

Annual Report 2022/2023

Judicial Institute
for Scotland



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Chair's Welcome

I am pleased to present the Annual Report of the Judicial Institute for Scotland for the period 1 April 2022 to 31 March 2023. I wish to thank all members of the Institute team for their excellent work and endorse the Director's commendations.

This has been a year of change for the Board. Lord Armstrong resigned as Chair of the Judicial Institute in February 2023. I was appointed in his place. I had been Vice-Chair since 2020. Lady Drummond replaced me as Vice-Chair.

The Lord President expressed his gratitude to Lord Armstrong for his exceptional contribution to the Judicial Institute during his time as a member of the Board. Lord Armstrong was appointed Vice-Chair in 2018 and Chair in 2020. This coincided with a period of substantial disruption and change brought about by the global pandemic, the accelerated digitisation of the courts, and the provision of online materials and training for judges. During this time, Lord Armstrong provided the unfailing support and leadership required to keep the work of the Institute on course. The Board and staff of the Institute are very grateful to him.

Sheriff Pino Di Emidio was appointed Director in April 2022 and worked in tandem with the Interim Director, Sheriff Susan Craig, until Sheriff Adrian Cottam was appointed Deputy Director in September 2022. I am greatly appreciative of Sheriff Craig's sterling contribution to the Institute including manning the fort single handed and staying on to facilitate a handover before she fulfilled her wish to return to the bench full-time.

Sheriffs Di Emidio and Cottam have made an excellent start, setting about their roles with imagination, energy and know-how, with the exceptional support, knowledge and organisational skills provided by Dr Suzy Houston, our Head of Education.

In the Institute's [Recovery Plan 2022/23](#) provision was made for a period of review and reflection which has occurred. Opportunities for change and innovation have also presented themselves and the pace of change is such that there is no time to pause. The work of judges is evolving with the ongoing digitisation of court business. Inductions and courses must take account of the evolving needs and expectations of modern society. We will do our best to assist the judiciary to adapt and thrive in a rapidly changing environment.

Lord Beckett
Chair, Judicial Institute

Director's Welcome

I was appointed as Director of the Judicial Institute in April 2022. This year has been a busy and innovative one for the Institute. Prior to my arrival work had commenced on a project dealing with trauma-informed judging. This report describes the courses and the resource kit that resulted from this project. We will continue to build on that work. The other major strand of new activity focussed on judicial conduct. Post-pandemic there is an increased focus on all aspects of the judicial role. We developed and delivered a new training course for judicial mentors to support a refreshed scheme for mentoring which was set up in 2022. We have also embedded greater consideration of judicial ethics in a range of existing courses.

At the end of the reporting period we completed the first version of our [rolling three year Training Plan \(2023-2025\)](#), which replaces the Strategic Plan 2019-2022. The Training Plan highlights seven main areas of focus for the Judicial Institute. This was underpinned by a general intention to refine and protect the activities that we do well. At the same time, we aim to facilitate change and innovation where this is beneficial to judicial office holders.

We will review our training plan by the end of 2023, having completed the first year of planned activity, reported herein. Where relevant, we will update the training plan and provide additional detail.

I wish to pay tribute to all members of staff in the Judicial Institute team, who have contributed so enthusiastically to our work in a year which has seen a great deal of change. I am very grateful to them all. I especially wish to thank Sheriff Susan Craig who remained in post as Deputy Director until 31 August 2022 and Sheriff Adrian Cottam who succeeded her. Dr Suzy Houston has led the staff team with admirable intelligence and industry.

Sheriff Pino Di Emidio,
Director, Judicial Institute

Governance & Management

Judicial office holders

The Judicial Institute's purpose is to support justice in Scotland through the provision of the highest standard of judicial training and education.

The Institute supports 759 judicial office holders in Scotland:

Senators	36
Sheriffs Principal	6
Sheriffs	114
Summary sheriffs	36
Part-time sheriffs	33
Part-time summary sheriffs	19
Land Court and Lands Tribunals for Scotland members, including Chairman	6
Tribunal members	306
Justices of the Peace ("JPs")	204

Board and ACJI

The Judicial Institute is responsible for all aspects of the professional development of judicial office holders in Scotland, as set out in the [Governance Framework for the Judicial Institute for Scotland](#).

