

# 2016 UK JUDICIAL ATTITUDE SURVEY

## Report of findings covering salaried judges in Scotland

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## Executive summary

### Scottish judiciary and response rate

- The courts judiciary in Scotland makes up 10% of all salaried judges in the UK.
- There was a high survey response rate of 79% of all salaried judges in Scotland.

### Being a member of the judiciary

- Virtually all judges in Scotland feel they provide an important service to society (97%) and have a strong personal attachment to being a member of the judiciary (94%). There has been little change in these high levels since 2014.
- Virtually all judges (97%) are committed to doing their job as well as they possibly can.
- These findings reflect a deep commitment to their job by virtually all salaried judges despite strong levels of disenchantment with their job expressed elsewhere in the survey.
- Judges feel most valued by court staff (90%), their judicial colleagues at court (89%), the legal profession (76%) and parties in cases before them (63%).
- Almost half of judges (49%) feel valued by the public, but very few feel valued by the UK Government (5%), media (7%) or Scottish Government (9%).

### Working conditions

- A majority of judges (68%) feel they have experienced a deterioration in their working conditions since 2014, but fewer judges feel they have experienced as strong a deterioration over the last two years as they experienced in the period 2009-14.
- Sheriffs feel they have experienced a much more substantial deterioration in working conditions than Senators: 73% of Sheriffs compared with 41% of Senators said their working conditions were worse now than in 2014.
- The morale of court staff (33%) and security at courts and tribunals (30%) were rated as Poor by a notable proportion of judges. Two working conditions were rated as Good or Excellent by a majority of judges: the physical quality of their personal working space (64%) and quality of administrative support (56%). Judges' views on these working conditions have not changed substantially since the last survey in 2014.
- Almost half of judges have concerns for their personal safety while in court (45%) and outside court (45%), but Sheriffs have greater concerns than Senators for their safety both in and outside court.
- Substantial proportions of Scottish judges rated the standard of IT equipment used in court as Poor (50%) and rated internet access at court as Poor (40%). Judges' view of the quality of IT resources and support has deteriorated since 2014, with all areas seeing an increase in the proportion of judges rating the quality as Poor since 2014.

### Salary and pensions

- An overwhelming majority (85%) of Scottish salaried judges say they have had a net loss of earnings over the last 2 years; 66% say the change in pensions has affected them personally; 72% feel that their pay and pension entitlement combined does not adequately reflect the work they have done and will do before retirement.
- The salary and pension issues have clearly had a detrimental effect on judicial morale: 64% said the judicial salary issue is affecting their morale, 83% said the judicial salary issue is affecting the morale of judges they work with, 67% feel the change in pensions has affected their morale and 93% said the change in pensions has affected the morale of judges they work with.

### Opportunities, support, training and personal development

- A majority of judges said opportunities were not sufficient in the 3 areas most important to them: 91% of judges said time to discuss work with colleagues was important but only 23% said the opportunities for this were Good or Excellent; 72% of judges said support for dealing with stressful work conditions was important but 63% said this support was either Non-existent or Poor; 65% of judges said opportunities for career progression were important but 61% said this support was either Non-existent or Poor.
- 83% are satisfied with the quality of the judicial training; 59% are satisfied with the range of training available; but only a minority are satisfied with the time available to undertake judicial training (39%) and the opportunities for personal development (29%).
- Three-quarters (75%) of judges are satisfied with the challenge of their job and the variety of their work, and there has been no change in this from 2014.

### Change in the judiciary

- Most judges in Scotland (82%) feel their job has changed since they were first appointed in ways that affect them, and there is not much change in judges' views on this since 2014.
- A majority of judges in Scotland are most concerned by the following changes (in order of concern): Increase in litigants in person, judicial morale, fiscal constraints, staff reductions, loss of judicial independence and stressful working conditions. Increase in litigants in person has risen to the highest concern on the list (from 4th in 2014).

### Future planning

- A large proportion of the Scottish judiciary say they might consider leaving the judiciary early over the next 5 years: 39% are considering it and 22% are currently undecided.
- There are two main factors Scottish judges say would prompt them to leave the judiciary early: further limits on pay awards (71%) and reductions in pension benefits (83%). A majority would also be prompted to leave early by an increase in workload (59%) and stressful conditions at work (56%).
- Most judges said two key factors would help to keep them in the judiciary until they reach retirement age: higher remuneration (77%) and settled position on pensions (64%).

### Recruitment

- Almost two-thirds of Scottish judges (64%) said they would encourage suitable people to apply to the judiciary, but over a third (36%) said they would either not encourage suitable people to apply or were not sure if they would do so.
- The main reasons judges would encourage suitable people to apply to join the Scottish judiciary are the challenge of the work (82%), chance to contribute to justice being done (81%), intellectual satisfaction (64%) and job security (52%).
- A majority of Scottish judges say they would discourage suitable applicants from applying for five reasons: likelihood of further pension reductions (77%) reduction in income (67%), lack of personal control over working time (53%) and isolation of the job (51%).

### Leadership

- Most judges (58%) would be interested in taking on leadership responsibilities, but 18% of these judges feel no leadership opportunities are available in their jurisdiction.
- A majority of judges (51%) said they did not know enough about how leadership roles were allocated to say whether it was fair. Sheriffs were more to say they did not know enough about how leadership roles were allocated to say whether it was fair (54%) than Senators (38%).

# Judicial Attitude Survey (JAS) 2016

## Scotland

### 1.1 The survey

The Judicial Attitude Survey (JAS) 2016 is the second attitude survey that has been conducted with all serving salaried judges in the UK. The first survey of its kind was the Judicial Attitude Survey (JAS) 2014<sup>1</sup>. The aim of the JAS is to assess the attitudes of salaried judges in key management areas including the experience of being a judge, morale, working conditions, remuneration, training and personal development, retention and leadership. The target group for the JAS is all serving salaried judges in England and Wales, Scotland, Northern Ireland and the UK non-devolved tribunals, including both full-time salaried and part-time salaried judges.

This report provides the findings for salaried judges in Scotland<sup>2</sup>. Judges in Scotland make up 10% of all salaried judges in the UK<sup>3</sup>. The report includes combined results for all salaried judges in Scotland who took part in the survey, and it also highlights those areas where there are differences between Scottish judges in different judicial posts.

The JAS 2016 was an online survey conducted by the Judicial Institute of University College London (UCL JI) via the web-based survey tool Opinio. The survey was designed, administered and analysed by Professor Cheryl Thomas, Co-Director of the UCL JI. A Working Group comprised of representatives from various judicial associations assisted Professor Thomas in the design of the 2016 questionnaire.

The survey was voluntary and all participants remained completely anonymous. The survey ran in Scotland from 21 June through 22 September 2016. All salaried judges in Scotland were invited to take part in the survey through the Scottish judicial intranet (The Hub) and through personal communications from the Lord President inviting judges to contribute to the survey.

The survey included 50 questions covering the following general subject areas<sup>4</sup>:

- working conditions
- salary and pensions
- resources and the new digital programme
- training and personal development
- change in the judiciary
- future planning
- being a member of the judiciary
- recruitment
- leadership

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<sup>1</sup> *2014 Judicial Attitude Survey: Scotland*, C. Thomas (2014) UCL Judicial Institute

<sup>2</sup> Findings for salaried judges in England and Wales with UK non-devolved tribunals and findings for salaried judges in Northern Ireland have been reported separately.

