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Dear

DEPARTMENTAL EVIDENCE TO THE SENIOR SALARIES REVIEW BODY

1. I am writing to let you have this Department's evidence for the 2007 Review Body Report. For ease of reference an index to the contents may be found at the end.
2. The following evidence should be seen in conjunction with the Government economic evidence at Annex E and the letter of 13 July from the Chancellor of the Exchequer to the Pay Review Bodies, a copy of which is enclosed.
3. The key points made and supported in this evidence can be listed as follows:
 - There continues to be little or no difficulty in filling salaried judicial posts with high quality candidates as required.
 - This year the judiciary has received a generous pay settlement averaging 3.4%, albeit in staged form. This is against the background of significant constraints in the Department's Resource Budget provision for 2006-07 and beyond.
 - There is no indication that there are any generalised problems with motivation and morale within the judiciary.
 - We believe for these reasons as well as those which follow that 2% will be the appropriate rate of general salary increase for the judiciary in 2007.
 - Any increase above this level would be at the expense of service delivery and the achievement of the Department's PSA targets in 2007-08.

- Furthermore, any increase above 2% would undermine the Government's determination, as set out by the Chancellor of the Exchequer on 11 May, to continue to meet the Bank of England's inflation target in the interests of economic stability.
4. As foreshadowed in last year's evidence, major policy and institutional changes have taken place and are still ongoing. These are described in more detail at **Annex A**.

RECRUITMENT AND RETENTION

5. The key evidence in support of an increase representing no more than inflation is that there continues to be little or no difficulty in filling salaried judicial posts with high quality candidates as the need arises. For example the Circuit Judge appointments in 2005-06 were once again made following intense competition for a limited number of vacancies. It was also noteworthy that the competition for District Judges (civil) generated a higher than normal number of female candidates and appointees. Recruitment during the period was similarly successful for a wide range of other judicial offices, including at senior levels within the judiciary (where for example ten high quality appointments were made to the High Court Bench); for District Judges (Magistrates' Courts) and District Judges of the Principal Registry of the Family Division; for Masters and Registrars of the High Court; for posts within the Judge Advocate General's jurisdiction; and for salaried judicial posts within the Tribunals Service.
6. Further information about recruitment and the competitions referred to above is set out in **Annex 'B'**.

MOTIVATION AND MORALE

7. The Legal and Judicial Liaison Unit within the DCA continues to monitor matters affecting judicial morale and the Department's relationship with the Judiciary. This information ensures that the Department's Ministers and officials have a comprehensive and up to date overview of judicial issues and concerns, which enhances the working relationship between the Department and the judiciary. This report provides evidence of the very positive backdrop of an ever-strengthening partnership between the Department and the judges in working towards common goals with the judges' full and valued involvement.
8. The DCA has increased its efforts to involve the Judiciary in developments and issues which are important to them. The Judiciary continue to participate in a range of initiatives and programmes by sitting on programme boards and working groups and responding to consultations and commenting on the development of policy. Some examples of this are:
- **Forecasting**, where representative bodies at all levels of the judiciary have been working with DCA on a project to deliver a consistent set of processes for forecasting numbers and types of judicial office holders required to be appointed by the new Judicial Appointments Commission;
 - The **Judicial Resources Review**, which was initiated in the light of concerns that pressures on the High Court Bench were increasing. The Review has benefited substantially from the participation of the judiciary;
 - **Civil and Family Policy Issues**, where the Programme to deliver a unified civil court and a unified family court has involved close and productive working between the Judiciary and DCA.
 - **Criminal Policy Issues**, where there continues to be valued judicial involvement in work towards the achievement of a simpler, speedier and more proportionate Criminal Justice System.

- Issues in respect of access to **information technology** for the judiciary.
9. Fuller details of these examples of joint working with the judiciary are set out at **Annex 'C'**.
 10. We remain of the firm view that such continued involvement is an important contribution to the maintenance of motivation and morale at all levels within the Judiciary.
 11. Over the past year the Department has continued to work with the senior judiciary on the detailed implementation of the reforms under the **Constitutional Reform Act**. These major constitutional developments have been welcomed by all levels of the judiciary and have had a positive effect on morale and motivation, although it will be a challenging and unsettling time initially for the judiciary as they take on their new roles whilst monitoring their judicial workloads. Two of the most senior judges sat on project boards within the constitutional reform programme. There have however been certain issues of interpretation about how the reforms should be implemented and the financial implications, which remain under consideration.
 12. In the context of the **implementation of the Supreme Court** (on which Annex 'A', paragraphs 5-8 set out the current position) the relationship with the Judiciary remains positive. The general opinion of the Law Lords is that the proposed design plans for Middlesex Guildhall very imaginatively provide reasonable accommodation, even though a few remain unconvinced that the building can, even re-designed, provide a modern setting for the Supreme Court.
 13. Naturally and as the Review Body is aware, the detailed outcome of the **Major Review of Judicial Salaries** has disappointed some office holders who had hoped that their posts would be regraded upwards. In particular there was disappointment for those in Salary Group 6.2, some of whom had assumed from the Consultation Document that a remerger with Group 6.1 would take place, with favourable consequences in terms of both status and remuneration. In particular in this latter context, disappointment was expressed on behalf of the Special Commissioners and Chairmen of the VAT and Duties Tribunals. Other postholders on whose behalf concern was relayed to us included the Assistant Judge Advocates General and the President of the Pensions Appeal Tribunals. The Review Body's reservations about the concept of allowances in recognition of the administrative work done by some circuit judges have understandably caused concern among the potential recipients and their representatives and we are listening to the views of the Council of Circuit Judges on this issue. There has not however (at any rate to our direct knowledge) been any generalised criticism of the overall percentage level of this year's award or of the Government's decision to implement it in two stages.
 14. Proposed changes to the **statutory eligibility requirements for judicial office** met with a mixed reaction amongst the judiciary. The proposals (to replace the statutory eligibility requirement from time elapsed since qualification with a requirement for a specified number of years' post-qualification legal experience, and to reduce the number of years' experience required from seven or ten years to five or seven years, depending on the judicial office) were consulted upon and, further to consideration of the responses received, the Lord Chief Justice gave his agreement.
 15. There are differing views on the issue of salaried judges being able to **return to legal practice** after they have ceased to hold judicial office, with some judges concerned that it might risk damaging the administration of justice and the independence of the judiciary. The Lord Chancellor announced on 12 September that he has decided to lift the prohibition on return to practice as he believes that any risk to the administration of justice can be fully mitigated by putting the appropriate safeguards in place. He has therefore launched a consultation on what these conditions and safeguards should be and will make a further announcement on this once the consultation has been completed.

16. Another major change introduced from 3 April 2006 was the launch in DCA of the new **Tribunals Service agency**, (further details of which are at Annex 'A', Paragraphs 9-15) to provide common administrative support to the main central Government tribunals. As part of these changes, 5 tribunals transferred across to DCA to join the 16 tribunals already administered by the Department. Individual tribunal presidents were heavily involved in planning for the new agency, under the leadership of the Senior President designate of Tribunals, Lord Justice Carnwath.
17. There are some concerns among the Employment Tribunal judiciary that the special nature of Employment Tribunals will be lost if these Tribunals do not form a separate pillar within the Tribunals Service. These concerns have been increased by the decision to manage jointly the administrative support for Employment Tribunals and Social Security and Child Support Appeals within the Tribunals Service. The latter change is part of the Tribunals Service's commitment to provide a single, unified administration that will be more flexible and responsive to change and will not threaten jurisdictional expertise.
18. There have also been concerns among the wider tribunals Judiciary about proposals in the draft Tribunals, Courts and Enforcement Bill that would lead to a more flexible system of judicial deployment. The Bill, which was published in draft on 25 July, would see the creation of two new, generic tribunals into which most existing jurisdictions would be mapped. Tribunal judges would then be assigned to one or more jurisdictional 'chambers' within these tribunals, a system of deployment akin to "ticketing" in the courts. While the proposals are aimed at removing the current obstacles to the tribunals Judiciary sitting in more than one jurisdiction, some tribunal judges are worried that this too would lead to a dilution in jurisdictional expertise. DCA have been quick to assure them that this will not be the case, and that the new system will be based on merit. DCA have also included in the Bill the statutory safeguard that any such assignment would require the consent of the relevant Chamber President.
19. The run-up to the decision that the **judicial pension schemes** should become non-registered schemes under the provisions of the Finance Act 2004 (see also paragraph 40 below) had a substantial impact on the morale of the judiciary. The Government reassured the judiciary that steps would be taken to mitigate the impact of the new tax regime on the value of their pension benefits in a letter dated 19 March 2004 and the delivery of the means to protect the value of judicial pensions was the fulfilment of that commitment. The method by which this commitment was delivered was only finalised and publicly announced on 15 December 2005 and this created significant uncertainty. However, the eventual outcome has been to maintain (though not improve) the value of judicial remuneration by providing a new lump sum payment on retirement ; the outcome has been satisfactory from the judicial viewpoint and has probably had a slight positive impact on morale.
20. More recent publicity about tight spending limits and efficiencies in all parts of the public service, and specifically the possible impact on **court staffing and resources**, has caused concern amongst the judiciary. The issue of budget allocations is being carefully handled, for example the Permanent Secretary and other board members gave a presentation to the senior Judiciary on the Department's handling of budget pressures.
21. There has recently been considerable concern on the part of the judiciary about **sentencing decisions**. For example, the Secretary of the Council of Circuit Judges said publicly in a BBC Radio interview in June that his colleagues' morale was being affected by mounting criticism of the sentencing of serious offenders. Both the Lord Chancellor and the Lord Chief Justice made clear their full support for and confidence in the judges and this helped substantially in defusing matters.

