

INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE

3rd Edition, May 2020



AIJA

The Australian Institute of Judicial Administration



Federal Judicial Center



NCSC

National Center for State Courts



STATE COURTS

SINGAPORE

Contents

I	About the International Consortium for Court Excellence	4
	Background to the International Framework for Court Excellence.....	4
	Introduction to the 3rd Edition of the IFCE.....	5
	<i>Figure 1 Chronology of the Development of the IFCE.....</i>	6
II	Court Values	7
III	Implementing the IFCE	9
	Continuous Improvement Methodology	9
	<i>Figure 2 Continuous Improvement Methodology.....</i>	9
	Assessment of Court Excellence.....	10
	Using the Self-Assessment Checklist	12
	Self-Assessment Scoring Guidelines.....	13
	<i>Table 1 Scoring Guidelines (General statements)</i>	13
	<i>Table 2 Scoring Guidelines (Effectiveness statements).....</i>	14
	<i>Table 3 Banding Table.....</i>	17
	Analysing and Identifying Areas for Improvement	18
	Improvement Plan.....	18
	Review and Refinement	20
IV	Areas of Court Excellence.....	21
	Area 1: Court Leadership	21
	<i>Explanatory Notes</i>	21
	Area 2: Strategic Court Management	22
	<i>Explanatory Notes</i>	23

Area 3: Court Workforce	24
<i>Explanatory Notes</i>	25
Area 4: Court Infrastructure, Proceedings and Processes.....	26
<i>Explanatory Notes</i>	27
Area 5: Court User Engagement.....	29
<i>Explanatory Notes</i>	30
Area 6: Affordable and Accessible Court Services.....	31
<i>Explanatory Notes</i>	32
Area 7: Public Trust and Confidence	33
<i>Explanatory Notes</i>	34
V Measurement of Performance and Progress.....	35
Measurement of Performance	35
Measurement of Progress.....	36
Court Performance Measurement Indicators and Tools	37
VI Communication and Reporting	38
Annex A Recommendations on the Use of Technology.....	39
Annex B Resources	42
Annex C Improvement Plan	44
Annex D Manual Score Calculation Worksheet	45

I ABOUT THE INTERNATIONAL CONSORTIUM FOR COURT EXCELLENCE

The International Consortium for Court Excellence (the Consortium) was formed in 2007 by founding members with expertise in court and judicial administration. The founding member organisations are the Australasian Institute of Judicial Administration, the Federal Judicial Center, the National Center for State Courts, and the State Courts of Singapore.

Working with the founding members, resource persons from the European Commission for the Efficiency of Justice, the World Bank and SPRING Singapore (now known as Enterprise Singapore), brought significant experience in the application of court quality management models.

The goal of the Consortium is to develop a framework of values, concepts and tools for courts and tribunals, with the ultimate aim of improving the quality of justice and judicial administration. The motivation for the Consortium to develop a framework for court excellence was the lack of a court-specific framework. Though there were existing benchmarking and performance management systems, these were found to be inadequate as they were of general application to corporations but did not take into account the unique operating circumstances of courts. The result of this effort was the International Framework for Court Excellence, which takes a holistic approach to assessing a court's performance and provides guidance for courts to improve their performance on a continuous basis.

Courts are encouraged to consider the Framework as a guide for the journey to court excellence. The quality improvement approach reflected in the Framework has been specifically developed to meet the needs and unique roles and functions of courts. The Framework reinforces those values and aspirations internationally recognized as critical to an effective and publicly respected court.

The best results in any organization are achieved when everyone is focused on the same goals. Creating a court culture that is supportive of reform, service improvement and innovation is a critical first step in moving towards court excellence.

The IFCE continues to be a practical tool that is used by courts and tribunals, and the Consortium remains committed to improving the IFCE and promoting its use. The Framework is intended to be a 'living' document, and courts are encouraged to share their experiences and suggestions for improvement.

