



## **Governance Framework for the Judicial Institute for Scotland**

### The Judicial Institute for Scotland

- 1) The Lord President requires there to be an Institute, of which he shall be President, called the Judicial Institute for Scotland.

### The remit of the Judicial Institute

- 2) The Institute shall be responsible for all aspects of the professional development of judicial office holders and in particular shall be responsible for:
  - a) promoting and continuously updating the identification of the needs of the Scottish judiciary for education, including skills training; IT training; case management training and professional development as judges;
  - b) developing courses to meet the needs of the judiciary for life long education and training;
  - c) facilitating, by strong independent leadership and strategic guidance, the planned development and delivery of meaningful, modern and relevant educational courses and initiatives to the Scottish judiciary;
  - d) representing, explaining, protecting and promoting the core value of judicial independence, including budgetary independence, in the context of training and education of judges;
  - e) establishing short, medium and long term educational and training strategies for judicial education in Scotland; and
  - f) generally providing advice to the Lord President in respect of the development of judicial training and education and in particular the circumstances in which he should use his powers under:
    - i) s2(4) of the Judiciary and Courts (Scotland) Act 2008;
    - ii) s34 of the Tribunals (Scotland) Act 2014; and
    - iii) s69 and 81(2) of the Criminal Proceedings etc (Reform) (Scotland) Act 2007 (as amended)<sup>1</sup>,to require a judicial office holder to attend training.

---

<sup>1</sup> Section 69 was amended by the Judiciary and Courts (Scotland) Act 2008 (asp 6), section 42, which transferred the power to make orders under section 69 from the Scottish Ministers to the Lord President of the Court of Session. Section 81(2) was amended by paragraph 5(2)(b) of schedule 5 of that Act.

- 3) The Institute shall be committed to and governed by the following guiding principles:

Judicial training and education

- a) shall be directed to promoting and fostering the highest standard of judicial conduct, performance and public service through creating and delivering training and education courses that stimulate and sustain the continuing professional and personal development of judicial office holders in modern Scotland;
- b) shall promote and engender the highest level of judicial social awareness of cultural, sexual and ethnic diversity, ethical sensitivity and pride in judicial excellence within an independent judiciary serving a diverse public in modern Scotland; and
- c) shall be directed to promoting and improving the administration and delivery of justice in modern Scotland.

The Board of the Judicial Institute

- 4) The realisation of the remit in conformity with the guiding principles will be the responsibility of the Board of the Institute which shall comprise:
- a) two Senators of the College of Justice, one of whom shall act as Chairman of the Institute and the other as Vice Chairman of the Institute;
  - b) a sheriff who shall be the Director of the Institute;
  - c) a sheriff who shall be the Deputy Director of the Institute.
- 5) The Board may invite other persons, including the Head of Education of the Institute and the Executive Director of the Judicial Office for Scotland, to attend its meetings.

Appointment of Chairman and Vice-Chairman of the Board

- 6) The Lord President shall, from time to time, appoint a Senator to be Chairman or Vice Chairman for such period as he deems appropriate. He may bring an appointment to an end at any time.

The Director

- 7) The Lord President shall appoint a Director of the Institute who is a serving sheriff and who shall occupy the office of Director for such period as the Lord President may determine, which will usually be for a period of three years. The Director will be expected to devote most of his time to the work of the Institute but may provide relief judicial assistance from time to time.
- 8) The Lord President may extend the appointment, or further extend the appointment, for such period or periods as he may determine.
- 9) The appointment process shall be by advertisement among the sheriffs followed by sift and interview by an appointment panel comprising the Chairman, Vice-Chairman, and a lay member of the Council of the Institute. The interview panel will make recommendations to the Lord President of the name or names of those it considers suitable.

- 10) The Lord President may bring the appointment of the Director to an end at any time after consultation with the Chairman of the Institute. The Lord President may appoint an interim Director while the appointment process for a new Director is being completed.

#### Deputy Director

- 11) The Lord President shall appoint a Deputy Director of the Institute who is a serving sheriff and who shall occupy the office of Deputy Director for such period as the Lord President may determine, which will usually be for a period of three years. The Lord President will determine at the time of appointment the number of days per year that the Deputy Director shall devote to the work of the Institute.
- 12) The Lord President may extend the appointment, or further extend the appointment of the Deputy Director for such period or periods as he may determine.
- 13) The appointment process shall be the same as that for the Director, save that the Director is to be part of the selection panel in addition to those named in paragraph 9.
- 14) The Lord President may bring the appointment of the Deputy Director to an end at any time after consultation with the Chairman of the Institute.

#### Duties of the Director and Deputy Director

- 15) The Director shall be responsible for the operational work of the Institute and in particular shall have the following responsibilities:
- a) to create the annual legal training and education curricula of the Institute for approval by the Lord President;
  - b) to implement any training direction or determination received from the Lord President in respect of any judicial office holder or group of office holders;
  - c) to issue the annual training curricula by the end of October each year
  - d) to prepare each year a three-year rolling training plan for approval by the Lord President identifying the specific short, medium and long term objectives for developing and improving judicial training and education;
  - e) to identify new significant legislation and cases which the judiciary require to be briefed on and organise delivery of this;
  - f) to create and deliver effective training programmes and teaching materials and make them available to all judicial office holders;
  - g) to promote the operation of the European Judicial Training Network in Scotland;
  - h) to promote the operation of the Judicial Training Partnership between the Institute and the National Judicial Institute of Canada;
  - i) to identify and develop new technologies for judicial teaching and education, including the promotion of technology-enhanced learning opportunities; to engage and co-operate with Government, academics, criminal justice agencies and other individuals and bodies to promote delivery of information to judicial office holders, which will assist them in their office; and

- j) in so far as it is not covered by the responsibilities noted above, to discharge any duties incumbent on them, as arising out of the Justices of the Peace (Training and Appraisal) (Scotland) Order 2016.