22. In summary, the Department have gone a long way to sustaining relations with the Judiciary but there always remain particular issues which have exercised the judges and on which the Department has endeavoured to address their concerns.

APPROPRIATE LEVEL OF AWARD

23. We believe that a general level of settlement of no more than 2% will be appropriate for the judiciary in 2007-08. This year's settlement (albeit a phased one) was, at an average of 3.4%, at the upper end of the range of settlements in the public sector and significantly in excess of inflation. It should also be borne in mind that, at a time when other groups within the economy face uncertainty and reduced expectations in terms of their **pension** provision, the arrangements for judges mean that the value of their retirement income remains relatively generous by comparison are both assure, the more so in view of the resolution of the long-running tax issue. (As the Review Body is aware, the benefits from the judicial pension have been actuarially valued at between 32% and 35% of salary).
24. As indicated elsewhere in this evidence there are no generalised recruitment and retention or motivation and morale issues which would point to the need for a second consecutive such settlement. Moreover and as set out in paragraphs 25-38 below, a settlement in excess of 2% would present serious problems of affordability.

AFFORDABILITY

HER MAJESTY'S COURT SERVICE (HMCS)

Resource DEL efficiency savings plans

25. As noted in paragraph 20 of last year's evidence the Spending Review 2004 (SR04) required HMCS to make efficiency savings of £14m in 2005-06, which were achieved, £24m in 2006-07 and £31m in 2007-08. Due to constraints within the overall Resource Departmental Expenditure Limit (DEL) budget for 2006-07 the actual level of savings required to be made by HMCS against the original provision has been much greater. The current budget for 2006-07 is £921.1m compared to an actual outturn for 2005-06 of £936.5m. This reduction in provision requires a 1.6% saving, notwithstanding the impact of inflation on salaries and general costs, which is estimated at £30m (including the last judicial pay award) and £24.7million of new projects which the Department has had to commence. No forecast of the 2007-08 Resource budget is available.
26. Judicial remuneration, including for part-time office holders, accounted for £255m (27%) of the 2005-06 outturn. Against this background the judiciary have been awarded in staged form a 2006-07 increase which will result in average pay being 3.43% higher at the end of the year than at the beginning. Judicial salaries are expected to account for £261.0m (28%) of the Resource Budget for this period.
27. HMCS **staff** on DCA terms and conditions received a 2.2% increase, whilst those on Magistrates' Courts Staff (MCS) terms and conditions received a 4.65% increase. The MCS pay settlement was abnormal in that it incorporated a number of unification issues in addition to the base award. The unification issues included a move from a 1st April settlement date to a standard August date; the introduction of a single monthly pay date and the agreement by the unions to a Statement of Commitment that will enable the pay and grading project and Workforce Change agenda to move ahead.
28. In order to achieve a balanced budget following the funding reduction in 2006-07, it is estimated that HMCS will need to reduce non-judicial employee numbers by 500. It is expected that 200

of the headcount savings will come from natural wastage and others through business process re-engineering.

Judicial efficiencies and flexible working

29. In conjunction with other stakeholders in the justice system, HMCS continues to look at ways to improve its services. A paper by the Lord Chancellor entitled "Doing Law Differently", which was published by the DCA in April this year, contains a section headed "Re-engineering criminal justice II: speedy, simply, summary". This refers to the importance of focusing on reducing crime in the most effective way. Consistent with this, the HMCS Business Strategy, February 2006, has as one of its strategic principles to "Transform Service Delivery". These changes may involve some change in the working practices of the judiciary. They may also involve the loss of some of the support staff that the judiciary has previously relied upon.
30. Assuming no net financial change from such developments, the impact on HMCS of increases in Judicial salaries in 2007-08 would be as follows:-
 - 2% would increase the annual spend by £5.3m.
 - 3% would increase the annual spend by £7.9m
 - 4% would increase the annual spend by £10.6m

Examples of additional cuts that may be required

31. The civil justice side of the HMCS business operates under a full cost recovery model, so to the extent that the impact of any excessive pay award were to be absorbed in this area, it is likely that fees would have to increase above the rate of inflation, with any consequent fall-out in the political arena.
32. It follows that the impact on HMCS would mainly fall on the criminal justice service. This is the area of HMCS business upon which most public and press interest is focused. It is therefore a high-risk area both for HMCS and the Government, particularly with regard to reputation. The budget methodology applied by DCA for 2006-07 assumed that wage inflation would be limited to 3% for staff and 2.5% for judicial office holders and that general inflation would not exceed 1.5%. Because the judicial pay award for the current year exceeded this, HMCS is already in a position of having to absorb the effects. Any further increase above the budgeted level would start to create genuine pressures that would impact on operational areas of HMCS.
33. The other point to emphasise is that the service is a process with multiple stages in the chain. The greater the level of cuts and in the absence of further IT investment, the more likely the risk of a breakdown in one of those stages. In previous years we have commented on the low level of investment in HMCS, both in relation to IT and accommodation. 2005-06 saw a continuation of that trend, with maintenance backlogs continuing to be a major cause for concern. The low level of maintenance or a failure of the IT systems are also likely to impact on the number of available sitting days (see paragraph 35 below).

Considerations for 2007-08

34. As already mentioned, the 2006-07 judicial pay award was made on a staged basis, with the main award not payable until 1st November 2006. The actual pay bill for the courts judiciary for 2006-07 is therefore lower than the underlying full-year figure, which will be in the order of £264m. The judicial salary baseline at the start of 2007-8 will reflect the full 2006-7 settlement, which will leave no headroom for an excessive settlement in 2007-8 when the general financial pressure will remain.

Sitting Days/PSA1 targets

35. The delivery of HMCS performance targets is crucially dependent upon the ability to provide the planned number of sitting days. The current sitting days target for the Crown Court is 104,200 days nationally. Each 1% increase in judicial pay costs to HMCS is equivalent to around 600 Crown Court sitting days. The Department's PSA 1 Target is to improve the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1.25 million by 2008-09. As at December 2005 we were a little ahead of this target. However an excessive pay settlement would stand to put this position at risk.

THE TRIBUNALS SERVICE

36. There are at least equally compelling reasons why a modest level of settlement on the lines set out in this evidence is called for in the Tribunals Service. Currently two reviews are being conducted: one on the harmonisation of terms and conditions within the tribunals sector and the other on the use by tribunals of "lay" (i.e. non-legal) members. The former will almost inevitably lead to pressure for a degree of "levelling up", which would both improve terms and conditions for some postholders and have a financial impact on the Tribunals Service. The impact of the review of lay members is also likely to be wide reaching.
37. Judicial costs account for nearly 50% of the Tribunals Service budget (a greater proportion than applies in HMCS). For the Tribunals Service just as for HMCS, any increase in excess of the amount indicated in this evidence would be difficult to absorb without direct impact on public services.
38. The prospective Tribunals and Courts Bill will create a totally different structure for the Tribunals judiciary. In the case of the tribunals the need to leave some capacity to make changes once the Bill goes through Parliament therefore provides an important additional argument for a settlement amounting to no more than inflation in 2007.