The Board of the Judicial Institute is tasked with realising this remit. The Board comprises two senators of the College of Justice, who act as Chair and Vice Chair, along with two sheriffs who act as Director and Deputy Director. This ensures that the Institute's strategic direction, and the education, training and knowledge that it provides, is judge-led.

Sheriff Pino Di Emidio took up post as Director of the Judicial Institute at the beginning of the reporting period on 1 April 2022. Sheriff Adrian Cottam joined as Deputy Director on 1 September 2022, replacing Sheriff Susan Craig who returned to judicial duties full time. Sheriff Cottam's appointment to the Institute is part time (50%).

The Hon. Lord Armstrong demitted office as Chair in February 2023. The Hon. Lord Beckett, who was Vice Chair, was appointed to replace him as Chair by the Lord President. The Hon. Lady Drummond was appointed as Vice Chair.

The Board meets on a quarterly basis and sets the Judicial Institute's strategic direction on behalf of the Lord President. Overall responsibility for the delivery of the Judicial Institute's strategy rests with the Board.

The Advisory Council meets twice per year. The Council is comprised of representatives of all judicial offices. Members provide insight on matters relating to the Institute's work.

Sheriff Principal Nigel Ross, Sheriff Kenneth Campbell KC, Sheriff Wendy Sheehan and Judge Susan Walker, President of the Employment Tribunal (Scotland) were appointed to the Council during the reporting period. Sheriff Gerard Sinclair, Stuart Fair JP and Dr Caroline Bruce (non-judicial member) were reappointed to the Council during the reporting period.

Committees and working groups

Several committees and working groups lead on key aspects of the Judicial Institute's work.

Jury Manual Committee

The Jury Manual contains an extensive guide to the law and practice of the effective conduct of the trial and, in particular, directing the jury. The draft charges are used by and referred to daily by the majority of judicial office holders in solemn trials. The Manual is the most frequently accessed resource on the Judicial Hub.

The Jury Manual Committee is chaired by Lord Beckett and comprises three sheriffs and three High Court judges. The committee meets on a quarterly basis and engages regularly by email to discuss possible revisions. Sheriff Morag McLaughlin stepped down as editor in January 2023 and Sheriff Norman McFadyen was appointed as the new editor. During 2022-23 Sheriff Andrew McIntyre and Sheriff Fiona Tait joined the Committee. In the reporting period the Committee updated materials on trial management, including issuing revised written directions for jurors following the return to in-person court business. The Committee also continued a large-scale project to adapt directions into plain language, focusing particularly on sexual offences, as well as making several amendments in light of significant new Appeal Court decisions. Whilst stating the law correctly will always be the priority, there remains considerable scope for making specimen directions more straightforward and expressed in plainer language. This work will continue.

Justices' Training Committee of the Judicial Institute (JTCJI)

The JTCJI reviews the National Curriculum for Justices of the Peace on an annual basis, and agrees the National Training Programme, which outlines the education the Judicial Institute will provide for JPs in the following training year. JTCJI submits an annual report to the Lord President with an account and evaluation of training for JPs, including oversight of training delivered by Justices' Training and Appraisal Committees (JTAC) in the local sheriffdoms. JTCJI provides assurance that those who deliver training to JPs across Scotland have the skills to do so, for example through the Institute's 'train the trainer' initiatives. The Committee meets twice per year and is made up of JPs from each sheriffdom and one sheriffdom legal adviser representative. In July 2022, Sheriff Principal Ross replaced Sheriff Principal Anwar as the Chair of the JTCJI. A new three-year training cycle for JPs commenced in 2023.

Justices Technical Training Committee (JTTC)

Chaired by the Judicial Institute Deputy Director and attended by legal advisers from all six sheriffdoms, the JTTC is a working group of the JTCJI. The remit of the JTTC is to identify legal or training issues of relevance to JPs and provide advice on the development of training programmes and materials.

