

Concordat between:**The Ministry of Justice (MoJ) and the Supreme Court of the United Kingdom (The UKSC)****Contents**

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Section 1- Introduction

1.1 This Concordat is the agreed framework for cooperation between the Ministry of Justice (“Moj”) and the Supreme Court of the United Kingdom (“UKSC”) on matters which include:

- funding and finance,
- governance,
- UKSC fees; and
- information sharing

1.2 The purpose of the document is to guide the actions of officials on matters for which they have responsibility; to ensure that the productive relationships between the two departments and the Lord Chancellor and President continue and that business is conducted in a smooth and efficient way.

1.3 It is not intended to be legally binding or to constrain the freedom of either the Moj or UKSC to operate in areas for which they are responsible. It is not intended to create any rights or obligations which are legally enforceable beyond those that are contained within the Constitutional Reform Act 2005 (as amended), the Constitutional Reform and Governance Act 2010 and the Crime and Courts Act 2013. However, both the Moj and UKSC agree to honour the principles set out in this Concordat.

Section 2 - Purpose

2.1 The purpose of this Concordat is to promote understanding of the Moj’s and the UKSC’s remits and responsibilities concerning the matters covered. This will develop effective procedures and points of communication in order to work effectively and constructively together, and to respect the independence of the UKSC.

2.2 This Concordat outlines good practice in situations where responsibility lies with the Lord Chancellor, the President of the UKSC and the Chief Executive of the UKSC respectively but takes account of the direct engagement which the UKSC has with other parties in support of its operating model.

2.3 No action taken by any party to this Concordat shall have the effect of compromising or challenging the independence of the UKSC or the Justices of the UKSC.

Section - 3 Roles

3.1 The Lord Chancellor is:

- a. under a duty to uphold the continued independence of the judiciary.
- b. under a duty to ensure that the UKSC is provided with offices and such other resources as the Lord Chancellor thinks are appropriate for the UKSC to carry on its business.
- c. responsible for supporting the judiciary to enable them to fulfil their functions for dispensing justice.
- d. responsible for laying before Parliament as a Statutory Instrument any UKSC Rules submitted to him or her by the President of the Court.
- e. responsible for laying a copy of the annual report provided by the Chief Executive before each House of Parliament, noting that by convention the annual report is laid by HM Treasury on behalf of the Lord Chancellor.
- f. responsible, with the agreement of the HM Treasury, for prescribing by Order all fees payable in respect of anything dealt with by the UKSC, ensuring that access to the court is not denied as set out in section 52(3) of the Constitutional Reform Act 2005.
- g. responsible for regularly reviewing, every two years, and adjusting the Court's fees in line with inflation to ensure long-term financial stability.
- h. responsible for carrying out all those functions assigned to them by legislation regarding the appointment, pay and medical retirement of judges of the Court.
- i. responsible for responding to Parliamentary Questions on matters that relate to the Court and to correspondence on matters that relate to Government policy towards the UKSC.

3.2 The President of the UKSC is:

- a. responsible for carrying out all those functions assigned to the President by legislation and regulations, including those relating to the selection of Judges of the UKSC.
- b. responsible for appointing the Chief Executive, in accordance with section 48(2) of the Constitutional Reform Act 2005, and officers and staff of the UKSC.
- c. responsible for consulting the Lord Chancellor prior to making rules governing the practice and procedure to be followed in the UKSC. The Rules come into force on such day as the Lord Chancellor directs.

3.3 The Chief Executive is responsible for:

- a. undertaking such functions as are delegated by the President of the UKSC.
- b. acting as the Accounting Officer of the UKSC.

- c. Setting the strategic direction and the day to day running of the UKSC administration as delegated by the President and ensuring that the UKSC administration has sound governance and internal control arrangements.
- d. determining the numbers of officers and staff of the UKSC and the terms on which they are appointed in accordance with the legal and regulatory frameworks for the civil service. Officers and staff are civil servants and accountable to the Chief Executive Officer.
- e. ensuring that the UKSC's resources are used to provide an efficient and effective system to support the UKSC in carrying on its business.
- f. preparing an audited report about the business of the UKSC during each year.
- g. responding to letters from Peers and members of Parliament on the operation of the UKSC.

3.4 Neither the Lord Chancellor, nor any other Minister, have any role in relation to judicial decisions or functions.

Section 4 - Consultation arrangements, early notification and exchange of information

4.1 The MoJ and UKSC are committed to the principle of good communications with each other. They will alert each other as soon as practicable through the appropriate forums to areas of common interest, proposals for new policy initiatives or programmes, and changes to existing policies where there is a direct or indirect impact on, or interaction with, the other's areas of responsibility. For the avoidance of doubt this specifically excludes any requirement to give notice of, or any information about, any forthcoming judgment of the UKSC.

4.2 The MoJ will work with the UKSC at the earliest possible stage (and wherever possible, prior to being introduced into Parliament) to consider fully the implications for the UKSC of proposals to amend legislation which may impact the UKSC, in confidence where necessary.

4.3 The UKSC will provide to MoJ any information needed in support of Statutory Instruments on Fees and reports that are to be submitted to Parliament.

4.4 MoJ will provide the resources, input and support needed to timeframes agreed in each instance, in alignment with the overarching principles of this Concordat and within a reasonable time frame to the UKSC when the Lord Chancellor is involved. MoJ officials will work with

the UKSC to review UKSC fees or other matters such as Orders in Council.

