

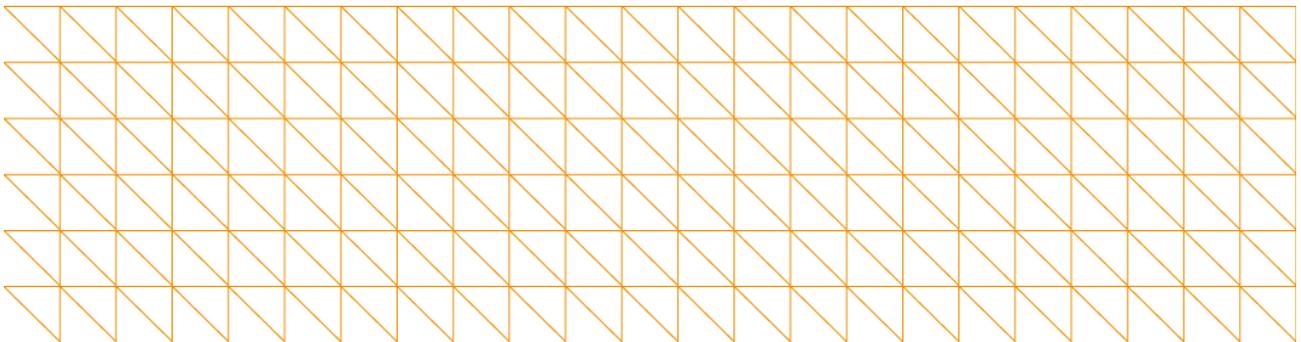


Ministry
of Justice

Modernising Judicial Terms and Conditions

Government Response

This response is published on 8 February 2017





Ministry
of Justice

Modernising Judicial Terms and Conditions

Government Response

Response to consultation carried out by the Ministry of Justice.

This information is also available at <https://consult.justice.gov.uk/>

Contents

Introduction and contact details	3
Background	4
The Response	6
Consultation principles	13
Annex A: Analysis of consultation responses	14

Introduction and contact details

This document is the post-consultation response for the consultation paper, *Modernising Judicial Terms and Conditions*.

Further copies of this report and the consultation paper can be obtained by contacting **Simon Quinn** at the address below:

**Judicial Policy
Justice & Courts Policy Group
Ministry of Justice
102 Petty France
London SW1H 9AJ**

Email: simon.quinn@justice.gsi.gov.uk

This report is also available at <https://consult.justice.gov.uk/>

Alternative format versions of this publication can also be requested.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Background

1. This document is the Government response to the consultation paper *Modernising Judicial Terms & Conditions*, which was open for comment from 15 September to 1 December 2016. It sets out:
 - The background to the consultation
 - The Government's response
 - A summary of responses to the consultation

Court Reform

2. The statement by the Lord Chancellor, Lord Chief Justice, and Senior President of Tribunals published in September 2016¹ sets out the shared vision for reformed courts and tribunals that will provide a world-class system that works for all.
3. We will create a straightforward, efficient court system that works for everyone, so that citizens can have the sort of confidence in using the system that is already enjoyed by our excellent legal services sector. We will give special care to those who need it – reducing unnecessary stress for victims and witnesses, reducing the emotional turmoil experienced as a result of major life events such as criminal activity, death or divorce. We will cement our reputation for global legal excellence and enhance the reputation of our independent judiciary abroad. These reforms will also provide a better working environment for the judiciary, with modern court facilities and better IT that will help manage cases more efficiently, meaning they can focus on the cases that matter instead of taking the time to deal with administrative issues.

The Provision of Judges Steering Group

4. In 2013, the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals established a Steering Group to look at the use of the judiciary and to formulate strategic proposals for their consideration and agreement. The scope of the Steering Group's work included particular consideration of "the terms and conditions of salaried and fee-paid judicial office holders, the promotion of diversity and the deployment of the judiciary within the modernised courts and tribunals."
5. The Steering Group explored several potential areas of reform that might achieve these aims. The final set of proposals presented in the consultation paper were those that the Group considered should be prioritised for wider consultation during a time when the courts and tribunals system itself would be undergoing significant reform. They were:
 - introducing a single fixed term for fee-paid judges;
 - introducing the ability to recruit to leadership positions for a fixed term, with accompanying temporary remuneration;

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf

- introducing an expectation – rather than guarantee – of the number of days existing fee-paid court judges are required to sit;
 - removing the entitlement of existing fee-paid judges to claim travel expenses for journeys to their primary courts; and
 - introducing a requirement for existing salaried and fee-paid judges to provide notice of intention to resign or retire.
6. The consultation received more than 400 responses; the majority of these were from existing fee-paid judges, but responses were also received from associations representing salaried judges; from bodies representing the legal professions, such as The Law Society, the Bar Council, Chartered Institute of Legal Executives; and from the Judicial Appointments Commission. A summary of responses is set out in Annex A.

The Response

Single non-renewable fixed terms for fee-paid judges

7. Chapter 1 of the consultation paper set out the proposal to introduce single, non-renewable terms for fee-paid judges. The majority of those who responded to the consultation were opposed to this measure, for a range of reasons which are set out in more detail below. **Taking into account points raised in these responses, as well as further analysis carried out in response to those points, the Government has decided not to proceed with this measure either for new or existing fee-paid judges. Instead it will seek to address the policy objectives through other means.**
8. The policy proposal had two main objectives: i) to improve the diversity of the fee-paid judiciary, and in turn the salaried judiciary, with fee-paid office being an important route of entry into salaried office, and ii) to introduce clearer career progression, by more explicitly setting out fee-paid office as a stepping stone to becoming a salaried judge or as a way to gain experience through different fee-paid offices. The majority of respondents felt that it was right to pursue these objectives and that they would lead to positive outcomes both for the judiciary and society as a whole, but that this proposal was not the best way to achieve these aims.
9. Moreover, many said that the proposal carried with it substantial risks which might outweigh the benefits or work against the aims. Many respondents raised the issue of the loss of service of experienced judges; there were concerns that many existing judges, or new entrants who had built up a wealth of experience, would leave the service at the end of their term. There were particular concerns about this in the tribunals jurisdiction, where the ratio of fee-paid to salaried positions may not support this approach.
10. Many felt that the proposal did not take into account the length of time needed for a fee-paid judge to build up experience, and that many fee-paid judges would not have time to build up sufficient experience to hear certain types of case – for example serious sex offences – by the time their term came to an end, given the number of sitting days available. This trend might lead to a general reduction in the level of experience across the fee-paid cohort over time, with associated operational impacts such as decreased speed and efficiency in dealing with cases, and reduced ability to deliver on the job training to colleagues. The quotes from fee-paid judges below are representative of many of the other responses received:

“If implemented, a retrospective, non-renewable fixed term will dictate that no fee paid office holder will have more than 6–10 years of sitting experience. Although this may sound like a significant period of time in which to develop skills, the practical reality is very different. Take for example Deputy District Judges (DDJs), these part time positions currently require a minimum of 15 sitting days but in some regions are restricted to no more than 50 per year. In a six year term a fee paid office holder could have as little as 90 days and no more than 60 working weeks of sitting experience”

“The proposal would, unless managed very carefully, lead to periods when the experience of the pool of fee-paid judges might not match the caseload

requirement, potentially imposing extra burdens on salaried judges or providing a less than ideal quality of justice to the parties.”

11. Some felt that although the principle of improving judicial diversity was the right one, the fixed term proposal might in fact work against this. It was suggested that the nature of the fixed term appointment might make the judicial appointment less attractive to particular groups, for example those with child caring responsibilities who preferred the flexibility of a part time role, which a salaried position might not offer, and who had no desire to progress to a full time salaried role. This might offset the benefits to diversity brought by a quicker turnover of fee-paid judges, and could disproportionately disadvantage particular groups. The following quotes from fee-paid judges reflect the views of many others who responded to this question:

“This reasoning, however, makes the mistake of assuming that because fee-paid appointment is a feeder to salaried appointment, it should only be considered in those terms. However, for some proportion – possibly a high proportion – of fee-paid judges, fee-paid appointment is attractive because it allows them to combine judicial work with other activities, and they have no intention of or desire to take up a salaried judicial post.”

“A big attraction of fee-paid roles is that it is a long term option and that you are not forced into applying for new jobs or a permanent judicial post. If you remove this then many fewer people will apply. I would not have done so (I am a young female deputy DJ)”

12. The Law Society in their response also raised concerns about the challenges presented by the commercial environment in which some potential candidates operate. They explained that those who are employed as opposed to self-employed would need to negotiate arrangements with their employer to undertake a part time fee-paid judicial role. However, if their position as a judge were time-limited, or there was uncertainty as to whether they would be leaving the firm or returning to be full time at the end of the term, employers might become less amenable to them pursuing a judicial application:

“This is an unattractive and high risk compromise for both parties. For younger candidates who are still establishing their position within a firm, an intimation to leave practice may present too much of a gamble with their long term career prospects as a practitioner. For the firm, there is likely to be little commercial incentive to permit a candidate to undertake a part time role with the underlying prospect of losing them altogether.”

13. The Government remains committed to the policy objectives of improving diversity and career progression opportunities within the judiciary. Since the consultation closed we have continued to work closely with the judiciary, Judicial Appointments Commission (JAC) and the legal professions to change the selection process to make sure the wider merits of all candidates are recognised from the outset. For example, in the next Recorder competition due to be launched February 2017 the top 100 candidates will be appointed regardless of whether their experience lies in crime, civil or family.
14. We are also working with the judiciary and the JAC to make it easier for talented legal professionals from outside the Bar to go straight into the High Court by opening the door to a wider pool of ‘direct entry’ candidates: these might include academics, in-house Counsel or solicitors working in private practice. Initiatives such as these, when taken together with ongoing outreach activities by members of the Judicial

Diversity Forum,² should yield positive results in the years ahead. The judiciary appointed Diversity and Community Relations Judges (currently 109) to bolster such efforts and to mentor and support potential candidates from harder to reach groups. The Forum is exploring the feasibility of developing pre-application training targeted at under-represented groups in order to improve judicial diversity. A working group, chaired by Lord Ouseley (who headed up the football anti-racism *Kick It Out* campaign) has been set up to explore this. Work is also continuing to improve data, especially with regards to socio-economic diversity and disability.

15. Judicial Office are also undertaking a programme of activity to support the judiciary in broadening opportunities for career development. This includes improving career support to judges by ensuring that conversations are taking place to address personal aspirations, with tailored development opportunities (such as bespoke training, challenging cases or coaching). These conversations have begun to take place in the High Court and will be piloted on the Midland Circuit. The Judicial Career Paths³ map will be developed further and communication will be strengthened on career pathways.
16. We will also consider carefully other ideas that have been raised by consultation respondents, which are set out in more detail in paragraph 34 below.

Fixed terms and temporary allowances for leadership judges

17. In chapter 2 we set out proposals to allow leadership roles to be held for a fixed term, and to provide for the ability to pay a leadership allowance in addition to salaries to judges who took on leadership roles. The allowance would be paid for the duration of a fixed term leadership post and at the end of the term the allowance would be removed. The Senior Salaries Review Body has been invited to make recommendations on how best to reward judicial leadership as part of their upcoming major review. The changes were proposed because it had become apparent that the current system of leadership across all levels and throughout jurisdictions is varied in terms of tenure, pay, responsibilities and duties. This has led to a number of inconsistent practices. **Of the respondents who addressed this question, the majority agreed with the Government's rationale and were in favour of the proposal. The Government has therefore decided, where it is a matter for the Lord Chancellor, that leadership positions should be appointed on a fixed term basis.**

“Provided the fixed term is of sufficient duration to permit the leadership judge to provide consistent leadership and implement policy, fixed terms would enable sufficient rotation to provide a defined career structure for the full time judiciary.”