Judicial Education for Tribunals (JET)

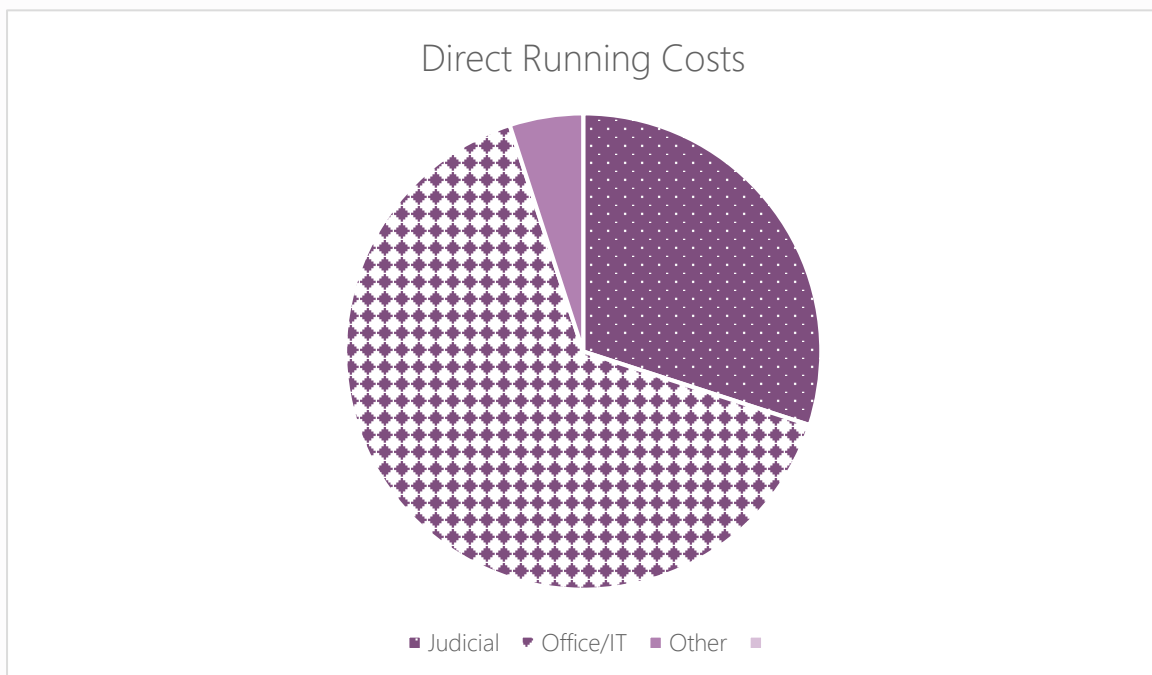
The JET working group was established in 2018 after the Lord President assumed responsibility for tribunal training under section 34(1)(a) of the Tribunals (Scotland) Act 2014. It brings together representatives from each of the devolved tribunals. Its function is to identify and develop core training programmes; agree training guidelines and a quality

assurance framework for specialist training undertaken by the tribunals themselves; and implement the agreed tribunal training model. JET provides oversight to the 'Tribunal Craft' course the Judicial Institute delivers for tribunal judicial office holders. The Chair of the JET working group during the period covered by this report was Judge Anne Scott, President of the Tax Tribunal Chamber and Temporary President of the Social Security Chamber of the First-tier Tribunal for Scotland.

2022/23 expenditure

The effects of the pandemic have had a continuing impact on expenditure this year with the majority of the curriculum being delivered remotely until June 2022.

Total expenditure in respect of direct running costs was £117,966.



Our Curriculum

How we ensured and maintained quality

Judicial education in Scotland is judge-led, judge-devised and judge-delivered. During the reporting period, we have endeavoured to safeguard the fundamental principle of judicial independence. The Directors, supported by our team of educational specialists, designed and delivered our programme of courses. The educational team worked closely with our digital team to use our virtual learning environment, the Judicial Hub, to enhance the educational experience of Scotland's judiciary. We aim to ensure that courses are accessible and interactive, while maintaining a high-quality learning experience for the 408 participants trained in this reporting year.