EXPENDITURE FIGURES

39. The table below sets out for 2005-06, expenditure by HMCS; by the DCA centrally; by the DCA on the tribunals which it administered up to 31 March 2006; and by the previous responsible Departments on the tribunals for which the DCA inherited responsibility in April this year. (It should be noted that total expenditure for HMCS exceeds the Resource Budget figures referred to above. The difference is mainly accounted for by the fact that the civil justice side of the business is funded through fees paid by the court user.)

EXPENDITURE TABLE – 2005 / 06

2005-06	HMCS £m	DCA (Central)£ m	DCA (Tribunals) £m	Incoming Tribunals £m
Staff Costs	555	95	35	42
Administration costs	36	98	11	16
Accommodation/IT Costs	345	42	28	30
Other Programme Costs (jurors, other court/tribunal costs)	151	-	6	2
Other Programme Costs (Staff Costs)	-	5	-	-
Other Programme Costs (IT Costs)	-	41	-	-
Judicial salaries paid from Consolidated Fund	113 ¹	-	-	-
Judicial salaries paid from departmental Vote	54 ²	-	22	19
Judicial ERNIC	19	-	5	2
Judicial ASLEC	46 ³	-	6	7
Judicial /Lay/Medical members 'Fees	23	6	19	48
Judicial / Lay/Medical members 'T&S	22	-	6	3
LEGAL AID	-	2099 ⁴	-	-
Magistrates Courts	-	-	-	-
General Election	-	71	-	-
Information Commissioner	-	5	-	-
Total	1364	2462	138	169

¹ Higher Judiciary, Circuit Judges, District Judges (Magistrates' Courts), Masters and Registrars of the Supreme Court.

² Civil District Judges.

³ Accruing Superannuation Liability.

⁴ Figure represents cash grant to the Legal Services Commission.

OTHER MATTERS

PENSIONS

40. The Review Body is aware that the Lord Chancellor determined that the judicial pension schemes would not become registered pension schemes under the pensions tax regime which came into force on 6 April 2006. The main outcome of this has been that judicial pensions no longer attract the preferential tax treatment afforded to tax approved schemes, which in the specific circumstances would be tax-free lump sum benefits payable on retirement or following the death of a judge and tax relief on contributions. However, both of these effects have been entirely mitigated by the introduction of a new non-pensionable lump sum payment on a judge's retirement and by a reduction in the pension contribution rates payable by judges. The outcome has been to maintain (though not improve) the value of the judicial remuneration package, ie judges will pay and receive the same net amount as before. Given that the new award is paid in order to mitigate the impact of the new pensions tax regime and adjusts automatically to take account of movements in salary rates there is no need for the Review Body to address the introduction of the award as an issue. We have already referred above to the value of the judicial pension scheme and, in the context of this year's pay award, we would expect it to remain an important element in attracting candidates for appointment.

MOVEMENT BETWEEN DIFFERENT LEVELS WITHIN THE JUDICIARY

41. In its report earlier this year the Review Body commented on what it saw as a lack of scope for office holders to move to higher levels within the judiciary. The report encouraged the development of measures to help members of the judiciary who might wish to apply for higher level appointments.

42. We do not have a career judiciary on the continental model, where people typically become junior judges shortly after taking a legal qualification and gradually work their way up through the system. A distinctive feature of our system is that experienced practitioners are recruited direct to judicial posts at all levels below the Court of Appeal, including the High Court. We believe that this adds to the overall excellence of the Bench, and that this would be severely impoverished if, for example, the High Court consisted only or mainly of those who had committed themselves to a judicial career at a relatively early age and in a junior capacity. But of course this does not preclude the promotion of existing judges to more senior posts for which they are qualified, and the High Court Bench includes a number of judges who were originally appointed as Circuit Judges; similarly the Circuit Bench includes a number of judges who were promoted from the District Bench. It seems likely that the running of selection processes by the Judicial Appointments Commission will in the future encourage more existing judges to think about applying for promotion to judicial posts which have been advertised.

43. In fact a good deal is already happening to encourage office holders who might aspire to moving up through the ranks. All judges are eligible to apply for higher posts. It is helpful towards the development of the necessary attributes for this, that there is a range of statutory provisions allowing judges to "sit up" in higher jurisdictions than the ones to which they have been appointed, and a good number of judges hold "tickets" authorising them to do this. For example a total of 34 Circuit Judges (whose "home" courts cover a wide spread of geographical locations in England and Wales) are authorised to sit in the Court of Appeal Criminal Division (CACD). As regards High Court Judges sitting in the Court of Appeal, this most commonly occurs when Judges of the Queen's Bench Division sit in the CACD, since a typical combination consists of a Lord Justice of Appeal sitting with two High Court Judges. However, a small number of Family Division Judges also sit in the CACD for a limited number of weeks each year and there are plans for a modest extension of this in the relatively near future. A similar arrangement exists whereby certain Family and Chancery Division Judges sit from time

to time in the Court of Appeal **Civil** Division, in the expectation that they will sit in this capacity for at least three weeks each year. At a lower level within the hierarchy there are provisions which enable District Judges to sit part-time as Recorders, and/or to handle multi-track trials.

44. A further recent development which is relevant in this context involves the mentoring of District Judges by Circuit Judges. A pilot scheme is currently under way on the North East Circuit involving five Circuit Judge mentors and eight District Judges being mentored. It is due to run until February 2007 and, subject to evaluation, should then be rolled out nationally. This forms part of the Department's programme to improve judicial diversity and further details of this are at paragraph 26 of **Annex 'A'**.

STATISTICS

45. Statistical information on the composition of the judiciary is included at **Annex D**.
46. A committee called the Future Statistics Working Group has been established following a recommendation arising from the Judicial Resources Review. The group is tasked with taking forward 22 specific recommendations in relation to statistics about the judiciary and its work. The original terms of reference related only to statistics about the deployment of High Court Judges, but after the first meeting the working group agreed that this should be expanded to cover other jurisdictions. The amended terms of reference are:
- to oversee implementation of the recommendations;
 - to agree a data set for use in deploying judges in the High Court, the Court of Appeal, the Crown Court, the County Courts and the Family Proceedings Courts;
 - to agree how this data should be presented and used, and who should manage the data collection and collation process, including quality assurance;
 - to agree the resource requirements for future statistics gathering, including automated gathering; and
 - to make recommendations concerning sponsorship responsibility for the collection and collation of judicial statistics.
47. The information which over time will become available as the result of the Group's work should be helpful in informing and strengthening our future evidence to the Review Body, including potentially on matters relating to judicial "productivity" and changing workloads.
48. DCA officials and statisticians have in addition been engaged in discussions with their OME counterparts, with the aim of identifying the kinds of statistical information which would help the Review Body in its deliberations.
49. I look forward to meeting the Judicial Sub-Committee on 25 October to discuss the various issues raised by this evidence.

ALEX ALLAN

ANNEX A – MAJOR INITIATIVES

CONSTITUTIONAL REFORM

1. Large parts of the Constitutional Reform Act 2005 were implemented on 3 April this year. A large number of responsibilities previously held by the Lord Chancellor have thereby transferred to the Lord Chief Justice as a result of the Constitutional Reform Act itself or secondary legislation made under it. In particular, he became head of the judiciary in England and Wales. Apart from a wide range of specific duties, the Lord Chief Justice's responsibilities now include, in respect of the courts listed in Section 7 of the Act of which he is now President:
 - Representing the views of the judiciary of England and Wales to Parliament, the Lord Chancellor and Ministers generally;
 - Maintaining appropriate arrangements for the welfare, training and guidance of the judiciary, within the resources made available by the Lord Chancellor;
 - Maintaining arrangements for the deployment of judges, and the allocation of work within the Courts.
2. He is now making arrangements to delegate many of these functions to a number of judicial colleagues, at Head of Division level (which, since last October, includes Sir Igor Judge in the new post of President of the Queen's Bench Division), and below. Consultation has taken place on the arrangements to support the Lord Chief Justice and his senior colleagues in carrying out his new responsibilities. On 3 April 2006 the Directorate of Judicial Offices for England and Wales came into being, incorporating the new Judicial Office and Judicial Communications Office, as well as the Judicial Studies Board. The new Directorate will provide support and assistance to the judiciary in their new roles. The office of the Lord Chancellor remains, albeit in modified form, with continuingly important constitutional responsibilities including that of upholding the principle of judicial independence.
3. The Lord Chancellor and the Lord Chief Justice now have a shared role in overseeing the investigation of complaints of misconduct against judicial office holders, and taking any consequent disciplinary action. They are supported in their role by the new Office for Judicial Complaints, operating under procedural regulations made by the Lord Chief Justice with the Lord Chancellor's agreement. The draft regulations were discussed in detail within a working group chaired by Lady Justice Arden.
4. The system for appointing judicial office holders has been reformed. Whilst the Lord Chancellor retains responsibility for appointing them, or recommending their appointment, only those selected by the new Judicial Appointments Commission can be appointed. The Lord Chancellor has powers to reject a candidate, or to ask the JAC to reconsider its selection, but those powers are limited by the Act, which also formalises duties to consult the judiciary on competitions. The JAC contains representatives of all levels of judicial office holder.