“This would mean that opportunities to take on judicial leadership roles would arise more regularly, and would enable more judges to develop their leadership skills, which in turn is an advantage when judges seek promotion to a higher level.”

² The Judicial Diversity Forum includes representatives from the judiciary, MoJ, JAC, Bar Council, Law Society, Cilex and other legal groups such as the Legal Services Board and Interlaw Diversity. The Diversity Forum's current activities can be brigaded into three strands: encouraging entrants, encouraging career development and evaluation and monitoring:

³ <https://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/judicial-career-progression-chart/>

18. It is expected that in providing for fixed term leadership positions, the opportunity to assume leadership responsibilities will arise on a more regular basis. This will help clarify structures and might also help a wider range of judges to develop their skills in leadership posts and gain the experience required to move into higher levels of the judiciary. The improved remuneration package for the duration of the post should also help ensure that talented judges are incentivised to apply for and carry out such roles.
19. It is anticipated that the proposed changes will help leadership judges to carry out their duties by allowing for office holders to focus their time on specific leadership duties; mentoring and supporting other judges, identifying those who have the potential to progress, advising them on the additional skills or experience they might need in order to do so, and where appropriate encouraging them to go on to be leadership judges themselves. Leadership judges could also play a valuable role in increasing diversity at higher levels of the judiciary by mentoring and encouraging under-represented groups to apply.
20. Amongst those who did not support the proposal, a common theme coming through consultation responses was that if a particular judge was doing a good job in a leadership position, it would be counter-productive if his or her term came to an end and could not be renewed.

“If they are doing a good job, and have benefited from the experience they have gained, their appointments should not be ended.”

“imposing a fixed term would result in the loss of the experience that someone in a leadership role has amassed and would also lead to unnecessary training and recruitment costs”

21. The Government is clear that judicial leadership is a judicial function. For positions where the Lord Chancellor sets terms and conditions, the Lord Chancellor will consult with the judiciary to determine how long the term should last. There was greater concern about such measures applying to Heads of Division. However, where a leadership term, including Heads of Division posts, came to an end and an office holder wanted to continue, he or she would be allowed to reapply, as long as there was a transparent and fair selection process. Also some respondents noted that there may be judges who would welcome taking on additional responsibilities for a time limited period given the potential increase in workload and impact on work-life balance.
22. Legislation will be needed to ensure that a wider range of leadership posts can be offered on a fixed term. The Government will take steps to introduce such legislation as soon as possible.

Introducing an expectation – rather than guarantee – of number of days existing fee-paid court judges are required to sit

23. Chapter 3 set out three proposals aimed at modernising aspects of judicial terms and conditions, including the proposal to introduce an expectation – rather than a guarantee – of the number of days that existing fee-paid judges in the courts are required to sit. Currently, some courts judiciary can claim fees for a minimum number of days, irrespective of whether they have sat on those days or not. This is in contrast with the terms & conditions of fee-paid office holders in the tribunals, which were modernised in 2010 and under which there is no guarantee as to the minimum number

of sitting days. More recent fee-paid appointments in the courts were also placed on modernised terms.

24. Some respondents raised concerns that this would place too great an uncertainty on the availability of work for fee-paid office-holders, and that at worst it could equate to the introduction of 'zero hours contracts'.

"It would be wrong to insist on a minimum availability while at the same time removing the guaranteed number otherwise Judges would have to allocate days without any guarantee. In other words a Zero Hours contract which is unfair."

25. However, others agreed with the proposal, including those who were already operating on this basis, raising the view that the appropriate use of the public purse was to pay people only for work booked or carried out.

"This would seem reasonable to give flexibility both to the fee paid judge and to the courts. My experience is that sitting days are generally available up to the minimum level, if a fee paid office holder makes themselves available to meet them."

"This will enable budget for fee-paid sittings to be allocated where the need is, rather than being wasted on guaranteeing minimum levels of sitting for which there is no need."

26. **Taking the balance of views into account, and evidence from jurisdictions where this is already in effect, the Government will proceed with this proposal.** It will set out its plans in more detail in due course to ensure those likely to be affected are fully aware of the proposal and have sufficient period of notice before any amendments are made to terms and conditions.

Travel expenses for fee-paid judges travelling to primary court

27. Chapter 3 also outlined the proposal to remove the entitlement for fee-paid office holders to claim allowances for travel to their primary sitting location. At present, the fee-paid judiciary in the courts and tribunals are able to claim travel to any venue when travelling on official business, even if they sit almost exclusively at a single or primary court. The rationale for removing this entitlement was to contribute to parity between salaried and fee-paid office holders (the former are not paid expenses to their usual place of work) and to save public money by not funding very short or routine journeys.

28. Most respondents were opposed to this change for a number of reasons set out below. In light of the points that have been raised, **the Government has decided not to impose a blanket ban on expense claims for journeys to primary courts. Instead it will explore a more targeted approach focusing on reducing unnecessary payments for very short, routine journeys.**

29. Many respondents made the point that fee-paid judges often sat a significant distance away from their home and regular place of work (i.e. their legal practice) in line with current policies. This avoids them adjudicating on matters brought by their colleagues and any associated potential conflicts of interest. Numerous office holders also said that in practice they do not operate on the basis of travelling to a primary location and in fact sit in many different locations around the country according to business need. This was particularly the case in some tribunals such as Mental Health, which often took place in more informal settings which were more convenient for the user.

“It may be an appropriate approach where office holders sit in the same place for all hearings. However, such an approach for [mental health tribunals] would be inappropriate as members have no such base, and travel to the location of the patient, often at significant distances from their home.”

“For existing judges some of whom travel long distances ... and who may not have a more local option due to distribution of work or other factors this could cause significant hardship. If this were to be considered for new appointments careful consideration of the impact on the different tribunals would be needed before a decision is made.”

30. Although it remains the Government’s intention to ensure greater parity of remuneration between salaried and fee-paid office holders, it is acknowledged that removing the entitlement completely may disproportionately affect some office-holders whose working practices require greater travel. It may also have adverse consequences aside from the intended effect. Therefore we will continue to explore a more targeted policy in this area, working with HMCTS and Judicial Office to publish further proposals later in the year.