Strategic Progress

The Institute renewed its commitment to the set of strategic priorities and objectives in its [Recovery Plan 2022/23](#). These criteria were first devised as part of the Institute's [Strategic Plan 2019-2022](#). It was considered appropriate for them to remain in place for the duration of the recovery year.

Strategic priority 1 (Support the delivery of justice)

1. Engage with relevant change projects and programmes;
2. Embed opportunities for learning around court and digital reform into our portfolio;

3. Collaborate where there are synergies between staff and judicial training.

As a result of the lockdowns instigated due to the global Covid-19 pandemic, our Judicial Learning Suite located within Parliament House, Edinburgh, was out of use for around two years. We began a selective return to in-person learning from September 2022. We continued to deliver some courses online where this was advantageous. The period of transition allowed us to reflect on our delivery model.

We have considered how we could harness the different advantages of online and in-person learning to offer greater choice and flexibility to judicial office holders. We consulted with our different committees as well as judicial office holders themselves, canvassing preferences for mode of delivery. Many judicial office holders noted the importance of in-person learning for well-being, networking and for less formal forms of learning. In contrast, others stated they preferred to attend courses remotely online. They suggested online learning is a more flexible and accessible mode of learning than attending in-person.

The polarisation of preferences suggests that combining online and in-person delivery of courses may be advantageous. We provide further details under Strategic Priority 3 below.

We continued to identify opportunities to build and strengthen connections with internal business units. We have sought to engage in regular consultation with the Judicial Office for Scotland in relation to judicial appointments. Relevant colleagues have been invited to contribute to judicial courses and inductions. This is a valuable exercise which allows judicial office holders a better understanding of SCTS policies and processes they encounter.

The SCTS Implementing Change LABs¹ are a useful locus of collaboration on IT change projects. We have worked together with colleagues in the Labs to facilitate continuous improvements to judicial training and communication about digital tools and technologies. The Institute is now represented in working groups and projects for the Criminal, Civil and Corporate labs. We are continuing to work with our colleagues to develop a suitable model for judicial digital training.

During the reporting period, we initiated a pilot with the SCTS Education and Learning Unit which aims to promote joint working on a number of projects with shared strategic aims. Whilst judicial education must and will remain independently designed, we have so far found that joint projects can lead to greater efficiencies and sharing of expertise.

Strategic priority 2 (Judicial education model)

- 1. Ensure our judicial education policies remain world class and based on rigorous evidence;**
- 2. Maintain the Judicial Institute's profile and reputation.**

During the reporting period, JI staff engaged with the wider learning and development community in various ways, including by attending academic conferences and reviewing current literature. We believe that the Institute's guiding educational philosophy², established in 2013, remains generally robust and relevant. The crux of this philosophy is that judicial education is judge-led, judge-devised and judge-delivered. We continue to adhere to this approach whilst recognising the need to seek

¹ The SCTS Digital Shared Services includes the Implementing Change (LABs) function. They are the agents for contracting change and providing a change function to the business. They work in partnership with business units, including the Judicial Institute, to define, refine and deliver digital transformation.

² The Institute's educational philosophy and pedagogical principles are provided in Appendix A of the [Strategic Plan 2019-2022](#).

out expertise from non-judicial participants where courses focus on topics informed by other disciplines and specialisms.

The Institute's educational philosophy articulates useful relevant models of learning i.e., social constructivism and transformative learning. Derived from these theories are a set of educational principles which inform the way in which judicial office holders are trained by the Institute. We have regard to philosophy and principles in the course planning and design process. We provide learning outcomes and course descriptors for all courses, provide opportunities for problem-based learning and encourage contributors to avoid wholly passive approaches to delivering lectures and presentations. We continue to design courses guided by these principles, encouraging attendees to engage in different learning activities that promote active, participatory forms of learning with their peers. Judicial office holders are encouraged to reflect on their learning during and after a course takes place.