<sup>3</sup> The courts judiciary of England and Wales comprises 64% of all salaried judges in the UK, the UK non-devolved tribunals judiciary comprises 22% of all UK salaried judges and Northern Ireland judges comprise 4% of all salaried judges in the UK.

<sup>4</sup> There were also several background questions for the respondents and two questions about the survey.

Almost all the questions from the 2014 JAS were repeated in identical form in the 2016 JAS, but a few questions from the 2014 JAS were phrased differently to increase clarity following a review of the 2014 JAS and several new questions were added to the 2016 JAS covering reforms taking place within the judiciary since 2014.

A copy of the survey is reproduced in the Appendix.

## 1.2 Response Rates

The overwhelming majority (79%) of all salaried judges in Scotland took part in the 2016 Judicial Attitude Survey (JAS). This was slightly lower than the response rate in the previous 2014 JAS (81%), but the high response rate means the 2016 JAS findings reflect the views of virtually all salaried judges in Scotland. The fact that this is now the second time this survey has been run with the salaried judiciary and both surveys have had high response rates means that assessments can be made about the extent to which judicial attitudes in Scotland may have changed or intensified since the last survey. Where relevant these are addressed in this report.

**Table 1: Response rates by Scottish salaried judges to the UK JAS 2016 and 2014**

|                               | <b>Total no. of judges in post 2016</b> | <b>2016 JAS number of responses</b> | <b>2016 JAS response rate</b> |  | <b>2014 JAS response rates</b> |
|-------------------------------|---|-------------------------------------|-------------------------------|--|--------------------------------|
| <b>Scotland</b>               |   |                                     |                               |  |                                |
| Summary Sheriffs              | 15                                      | 13                                  | 87%                           |  | ----                           |
| Sheriffs & Sheriffs Principal | 132                                     | 108                                 | 82%                           |  | 83%                            |
| Senators: Outer House         | 23                                      | 16                                  | 70%                           |  | 59%                            |
| Senators: Inner House         | 11                                      | 5                                   | 45%                           |  | 100%                           |
|                               | <b>181</b>                              | <b>142</b>                          | <b>79%</b>                    |  | <b>81%</b>                     |
|                               |   |                                     |                               |  |                                |

## 2. Being a Member of the Judiciary and Commitment to the Job

### 2.1 Providing an important service to society

Virtually all salaried judges (97%) in all judicial posts in Scotland feel they provide an important service to society. There has been no real change in this view since 2014.

**Table 2: Providing an important service to society**

| <i>As a judge I feel I provide an important service to society</i> | 2016 JAS | 2014 JAS |
|--|----------|----------|
| Agree  | 97%      | 98%      |
| Not sure   | 1%       | 1%       |
| Disagree   | 2%       | 1%       |

### 2.2 Personal attachment to the judiciary

Virtually all salaried judges (94%) in all judicial posts in Scotland feel a strong personal attachment to being a member of the judiciary. There has been no real change in this view since 2014.

**Table 3: Personal attachment to the judiciary**

| <i>I feel a strong personal attachment to being a member of the judiciary</i> | 2016 JAS | 2014 JAS |
|---|----------|----------|
| Agree   | 94%      | 92%      |
| Not sure  | 2%       | 2%       |
| Disagree  | 4%       | 6%       |

### 2.3 Commitment to the job

A new question on the 2016 JAS examined judges' commitment to doing their job. This new question was designed to provide some indication of judges' commitment to persevering with their work despite the known level of disenchantment with various aspects of their job expressed in the 2014 JAS.

Almost all Scottish judges who took part in the survey (96.5%) expressed a commitment to doing their job as well as they possibly can. This reflects a deep underlying strength of the judiciary across all posts. This finding, along with the other strong views held by judges about their work as a judge (see above), reflects a deep commitment to their job by virtually all salaried judges despite widespread levels of disenchantment at working conditions and changes to their job (found in other parts of the survey and reported below).

**Table 4: Commitment to the job**

| <i>I feel I have an important job that I am committed to doing as well as I possibly can</i> | 2016 JAS |                |       |
|--|----------|----------------|-------|
| Strongly Agree   | 83.9%    | Agree total    | 96.5% |
| Agree  | 12.6%    |                |       |
| Not sure   | 0.7%     | Not sure total | 0.7%  |
| Disagree   | 1.4%     |                |       |
| Strongly Disagree  | 1.4%     | Disagree total | 2.8%  |



## 2.4 Feeling valued

In most instances there has been a drop in the extent to which judges feel valued by different groups, but the general pattern in terms of who judges in Scotland feel most/least valued by has not substantially changed since 2014. The largest fall has been in the extent to which Scottish judges feel valued by parties in cases before them, which has decreased 11% since 2014. This may be connected to results in other parts of the survey (reported below), which reflect a growing judicial concern about the increase in litigants in person.

**Table 5: Extent to which judges feel valued by different groups**

| <i>As a judge I feel valued by</i> | 2016 JAS | 2014 JAS | % change since 2014 |
|------------------------------------|----------|----------|---------------------|
| Court Staff                        | 90%      | 88%      | +2%                 |
| Judicial colleagues at my court    | 89%      | 90%      | -1%                 |
| Legal Profession                   | 76%      | 84%      | -8%                 |
| Parties in cases before me         | 63%      | 74%      | -11%                |
| Public                             | 49%      | 50%      | +1%                 |
| Senior Leadership in the judiciary | 25%      | 31%      | -6%                 |
| Scottish Government                | 9%       | ----     | ----                |
| Media                              | 7%       | 10%      | -3%                 |
| UK Government                      | 5%       | 8%       | -3%                 |

### 3. Working Conditions

In the 2016 Judicial Attitude Survey, salaried judges were asked a series of questions about their conditions of work.

#### 3.1 Current working conditions compared with previous years

In the 2014 JAS judges were asked to rate working conditions in the judiciary then (2014) compared with 5 years before. Given this, in the 2016 JAS judges were asked to rate working conditions in the judiciary now (2016) compared with 2 years ago (the last time they were asked in 2014).

The results indicate that while a majority of judges (68%) feel they are still experiencing a deterioration in their working conditions, fewer judges feel they have experienced as strong a deterioration in their working conditions over the last 2 years (2014-16) as they experienced in the period 2009-2014.

But Sheriffs have experienced a much more substantial deterioration in their working conditions than Senators: 73% of Sheriffs said their working conditions are worse now than in 2014, while 41% of Senators said working conditions are worse now.