Retirement notice

31. Lastly, chapter 3 also set out the proposal for introducing a requirement to give notice for office holders who planned to retire, and sought views on the length of the period of notice that should be given. Although it is rare in practice for a judge to retire without notice, such situations can cause serious operational issues in judicial availability for scheduled court time, and can create gaps in the judicial workforce while recruitment campaigns are being carried out.
32. The majority of consultation respondents were in favour of this proposal, and felt it was appropriate for the judiciary to follow similar practices across the public and private sectors. However, some responses received during the consultation were not in favour of this proposal. Amongst objections to the proposals was the view that introducing new requirements was unnecessary, given that judges retiring without notice was not a widespread problem; that it could force judges to work longer than they might otherwise have wished; that such a change may not be enforceable if a judge decided to retire straight away; and that there might be unavoidable circumstances, such as ill-health, where a judge had to retire more quickly than anticipated.
33. **Given that there are outstanding concerns, the Government will continue to explore what the effects would be if a retirement notice period were introduced for all judicial office holders, and defer a firm decision on this until a later date.** The terms and conditions of new appointments already set out a retirement notice period, and there would be no change in that approach.

Other suggestions

34. A number of other approaches were raised by respondents with the aim of increasing judicial diversity and improving career progression opportunities. These included:
- More guidance for potential applicants in order to prepare them for the judicial appointments process;
 - Proposals to improve flexible working, including improving courts IT and policies to support working families;

- Greater use of schemes to offer more support to existing judicial office holders to develop their careers, such as mentoring and coaching, or regular appraisals;
- A system of work-shadowing to allow prospective candidates the opportunity to see the day to day work of a judge;
- Specifically encouraging applications from people with more diverse backgrounds;
- Greater transparency about appointees and their professional background;
- More opportunities for salaried judges to work on a part time basis;
- More frequent collection and publication of diversity statistics;
- Commissioning of independent research into how success rates for candidates from a BAME background can be improved; and
- Removing the bar on salaried judges returning to practice law.

The Government will consider these suggestions carefully in liaison with the senior judiciary before deciding whether any of them should be pursued.

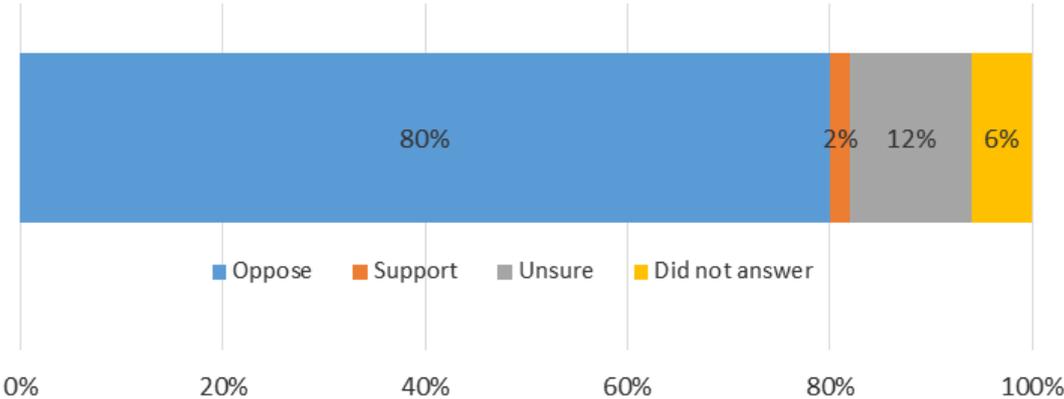
Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Annex A: Analysis of consultation responses

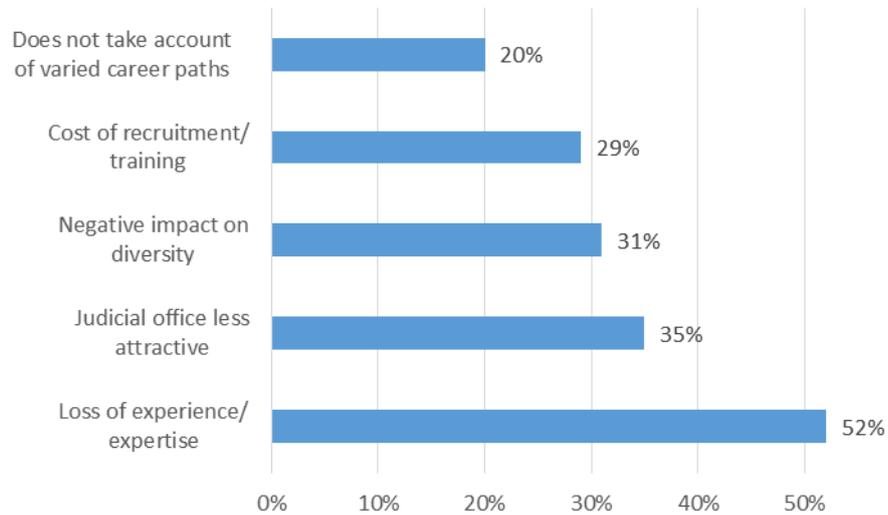
Question 1: Should new fee-paid judges in both the courts and tribunals be on a single non-renewable fixed term? Please give your reasons.



1. 405 out of 431 respondents (93%) answered question 1. While many of responses were from individual fee-paid judges, responses were also received from the Judicial Appointments Commission (JAC); organisations representing salaried judges (such as the Association of District Judges and Association of Circuit Judges); and bodies representing the legal professions such as the Bar Council, the Law Society, City of London Law Society and the Chartered Institute for Legal Executives (CILEx).
2. Fee paid judges and the legal professions were generally opposed. Their main concerns were;⁴
 - 52% expressed a concern that there would be a significant loss of experience which may affect the operational efficiency of the justice system
 - 35% felt the proposal would make judicial office less attractive, impacting the judiciary’s ability to recruit and retain judicial office holders
 - 31% were concerned that there may be a negative impact on diversity as younger or more diverse applicants may be deterred from applying to judicial office
3. In contrast, the 2% who supported the proposal agreed with the rationale in the consultation paper that fixed terms would promote regular turnover which might have a positive impact on diversity. Some of those who supported the general premise of fixed terms, however, questioned whether the term would have to be fixed in all case or whether there might some circumstances it could be renewed to meet specific business needs.