Whilst our educational principles hold firm, our year of recovery has allowed us to consider how they will apply to new contexts and new modes of delivery. We will undertake development work in the coming year to ascertain whether we can update our live online learning policy to incorporate hybrid delivery during the next reporting year.

In addition to underpinning our course design and delivery with robust learning theory, all courses provided by the Institute go through a rigorous post-course review process. We gather feedback from participants and use it to make adjustments or enhancements to future courses. Our year of recovery has provided an opportunity for our Education and Learning team to take a more systematic view of some of the qualitative question responses than has been taken in previous years. We have identified areas for further exploration in relation to post-course reflection, active lecturing and professional development planning. We expect that digital technologies will support enhancements in these areas in the years to come.

We have continued to play an active role in the European Judicial Training Network (EJTN). Following the departure of the UK from the EU, the Judicial Institute forms part of the UK delegation, which has observer status in EJTN operations and training activities. We were represented at the EJTN General Assembly 2022 as well as meetings of the Judicial Training Methods Group. The Institute began planning for a seminar to be delivered later in the year in Trier, Germany, under the title "Judging and AI – A Philosophical Approach". Members of the JI team worked on the seminar development process in the year under consideration. In October 2022, our former Deputy and Interim Director, Sheriff Susan Craig, represented the Judicial Institute at the biennial International Organization for Judicial Training (IOJT) Conference. Sheriff Craig, who had initiated the project, provided delegates with a detailed insight into the Institute's work on the design of training for judges in trauma-informed judicial practice. The presentation was well-received. The reporting period provided us with an opportunity to seek and establish useful connections with equivalent training organisations in the other jurisdictions of the UK and Ireland. We participated in the first in-person meeting since the pandemic of the UK and Ireland Judicial Studies Council (UKIJSC) in October 2022, hosted by the Judicial College of England and Wales in London. This provided an invaluable opportunity for judges involved in judicial education in the four jurisdictions to discuss matters of mutual interest. Since this meeting, the administrative heads of each training body have met regularly online. We record our thanks to the Judicial College of England and Wales for valuable cooperation in the development of our new judicial mentoring course. We aim to build on these foundations in coming years in order to encourage a range of informal, ad hoc peer review activities and reciprocal sharing.

Strategic priority 3 (Excellence in course provision)

1. **Deliver fit for purpose inductions;**
2. **Be responsive and deliver the most valuable courses;**
3. **Ensure we offer choice;**
4. **Develop the quality of our course provision.**

During the reporting period, we provided induction courses for new senators and sheriffs. The opportunity was taken to carry out a substantial review of both induction programmes, taking account of the changing landscape since the pandemic and different priorities and areas of focus identified, for example, by appeal court decisions.

The announcement that there would be a competition for the appointment of three new sheriffs principal presented an important opportunity to enlarge the scope of judicial training. The Judicial Institute had not previously provided training for the role of Sheriff Principal which has a substantial leadership component. A new three day induction course was developed in close co-operation with the President of the Sheriff Appeal Court. The first day was devoted to sitting in the Sheriff Appeal Court. Thereafter contributions provided valuable insight into the managerial and leadership requirements of the sheriff principal role. This important event allowed us to work closely with some of the sheriffs principal and to gain greater understanding of their needs. Our training programme on trauma-informed judging was developed in response to the recommendation to this effect in the Lord Justice Clerk's Review "[Improving the Management of Sexual Offence Cases](#)" published in 2021. The extensive phase of course planning and development by the Institute in collaboration with academic contributors in the area of trauma came to fruition during the reporting year.

- In total, five iterations of the course were delivered in that period;
- The course was first provided as online learning;
- The course is now being delivered in person as befits an interactive, experiential learning design;
- The course has been well-received by attendees who include both senators and sheriffs;
- The Judicial Institute is well placed to respond to further developments in the law relating to the prosecution of sexual offences;
- There was a positive response to the inclusion of vicarious trauma as a topic in the trauma course, allowing participants to consider the impact of this work on themselves as well as other court users.