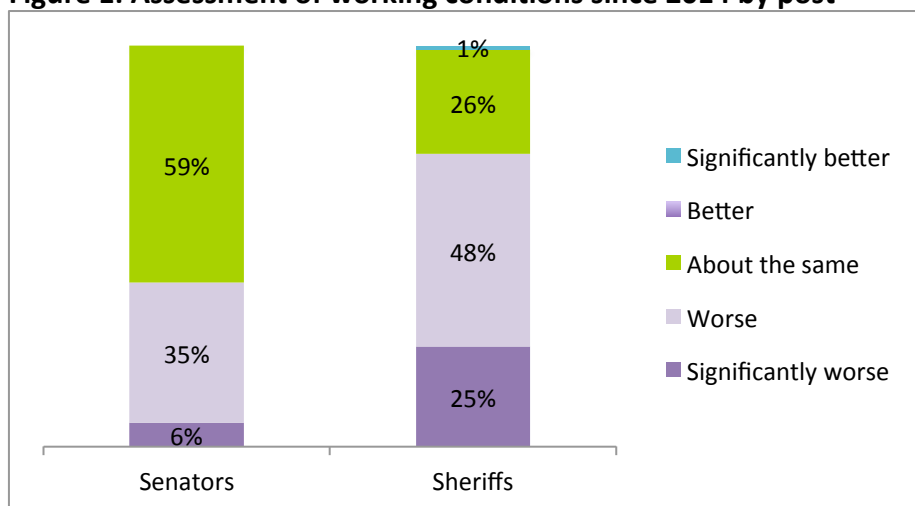
**Table 6: Change in working conditions in the judiciary**

|                      | 2016 JAS<br>Working conditions now<br>versus 2 years ago | 2014 JAS<br>Working conditions now<br>versus 5 years ago |
|----------------------|--|--|
| Significantly worse  | 23%  | 34%  |
| Worse                | 45%  | 48%  |
| About the same       | 31%  | 14%  |
| Better               | 0%   | 3%   |
| Significantly better | 1%   | 1%   |

**Table 7: Working conditions in the judiciary: change since 2014**

|                | 2016 JAS<br>Working conditions<br>now versus 2 years ago | 2014 JAS<br>Working conditions<br>now versus 5 years ago | % change<br>from 2014 |
|----------------|--|--|-----------------------|
| Worse (total)  | 68%  | 82%  | -14%                  |
| About the same | 31%  | 14%  | +27%                  |
| Better (total) | 1%   | 4%   | -3%                   |

**Figure 1: Assessment of working conditions since 2014 by post**



The survey explored several aspects of their working conditions with judges in more detail. This included case workload, non-case work and a range of other specific aspects of their working life.

### 3.2 Workload

One possible source of concern for judges could be their workload, but almost two-thirds of judges (63%) said that their caseload over the last 12 months has been manageable, and this is an improvement since 2014. Two-thirds of judges (64%) also said their judicial workload outside of their casework is manageable.

**Table 8: Case workload over the last 12 months**

|            | 2016 JAS | 2014 JAS | % change from 2014 |
|------------|----------|----------|--------------------|
| Too high   | 35%      | 42%      | -7%                |
| Manageable | 63%      | 56%      | +7%                |
| Too low    | 2%       | 2%       | ---                |

**Table 9: Judicial workload not including caseload over the last 12 months**

|  | 2016 JAS | 2014 JAS | % change from 2014 |
|--|----------|----------|--------------------|
| Too high   | 21%      | 20%      | +1%                |
| Manageable   | 64%      | 67%      | -3%                |
| Too low  | 2%       | 1%       | +1%                |
| I do not have any judicial work outside of my caseload | 13%      | 12%      | +1%                |

### 3.3 Quality of Specific Working Conditions

Judges were also asked to assess a range of specific working conditions. All working conditions were rated Adequate to Good or Excellent by a majority of judges in Scotland.

Two working conditions were rated Good to Excellent by a majority of judges:

- Almost two thirds of judges (64%) said the physical quality of their personal working space was either good or excellent.
- Over half of judges (56%) said the quality of administrative support was good or excellent

Only the morale of court staff (33%) and security at courts and tribunals (30%) were rated as Poor by any notable proportion of judges.

**Table 10: Quality of specific working conditions for judges**

|  | Poor | Adequate | Good | Excellent |
|--|------|----------|------|-----------|
| Amount of administrative support             | 15%  | 44%      | 34%  | 7%        |
| Morale of court or tribunal staff            | 33%  | 39%      | 27%  | 1%        |
| Maintenance of the building                  | 11%  | 48%      | 34%  | 7%        |
| Physical quality of the building             | 18%  | 40%      | 33%  | 9%        |
| Space to meet and interact with other judges | 18%  | 34%      | 33%  | 15%       |
| Quality of administrative support            | 11%  | 33%      | 43%  | 13%       |
| Security at your court or tribunal           | 30%  | 32%      | 33%  | 5%        |
| Physical quality of your personal work space | 9%   | 27%      | 46%  | 18%       |

### 3.4 Change in specific working conditions since 2014

- Judges' views on their working conditions have not changed substantially since the last survey in 2014.
- Only two working conditions were rated Poor by a third or more of Scottish judges in either 2014 or 2016: morale of court staff and security at court.

**Table 11: Change in specific judicial working conditions since 2014**

|  | Rated "Poor" in 2016 JAS | Rated "Poor" in 2014 JAS | % change from 2014 |
|--|--------------------------|--------------------------|--------------------|
| Amount of administrative support             | 15%                      | 14%                      | +1%                |
| Morale of court or tribunal staff            | 33%                      | 40%                      | -7%                |
| Maintenance of the building                  | 11%                      | ----                     | ----               |
| Physical quality of the building             | 18%                      | 17%                      | +1%                |
| Space to meet and interact with other judges | 18%                      | 11%                      | +7%                |
| Quality of administrative support            | 11%                      | 12%                      | -1%                |
| Security at your court or tribunal           | 30%                      | 33%                      | -3%                |
| Physical quality of your personal work space | 9%                       | -----                    | -----              |

### 3.5 Security concerns

In addition to the previous question that covered the quality of security provided at court, a new question was asked in the 2016 JAS about the extent to which judges in Scotland are concerned about their personal safety arising from being a judge.

- Almost half of judges (45%) have concerns about their safety while in court.
- Almost half of judges (45%) have concerns about their safety when they are out of court.
- 12% have concerns about how they are dealt with on social media.
- Over a third (37%) do not have any concerns about their personal safety.

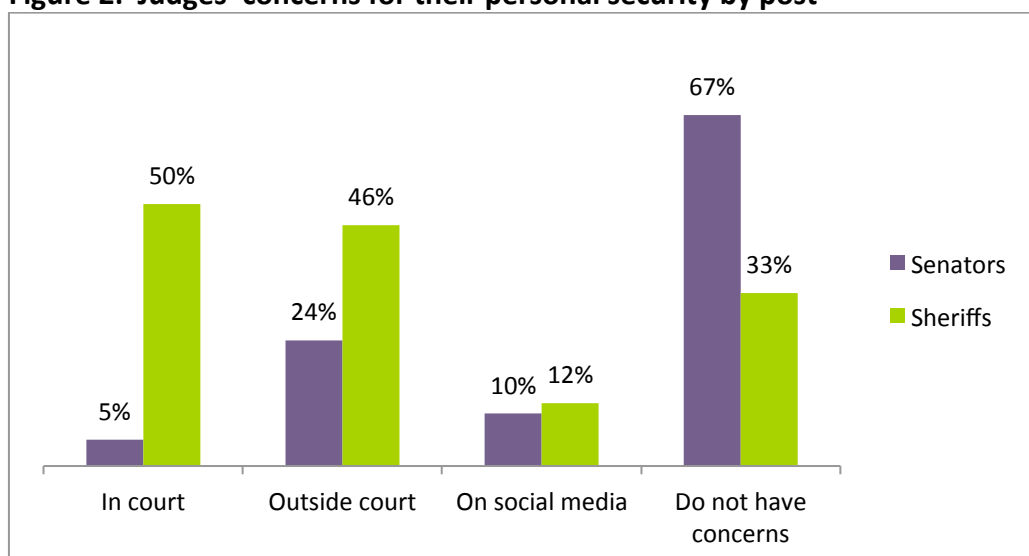
**Table 12: Judicial concerns about personal security**

| <i>Are you ever concerned about your personal security as a result of your judicial role?</i> | 2016 JAS |
|---|----------|
| Yes, sometimes in court   | 45%      |
| Yes, sometimes outside of court   | 45%      |
| Yes, sometimes on social media  | 12%      |
| No  | 37%      |