⁴ Following percentages based on those who had a view on the question, not including those who did not answer or were unsure

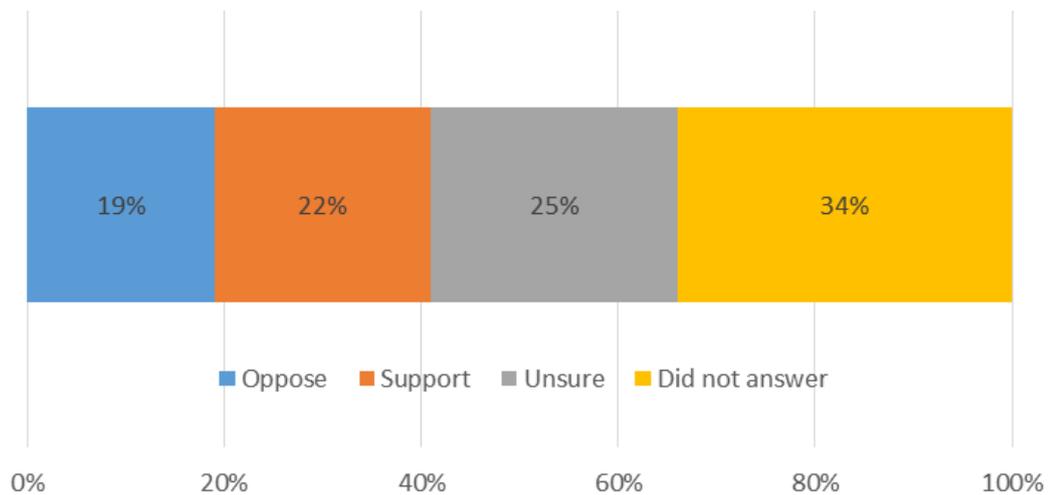
Reasons for opposition to non-renewable fixed term



4. Given the weight of consultation responses the Government has decided not to go ahead with this proposal for new or existing fee paid office holders. We have not therefore included detailed analysis of questions 2 to 7, as these questions focussed on how non-renewable fixed terms would work in practice.

Question 8: Should judges be appointed to leadership positions for a fixed term? Please explain.

5. 287 answered question 8 (66% of overall respondents).

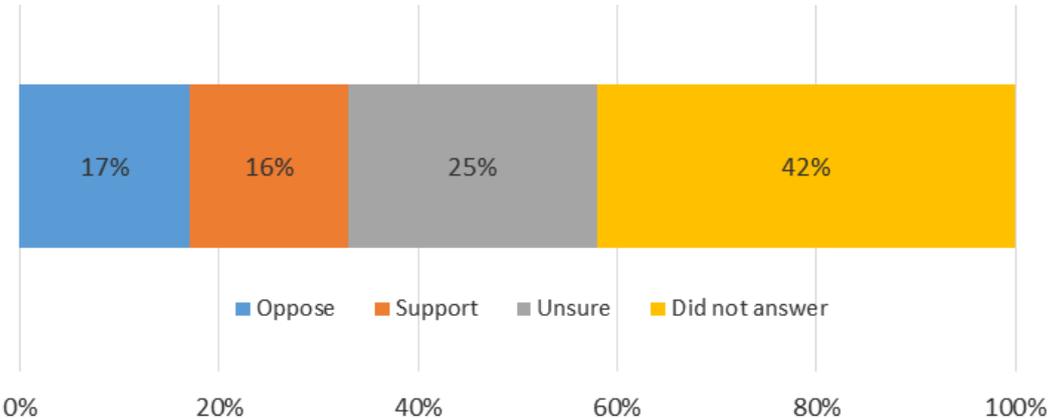


6. A significant proportion of respondents did not answer this question or were not sure whether they supported the policy (59%). Of those who gave a view on this question, there was a small margin of support for the proposal (excluding 'unsure' or 'did not answer', 53% were positive). Respondents who had a view on this proposal stated that;⁵

- In support:
 - 30% of respondents felt that fixed terms for leadership would prevent office holders who carried out leadership responsibilities from “burning out” as leadership duties can be onerous
 - 14% felt that it would refresh the pool of leadership judges, giving more office holders the opportunity to hold leadership roles
 - 7% supported the policy as it could have a positive impact on diversity in the senior judiciary, the least diverse cohort
- In opposition;
 - 11% had concerns about the rationale behind a term ending when there has not been any poor performance
 - 10% of respondents felt that fixed term leadership positions could be a threat to security of tenure

Question 9: Should Heads of Division positions also be set for a fixed term? Please explain.

7. 250 answered question 9 (58% of overall respondents).



8. As with question 8, there was a high proportion of respondents who did not answer the question or were not sure whether they supported the policy (67%). Of those who did answer the question there was slightly more opposition than support (51% and 49% respectively). Of those who had a view on the question, the reasons repeated most often were:

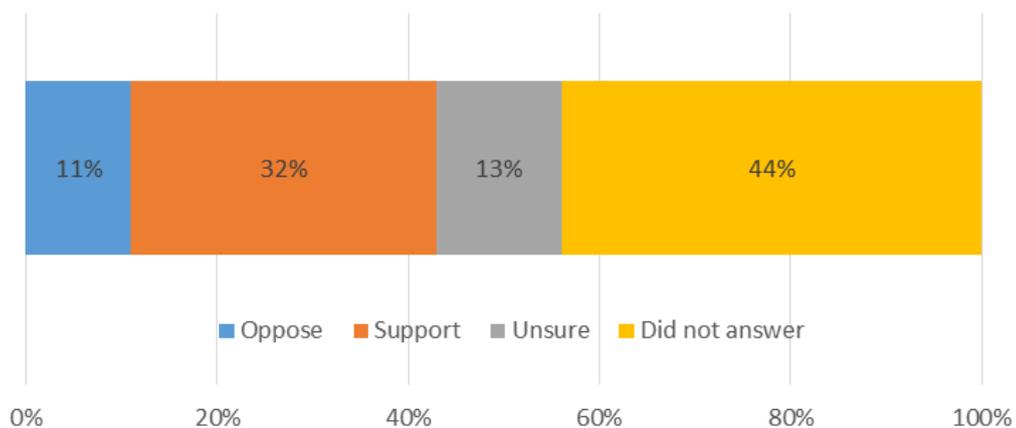
⁵ Following percentages based on those who had a view on the question, not including those who did not answer or were unsure

- In support;
 - 14% of respondents who explained their answer said it would refresh the pool of leadership judges, giving more office holders the opportunity to hold leadership roles; and
 - 3% said it would prevent office holders who carried out leadership responsibilities from “burning out” as leadership responsibilities can be onerous
- In opposition;
 - 5% of respondents who explained their answer said that a leadership position should not necessarily come to an end if somebody is doing a good job and wants to continue;
 - 5% said a fixed leadership term threatened security of tenure and/or judicial independence.

9. However, some of those who opposed the proposal being applied to Heads of Division said they would support it if the terms were renewable, or if the office holder could be appointed for a second term.

Question 10: Would a temporary uplift in remuneration for the duration of a fixed term leadership role be appropriate? Please explain.

10. 245 answered question 10 (56% of overall respondents).



11. As with questions 8 and 9, there were a high proportion of respondents who did not answer the question or were unsure (57%). However, of those who had a view on the question⁶ there was strong support to allow a temporary uplift for leadership responsibilities with 74% supporting the proposal. Of those who gave reasons for their answers⁷

⁶ Percentages based on those who had a view on the question, not including those who did not answer or were unsure

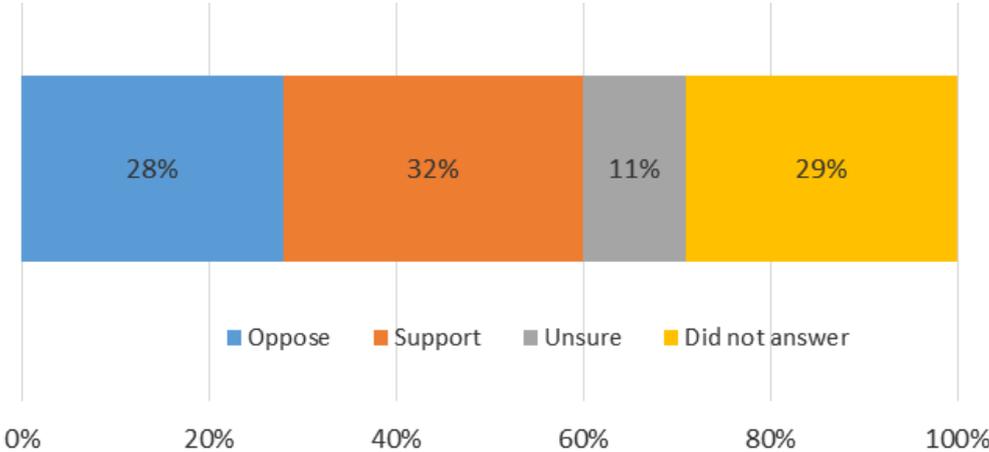
⁷ Percentages based on those who had a view on the question, not including those who did not answer or were unsure

- In support;
 - 34% thought leadership judges should be compensated for the additional responsibilities
 - 5% felt additional remuneration would be an incentive to apply for these roles

12. For those opposing the proposal, reasons given were that leadership judges should receive the additional remuneration indefinitely or that leadership judges should do less of their previous role to allow time to fulfil leadership duties. Fewer than 1% of respondents expressed these views.

Question 11: Should all current fee paid judges across the courts and tribunals be required in their terms to be available for a number of days rather than have a guaranteed number of sitting days? Please give your reasons.

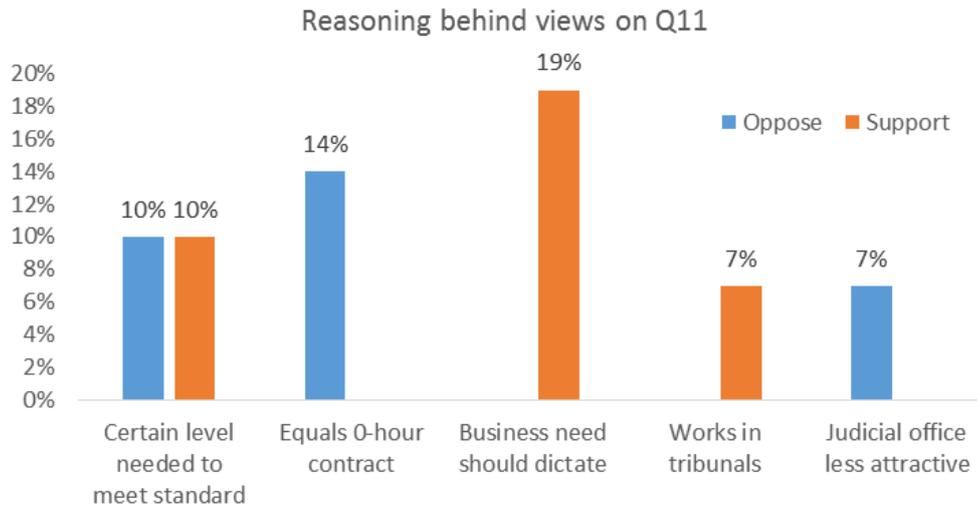
13. 304 answered question 11 (71% of overall respondents).