IMPLEMENTATION OF THE SUPREME COURT

5. Implementation of the UK Supreme Court is dependent on the provision of suitable accommodation. The DCA has developed, in close consultation with the current Law Lords, designs for the refurbishment of Middlesex Guildhall in Parliament Square, the preferred location, to make it suitable for the purpose of accommodating the Supreme Court.
6. Planning permission was granted on 7 September by Westminster City Council for the refurbishment of Middlesex Guildhall as the new Supreme Court. The refurbishment of the Guildhall is scheduled to start in April 2007 and the court is expected to open for business in October 2009. As indicated in last year's evidence there may in due course be an issue for consideration by the Review Body about the relationship between the salary of the President of the Supreme Court and that of other senior judges, especially the Lord Chief Justice.

7. The Crown Court at Middlesex Guildhall will cease sitting in March 2007. Plans for handling the Crown Court work are being developed by HMCS London Region, in consultation with the local judiciary.
8. We are in regular contact with the senior members of the Judiciary to manage the impact on the criminal justice system of the closure of Middlesex Guildhall as a Crown Court.

TRIBUNAL REFORM

9. As indicated in last year's evidence a new Executive Agency – the Tribunals Service – was launched in DCA on 1 April 2006. The creation of this agency is the result of the Government accepting the central recommendation of Sir Andrew Leggatt's report *Tribunals for Users: One System, One Service*. The new organisation brings together the administration of the tribunals DCA was already responsible for with -initially- the five largest central government tribunals outside the DCA (the Appeals Service (social security and child support), the Employment Appeal Tribunal and Employment Tribunals, the Mental Health Review Tribunals, the Special Educational Needs and Disability Tribunal and the Criminal Injuries Compensation Appeal Panel).
10. The creation of the new agency and the transfer of the administration of individual tribunals did not require primary legislation. Equally the establishment of a new administrative organisation will not change the fundamental roles of panel members on particular tribunals or of itself deliver the flexibilities outlined in the White Paper *Transforming Public Services: Complaints, Redress and Tribunals* outlining the Government's proposals for further reform in response to the Leggatt Report.
11. The intended vehicle for delivering this will be the Tribunals, Courts and Enforcement Bill. When enacted this legislation will establish a new overarching framework for tribunals, creating the statutory position of Senior President of Tribunals and providing for future flexibility and allowing for the transfer of jurisdictions and panel members into a new structure. For the tribunals which come under the Bill, members will not in future be appointed to specific jurisdictions, rather the Bill will create the concept of appointment to an office: Tribunal Judge, Tribunal Member, Tribunal Appeal Judge or Tribunal Appeal Member. Within these offices members will be deployed to particular jurisdictions depending on their knowledge and experience.
12. All of these changes require legislation and it is not possible categorically to indicate when a Bill is likely to be introduced. The Bill was published in draft on 25 July this year but introduction is not likely to be until November at the earliest with implementation unlikely to be before April 2008. The final decision will rest with Parliamentary business managers.
13. In order to work towards the flexibility that the Tribunals and Courts Bill will provide, work is under way within the Tribunals Service to develop a strategy for the deployment of judicial office holders within the new organisation and understand how best the administration can support this. Part of this work will be the development of a consistent set of terms and conditions for all office holders, including what levels of remuneration should be paid.
14. We believe that three key questions will need to be addressed:
 - What should be the relationship between the remuneration given to salaried office holders as opposed to fee paid?
 - Should remuneration make allowance for jurisdiction-specific difficulties or recruitment issues?
 - How should remuneration take account of sitting across jurisdictions?

15. The first question will need to be answered in some way by April 2007 so that we can bring a consistent approach to bear for 2007/08. Ideally we would wish to be able to answer the other two questions by the following April.

MENTAL CAPACITY ACT AND REFORM OF THE COURT OF PROTECTION

16. Under the Mental Capacity Act 2005, a new Court of Protection is to be established from April 2007, with jurisdiction over financial, health and welfare matters. This will be a new court, bringing together the current financial jurisdiction of the current Court of Protection and a new health and welfare jurisdiction currently exercised under the inherent jurisdiction of the High Court. The overall impact on the judiciary will be reviewed after the new Court has been established for a year. The appointments of the President and Vice President Designates of the new Court of Protection were effective from October 2005. The Senior Judge Designate of the new Court of Protection was appointed from 21 March 2006. The nominations of Judges at High Court, Circuit and District Judge level are expected to be made in November or December 2006.
17. Overall it is currently estimated that the new Court of Protection will handle about 12,000 cases a year, of which over 10,000 are expected to be dealt with as box work at District Judge level with about 2,000 cases involving an oral hearing at District Judge, Circuit Judge or High Court Judge level. The total judicial resource requirement is expected to be about 1,800 days per annum compared to 200 days at present.
18. There are unlikely to be salary issues in respect of the new Court of Protection jurisdiction, as it involves the deployment of existing judges save for the appointment of two new District Judges.

CORONERS

19. Responsibility for coroners was transferred from the Home Office to the DCA in June 2005. Following a review of the policy it was decided that the best way forward would be through measures set out in a draft Bill which was published in June 2006.
20. The draft Bill provides for six key reforms to the coroner system:
 - Bereaved people will be able to contribute to coroners' investigations to a greater extent.
 - National leadership will be introduced through a new Chief Coroner.
 - Coroners will become exclusively full-time and current boundaries will be reshaped.
 - Coroners will have new powers to ensure better investigations and inquests.
 - Investigations of treasure finds will be removed from area coroners' responsibilities (a new national Treasure Coroner will be appointed), enabling them to focus their resources on inquiries into unnatural deaths.
 - Coroners will have better medical support and advice at both local and national level.
21. These proposed provisions are the result of taking on board a number of recommendations of the reports of two public enquiries, the Fundamental Review of Death Certification chaired by Mr Tom Luce and the Shipman Inquiry chaired by Dame Janet Smith, both of which made valuable suggestions with regard to the reform of the coroner service.
22. The earliest that the proposed new arrangements could be fully in place is April 2009, though the Chief Coroner and holders of the other new posts referred to below might perhaps be appointed 6 months earlier.

23. In the reformed system coroners will continue as now to be appointed and employed by local authorities. However we would expect, if the draft Bill provisions are accepted, to have three office holders who would be appointed by the Lord Chancellor and have full judicial status:
- 1 full-time Chief Coroner.
 - 1 full-time Deputy Chief Coroner.
 - 1 full-time Treasure Coroner.
24. We will need to approach the Review Body in due course for advice on salary levels for these posts.
25. There will also be a need (and the legislation enables it) to 'draft in' additional judicial resource to deal with appeals - in effect helping out the Chief Coroner and Deputy Chief Coroner in this respect.