Background to the International Framework for Court Excellence

• Purpose and Development

Underpinning the work of courts and tribunals which have embarked on a journey of court excellence is a set of core values. These values include fairness, impartiality, independence, integrity, accessibility and timeliness, which are key to the successful functioning of courts.

The Framework is thus built on a set of values. It then takes a holistic approach to court performance through seven Areas of Court Excellence, which allows a court to work towards court excellence by assessing the court as a whole institution instead of focusing on a particular aspect of a court's activity.

The Framework uses a methodology for continuous evaluation. Through this approach, courts and tribunals are able to identify and prioritise areas of strength and improvement, and develop their own improvement plans. The Framework identifies possible court performance measures and recommends a process by which courts voluntarily implement the Framework through a self-assessment exercise.

The Judiciary plays a key role in adjudication and dispute resolution and is one of the pillars that upholds the rule of law in society. The Framework provides a resource for courts to work towards the delivery of quality court services which are essential to fulfilling their role in providing access to justice. Fair, accessible, and efficient courts are essential to building public trust and confidence in the Judiciary.

- ***Introduction to the 3rd Edition of the IFCE***

The IFCE was first launched in 2008, and a second edition was released in 2013. In addition to the IFCE, the Consortium has developed the International Framework for Judicial Support Excellence (2015), a tool for organisations that provide judicial support, and collaborated with other experts on the Global Measures of Court Performance, comprising eleven core measures which serve as a guide for performance measurement.

Since the second edition of the Framework was released in 2013, there has been an emergence of new developments in the legal landscape, such as the increasing use of technology and the greater adoption of alternative dispute resolution. In addition, as more courts have implemented the Framework, there has been more feedback on ways in which the Framework could be improved.

This third edition of the Framework thus reflects these developments and the experience of the Consortium. The main enhancements to the third edition of the Framework are as follows:



New topics

Introduces new topics such as ethics and codes of conduct, risk management, using data to deliver better court services, security and data integrity of court records, use of alternative dispute resolution to resolve disputes amicably and affordably, and the use of therapeutic or problem-solving approaches in suitable cases.



Expands the Area of Court Excellence on Court Workforce

The topic of human resources has been assigned a dedicated Area of Court Excellence. This gives greater recognition and emphasis on the role of the court workforce, going beyond training and development to take into account other topics such as engagement and well-being, and performance and recognition of judges and court staff.

The previous edition of the IFCE had included human resources under the category of 'Resources', together with financial and physical resources. The latter two remain important elements of court excellence and have been re-organised under Strategic Court Management (Area 2) and Court Infrastructure, Proceedings and Processes (Area 4).



Introduces a new set of recommendations on court technology

For courts that are interested in a more in-depth discussion on the use of technology, the discussion points, which are neither prescriptive nor exhaustive, may be useful as a starting point to inform discussions and shape longer-term planning about the use of court technology.



