available, as were opportunities to wear judges' and barristers' robes. Mock trials presided over by judges and prosecuted and defended by advocates from the Bar and local firms of solicitor were held, with witnesses being provided by local schools.

In addition, the judiciary has worked with the City of London to enable students from local academies to be present at the swearing-in of the Lord Mayor and at the Quit Rents Ceremony.³⁸ The objective is to include young people from diverse backgrounds in the continuity of the rule of law. For the Quit Rents Ceremony, the City provided three prizes for law essays addressing the question: "To what extent do you consider the principles of Magna Carta are evident in modern judicial philosophy?"; certificates were presented to the three prizewinners before the Ceremony began.

The Judicial Communications Office

The Judicial Office has a small team providing specialist communications support and advice to the judiciary. It uses a variety of communication channels (including websites and social media) to raise awareness and increase public understanding of the work of judges in and out of court. It also works internally to inform and connect the different sections of the judiciary. In addition, there is a panel of media judges available to be interviewed at short notice on topics of current interest. In the past year they have described, for example, the experience of the increasing volume of cases involving sexual and other violent crimes and the effect on victims and other court users.

38 Both ceremonies date from the Thirteenth Century.

The Lord Chief Justice again invited questions from journalists on all issues at an annual press conference in November 2015 and this year, as well as a transcript on the website, a video recording was tweeted and posted on YouTube shortly afterwards as a wider documentary record.³⁹

The Lord Chief Justice and other senior judges have spoken widely in England and Wales, and overseas, over the last twelve months emphasising the rule of law and the centrality of justice.⁴⁰

Publication of judgments

Judgments and sentencing remarks in complex or contentious cases were communicated to the media and directly to the public by email, via the website and through the judiciary Twitter account (which has more than 37,000 followers).⁴¹

TV broadcasting

Broadcasting continued from the Court of Appeal. Cases were filmed most days, and were used from time to time by the main broadcasters on news bulletins and, in the case of a high profile appeal, additionally live-streamed on a newspaper website.

The swearing-in of Mrs Justice Cheema-Grubb in November 2015 was the first such ceremony to be recorded for broadcast; it was followed by the broadcasting of the swearing-in of the Rt Hon. Elizabeth Truss MP as Lord Chancellor in July 2016. Since October 2013, more than 300 cases have been recorded in London, Cardiff, Canterbury, Nottingham and Manchester. The broadcasters are BBC, ITN, Press Association and Sky.

In June 2016, the broadcasters began a series of test-filming of judges' sentencing remarks in eight Crown Courts in England and Wales. These will be evaluated in 2017, and, under the terms of the Parliamentary approval, are not for broadcast. Safeguards are in place to make sure victims continue to be supported and the administration of justice is not affected, so the cameras film only the judge; filming of all other court users, including staff, victims, witnesses, defendants and advocates, remains prohibited.

39 <https://www.judiciary.gov.uk/announcements/transcript-of-the-lord-chief-justices-annual-press-conference-2015/>

40 For instance, the Lord Williams of Mostyn Memorial Lecture 2015: <https://www.judiciary.gov.uk/wp-content/uploads/2015/11/lord-williams-of-mostyn-lecture-nov-2015.pdf>

41 @JudiciaryUK: <https://twitter.com/JudiciaryUK>

Judiciary website and judicial intranet

The review and development of the judicial website has continued over the course of the year, ensuring it continues to meet the needs of its audiences, which include the media; the legal professions; court users; and, academics and students. The wide range of content published on the site, including judgments, reports and speeches by judges, contributes towards better public understanding of the roles and work of the judiciary.

Internally, the judicial intranet continues to provide judges and magistrates with access to essential judicial news, supporting documents and guidance. The site facilitates internal communications with judges and magistrates on a wide range of relevant issues. New content covering courts and tribunals modernisation has been added to the intranet and is updated regularly, giving judges up-to-the-minute information about the Modernisation Programme.

The judicial intranet and website are supported by an email alerts system, which provides timely updates for the judiciary, legal professionals and public subscribers alike.