The general topic of judicial well-being was tackled in a number of ways as we developed our approach to enhancement of judicial skills. A highlight of the reporting period was the commencement of the new operating framework for the mentoring scheme for Judicial Office Holders in Scotland on 1 April 2022. This stipulated training of judicial mentors nominated to act under the scheme. A new course was designed from scratch. Successful implementation of this initiative has resulted in the creation of a substantial group of trained judicial mentors at both senator and sheriff levels.

In February 2023, the Judicial Institute collaborated with the Faculty of Advocates, the Law Society of Scotland and the Society of Solicitor Advocates to provide an event for members of the legal profession. The event's focus was on the interaction between written and oral advocacy. A panel of eminent speakers gave short presentations on aspects of

developing practice as seen from the Bench and the profession. The event was well-attended by members of both branches of the legal profession. It provided a valuable opportunity for judges and practitioners to reflect on an area where advocacy is developing and changing. We hope to identify other areas where information sharing initiatives of this type can be held in the future.

During the reporting period, the Institute began to offer a new format of training in the form of one-hour online seminars. The first seminar was on the subject of supervised release orders and extended sentences. The seminar was evaluated positively by sheriff participants both in terms of content and format. The short duration, and timing to fit with court times, was felt to be particularly advantageous. The Institute intends to develop an annual programme of one-hour seminars in a range of bite-sized topics relevant to the work of the judiciary.

We conducted a number of small-scale pilot activities whereby we incorporated remote speakers and participants into in-person courses. Hybrid delivery of meetings and events has become more commonplace since the pandemic. Considering the potential enhanced flexibility this mode of delivery offers if done well, we wanted to explore if this would be of benefit to judicial education and training. Those involved in the pilot activities provided positive feedback and highlighted areas for potential future development.

Strategic priority 4 (Excellence in online provision)

- 1. Continuously improve the Judicial Hub platform and content;**
- 2. Develop our capacity to design quality online learning products.**

We have begun to explore ways in which the content provided to tribunals members on the Judicial Hub (the judicial intranet) might be improved. In preparation for the establishment of the new Local Taxation

Chamber of the First-tier Tribunal for Scotland, the team worked closely with the Temporary Chamber President to develop content which contains three innovations in online learning: a discussion forum for members; an interactive handbook; and a searchable database of leading decisions. All three resources will be reviewed and evaluated over the coming year. If successful, we will consider offering to extend similar provision to other tribunal chambers, if this is desired.

We have also spent time considering the role of the Institute in digital training for the judiciary. Courses, where relevant, incorporate content about digital tools, platforms and processes where these relate to a substantive course topic. We will continue with this model, supporting and communicating updates and new basic training initiatives provided by the SCTS Change and Digital Innovation unit as required.

During the reporting year, the digital team has procured new digital tools to enhance live courses. The team will continue to evaluate how it may improve course delivery.

Judicial Hub

The Judicial Hub remains a vital focus for the Judicial Institute and the digital team in particular. Our annual content review has been completed successfully and we are beginning to make changes based on feedback from a survey of judicial office holders in January 2023.

We will continue to work to offer judicial office holders more convenient ways of accessing information as and when they need it.

Judicial Hub Resources

The Judicial Institute continues to develop bespoke resources to assist judicial office holders in the discharge of their judicial duties. The following significant resources were developed in the reporting period:

Trauma-informed judging Resource Kit

The development of a new resource kit involved working with external contributors to develop materials, both written and audio visual, to educate judges on the impact of trauma on people using the criminal justice system.

Part A of the resource kit focuses on the impact of childhood trauma and Adverse Childhood Experiences (ACEs) on accused persons.

Part B addresses the impact of trauma on victims and witnesses, with a particular focus on recognising and minimising re-traumatisation.

Part C comprises a briefing paper recognising the impact of vicarious trauma on judges and signposting relevant routes of assistance and self-help.

The materials in this resource kit are available to all serving judges through our intranet and represent a substantial new resource for them.