14. Of those who had a view on the proposal, slightly more supported (53%) than opposed it (47%) Of those who had a view on this question;⁸

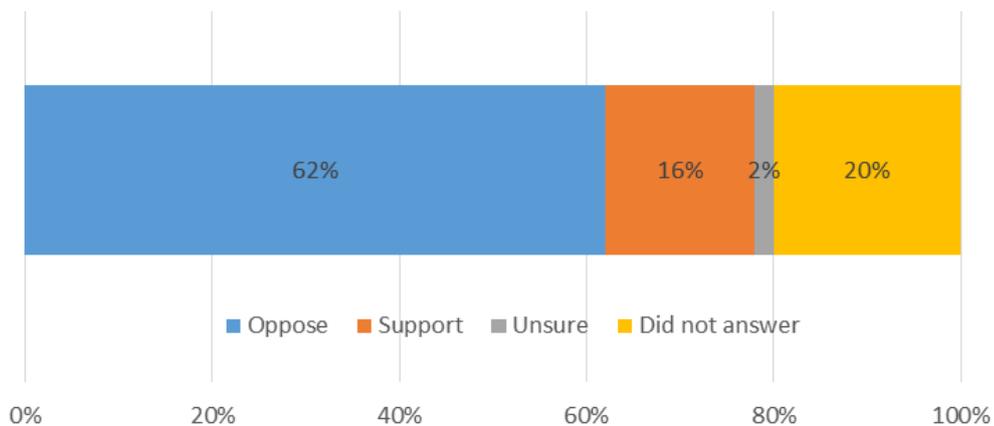
- In support;
 - 19% of all respondents who explained their answer to this question said that business need should dictate the number of days office holders sit
 - 7% said that the policy already worked in the tribunals without causing difficulties so they would not oppose it being introduced in the courts.
- In opposition;
 - 14% said that a removal of guaranteed sitting days would be tantamount to a zero-hours contract
 - 10% said that without a certain number of days being guaranteed, fee-paid judges may have insufficient time to develop skills to progress or meet the required standard.
 - 7% felt it would make judicial office less attractive

⁸ Percentages based on those who had a view on the question, not including those who did not answer or were unsure



Question 12: Should the terms and conditions of current fee paid office holders be amended to remove the right to claim travel costs to their primary base in line with salaried office holders? Please give your reasons.

15. 345 answered question 11 (80% of overall respondents).

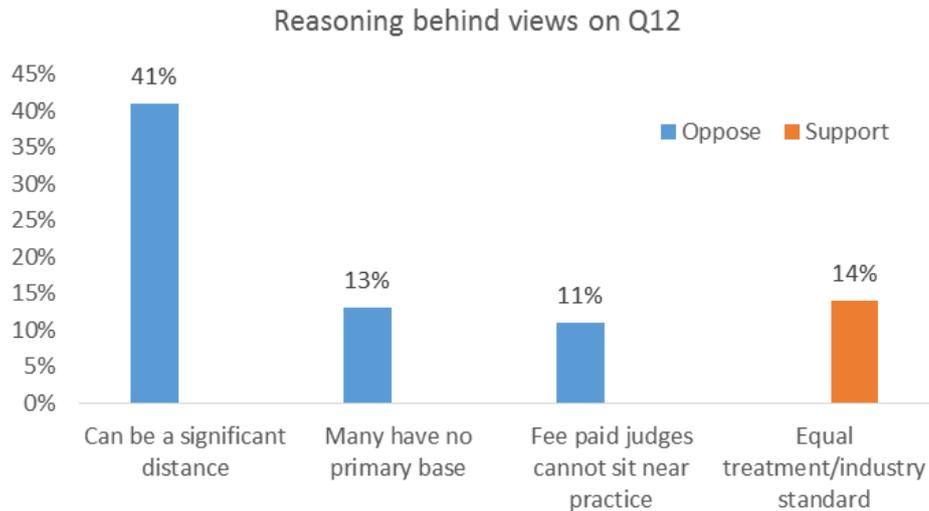


16. Of those who had a view on the policy, there was strong opposition with 79% against the policy;⁹

- In opposition;
 - 41% of all respondents who gave a view on this question said that distances that fee-paid office holder travel can be significant and therefore should be distinguished from a salaried office holder’s “usual place of work”;
 - 13% said that they or other fee-paid office holders have no primary base;
 - 11% said that fee-paid office holders are often unable to sit near where they practice due to conflict of interest policy

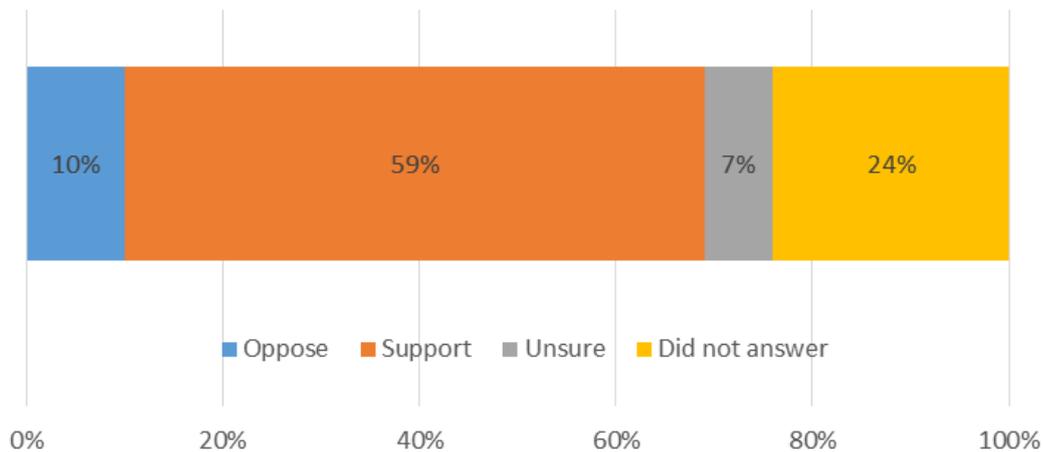
⁹ Percentages based on those who had a view on the question, not including those who did not answer or were unsure

- In support;
 - 14% of all respondents who gave a view said the proposal would ensure equal treatment between salaried and fee paid office holders, as well as it being the standard in other industries



Question 13: Do you agree that judges should be required to give notice of their plans to resign or retire? Please give your reasons.