There were some distinct differences in the view between Senators and Sheriffs on this issue, with Sheriffs having far greater concerns for their personal safety as a result of their job than Senators:

- While half of all Sheriffs (50%) had concerns for their personal safety while in court, only 5% of Senators did.
- While almost half of all Sheriffs (46%) had concerns for their personal safety out of court, a quarter (24%) of Senators did.
- Small proportions of Senators (10%) and Sheriffs (12%) had concerns about their security online.
- Two thirds (67%) of Senators did not have concerns about their personal safety as a result of their judicial role, while only one third (33%) of Sheriffs did not have concerns.

**Figure 2: Judges' concerns for their personal security by post**



## 4. IT Resources and Support

In the 2016 JAS judges were asked a number of questions about the quality of IT resources and the support they receive for them. These questions were also asked in the 2014 JAS, and the results of the 2016 survey provide an indication of whether these working conditions have changed over the last 2 years.

### 4.1 Quality of IT resources and IT support for judges

Substantial proportions of Scottish judges rated the standard of IT equipment used in court as Poor (50%) and rated internet access at court as Poor (40%).

**Table 13: Quality of IT resources and support**

|   | Poor | Adequate | Good | Excellent |
|---|------|----------|------|-----------|
| Standard of IT equipment provided to judges to use (laptop, desktop computer) | 19%  | 48%      | 28%  | 5%        |
| Standard of IT equipment used in court or tribunals (video link, payback)     | 50%  | 39%      | 10%  | 2%        |
| Internet access   | 40%  | 45%      | 13%  | 2%        |
| IT support  | 16%  | 48%      | 28%  | 8%        |

Judges' view of the quality of IT resources and support has deteriorated since 2014, with all areas seeing an increase in the proportion of judges rating the quality as Poor since 2014.

**Table 14: IT resources and support compared to 2014**

|   | 2016 JAS rated Poor | 2014 JAS rated Poor | Change since 2014 |
|---|---------------------|---------------------|-------------------|
| Standard of IT equipment provided to judges to use (laptop, desktop computer) | 19%                 | 8%                  | +11%              |
| Standard of IT equipment used in court or tribunals (video link, payback)     | 50%                 | 43%                 | +7%               |
| Internet access   | 40%                 | 22%                 | +18%              |
| IT support  | 16%                 | 12%                 | +4%               |

## 5. Salary and Pensions

### 5.1 Judicial salaries

- An overwhelming majority of all Scottish salaried judges (85%) say they have had a net loss of earnings over the last 2 years.
- Almost two-thirds of judges (64%) say the judicial salary issue is affecting their morale.
- An overwhelming majority of judges (83%) said the judicial salary issue is affecting the morale of judges they work with.
- Close to a majority of judges (48%) do not feel they are paid a reasonable salary for the work they do.
- Senators are more likely than Sheriffs to feel they are not paid a reasonable salary for the work they do.
- There has been little change in Scottish judges' views about their pay since the 2014 JAS.
- These are virtually identical results to those for judges in England and Wales, UK tribunals and Northern Ireland in 2016.

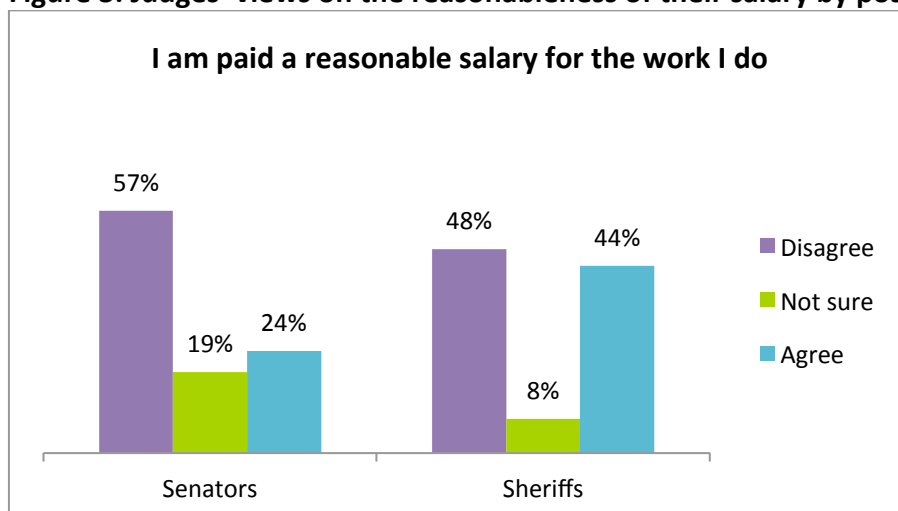
**Table 15: Judicial views on salary**

|   | Strongly Disagree | Disagree | Not sure | Agree | Strongly Agree |
|---|-------------------|----------|----------|-------|----------------|
| I have had a loss of net earnings over the last 2 years                 | 2%                | 7%       | 6%       | 27%   | 58%            |
| The judicial salary issue is affecting my morale                        | 4%                | 21%      | 11%      | 31%   | 33%            |
| The judicial salary issue is affecting the morale of judges I work with | 2%                | 3%       | 12%      | 34%   | 49%            |
| I am paid a reasonable salary for the work I do                         | 12%               | 36%      | 9%       | 38%   | 5%             |

**Table 16: Judicial views on salary: 2016 and 2014 compared**

|   | Agree 2016 JAS | Agree 2014 JAS |
|---|----------------|----------------|
| I have had a loss of net earnings over the last 2 years | 85%            | 80%            |
| I am paid a reasonable salary for the work I do         | 43%            | 33%            |

**Figure 3: Judges' views on the reasonableness of their salary by post**



## 5.2 Judicial pensions

- Two-thirds of salaried judges in Scotland (66%) say the change in pensions has affected them personally.
- Two-thirds of judges (67%) feel the change in pensions has affected their morale.
- Almost every judge (93%) said the change in judicial pensions has affected the morale of judges they work with.
- Judges have divided views about whether some changes to pension entitlements have to be made, with 40% agreeing, 40% disagreeing and 20% uncertain; but there has been a major shift in views amongst Scottish judges on this issue since 2014, when 74% agreed and now only 40% agree that some changes to pension entitlements have to be made.
- Scottish judges' views on these aspects of judicial pensions are virtually identical to those of judges in England and Wales, UK tribunals and Northern Ireland in 2016.

