

**How can the appointment and assessment (qualitative and quantitative) of judges be made consistent with the principle of judicial independence?**

**Answers to Questionnaire by the United Kingdom**

**1. Are there assessments on the occasion of the appointment (of a judge) to another position or function?**

There are assessments of candidates, but the degree of formality varies. The further up the judicial hierarchy a person gets, the less formal is the assessment. The system is currently being overhauled, because of the creation of a Judicial Appointments Commission, which will in future control the issue of assessment.	This represents the position in England and Wales. It is not exactly similar in Scotland, which maintains a separate and distinct system as does Northern Ireland.
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**2. Are there assessments on other occasions?**

Not generally, unless a judge is under investigation in disciplinary proceedings.

**3. Who is in charge of the assessments?**

At present it is a mixture of the Lord Chancellor, the Lord Chief Justice and the Judicial Appointments Commission. Within the next 2 years, it will become the exclusive responsibility of the Judicial Appointments Commission, which will make recommendations to the Lord Chief Justice and Lord Chancellor if need be.

**4. Please describe how an assessment is conducted?**

If there is any proper process of assessment at all (which is doubtful) it is covered in mystery and no one other than those who do the assessment themselves (the very top judges) has the slightest idea what is done or how it is done.
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**5. Has this assessment a quantitative character (eg. number of cases undertaken; files completed)? Please describe. What figures are taken into consideration?**

The assessment, such as it is, is much more qualitative than quantitative.

**6. Has this assessment a qualitative character (eg. someone assesses how well the judge performs at various tasks)? Please describe. What aspects are taken into consideration?**

There is no formal qualitative evaluation. But the quality of judgments is assessed by the court that hears any appeal. If there are complaints against the judgment then the quality will be assessed as part of an investigation of the complaint.

**7. Do the number and/or the outcome of the cases handled by the judge play any role in the assessment? Please explain.**

Yes. Most obviously the outcome of a case is considered if there is an appeal from the judgment to the appeal court, when the higher court must consider the outcome. But this consideration is not used formally as part of an assessment of the judge whose judgment is appealed. The number of cases considered by a judge does not play any part in assessment unless it appears that the judge has been extremely slow with hearings or dilatory in producing judgments.

**8. Is the duration of a case dealt with by a judge an item which is considered in an assessment? In what way? Please, explain.**

In civil and administrative cases at first instance and with all types of case on appeal, a court is expected to deliver its judgment either straight away (*ex tempore*) or within 3 months of the conclusion of the hearing, of whatever type – trial or application - unless it is a particularly long/complicated. A judge is obliged to report to the Lord Chief Justice all instances where a judgment has been delayed beyond 3 months and to explain the reason for the delay. If a judge is habitually late in delivering judgments, this could be taken into account in any assessment.

**9. How are judges who sit in court assessed?**

All judges sit in court. There is no formal assessment of the manner in which judges conduct proceedings in court. But if a judge has conducted a trial in an unreasonable or apparently biased manner that may be a ground of appeal and this would therefore be assessed by the appeal court.

**10. What are the consequences of these assessments?**

The informal assessments will be considered when there is a vacancy for a higher court. If the assessment has been undertaken because of a complaint about a judge's handling of a case, then the result of the assessment may be disciplinary action against a judge.

Since April 2006 a new body has been responsible for making recommendations for promotion – the Judicial Appointments Commission. It has not yet published details of the procedure it will follow for determining its recommendations for promotion. The final decision and recommendation to the Queen is still made by the Lord Chancellor and Prime Minister. The JAC will not deal with disciplinary matters, which will be dealt with by the Lord Chief Justice and the Lord Chancellor.

**11. Is there any connection between assessment and remuneration?**

No, but if a judge is promoted he receives higher remuneration.

**12. Do you see any infringement on the independence by virtue of the assessment of judges in your country? Please, explain.**

Not at present.

**13. What topic do you suggest for the next meeting?**

Legislature or judiciary – who should have the ultimate decision in a democracy?