JUDICIAL DIVERSITY

26. Various elements of the work on increasing the diversity of the judiciary have been about improving the culture and working environment of judicial office holders;
- A career break scheme for salaried judges below High Court level was put in place at the beginning of February 2006, in conjunction with the Judicial Studies Board,
 - A judicial mentoring pilot scheme is currently under way on the North East Circuit involving 5 Circuit Judge mentors and 8 District Judges being mentored. It is due to run until February 2007 and subject to evaluation should then be rolled out nationally;
 - Judicial role models are being identified to aid recruitment into the judiciary, as well as to motivate existing judges who wish to progress;
 - Increasing flexible work options, including job-sharing and part-time working, is currently being reviewed (the appointment of 2 female judges to a job-split on the South Eastern Circuit was announced in January 2006); and
 - A 'Disability Action Plan', including work on putting in place a reasonable adjustment policy, is currently being finalised.
 - The Secretary of State announced on 13 July 2005 his intention to legislate:
 - to allow Legal Executives and registered Patent Agents and Trade Mark Attorneys to apply for some judicial appointments,
 - to introduce a new power for the Lord Chancellor, after consultation with the Lord Chief Justice and the Judicial Appointments Commission, to amend by secondary legislation the qualifications needed for particular judicial offices in order to widen eligibility; and
 - to replace the statutory eligibility requirement from time elapsed since qualification with a requirement for a specified number of years' post-qualification legal experience, and to reduce the number of years' experience required from seven or ten years to five or seven years (depending on the judicial office).

The Government is committed to legislating as soon as Parliamentary time allows, but as yet the changes do not have a place in the legislative programme.

27. On 17th May 2006 the Secretary of State announced to Parliament how the judicial diversity strategy, jointly agreed with the Lord Chief Justice and the Judicial Appointments Commission, would be taken forward under the new constitutional arrangements. A range of activity is underway to take this important work forward, and measures of success to track the progress of the strategy are due to be agreed by the end of July 2006.
28. The various initiatives have been well received by those involved.
29. **Diversity statistics** in relation to the judiciary as at 1 April 2006 are set out at the end of **Annex D**.

SINGLE CIVIL COURT

30. The department carried out a scoping study in 2004-05 on the feasibility of unifying the civil and family court jurisdictions. This included a public consultation paper: *A Single Civil Court?* The paper discussed the creation of a unified Civil Court with a separate unified Family Court alongside it. Further, it considered whether the new Family Court should include the current work of Family Proceedings Courts (FPCs).
31. Following the report analysing the responses to consultation, Ministers decided to adopt the objective of creating a single civil court and a single family court of first instance. This would make the court system easier for users to understand and facilitate improved efficiency particularly through greater flexibility in judicial deployment. As this would require primary legislation, the department proposes to take the work forward as a longer term measure whilst utilising scope to streamline the current position using existing secondary powers.
32. The department has established a programme of work that will align current jurisdictional reform initiatives to the longer term goal. The immediate priorities however include settling the statutory framework for a unified regime.
33. We are currently considering some outstanding policy issues that need to be settled to finalise instructions to Parliamentary Counsel to draft a Bill. Subject to the priorities of the Government's legislative programme, we hope to publish the draft Bill (possibly for formal pre-legislative scrutiny) by Summer 2007, and to enact it during the 2007-08 or 2008-09 Parliamentary Session. On this basis, the earliest feasible date for implementation is April 2009.
34. Simply stated, the unified model would mean:
 - a new single Civil Court and a new single Family Court to replace the courts that currently share the civil and family jurisdictions (i.e. the High Court, the 218 county courts and Family Proceedings Courts);
 - each court would have a national jurisdiction to deal with (as appropriate) all civil or family business throughout England and Wales.
35. This can be achieved by introducing a Bill which would -
 - abolish the county courts and repeal the County Courts Act 1984;
 - repeal all references in Magistrates' Courts' legislation and elsewhere to the Family Proceedings Courts - but not the arrangements to allow JPs to hear family cases;
 - amend the Supreme Court Act 1981 to create the new single courts, each containing three tiers of judiciary.

36. The work to unify civil and family court jurisdictions does not currently envisage any change to judicial pay, pension, status etc.

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ANNEX B - JUDICIAL APPOINTMENTS 2005/2006

1. The information on “recruitment” in this Annex (other than in respect of the senior judicial appointments referred to immediately below) has been provided to the Department by staff of the Judicial Appointments Commission under transitional arrangements following the setting up of the Commission this April. As the Review Body is aware retention is not an issue in terms of the judiciary because of the bar on returning to legal practice (the position on which is under review – see paragraph 15 of the main evidence letter).

HOUSE OF LORDS

2. During 2005/2006 there was one appointment to the House of Lords. Lord Mance was appointed on 3 October 2005 following the retirement of Lord Steyn.

HEADS OF DIVISION

3. On 7 April 2005 Sir Mark Potter was appointed President of the Family Division following the retirement of Dame Elizabeth Butler-Sloss. On 3 October 2005, Lord Phillips of Worth Matravers was appointed Lord Chief Justice of England and Wales following the retirement of Lord Woolf. Also on 3 October Sir Anthony Clarke succeeded Lord Phillips as Master of the Rolls and Sir Igor Judge was appointed to the newly created post of President of the Queen’s Bench Division. On 3 October, the title of the post of Vice-Chancellor, held by Sir Andrew Morritt, was changed to Chancellor of the High Court.

COURT OF APPEAL

4. During 2005-2006 there were six appointments to the Court of Appeal. Lord Justice Lloyd was appointed on 6 April 2005 following the retirement of Lord Justice Peter Gibson. On 7 April 2005 Lord Justice Moore-Bick was appointed following Sir Mark Potter’s appointment as President of the Family Division. On 3 October 2005, Lord Justice Wilson, Lord Justice Moses, Lord Justice Richards and Lady Justice Hallett were appointed to the Court of Appeal. Lord Justice Wilson succeeded Sir Anthony Clarke following his appointment as Master of the Rolls. Lord Justice Moses succeeded Lord Mance following his appointment as a Lord of Appeal in Ordinary. Lord Justice Richards succeeded Lord Justice Kennedy following his retirement. Lady Justice Hallett succeeded Sir Igor Judge following the latter’s appointment as President of the Queen’s Bench Division.

HIGH COURT BENCH

5. Ten appointments were made to the High Court Bench between 1 April 2005 and 31 March 2006. Eight had been applicants for the 2005 recruitment process (see paragraphs 6 to 8 below) including one judge who was promoted from the Circuit Bench and two came from the 2003 recruitment process. The complement of the High Court Bench is 108 and there are currently 107 judges in post excluding Mr Justice Bratza who is a Judge of the European Court of Human Rights and therefore does not count towards the complement.
6. In February 2005, a new High Court recruitment exercise was launched. This was held in order to fill vacancies arising from October 2005 until the establishment of the Judicial Appointments Commission. In October 2005, the Lord Chancellor announced transitional arrangements for High Court appointments which he had agreed with the Chair of the Commission, whereby he would continue to make appointments from the 2005 exercise, until no later than April 2007, to give the Commission time to determine the process for and run their own recruitment exercise for the High Court.
7. As rehearsed in last year’s evidence, the Lord Chancellor made a number of improvements to the process for the 2005 exercise, compared with that which had obtained for the 2003 exercise. For the first time, only those who completed and submitted an application form were considered. A new framework of qualities and skills against which applicants were assessed replaced the

previous criteria. Applicants were invited to provide a self-assessment against these qualities and skills. A consultation exercise followed whereby those nominated by applicants were approached as well as a limited number of automatic judicial consultees. The consultation evidence and self-assessments were considered by panels whose assessments were discussed by the Lord Chancellor and the Heads of Division.

8. 128 applications were received from which 52 outstanding and very good candidates were identified. This has ensured that the Lord Chancellor has a pool of strong candidates, in all disciplines, to inform his decisions on forthcoming High Court appointments.
9. There were no refusals of offers of appointment in 2005/06.

CIRCUIT BENCH

10. A total of 44 circuit judge appointments were made in 2005/06. For the 2005/06 competition, there were 248 applicants, of whom 125 were interviewed and 32 were appointed. In addition, 12 appointments were made from a merit list which was created following an open competition which was begun in 2004.
11. The quality of the candidates was high and the competition for comparatively few current vacancies was fierce.
12. A further 12 appointments were made to posts in or above salary Group 5:
 - 3 Senior Circuit Judges and the Common Serjeant at the Central Criminal Court
 - Resident Judge at Southwark Crown Court
 - Resident Judge at Nottingham Crown Court
 - Designated Civil Judge, South Wales
 - 2 Chancery and Mercantile Specialist Posts (1 on the North Eastern Circuit, and 1 on the Northern Circuit)
 - 1 Chancery Specialist, Central London Civil Justice Centre
 - The Recorder of Preston
 - 1 Technology and Construction Specialist, Salford

DISTRICT BENCHES

District Judges (Civil)

13. A general competition for District Judge appointments was announced in September 2004 to fill vacancies arising from retirements and promotions. 248 applications were received and 108 applicants were invited to interview. As a result, 17 immediate appointments were made and 37 candidates were placed on a reserve list. From the reserve list, 10 appointments were made. From 1 April 2005 to 31 March 2006, a total of 27 appointments were accordingly made. This figure also includes one candidate who was appointed from the 2002/2003 reserve list.
14. From this competition, the first 'job share' arrangement within the judiciary has been made. This has also increased the number of women appointees to this Bench.