Self-Assessment Checklist and Assessing Effectiveness

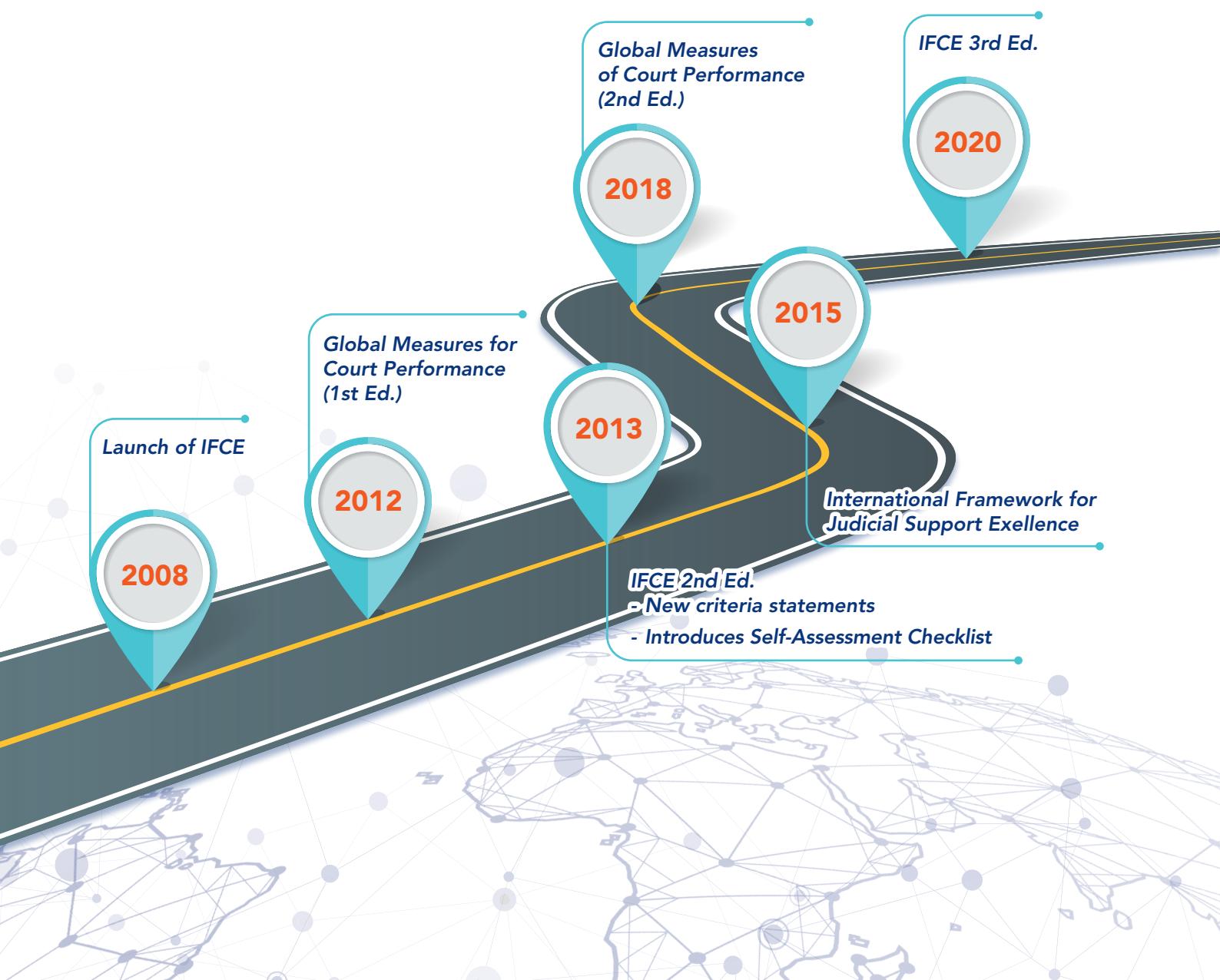
The second edition of the Framework comprised two ways for a court to undertake the self-assessment process – the first was a Self-Assessment Questionnaire, and the second was a Self-Assessment Checklist. The Questionnaire involved a more in-depth and thorough assessment process as it required the court to consider each of the activities listed under the seven Areas of Court Excellence and assess whether each has addressed the issue and, if so, the extent to which its approach has been successful and effectively delivered results. In contrast, the Checklist allowed a simple tick and score approach.

In the third edition, the Consortium has streamlined the two options into a **single holistic Self Assessment Checklist with a simplified methodology**. This makes the Framework more userfriendly for courts attempting the same. The third edition Checklist combines the advantages of both options – it provides guidance on expectations of court performance under each Area for Court Excellence, and also allows the court to assess the effectiveness of its approach to each area.