**Table 17: Judicial views on pensions**

|  | Strongly Disagree | Disagree | Not sure | Agree | Strongly Agree |
|--|-------------------|----------|----------|-------|----------------|
| The change in pensions has affected me directly                      | 6%                | 19%      | 9%       | 17%   | 49%            |
| The change in pensions has affected my morale                        | 5%                | 19%      | 9%       | 23%   | 44%            |
| The change in pensions has affected the morale of judges I work with | 1%                | 1%       | 5%       | 21%   | 72%            |
| I accept that some changes to pension entitlements have to be made   | 19%               | 21%      | 20%      | 35%   | 5%             |

In 2016 judges in Scotland were far less convinced that some changes to pension entitlements have to be made (40%) than they were in 2014 (70%).

**Table 18: Judicial views on pension changes: 2016 and 2014 compared**

|  | Agree<br>2016 JAS | Agree<br>2014 JAS |
|--|-------------------|-------------------|
| I accept that some changes to pension entitlements have to be made | 40%               | 74%               |



### 5.3 Combined Effects of Pay & Pensions Reform, Out of Hours Work & Employment Options

The 2016 JAS also looked at how the pay and pension issues combined are affecting judges, and explored the extent to which judges would take certain actions to address this if they were able.

- Almost three-quarters of salaried judges in Scotland (72%) feel that their pay and pension entitlement combined does not adequately reflect the work they have done and will do before retirement. There has been no real change in this since 2014 (74%).
- A majority of judges (51%) feel that the amount of out of hours work they have to do is affecting them; this has more than doubled from 2014 when it was 22%. However, this question was phrased differently in 2014 and this may have been a factor in the increase<sup>5</sup>.
- Judges are evenly divided over whether they would leave the judiciary if this was a viable option, but the proportion of judges in 2016 that said they would leave if it was a viable option (42%) has doubled from 2014 (20%). However, this question was phrased differently in 2014 and this may have been a factor in the increase<sup>6</sup>.
- Judges are evenly divided over whether they would pursue out of court work to earn additional income if this was an option. The proportion of judges in 2016 that would do so is almost the same as it was in 2014.
- These are very similar to results for judges in England and Wales, UK tribunals and NI.

**Table 19: Judges' views on pay and pension changes, out of hours work, employment options**

|   | Strongly Disagree | Disagree | Not sure | Agree | Strongly Agree |
|---|-------------------|----------|----------|-------|----------------|
| My pay and pension entitlement does not adequately reflect the work I have done and will do before retirement | 3%                | 12%      | 13%      | 28%   | 44%            |
| The amount of out of hours work required to do the job is affecting me  | 5%                | 33%      | 11%      | 26%   | 25%            |
| If I felt that leaving the judiciary was a viable option I would consider doing so                            | 18%               | 24%      | 16%      | 24%   | 18%            |
| If I could earn additional income through out of court work I would pursue this option                        | 16%               | 22%      | 23%      | 23%   | 16%            |

**Table 20: Views on pay & pension, out of hours work and employment options: 2016 and 2014**

|   | Agree 2016 JAS | Agree 2014 JAS |
|---|----------------|----------------|
| My pay and pension entitlement does not adequately reflect the work I have done and will do before retirement | 72%            | 74%            |
| The amount of out of hours work required to do the job is affecting me  | 51%            | 22%            |
| If I felt that leaving the judiciary was a viable option I would consider doing so                            | 42%            | 20%            |
| If I could earn additional income through out of court work I would pursue this option                        | 39%            | 33%            |

<sup>5</sup> In the 2014 JAS this statement was phrased as: *Salary is not the issue. It is the amount of out of hours work required to do the job that affects me.*

<sup>6</sup> In the 2014 JAS this statement was phrased as: *I would consider leaving the judiciary to go back to some kind of legal practice.*

## 6. Opportunities, Support, Training and Personal Development

### 6.1 Opportunities and support in judges' working lives

In the 2014 JAS judges were asked about the availability of certain opportunities in their working life (work flexibility, career progression, etc.). These questions were repeated in the 2016 JAS, but this time judges were first asked how important these opportunities were to them. This provides a more helpful indication of whether those opportunities that are most important to judges in their working life are being provided. In addition new questions were included in the 2016 JAS that address the need for and availability of support for dealing with stressful conditions at work.

A majority of judges said **3 opportunities and support measures were most important** to them:

- Time to discuss work with colleagues (91%), support for dealing with stressful conditions at work (72%) and opportunities for career progression (65%).
- These are very similar results to those for judges in England and Wales, UK tribunals and Northern Ireland in 2016.

**Table 21: Importance to judges of specific opportunities**

| <i>To what extent do you feel the following are important to you?</i> | Important | Not sure | Not important |
|---|-----------|----------|---------------|
| Time to discuss work with colleagues                                  | 91%       | 3%       | 6%            |
| Support for dealing with stressful conditions at work                 | 72%       | 17%      | 11%           |
| Opportunities for career progression                                  | 65%       | 16%      | 19%           |
| Opportunities to work part-time                                       | 45%       | 13%      | 42%           |
| Opportunities for flexible working hours                              | 42%       | 20%      | 38%           |
| Opportunities to sit in other jurisdictions                           | 29%       | 21%      | 50%           |

A majority of judges said **opportunities were not sufficient in the 3 most important areas**:

- While 91% of judges said **time to discuss work with colleagues** was important, only 23% said the opportunities for this were Good or Excellent, almost half (43%) said they were Adequate and over a third (34%) said they were Non-existent or Poor.
- While 72% of judges said **support for dealing with stressful work conditions** was important, most judges (63%) said this support was either Non-existent or Poor.
- While 65% of judges said **opportunities for career progression** were important, almost two-thirds of judges (61%) said this support was either Non-existent or Poor.

These are very similar results to those for judges in England and Wales, UK tribunals and Northern Ireland.

**Table 22: Availability of opportunities or support for judges**

| <i>Rate the availability of the following opportunities or support</i> | Non-Existent | Poor | Adequate | Good | Excellent |
|--|--------------|------|----------|------|-----------|
| Time to discuss work with colleagues                                   | 3%           | 31%  | 43%      | 19%  | 4%        |
| Support for dealing with stressful conditions at work                  | 23%          | 40%  | 30%      | 6%   | 1%        |
| Opportunities for career progression                                   | 27%          | 34%  | 33%      | 6%   | 0%        |
| Opportunities to work part-time  | 59%          | 27%  | 11%      | 2%   | 1%        |
| Opportunities for flexible working hours                               | 67%          | 18%  | 9%       | 5%   | 1%        |
| Opportunities to sit in other jurisdictions                            | 58%          | 18%  | 22%      | 2%   | 0%        |

## 6.2 Training & Personal Development

Judges in Scotland were asked to indicate their satisfaction with aspects of their training<sup>7</sup> and personal development:

- An overwhelming majority of judges are satisfied with the quality of the judicial training (83%) they receive.
- Just over half of judges (59%) are satisfied with the range of training available.
- Only a minority of judges are satisfied with the time available to undertake judicial training (39%) and the opportunities in general for personal development (29%).
- These findings from the 2016 JAS are very similar to the Scottish results in the 2014 JAS.