District Judges (Magistrates' Courts)

15. A competition was announced in January 2005 to fill 7 immediate vacancies and 14 candidates were placed on a reserve list. 105 applications were received and 49 candidates were invited to interview. A total of 9 appointments were made during the period between 1 April 2005 and 31 March 2006. Within this total, two appointments were made from the 2003/2004 competition – one was that of a candidate who had been offered an immediate appointment but had deferred it and the other was from the reserve list.

District Judges of the Principal Registry of the Family Division

16. A competition was held during this period to fill 1 vacancy as a result of a retirement. However, a second appointee was requested during the competition to deal with increased Public Law work, with which deputy District Judges cannot deal. 24 applications were received and 16 candidates were invited to interview. As a result of this competition, 2 candidates were appointed and a reserve list of 2 has been created.

MASTERS AND REGISTRARS OF THE HIGH COURT

Chancery Master

17. One appointment was made. This appointment was made from the competition announced in 2004. A further two candidates were placed on a reserve list.

Taxing Master/Costs Judge

18. A competition for Taxing Master/Costs Judge was held during this period to fill 1 vacancy as a result of a retirement. 6 applications were received and all applicants were interviewed. One candidate was recommended for appointment.

Other Posts

19. No vacancies were declared for Queen's Bench Master, Registrar in Bankruptcy, Admiralty Registrar or the Registrar of Criminal Appeals and there was therefore no competition for appointments in 2005/2006.

2005 JUDGE ADVOCATE COMPETITION

20. The Department advertised for a Vice Judge Advocate General (VJAG) and an Assistant Judge Advocate General (AJAG) in January 2005. A total of 29 applications were received, although as five candidates for the AJAG vacancy also applied for the post of VJAG there were only 24 applicants. Three candidates were selected for interview for the post of VJAG and eight candidates for the AJAG post (one candidate was interviewed for both posts). As the candidate appointed by the Lord Chancellor to the VJAG post was a serving AJAG, a second AJAG vacancy was created and the Lord Chancellor made two AJAG appointments. Three candidates were placed on a reserve list for AJAG vacancies which might become available within the next 24 months. Following the decision by one of the candidates to decline the AJAG offer of appointment, the Lord Chancellor made an appointment from the reserve list.

TRIBUNALS

Salaried Chairman of the Employment Tribunals

21. We were asked to fill seven vacancies; two and a half in London South, one in Birmingham, one in Southampton, one in Newcastle, one in Manchester and a half vacancy in Leeds. We wrote to all fee-paid Chairmen and salaried part-time Chairmen of the Employment Tribunals inviting

them to apply. Of the twenty-two applicants, one was ineligible. Twelve were invited to interview.

22. Eight candidates were recommended for appointment and all accepted. Sadly one of these candidates died before his appointment was confirmed. Of the remaining seven, five have so far been appointed and the other two are due to take up their appointments in June and September respectively.

Salaried Surveyor Member of Lands Tribunal

23. In August 2005 the Department ran a competition to appoint a new Salaried Surveyor Member of the Lands Tribunal to replace a Member who had retired. Sixteen applications were received and four candidates were invited to interview. As a result one appointment was made and two candidates were placed on a reserve list.

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ANNEX 'C' - AREAS WHERE DCA IS WORKING IN PARTNERSHIP WITH THE JUDICIARY

1. As stated in the section on "Motivation and Morale" above, the Department has been working with the judiciary on a range of initiatives across all policy areas. Further information about these and the effect on judicial motivation and morale is set out below.

FORECASTING

2. Representative bodies of all levels of the judiciary have been working with the DCA on a project (November 2005 to July 2006) to deliver a consistent set of processes for forecasting numbers and types of judicial office holders required to be appointed by the new Judicial Appointments Commission to meet the business needs of HMCS and the Tribunals Service (including non DCA Tribunals). The judiciary have broadly welcomed work to improve judicial forecasting and have been keen to ensure that they are consulted when forecasts are compiled. This has had a positive effect on morale as the judiciary feels sufficiently involved in the development and will be sufficiently involved by HMCS and the Tribunals Service in forecasts in future.

JUDICIAL RESOURCES REVIEW

3. The Judicial Resources Review (JRR) was initiated following calls to increase the size of the High Court Bench to meet increasing pressures. Importantly, the Review has been conducted jointly between the DCA and the judiciary. The JRR Steering Group was chaired jointly by the Master of the Rolls and the DCA's Director-General of Legal and Judicial Services (John Lyon) and also comprised the Heads of Division and the Senior Presiding Judge. The senior judiciary were involved at every stage of the project and were influential in the early stages of the development of policy. At the conclusion of the first phase of the Review, it was agreed between the Lord Chancellor and Lord Chief Justice that the size of the Bench should not be increased but that consideration should be given as to how to contain pressures from within existing resources. Around fifty recommendations were made that the Review considers will serve to make more effective use of the High Court judiciary, improving the efficiency and effectiveness of their deployment. The Review considers that, taken together, these proposals should not merely serve to reduce pressure at High Court level, but also improve the service provided to the public across the judicial system.

CIVIL AND FAMILY POLICY ISSUES

4. The Department recognises that the Civil and Family Jurisdiction Programme to deliver a unified civil court and a unified family court (incorporating the work of the Family Proceedings Court) could prove controversial, particularly among some members of the Judiciary and the professions. However, responses to the public consultation paper: *A Single Civil Court?* suggest broad support for current proposals and the department continues to work very closely with the Judicial Advisory Group (led by the deputy Head of Civil Justice) to take proposals forward. The group has made significant contributions to policy development.
5. Funding has been secured, including some secretarial support, for the establishment of local Family Justice Councils (the earlier lack of such funding having been a long standing grievance among Designated Family Judges). The Councils' primary role is to promote an inter-disciplinary approach to the needs of family justice, and through consultation and research, to monitor the effectiveness of the system and advise on reforms necessary for continuous improvement. The Department has supported the judiciary on the development of the President's strategy for family justice and has effectively engaged with them on the recommendations of the Child Care Review (though there was initially apprehension amongst the judiciary when the Review was announced). On the Children and Adoption Act (2006), which received Royal Assent on 21 June, the judiciary were pleased that the majority of their recommendations for new powers for the courts were provided for.

6. However, the judiciary have expressed concerns that Civil and Family business is insufficiently resourced and are worried about the impact of proposed HMCS budget reductions mentioned above. The judiciary have also expressed concern over the increase in court fees, and to act on their concerns, meetings at Ministerial level have taken place with the Master of the Rolls and the President of the Family Division.
7. The relationship breakdown programme (RBP) has forged strong links with the judiciary and is being delivered in parallel with the President's Private Family Law Programme. Both have shared aims and clear links in terms of how they impact on the family justice system.
8. This close working on family policy issues has been successful.

CRIMINAL POLICY ISSUES

9. In relation to criminal policy issues, good engagement continues on the work to achieve a simpler, speedier and more proportionate Criminal Justice System. The membership of the Criminal Procedure Rule Committee includes a judge from each tier of the criminal courts. They engage fully in discussions at Committee meetings with criminal justice officials, including representatives of the Office for Criminal Justice Reform and the Crown Prosecution Service. This constructive partnership enables the development of better court procedures and enables officials to build knowledge of the challenges arising from initiatives, which in turn facilitates the speedier streamlining and simplifying of court procedures. In addition, as a result of the creation of the Criminal Procedure Rule Committee in 2004, the judges have improved access to officials, providing them with an avenue for raising particular questions about policy intentions. Concrete examples include the work on the framework for Criminal Case Management (CCMF), which will include best practice as identified from the HMCS Magistrates' Courts Review. An experienced youth District Judge (Magistrates Courts) and several resident judges have contributed to the drafting of the CCMF for youth cases. The Senior Presiding Judge was also involved in the production of the Listing of Cases Guidance.
10. The DCA's Courts Innovation Branch has been engaging with both the judiciary and legal professions on the Dedicated Drug Court Project (DDCP), Specialist Domestic Violence Courts and Anti- Social Behaviour Response Courts. With the DDCP, there have been well attended national steering groups, at which views have been provided on such issues as the evaluation method options and making sure the Project works on the ground at the pilot sites.

