

International Association of Judges: Annual Meeting in Montevideo
1st Study Commission.
“Economics, Jurisdiction and Independence”

Response of the United Kingdom

1. There are many “New Public Management” ideas that are being applied to the Judiciary in the UK. They include the creation of a “Judicial Executive Board” to run the judiciary (composed of judges), a Judicial Appointments Board (with a non – legal Chairman); and setting performance targets in criminal, civil and family jurisdictions.
2. **Specific Points.**
 - (1) **Budget:** The courts and judiciary budgets are controlled by the Department of Constitutional Affairs (DCA). The target for Civil justice is that the cost of providing courts, judges and staff should be fully paid for by the fees charged to litigants. Family justice should be 60% financed by the payment of fees.
 - (2) **Financial Control:** This is in the hands of the DCA. Unfortunately the judges do not have control.
 - (3) **Internal competition; benchmarking:** This does not exist in any formal sense. However, promotion at the lower levels (eg. District Judge to Circuit Judge; part time judge to full time judge) is by open competitions involving assessments and interviews.
 - (4) **Best practice:** There is a Code of Conduct for judges.
 - (5) **Quantity of Outputs:** There is no express control over quantity of output. However it is noted which judges are slow and which fast in dealing with cases and this information is, inevitably, important in assessing whether a judge will be promoted.
 - (6) **Flexible distribution of workload:** Judicial deployment is in the hands of senior judges. However, the listing of individual cases is dealt with by court officials under the supervision of senior judges.
 - (7) **Customer Orientation:** There is training for judges and there are websites and “open days” at courts for the benefit of “customers”.

- (8) **Emphasis on performance; incentives:** Judges are encouraged, by more senior judges, to “perform”. A check is kept to ensure that reasons for decisions are not delayed. (The usual maximum period between a hearing and written reasons for a decision is 3 months. Delays beyond that time must be explained). There are no financial incentives for “good performance”.
- (9) **Quality Control:** There is no particular system. But poorly handled cases or reasons for decisions will come to the notice of senior judges when a case goes on appeal. In appropriate cases the judge concerned will be told of deficiencies (by a more senior judge) and expected to improve his performance in future.
- (10) **Others:** There are no other specific features to report.
- (11) **Effect on judicial independence:** In my view none of the matters set out above directly infringes the independence of the judiciary in the UK. However, it is possible that increased use of competitions for promotion might infringe independence.

3. **Costs of the Judiciary**

- (1) **Number of professional judges:** There are about 150 senior judges in England and Wales; approximately 30 in Scotland and 25 in Northern Ireland. (High Court Judges; Court of Appeal and House of Lords). There are approximately 2000 other full – time judges. There are many more part time judges, who sit as judges for up to 4 weeks a year. (The rest of the time they act as lawyers in private practice). That means that there are about 3.75 judges per 100,000 inhabitants.
- (2) **Share of Budget:** The total cost of the Court Service and the Judges’ salaries is approx: 0.25% of annual government spending.
- (3) **Fixed percentage: No.**
- (4) **Recent development in allocation of finances allotted to the judiciary.** In recent years the budget of the Court Service (excluding government legal aid) has been static. The salaries of the judges have increased at the rate of about 3% per annum.
- (5) **Cost cutting measures in the last 10 years:** These are too numerous to list. County courts have been closed; court staffs and security have been reduced; there have been economies on maintenance and

refurbishment of court buildings (there is a backlog of repairs totalling many millions of pounds sterling); increase in fees charged for civil and family proceedings; failure to update machinery (eg. tape recorders for recording evidence in courts).

- (6) **Effect on independence of the judiciary:** My own view is it has not affected independence yet, but if the situation deteriorates so that judges are no longer able to work effectively, then that will curtail the independence of the judges.

4. **Privatisation of the judiciary**

(1)

(a) **Private Arbitration:** There has always been a strong tradition of private arbitration in England and it has always been encouraged. Many disputes, particularly concerning shipping, insurance and international sales of commodities, are settled by arbitration in London. Private arbitrations are supervised by the courts through the Arbitration Act 1996, by which there can be appeals to the courts on points of law and to correct procedural irregularities that have caused injustice. Judges of the Commercial Court can sit as arbitrators. The fees of the arbitrator are paid to the DCA, not, alas, to the judge concerned!

(b) **Mediation:** The use of mediation has grown quickly in the last 5 years. Mediation is encouraged by the courts as a means of settling disputes. However most mediations are done privately, although some courts offer mediation services by judges.

(c) **“Private” courts:** There are no such things in the UK.

5. **Remuneration of Judges:** This is not dependent on the quantity or quality of their output.