**Table 23: Satisfaction with training and personal development**

| <i>To what extent are you satisfied with the following?</i> | Not satisfied at all | Could be better | Satisfied | Completely satisfied |
|---|----------------------|-----------------|-----------|----------------------|
| Quality of judicial training                                | 1%                   | 16%             | 63%       | 20%                  |
| Range of judicial training available                        | 3%                   | 28%             | 50%       | 9%                   |
| Time to undertake training                                  | 14%                  | 47%             | 35%       | 4%                   |
| Opportunities for personal development                      | 16%                  | 55%             | 28%       | 1%                   |

## 6.3 Aspects of Job Satisfaction

Judges were asked about how satisfied they are with 3 aspects of their job, repeating the same questions asked in 2014:

- Three-quarters of judges are satisfied with the challenge of their job (75%) and the variety of their work (75%), and there has been no change in this from 2014.
- There were no substantial differences between Senators and Sheriffs on these issues.

**Table 24: Satisfaction with aspects of the job**

| <i>To what extent are you satisfied with the following?</i> | Not satisfied at all | Could be better | Satisfied | Completely satisfied |
|---|----------------------|-----------------|-----------|----------------------|
| Challenge of the job  | 4%                   | 21%             | 63%       | 12%                  |
| Variety of work   | 6%                   | 19%             | 60%       | 15%                  |
| Sense of achievement in the job                             | 7%                   | 39%             | 45%       | 9%                   |

<sup>7</sup> A Review of Judicial Training in Scotland was conducted in 2016, which provides a more detailed exploration of training opportunities for the Scottish judiciary.

## 7. Change in the Judiciary

The 2016 JAS repeated several questions from the 2014 JAS about the changes being experienced by the judges in their working lives.

### 7.1 Change since appointment

**Most judges in Scotland (82%) feel their job has changed since they were first appointed** in ways that affect them, and there is not much change in judges' views on this since 2014 (89%). There were no substantial differences between Senators and Sheriffs on this issue.

**Table 25: Change in job since first appointed**

| <i>To what extent do you feel your job has changed since you were first appointed?</i> | 2016 JAS | 2014 JAS | % change since 2014 |
|--|----------|----------|---------------------|
| It has changed completely  | 9%       | 4%       | +5%                 |
| There has been a large amount of change  | 38%      | 44%      | -6%                 |
| There been some change which affects me  | 35%      | 40%      | -5%                 |
| Very small amount and does not affect me   | 9%       | 6%       | +3%                 |
| It has not changed at all  | 11%      | 6%       | +5%                 |

### 7.2 Changes that concern judges most

A majority of judges in Scotland are most concerned by the following changes (in order of concern):

- Increase in litigants in person, judicial morale, fiscal constraints, staff reductions, loss of judicial independence.
- Almost half of all judges (49%) were also most concerned about stressful working conditions.
- Increase in litigants in person has risen to the highest concern on the list (from 4th in 2014)

**Table 26: Changes of greatest concern to judges (2016 and 2014)**

| <i>What changes to the judiciary concern you most?</i> | 2016 JAS<br>(most concerned by the following changes) | 2014 JAS<br>(what are the judiciary's main future challenges) |
|--|---|---|
| Increase in litigants in person                        | 75%   | 80%   |
| Judicial morale  | 74%   | 79%   |
| Fiscal constraints                                     | 65%   | 91%   |
| Staff reductions                                       | 56%   | 84%   |
| Loss of judicial independence                          | 56%   | 72%   |
| Stressful working conditions                           | 49%   | ----  |
| Ability to attract the best people into the judiciary  | 42%   | 80%   |
| Court closures   | 40%   | ----  |
| Loss of experienced judges                             | 31%   | 47%   |
| Personal safety for judges                             | 24%   | 22%   |
| Introduction of digital working in courts              | 12%   | ----  |
| Reduction in face-to-face hearings                     | 4%  | ----  |

## 8. Future Planning

The 2016 JAS repeated several questions from the 2014 JAS about judges' plans for staying in the judiciary until they reach compulsory retirement age.

### 8.1 Plans for early departure from the judiciary

Judges were asked if they might consider leaving the judiciary in the next 5 years other than by reaching compulsory retirement age:

- Of those judges that will not reach compulsory retirement age in the next 5 years, over a third (39%) said they would definitely not leave early, over a third (39%) said they were considering leaving early in the next 5 years, and almost a quarter (22%) were currently undecided.
- There has been no real change since 2014 in those considering leaving the judiciary early in the next 5 years.
- These are similar results to those for judges in England and Wales, Northern Ireland and UK tribunals.

**Table 27: Plans for early departure from the judiciary**

| <i>Are you considering leaving the judiciary early in the next 5 years?</i> | 2016 JAS | 2014 JAS | % change from 2014 |
|---|----------|----------|--------------------|
| Yes   | 39%      | 38%      | +1%                |
| Currently undecided   | 22%      | 22%      | -----              |
| No  | 39%      | 40%      | -1%                |

### 8.2 Factors promoting early departures

The following table shows which factors a majority (or close to a majority) of judges in Scotland said were those that **would make them more likely to leave the judiciary early**. These are similar results to those for judges in England and Wales, UK tribunals and Northern Ireland.

**Table 28: Factors promoting early departures**

| <i>What factors would make you more likely to leave the judiciary early?</i> | 2016 JAS |
|--|----------|
| Reduction in pension benefits  | 83%      |
| Limits on pay awards   | 71%      |
| Increase in workload   | 59%      |
| Stressful working conditions   | 56%      |
| Further demands for out of hours work  | 47%      |

### 8.3 Factors encouraging judicial retention

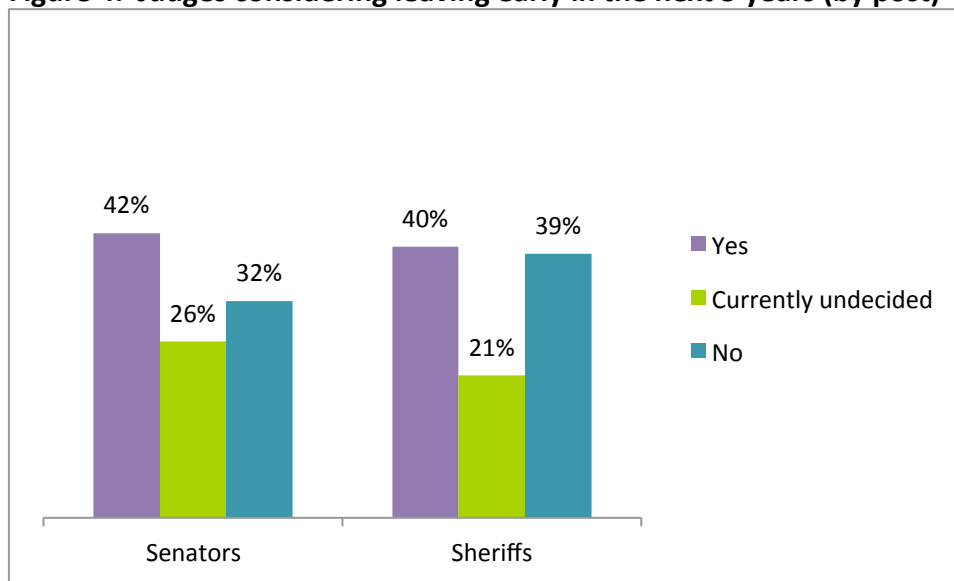
The 2 factors a majority of judges in Scotland said would make them more likely to **remain in the judiciary** are:

- Higher remuneration (77%)
- Settled position on pension entitlements (64%)

These are similar results to those for judges in England and Wales, UK tribunals and Northern Ireland.