INFORMATION TECHNOLOGY ISSUES

11. DCA has received positive feedback from the judiciary on a number of IT related projects, particularly XHIBIT (eXchanging Hearing Information by Internet Technology). Lord Justice Neuberger, the Judge in Charge of Modernisation, has paid tribute to the hard work and professionalism of the teams involved in these projects. Detail about other IT initiatives, their status and effect on the judiciary are set out below.
12. DCA have just completed a major step in the modernisation of the courts with the installation of the LINK infrastructure to all 112 criminal court sites and 63 of the larger Civil and Family Courts. XHIBIT is the first IT project to run on the new infrastructure. It has been delivered to 520 courtrooms, involving training for over 3000 staff, without any disruption to hearings. The system provides more effective and quicker hearing information to victims, witnesses and all other parties to Crown Court cases, thus speeding up the judicial process.
13. The Department has provided a new generation of laptops to 1,330 full time members of the judiciary, giving them greater flexibility for working between their courts, home and lodgings. The Department is providing these laptops with wireless connection to the Internet, which will allow even greater flexibility of use. The laptops have a range of additional tools available

including voice recognition software. Each court also has a pool of laptops for use by part-time office holders.

14. The Department has provided broadband links for the judiciary in the smaller civil and family courts (and 67 Magistrates' Courts), that do not have the Link infrastructure, again providing them with quicker and more efficient access to court records and legal reference material.
15. The Department's E-Delivery Group has had many plaudits from members of the judiciary for its work on e LIS, (Electronic Library Information Service), providing them with fast and easy online access to legal reference material.
16. E-Diary will replace existing manual diaries in Civil and Family Courts with LINK Infrastructure. National roll out of eDiary started in January 2006 and is planned for completion by the end of June 2006.
17. DCA are planning to replace the existing Judicial communications system (Felix) with a new on-line Judicial Portal which will provide members of the judiciary with better communication tools including the facility for on-line conferencing. This project has encountered severe delays which have been frustrating for all concerned, and particularly the Judiciary, who see it as a key enabler to faster and more effective communications channels.
18. A new IT system to replace the existing ageing IT systems and mainly paper based process in the Commercial Court went live at the end of March 2006. Although a small project in terms of scale, it is very important to the judiciary and after the project encountered some difficulties last autumn, the judiciary were especially pleased when Phase 1 went live in March. The new IT system supports the administrative work of the court with the court's first fully integrated case management system.

LEGAL SERVICES

19. The Department has also been successfully engaging with the senior judiciary on a number of areas which affect the legal profession, including :
 - High Cost (criminal) cases and the Carter Review of legal aid
 - legal services reform (on which a draft Bill has now been published) and
 - Judicial involvement in the Bar Council's disciplinary procedures.

ANNEX 'D' - STATISTICAL INFORMATION

FULL TIME JUDICIARY – NORTHERN IRELAND – COMPLEMENT AT 31 MARCH 2006

Office	Judicial Complement - At 31/03/06	Number in Post - At 31/03/06	Salary Group
Lord Chief Justice	1	1	1
Lord Justice of Appeal	3	3	3
High Court Judges	10	10	4
County Court Judges	18	18	6.1
District Judge	4	4	7
Resident Magistrate	19	20.2*	7
STATUTORY OFFICES	7	7	7
Masters of the Supreme Court			
Principal Secretary and Legal Secretary to the LCJ	1	1	7
Official Solicitor	1	1	7
Chief Social Security Commissioner and Child Support Commissioner	1	1	5
Social Security and Child Support Commissioner	1	1	6.1

* 2 PART TIME Resident Magistrates appointed 27 October 2005 each working 3 days per week.

CIRCUIT JUDGES PROMOTED TO THE HIGH COURT

1989-90	-
1990-91	3
1991-92	1
1992-93	1
1993-94	5
1994-95	1
1995-96	-
1996-97	2
1997-98	-
1998-99	-
1999-00	1
2000-01	3
2001-02	3
2002-03	0
2003-04	3
2004-05	2
2005-06	1

REFUSALS OF OFFERS OF APPOINTMENT

Numbers of those who have declined to allow their name to be recommended to Her Majesty the Queen for immediate appointment to the High Court of England and Wales.

1989-90	-
1990-91	-
1991-92	1
1992-93	6
1993-94	2
1994-95	-
1995-96	2
1996-97	1
1997-98	6
1998-99	-
1999-00	4
2000-01	6
2001-02	1
2002-03	3
2003-04	3
2004-05	0
2005-06	0

APPOINTMENTS TABLE AS AT 31 MARCH 2006

England & Wales	Number assessed Required as at 31.03.06	Number in Post at 31.03.06	Vacancies caused by Death, Promotion or Retirement 01.04.2005 up to 31.03.2006	Appointments 01.04.2005 to 31.03.2006
GROUP 1				
Lord Chief Justice	1	1	0	0
GROUP 1.1				
Master of the Rolls	1	1	0	0
Senior Lord of Appeal in Ordinary	1	1	0	0
GROUP 2				
Chancellor of the High Court	1	1	0	0
Lords of Appeal in Ordinary	12	12	1	1
President of the Family Division	1	1	0	0
President of the Queen's Bench Division	1	1	0	0
GROUP 3				
Lord Justices of Appeal	37	37	6	10
GROUP 4				
High Court Judges (including the Vice- Chancellor of the County Palatine of Lancaster)	108	107	1	10
GROUP 5				
Chairman, Criminal Injuries Compensation Appeal Panel	1	1	0	0
Chief Social Security Commissioners (Eng, Wales; Scot & N I)	1	1	0	0
Deputy President, Asylum & Immigration Tribunal	2	2	0	1

England & Wales	Number assessed Required as at 31.03.06	Number in Post at 31.03.06	Vacancies caused by Death, Promotion or Retirement 01.04.2005 up to 31.03.2006	Appointments 01.04.2005 to 31.03.2006
Judge Advocate General	1	1	0	0
Permanent Circuit Judge, Employment Appeals Tribunal	1	1	0	0
President Appeal Tribunal (Eng, Wales & Scot)	1	1	0	0
President, Care Standards Tribunal	1	1	0	0
President Employment Tribunals (Eng & Wales)	1	1	0	0
President, FINSMAT, VAT Tribunals and Presiding Special Commissioner of Income Tax	1	1	0	0
President Lands Tribunal	1	1	0	0
Senior District Judge (Chief Magistrate)	1	1	0	0
GROUP 6.1				
Chief Registrar and Senior and Chief Masters	5	5	0	0
Circuit Judges (Including Mercantile, Chancery Patent, Old Bailey, Senior Circuit Judges, the President of the Care Standards Tribunal and Judges of the Technology & Construction Court)	658	626	49	56
Judge Advocate of the Fleet	1	1	0	0
Master, Court of Protection	1	1	0	0
Regional Chairmen, Appeals Tribunal	7	7	2	0
Regional Chairman Employment Tribunals (Eng & Wales; & Scot)	11	11	0	0
Registrar of Criminal Appeals	1	1	0	0
Senior Costs Judge	1	1	0	0
Senior District Judge, Principal Registry of the Family Division	1	1	0	0