16) The Deputy Director shall:

- a) assist the Director in the work of the Institute as the Director shall require; and
- b) deputise for the Director when he is on annual leave.

#### Business Plans and Financial Provisions

17) The Institute will prepare for the Lord President by the end of January each year a Business Plan for the following financial year, together with a bid for the resources necessary to enable the plan to be carried into effect. The Lord President will approve the plan with such modifications as he may require in the light of the decisions of the members of the Scottish Courts and Tribunals Service on the funding available to the Judicial Office for Scotland.

18) The Executive Director of the Judicial Office for Scotland will ensure that staff are made available from among the staff of the Judicial Office for Scotland to support the work of the Institute as provided in its Business Plan. The staff will be managed by the Head of Education, under the direction of the Director.

19) The Executive Director of the Judicial Office for Scotland shall ensure that appropriate funds are made available from within the Judicial Office for Scotland budget to enable the Institute to carry out its Business Plan. In doing so he may make such arrangements, after consultation with the Director of the Institute, as he considers necessary to ensure proper control of that money, and in particular who may commit, authorise and account for expenditure. He may require the staff supporting the Institute to give effect to any such arrangements.

#### Annual Report

20) As soon as practicable after the end of the financial year the Institute shall submit a report to the Lord President giving an account of the activities of the Institute during the financial year just ended.

#### The Advisory Council

21) There shall be established a Council to provide the Board of the Institute with advice on any aspect of the remit of the Institute. The Board of the Institute must consider any advice it receives from the Council in fulfilling its remit.

22) The Council shall be no more than 13 in number (excluding members of the Board of the Institute), and shall have a majority of members that hold judicial office.

23) The Council shall include at least the following:-

- a) a sheriff principal;
- b) two sheriffs;
- c) a summary sheriff

- d) one part-time sheriff;
- e) two justices of the peace;
- f) a representative of the Justice Directorate of the Scottish Government;
- g) a member of the Scottish Tribunals;
- h) a lay person; and
- i) such other persons who possess such particular expertise as the Chairman considers would be of assistance to the work of the Judicial Institute.

24) Appointments to the Council are to be made by the Chairman of the Institute. He may remove a person from the Council at any time. Appointments will be for such period as the Chairman determines necessary and they may be extended, or further extended as he sees fit. A person appointed to the Council shall receive a copy of this Governance Framework. In making appointments to the Council the Chairman will take account of its overall composition and will have regard to issues of equality and diversity.

25) The Council shall meet four times in any 12 month period and at such other times as the Board of the Institute considers necessary.

26) Every member of the Board of the Institute may, as of right, attend any meeting of the Council.

27) The Chairman of the Institute will be Chair of the Council. In his absence the Vice-Chairman will take the chair.

#### Committees and working groups

28) The Board of the Institute may create such other committees or working groups as it considers necessary to assist it with fulfilling the remit, the training plan, or the business plan of the Institute. Appointments to any committees created under this provision will be made by the Chairman for such period as he considers necessary, and he may also designate who is to chair any committee so created. Appointments to working groups may be made by the Director.

29) This Governance Framework is approved by the Lord President in terms of the provisions contained in s2(2) (d) of the Judiciary and Courts (Scotland) Act 2008 under which he is responsible for making appropriate arrangements for the training, welfare and guidance of judicial office holders in Scotland and s34(1)(a) of the Tribunals (Scotland) Act 2014 by which he is responsible for making and maintaining appropriate arrangements for the training and guidance of members of the Scottish Tribunals.

30) For the purposes of this document a judicial office holder is defined as either “a judicial office holder” in terms of s43 of the Judiciary and Courts (Scotland) Act 2008 or an “ordinary, legal and judicial member of the Scottish Tribunals” in terms of s14(1) of the Tribunals (Scotland) Act 2014) (referred to collectively in this document as members of the Scottish Tribunals). References in this document to “the judiciary” and “judges” are to be construed accordingly. This means the definition includes a person who occupies:

- a) the office of judge of the Court of Session, or, having retired is reappointed as a judge;
  - b) the office of Chairman of the Scottish Land Court;
  - c) the office of temporary judge;
  - d) the office of sheriff principal;
  - e) the office of temporary sheriff principal;
  - f) the office of sheriff or, having retired is reappointed as a sheriff;
  - g) the office of part-time sheriff;
  - h) the office of summary sheriff;
  - i) the office of part-time summary sheriff;
  - j) the office of justice of the peace;
  - k) the office of member and Deputy Chairman of the Scottish Land Court;
  - l) the office of member of the Scottish Tribunals.
- 31) The Lord President may, at his absolute discretion, depart from the provisions of this document in the discharge of his statutory duty in relation to training, and he may revoke it at any time. He may also from time to time make amendments to these arrangements or make temporary provision in respect of specific identified training needs.
- 32) This Governance Framework shall come into effect on from the date on which it is signed. It replaces the Governance Framework dated 24 June 2017, which is revoked.

Date 29/6/2018