## 8.4 More Detailed Analysis of Judges' Early Departure Intentions

**Figure 4: Judges considering leaving early in the next 5 years (by post)**



**Table 29: Numbers of judges considering leaving in the next 5 years by post**

|                       | Planning to leave early in next 5 years | Currently undecided | Not planning to leave early in next 5 years |
|-----------------------|---|---------------------|---|
| Senators <sup>8</sup> | 8                                       | 5                   | 6   |
| Sheriffs <sup>9</sup> | 44                                      | 24                  | 43  |
| <b>TOTAL</b>          | <b>52</b>                               | <b>29</b>           | <b>49</b>                                   |

<sup>8</sup> Includes Senators of both the Outer and Inner House.

<sup>9</sup> Includes Sheriffs, Sheriffs Principal and Summary Sheriffs.

## 9. Joining the Judiciary

### 9.1 In retrospect would you have applied?

A new question was asked in the 2016 JAS to try to assess the extent to which judges may now regret joining the judiciary. Judges were asked: *Knowing what you know now about your job as a judge would you still have applied?*

A majority of judges (70%) said they would still have applied; almost a quarter (21%) were unsure, and a small minority (9%) said they would not have applied. There were no real differences between Senators and Sheriffs on this issue.

**Table 31: Retrospective view of applying to the judiciary**

| <i>Knowing what you know now, would you still have applied?</i> | 2016 JAS |
|---|----------|
| Yes   | 70%      |
| Not sure  | 21%      |
| No  | 9%       |

### 9.2 Recommending the Judiciary as a Job

In 2014, judges were asked the reasons why they would encourage suitable people to apply to join the judiciary, but they were not asked directly whether they would do so. A new question was asked in the 2016 JAS: *Would you encourage suitable people to apply to join the judiciary?*

Almost two-thirds of Scottish judges (64%) said they would encourage suitable people to apply to the judiciary, but over a third (36%) said they would either not encourage suitable people to apply (11%) or were not sure if they would do so (25%).

There were no real differences in view between Senators and Sheriffs on this issue.

**Table 32: Willingness to encourage applications**

| <i>Would you encourage suitable people to apply to join the judiciary?</i> | 2016 JAS |
|--|----------|
| Yes  | 64%      |
| Not sure   | 25%      |
| No   | 11%      |

When asked the **reasons why they would encourage suitable applicants** to apply to join the judiciary, a majority of judges in Scotland gave 5 reasons (in order of importance):

- Challenge of the work (82%)
- Chance to contribute to justice being done (81%)
- Public service (76%)
- Intellectual satisfaction (64%)
- Job security (52%)

When asked the **reasons why they would discourage suitable applicants** to apply to join the judiciary, a majority of judges in Scotland gave 5 reasons (in order of importance):

- Likelihood of further reduction in pension entitlements (77%)
- Reduction in income (67%)
- Lack of personal control over working time (53%)
- Isolation of job (51%)
- Constant policy changes (50%)

The reasons are very consistent with Scottish judges' responses to the 2014 JAS.

**Table 33: Reasons judges would discourage suitable people from applying to the judiciary**

|   | 2016 JAS | 2014 JAS | % change since 2014 |
|---|----------|----------|---------------------|
| Likelihood of further reduction in pension entitlements | 77%      | 74%      | +3%                 |
| Reduction in income                                     | 67%      | 65%      | +2%                 |
| Lack of personal control over working time              | 53%      | 52%      | +1%                 |
| Isolation of job  | 51%      | 48%      | +3%                 |
| Constant policy changes                                 | 50%      | 53%      | -3%                 |
| Feeling of being an employee or civil servant           | 45%      | 49%      | -4%                 |
| Increase in litigants in person                         | 35%      | N/A      | N/A                 |
| Too few opportunities for promotion                     | 29%      | 27%      | +2%                 |
| Too much out of hours work required to do the job       | 28%      | 24%      | +4%                 |
| Lack of administrative support                          | 25%      | 32%      | -7%                 |
| Rigid hierarchical work environment                     | 24%      | 17%      | +7%                 |
| Poor quality of physical work environment               | 20%      | 22%      | -2%                 |



## 10. Leadership

### 10.1 Extent of leadership work undertaken

Only a very small proportion of judges (8%) hold formal leadership positions in the Scottish judiciary. But almost half of all judges (40%) currently undertake additional responsibilities that are not formal leadership roles.

### 10.2 Willingness to take on a leadership role

- A majority of judges (58%) are interested in taking on more leadership responsibilities, but 18% of these judges feel no leadership opportunities are available in their jurisdiction.

**Table 34: Willingness to take on more leadership responsibilities**

| <i>Are you interested in taking on more leadership responsibilities?</i> | 2016 JAS |
|--|----------|
| Yes  | 40%      |
| Yes but none are available   | 18%      |
| Not sure   | 6%       |
| Not at the present time  | 16%      |
| No because I have enough leadership responsibilities already             | 11%      |
| No   | 9%       |

### 10.3 Allocation of leadership roles

Judges were asked if they felt judicial leadership roles were allocated fairly:

- A majority of judges (51%) said they did not know enough about how leadership roles were allocated to say whether it was fair.
- This is an increase in 8% since 2014 in those saying they do not know enough about how leadership roles are allocated to say whether it is fair, and reflects a fall in 8% in those saying they feel leadership roles are allocated fairly (now at 15%).

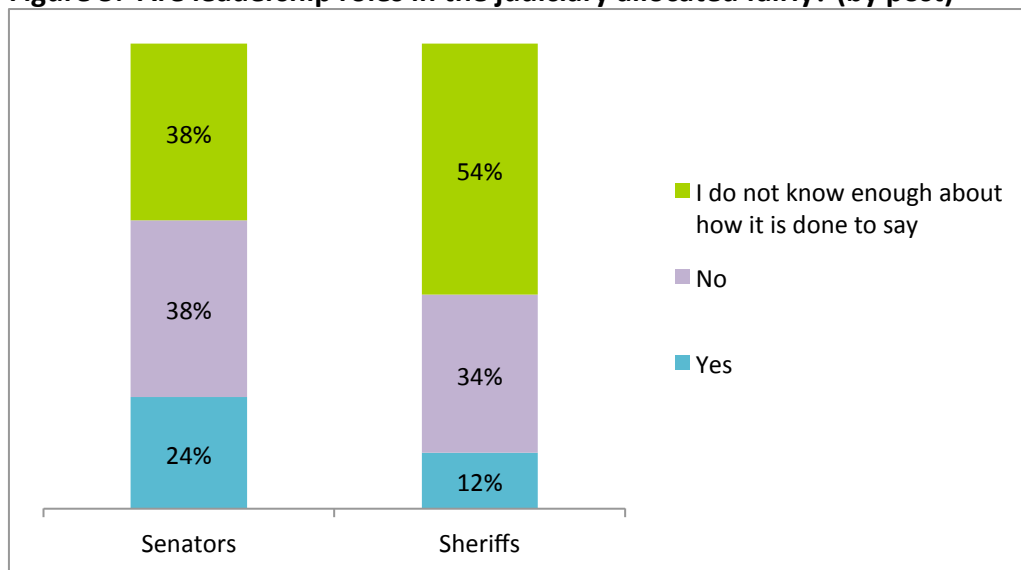
**Table 35: Fairness of allocation of leadership roles**

| <i>Are leadership roles in the judiciary allocated fairly?</i> | 2016 JAS | 2014 JAS |
|--|----------|----------|
| Yes  | 15%      | 23%      |
| No   | 34%      | 34%      |
| I do not know enough about how it is done to say               | 51%      | 43%      |