England & Wales	Number assessed Required as at 31.03.06	Number in Post at 31.03.06	Vacancies caused by Death, Promotion or Retirement 01.04.2005 up to 31.03.2006	Appointments 01.04.2005 to 31.03.2006
Senior Immigration Judges	9	9	2	0
Social Security Commissioners	17	17	1	0
GROUP 6.2				
Adjudicator, HM Land Registry	1	1	0	0
Chairman VAT and Duties Tribunals	3	3	2	2
Deputy Senior District Judge (Magistrates' Courts)	1	1	0	0
Members, Lands Tribunal	3	3	1	1
Regional Chairmen, Mental Health Review Tribunals, England	2	2	0	0
Special Commissioners of Income Tax	2	2	0	0
Vice-Judge Advocate General	1	1	1	1
Vice-Presidents VAT and Duties Tribunals (Eng & Wales; Scot & N I)	1	1	0	0
Designated Immigration Judges ⁵	27	25	2	0
GROUP 7				
Assistant Judge Advocates General	7	7	2	2
(District) Chairmen Appeals Tribunal	68	63	0	0
Chairman Employment Tribunals (Eng & Wales; & Scot)	100	106	3	4
Chief Medical Member, Appeals Tribunal	1	1	0	0

⁵ Salary is set at 108% of the Group 7 rate

England & Wales	Number assessed Required as at 31.03.06	Number in Post at 31.03.06	Vacancies caused by Death, Promotion or Retirement 01.04.2005 up to 31.03.2006	Appointments 01.04.2005 to 31.03.2006
Costs Judges	6	5	1	0
Deputy President Pensions Appeal Tribunal	1	1	0	0
District Judges	444	428	9	27
District Judges of the Principle Registry of the Family Division	19	18	1	0
District Judge (Magistrates Courts)	139	132	3	9
Immigration Judges	130	120	19	0
Masters and Registrars of the Supreme Court	55	50	2	3
President Pensions Appeal Tribunal ⁶	1	1	0	0

⁶ Salary is set at 108% of the Group 7 rate

ANNUAL DIVERSITY STATISTICS - AS AT 1ST APRIL 2006⁷

Post	Total	Female No.	Female %	Of Ethnic Minority Origin No.	Of Ethnic Minority Origin %	Age Bands								Disabled	
						Under 40	40-44	45-49	50-54	55-59	60-64	65-69	70 & Over	No	Yes
Lords of Appeal in Ordinary	12	1	8.3%	0	0.0%	0	0	0	0	0	3	3	6	12	0
Heads of Division (excluding LC)	3	0	0.0%	0	0.0%	0	0	0	0	0	0	3	0	3	0
Lords Justices of Appeal	37	3	8.1%	0	0.0%	0	0	0	0	8	11	18	0	37	0
High Court Judges	108	11	10.2%	1	0.9%	0	0	2	18	40	35	11	2	108	0
Circuit Judges (inc Technology and Construction Court)	631	71	11.3%	10	1.6%	0	1	23	80	243	201	75	8	628	3
District Judges (including Family Division)	449	99	22.0%	14	3.1%	0	20	45	107	153	95	27	2	445	4
District Judges (Magistrates' Courts)	134	31	23.1%	5	3.7%	0	1	26	38	42	26	1	0	134	
Total	1374	216	16.0%	30	2%	0	22	96	243	486	371	138	18	1375	7

⁷ Except age band figures, which are as at 27 June 2006

ANNEX 'E' - PAY REVIEW BODIES: GOVERNMENT EVIDENCE ON THE GENERAL CONTEXT

INTRODUCTION

Public sector pay makes up about a quarter of Government expenditure, with an annual cost of over £130bn. Pay review body workforces make up about 40% of this total, with a combined paybill of around £50bn per annum. Therefore PRB recommendations make a significant impact on the overall Government pay strategy, public finances; the ability for Government to meet other spending pressures; and the level of inflation in the wider economy.

Further to other evidence contained in these proposals, this chapter covers a broader, public-sector wide view on the:

- Economic context;
- Fiscal context;
- Recent improvements in pay levels; and
- The importance of total reward.

ECONOMIC CONTEXT

The UK economy stands in a sound position. It has grown for 55 consecutive quarters, the longest unbroken economic expansion on record. It has benefited from its longest period of sustained low and stable inflation since the 1960s and shown greater stability and stronger GDP growth than the majority of its competitors. Low inflation has, in turn, provided the platform for record employment levels, higher investment, productivity and economic growth. Labour market conditions continue to be favourable, as despite record employment levels and high oil prices we are not seeing any significant upward pressure on wages.

Recent increases in inflation rates have in large part been due to the temporary impact of higher oil prices. Once the impact of oil (and other goods with volatile prices) is stripped out, underlying or "core" inflation has remained consistently below 2 per cent. However, in recent months goods price inflation has picked up as a result of these temporary price increases. The Chancellor feels strongly that we should remain vigilant to the risk of higher pay settlements feeding through into higher inflation going forward, which would undermine hard won stability.

The Chancellor wrote to the PRB Chairs on 13 July setting out his view that pay awards should be based on the achievement of the Bank Of England's inflation target of 2 per cent. To do otherwise would risk converting a temporary increase in inflation into a permanent increase. Further information on inflation is included in the Annex to this chapter.

FISCAL CONTEXT

Against a background of record increases in public investment there is a strong desire to get the most out of available resources by embedding ongoing efficiency improvements into Departmental planning. Public service delivery remains the Government's bottom line. That is why the Government has placed such a strong emphasis on using efficiency savings to reallocate resources to the front line. Given the fiscal constraints, there remains a premium on gaining the maximum value for money from the public sector pay-bill.

The period covered by the forthcoming PRB awards covers the final year of the 2004 Spending Review and the PRBs will wish to make recommendations based on current resource allocations in the context of wider Government objectives. Moreover, the pay awards arising from this round will set the baseline for the forthcoming Comprehensive

Spending Review, covering the years 2008-09 to 2010-11, and so this year's awards will have much longer- lasting affordability implications.

In recent years, spending on pay has grown in line with overall high growth in public spending. Over CSR07 rate of growth in budgets is set to slow substantially. Therefore, given the necessary fiscal tightening over CSR07, recent growth rates in pay are unsustainable if Departments are to fund their spending priorities.

More information on the affordability of awards as they relate to the judiciary is contained in Paragraphs 26-40 of the DCA evidence.

IMPROVEMENTS IN PAY

Overall pay bill in the public sector has increased by around 6% a year in nominal terms since 1997, due to a combination of expansion in workforce numbers and growth in average pay levels (workforce expansion accounts for growth of around 2% a year and an increase in pay per person for the remaining 4% a year). Furthermore, looking over the past two Spending Review periods, average public sector pay increased more rapidly than in the private sector. The main driver of this increase has been workforce reforms, particularly reforms of pay structures.

In a large number of areas, effects of some of these reforms are still feeding through and for some workforce groups we expect to see further reforms in the future.

For reasons of affordability, and in the interests of rebalancing the pay levels between the public and private sectors, settlements need to be off-set against other drivers of paybill. When determining settlements, it is critical that all factors that will increase earnings are taken into account, such as payments:

- arising from the restructuring of pay systems,
- targeted payments to aid recruitment and retention,
- local pay,
- the net effect of progression payments, and
- bonus payments.

Therefore we are keen that PRBs consider the impact of the headline award on:

- **paybill per head growth**, which gives an indication of resulting changes in average earnings; and
- **paybill growth**, which reflects the total cost to the employer.

TOTAL REWARD

Pay is only one element of the total reward package on offer to the workforces covered by the PRBs. Government is moving in the direction of placing far more emphasis on total reward, which covers a wide range of areas such as pay, pensions, annual leave, flexible working and work / life balance, career development, and access to training. It is the entire total reward package that allows employers to recruit, retain and motivate their workforces, and deliberation on the level of the overall pay award should be carried within this context.

Within the total reward package, pay increases should be at levels which are affordable and are necessary to respond to the particular circumstances of the group involved, where the

outcome would be to improve service delivery by supporting recruitment, retention and motivation within the workforce. For the judiciary, more detailed information on recruitment and retention is to be found at paragraphs 5 and 6 and Annex B of the DCA evidence, and information on motivation and morale is at paragraphs 7-22.

SUMMARY

Government relies on PRBs to recommend affordable pay awards leading to levels of pay that are sufficient to recruit, retain and motivate key public sector workers. In addition, PRB recommendations have knock-on effects across the public sector, setting the scene for pay awards in other services.

In recent years we have seen major growth in workforce numbers and a great deal of modernisation of pay structures, necessary to deliver key public services. This has led to significant increases in both average salaries and in the overall paybill of public sector workforces.

As we are entering a period of tighter spending growth, it is important that pay growth is restrained and the right balance between public and private sector pay levels is restored.

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