17. 328 answered question 13 (76% of overall respondents).



18. Of those who had a view on the proposal, there was strong support (77%). Of those that had a view;¹⁰

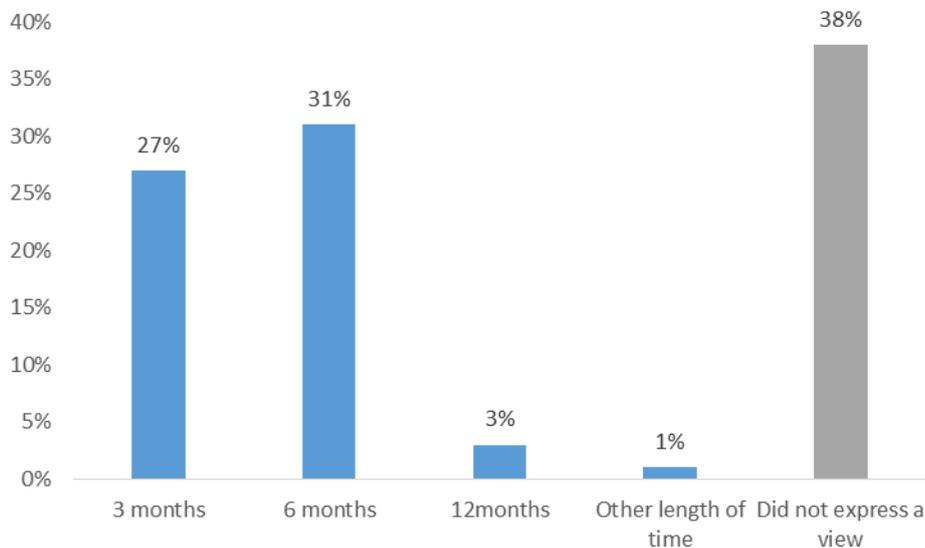
- In support;
 - 18% felt the proposal is needed for business planning purposes
 - 4% said it was normal working practice elsewhere

¹⁰ Percentages based on those who had a view on the question, not including those who did not answer or were unsure

- In opposition;
 - 7% expressed concerns that, as the proposal cannot be enforced, it is ineffective

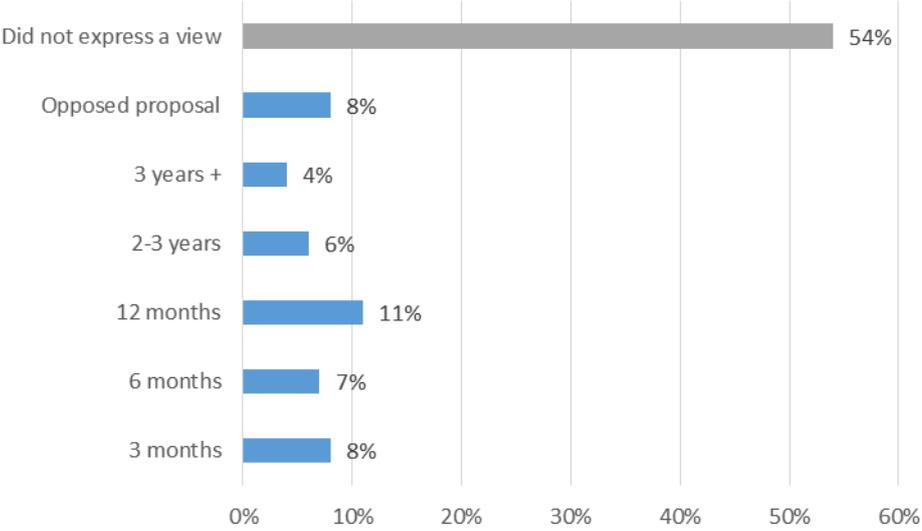
Question 14: If a notice requirement for retirement or resignation were introduced, what would be the most appropriate period: 3, 6 or 12 months? Please give your reasons.

19. 269 answered question 14 (62% of overall respondents). Those that supported a 6 month notice period acknowledged that Judicial Appointment Commission campaigns take time to be arranged and conducted, meaning a longer period of notice is desirable. Those that supported a 3 month notice period felt this was in line with other professions and would therefore be fair.



Question 15: What period of notice should be given prior to the proposed changes to terms and conditions in this chapter being made? Please give your reasons.

20. 198 expressed a view on question 15 (46%). Those who favoured a period of notice of 12 months or more said that fee-paid judges would need time to consider their career options. Those who thought a shorter period 3 – 6 months would be sufficient said that such a period would be in line with usual industry standards, however felt the length of time needed would vary depending on which measures were introduced.



Question 16: Have we correctly identified the extent of the impacts under each of these proposals?

21. Please refer to the Impact Assessment and paragraph 24.

Question 17: Are there any proposals, other than those in this consultation, which you consider would improve the judicial career path?

22. Whilst over 60% of respondents did not offer a view on this question, several suggestions were put forward and a summary of these is set out in the main response document at paragraph 34.

23. The Government is grateful for the suggestions received and will consider them carefully over the coming months.

Question 18: Does the equalities statement correctly identify the extent of the equalities impact under each of these proposals? Is there any mitigation we have not considered?

24. Many respondents did not answer these question, but those who did focused on the potential impact of the fixed term proposal. Some said the Government had underestimated the impact it would have on the tribunals which rely heavily of fee-paid office holders. Many argued that it would deter people from applying for judicial office and hinder rather than help efforts to increase diversity. Others focused on the impact it would have on fee-paid office-holders who choose or need to work part time (e.g. for childcare reasons) and have no desire to seek permanent, salaried roles. Please refer to the Equalities Impact Assessment for more details.



© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Alternative format versions of this report are available on request from simon.quinn@justice.gsi.gov.uk