#### By post

There were some differences between Senators and Sheriffs on this issue, with a majority (54%) of Sheriffs saying they did not know enough about how leadership roles were allocated to say whether it was fair or not, and a slightly larger proportion of Senators (38%) compared with Sheriffs (34%) saying they did not feel leadership roles were allocated fairly.

**Figure 5: Are leadership roles in the judiciary allocated fairly? (by post)**



#### 10.4 Training for those in current leadership positions

Judges in Scotland who currently undertake leadership duties were asked if they would welcome training in several specific areas.

A majority of judges would welcome training in 2 areas:

- Three-quarters (77%) would welcome training on managing colleagues.
- Two-thirds (66%) would welcome training on working with government policy makers.

Close to a majority (45%) would welcome training on media communications.

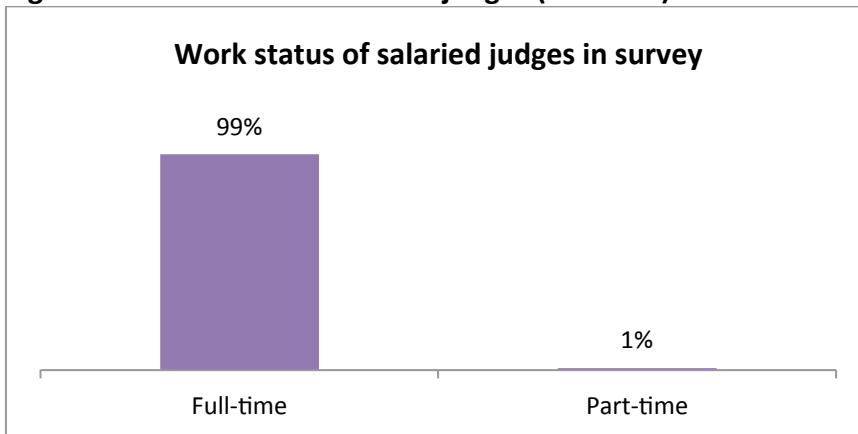
**Table 36: Areas where leadership judges would welcome training**

|                                       | 2016 JAS |
|---------------------------------------|----------|
| Managing colleagues                   | 77%      |
| Working with government policy makers | 66%      |
| Media communications                  | 45%      |

## 11. Survey Respondents

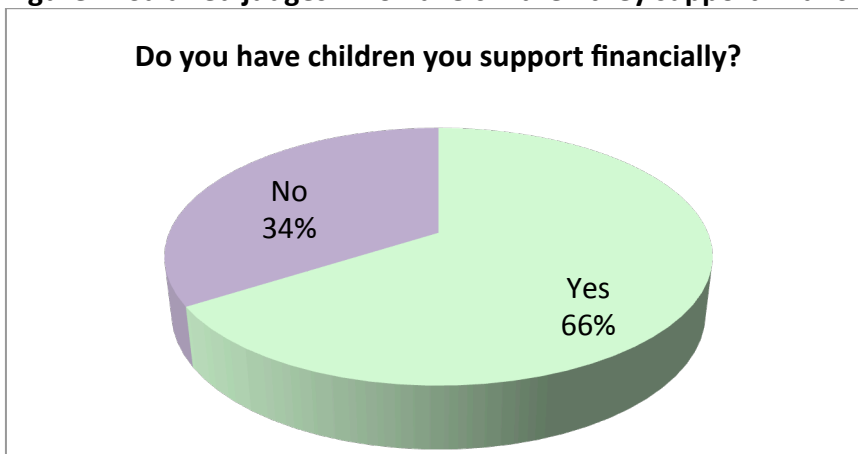
### 11.1 Work status: Full-time versus Part-time

Figure 6: Work status of salaried judges (Scotland)



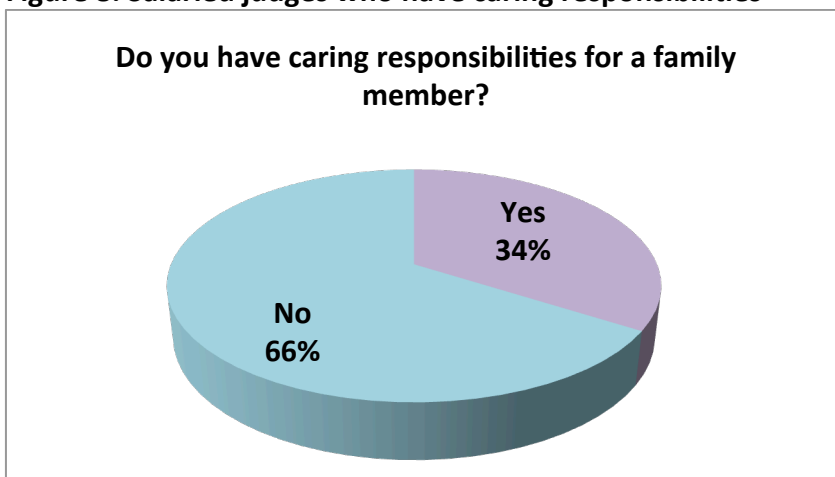
### 11.2 Financial dependants

Figure 7: Salaried judges who have children they support financially



### 11.3 Caring responsibilities

Figure 8: Salaried judges who have caring responsibilities



#### 11.4 Date of first appointment to a salaried judicial post

**Table 37: Date of first appointment to a salaried judicial post by post (Scotland)**

|                     | First appointment to the salaried judiciary |
|---------------------|---|
| Before 1 April 1995 | 1%  |
| 1 April 1995 - 1999 | 6%  |
| 2000-2004           | 22%   |
| 2005-2009           | 26%   |
| 2010 - 2014         | 32%   |
| 2015-2016           | 13%   |

#### 11.5 Tenure in current post

**Table 38: Tenure in current judicial post (Scotland)**

|                  | Time in current judicial post |
|------------------|-------------------------------|
| Less than 1 year | 14%                           |
| 1 – 5 years      | 33%                           |
| 6 – 10 years     | 27%                           |
| 11 – 15 years    | 18%                           |
| 16 – 20 years    | 8%                            |

## 12. The Survey

- 95% of all the judges who completed the survey said it was about the right length.
- Almost all (95%) said it either took less than 10 minutes to complete (59%) or less than 20 minutes to complete (36%).

**Appendix A: Judicial Attitude Survey 2016 (Scotland)**