Wiki project

In May 2022 the Institute's legal and digital teams began work to update and improve the availability of resources on the Judicial Hub by making a wider pool of Institute resources available as wikis (i.e. web pages) or other suitable formats. Phase one of the wiki project commenced with the review of the Jury Manual for accessibility and formatting to ensure clear and consistent presentation throughout. In view of the substantial size and changing content of the Jury Manual, this phase is ongoing.

Statutory Penalty Guide (SPG)

Phase two involved updating the SPG to increase accessibility and functionality for both users and editors. With the aid of a group of sheriffs who tested the resource prior to publication, a new searchable database was developed, providing quicker access to relevant information and the ability to update the resource instantly.

Compendia

Compendia are intended to provide a single source of relevant and useful materials pertaining to a particular area of law or judicial role. The first compendium on the Judicial Hub contained content relating to the work of the Sheriff Appeal Court and was launched in May 2022. It was designed to support sheriffs with the transition from first instance to appellate work. A further compendium containing both legal and practical guidance on adoption and permanence proceedings was launched in December 2022. This was followed in late January 2023 by the Upper Tribunal for Scotland compendium, which features a variety of resources relevant to the role of sitting as an appellate judge dealing with appeals from the First-tier Tribunal for Scotland.

Course and Event Calendar

Courses delivered between 1 April 2022 and 31 March 2023.

(R) after the course title denotes that the course was held remotely using Cisco Webex. Courses were otherwise held in person. All courses not stated to be for senators, justices or tribunal judges were for sheriffs.

Course	Date	Participants
Judicial Writing for the Shrieval Bench	26 April	13
Unrepresented Accused for Justices (R)	5 May	16
Trauma Informed Practice (senators and temporary judges) (R)	11 May	14

Senator Induction	16-19 May	5
Sheriff and Summary Sheriff Refresher (R)	24 May	21
Judging in the Digital Age (R)	1 June	10
Decision Making for Justices (R)	8 June	11
Trauma Informed Practice (senators and temporary judges) (R)	16 June	16
Courtroom Communication for Justices (R)	6 September	10
Sheriff and Summary Sheriff Refresher (R)	8 September	10
Modern Sentencing Challenges (R)	13 September	15
Vulnerability in Court (R)	21 September	10
Temporary Judge Induction	22 September	4
Shrieval Induction	26-30 September	10
Solemn Case Management	6 October	9
Road Traffic for Justices (R)	25 October	14
Train the Trainer (R)	27 October	10
Scottish Land Court & Lands Tribunal for Scotland	2 November	11

Tribunal Craft (R)	8 November	18
Trauma Informed Practice (R)	11 November	9
Judicial Mentoring	16 November	12
Adoption & Permanence (R)	22 November	10
Unrepresented Accused for Justices (R)	29 November	18
Trauma Informed Practice (R)	1 December	10
Upper Tribunal	9 December	9
Judicial Skills & Wellbeing	13 December	12
Decision Making for Justices (R)	15 December	14
Supervised Release Order and Extended Sentences Seminar (R)	18 January	21
Sentencing	25 January	8
Modern Road Traffic Challenges for Justices	2 February	9
Judicial Mentoring	8 February	8
Trauma Informed Judging (Senators)	27 February	16
Roads Less Travelled (R)	2 March	12
Writing Criminal Appeal reports (senators)	6 March	12

Sheriff Principal Induction	13-15 March	6
Judicial Mentoring (senators)	20 March	6
Tribunal Craft (R)	22 March	16

In this reporting year we delivered 44 days of programming, for a total of 408 participants.

Additional activities delivered between 1 April 2022 and 31 March 2023

Inner House judges meeting – 8 August 2022

The Institute facilitated an in-person meeting of the Inner House judges of the Court of Session at which ongoing developments in practice were discussed.

International Delegations

There were no visiting delegations in the reporting period.

Concluding Remarks

The Institute's year of recovery has provided a welcome opportunity to take stock of the wide range of our activities. We have identified a number of areas where we can change, innovate and improve over the forthcoming year and beyond.