12. International Work

International judicial relations

This year has seen considerable activity in international judicial relations, the branch of international work which concerns dialogue between judiciaries. The principal work is done in conjunction with the UK Supreme Court and the judiciaries of Scotland and Northern Ireland.

International law, comparative law, European Union law and human rights law continue to form a large part of the caseload, with an international perspective contributing positively to judicial knowledge and insight. Through international judicial relations, the judiciary helps other judiciaries develop expertise in particular areas, promote the rule of law internationally, and raise the profile of English Common Law.

The judiciary's continuing focus is on building relationships with the leading judiciaries across the world, focusing on Europe, developing countries, the Commonwealth, South America and China. A second UK-China Judicial Roundtable took place in October 2015 with the theme of "Judiciary and the media", organised by the UK Supreme Court and the Great Britain China Centre. China hosted a delegation of UK judges in May 2016 and, in June 2016, judges of the Supreme Court and England and Wales hosted a high-level delegation from China. The Chinese delegation was led by the President of the People's Supreme Court and a Letter of Exchange between the two judiciaries was signed as part of the visit.

The judiciary takes part in other bilateral exchanges, including the UK-US legal exchange, and also receives a considerable number of visits from overseas judiciaries that wish to see our courts and meet our judges. International work is done with carefully monitored and limited resources, and often with assistance from other organisations, which is gratefully received.

In total, officials arranged 37 visit programmes for 214 international delegates from 18 countries during 2015-16. This comprised two each from Africa and the Americas, 22 from Asia, eight from Europe and one from Australasia. The topics covered included bribery, contract law, corruption, the use of evidence, fraud, patents, information technology, security, sentencing and terrorism.

International commerce

As business continues to globalise, the need to bring greater certainty to international financial disputes becomes more important. The UK enjoys a position as one of the world leaders in this field and is active in the development of commercial, business and insolvency law. The judiciary of England and Wales is keen to ensure that it continues

to support the stability of the global markets. A strategy has been developed under the leadership of the judge in charge of the Commercial Court.

The strategy remains a work in progress but, in London, during May 2017, the judiciary will host senior judicial representatives from around the world at the first meeting of the Standing International Forum of Commercial Courts. The objective of the Forum is to strengthen the rule of law globally, to ensure cooperation in the enforcement of judgments, to develop common procedures and to share best practice. As the Lord Chief Justice said:

*“The Commercial Courts of the world are not unconnected islands, but have a common duty working together to innovate and lead.”*⁴²

Europe

The European Committee of the Judges' Council continues to pursue its objectives of independent judicial participation in Europe, including influencing the technical aspects of European law, improving justice systems in the EU and Candidate States, and enhancing understanding of European law, institutions and legislation amongst our judiciary. The judiciary participates in European and EU associations of judges, working to develop relationships with the European Commission, the European Parliament and other institutions, as well as participating in the European Judicial Training Network's learning and exchange activities.

Throughout the year, there were numerous bilateral contacts including an exchange with the European Court of Human Rights and with the Court of Justice of the EU. A Consultative Council of European Judges event was hosted in London in October 2015.

Judicial College

The Judicial College has an excellent reputation internationally and continues to provide high quality training, which is much in demand. During 2015-16, the International Committee of the Judicial College provided two days of bespoke training for over 50 judges interested in providing international training. Judicial College trainers delivered training in countries including Albania, Belgium, Brazil, China, Denmark, Hungary, Jamaica, Jersey, Kenya, Macedonia, Namibia and the USA. In March, the first International Business of Judging Course was held in the UK and attended by delegates from Ghana, Gibraltar, Hong Kong, Kenya, Malaysia, Mauritius, Singapore and South Africa.

The Judicial College also received judicial visitors from Australia, Macedonia and Oman.

42 “Commercial Justice in the Global Village: The Role of Commercial Courts” Dubai International Financial Centre Academy of Law Lecture, Dubai: <https://www.judiciary.gov.uk/wp-content/uploads/2016/02/LCJ-commercial-justice-in-the-global-village-DIFC-Academy-of-Law-Lecture-February-2016.pdf>