Processes and Procedures

Section 5 - Appointments

5.1 The administration of the Court is a non - Ministerial Department, headed by a Chief Executive who is a civil servant. The appointment of the Chief Executive, officers and staff of the Court is by the President of the Court, in accordance with Civil Service Commission best practice.

5.2 Staff and Officers at the Court are civil servants and as such are required to comply with the legal and regulatory frameworks for the civil service. They are accountable to the Chief Executive Officer.

5.3 Judicial Appointments are carried out in accordance with the provisions of the Constitutional Reform Act 2005 (as amended).

Section 6 - Governance

6.1 The Chief Executive is answerable to, and operates under the day-to-day guidance of, the President of the UKSC. The President is the line manager of the Chief Executive and undertakes all line management responsibilities.

Section 7 - Finance

7.1 The President of the UKSC and the Chief Executive determine the bid for resources for the UKSC in line with Government Spending Review timescales.

7.2 The Lord Chancellor determines Justices' salary, and pension increases in accordance with the provisions of the Constitutional Reform Act. It is for the UKSC to determine whether its bid for resources will include a bid for funding to cover anticipated judicial salary and pensions increases over the Spending Review periods for which this Concordat applies. Where the UKSC makes this bid, funding for UKSC judicial salary and pension increases will be discussed and agreed between UKSC and HM Treasury and will be on the basis of an assumption provided by MOJ to the UKSC. MOJ will provide this assumption in sufficient time for the UKSC to bid for funding

7.3 In the event that the Lord Chancellor's decision on pay and pension increases is higher than the MOJ assumption provided to the UKSC for that year, the UKSC will seek additional funding from HM Treasury for the judicial pay and pensions increase as an unfunded pressure. MoJ will provide advice to the Lord Chancellor on the impact of increases to judicial salaries and pensions higher than the MoJ's assumption and the Lord Chancellor will consider whether to add comments to the UKSC bid to HM Treasury, or at any other point in relation to the UKSC funding position, in accordance with

his/her statutory duties in sections 3(6) and 50 of the Constitutional Reform Act 2005.

7.4 The UKSC will discuss its resource needs with HM Treasury and the MoJ in advance of formally submitting its bid for resources to the Lord Chancellor. The Lord Chancellor will submit the bid received from the UKSC to HM Treasury without alteration. The Lord Chancellor may add any accompanying comment regarding the merits of the bid but having first discussed their comments with the President.

7.5 HM Treasury will scrutinise the UKSC's bid and approve the Court's overall financial expenditure for the Spending Review period. Following the settlement, HM Treasury will notify the UKSC of its Departmental Expenditure Limit (DEL).

7.6 The Chief Executive of the UKSC will then submit annual Estimates to HM Treasury which will be presented before the House of Commons as part of the overall Estimates.

7.7 It is for the House of Commons to consider and approve the overall Estimates and resources will be transferred direct to the UKSC from the Consolidated Fund.

7.8 The Court's budget includes income from direct contributions from the three legal jurisdictions within the UK. The amounts of these contributions were originally determined, when the UKSC was created, to reflect the proportions of the Court's civil caseload, which came from each jurisdiction, through a process of negotiation that concluded with the agreed funding model. Contributions under that model are intended to reflect the general contribution made by judgments of the UKSC to civil justice beyond the circumstances of each individual case.

7.9 MoJ will provide the contribution for England and Wales. For the Spending Review period (2022/23-2024/25), the amount of MoJ contributions is based on an agreement dated 10 May 2022 together with an exceptional agreement the MoJ will meet UKSC's pay increase above Spending Review 2021 (SR21) pay assumptions for the remainder of the current Spending Review period.

7.10 For the next spending review, the MoJ contribution will be no less than the contribution in 2024/25 and may include an increase determined by the UKSC and agreed in correspondence between the UKSC and MoJ, and will take into account any deflator applied to that settlement.

Section 8 - Procedural rules and practice directions

8.1 The President of the UKSC may make UKSC Rules governing the practice and procedure to be followed in the Court under section 45 of the CRA.

Under section 46, the Lord Chancellor directs the coming into force date of the Rules and is responsible for laying before Parliament as a Statutory Instrument any Supreme Court Rules submitted to him/her by the President of the Court.

8.2 The UKSC will give sufficient advance notice of any amendments required to the Rules to the Lord Chancellor (and prior to consultation) so that the Lord Chancellor can ensure sufficient resources are made available within reasonable timeframes to be agreed in each case so as to enable the President to fulfil the function of dispensing justice in a timely manner.

Section 9 - Education and training

9.1 The President is responsible for the provision and sponsorship of any judicial training required within the resources provided to the UKSC.

Section 10 - Judicial complaints and discipline

10.1 The President is responsible for providing a system for considering and determining complaints against the personal conduct of the justices and ensuring that complaints are dealt with in accordance with the procedures set out by the UKSC and published on its website.

Section 11 — Reaching Agreement

11.1 Both departments recognise that the vast majority of matters will be handled routinely between themselves as set out in this Concordat. Both the MoJ and UKSC are committed to resolving issues at working level wherever possible or, if necessary, at Senior Civil Service levels. Only very exceptionally should it be necessary to refer matters to Ministers or to the President of the UKSC.

Section 12 — Review

12.1 The operation and content of this Concordat may be reviewed at the request of either the UKSC or the MoJ and a formal review of its continued appropriateness will be carried out at least every five years after the date of its first agreement on 30 October 2013.

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