Changes to Scoring Methodology

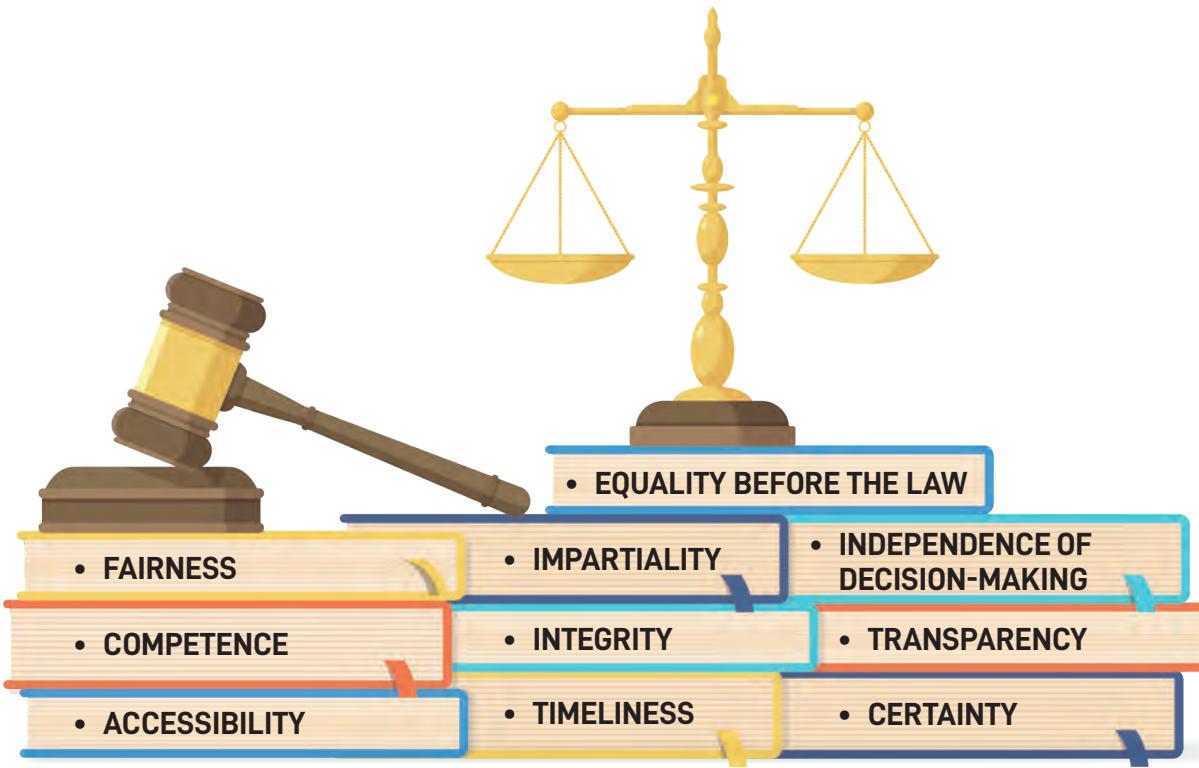
The scoring framework has been revised to take these changes to the Checklist into consideration. In addition to assessing effectiveness, there is now an additional option for the respondents to provide a "Don't know" response. This has been introduced to address situations where respondents are simply not aware of whether the court has addressed the criteria statements. In such situations, a score may not be an accurate reflection of their response and respondents may resort to guesswork or provide a nil response. This leads to an inaccurate result at the end of the self-assessment exercise. Please refer to details of the revised scoring framework at Section III.

Figure 1 Chronology of the Development of the IFCE



II COURT VALUES

The Consortium recognizes that there is broad international agreement regarding the core values that the courts apply in carrying out their role. The key values to the successful functioning of the courts are:



These core values ensure due process and equal protection under the law to all those who have business before the courts. They also set the court culture and provide direction for all judges and staff for a proper functioning court.

Values such as **fairness** and **impartiality** set the standards by which courts conduct themselves. The values of **independence** and **competence** are primarily related to the ability of the judge to make decisions based on a thorough understanding of the applicable law and the facts of the case. **Integrity** includes the **transparency** and propriety of the process, the decision, and the decision maker. Justice must not only be done but be transparently seen to be done.

Accessibility incorporates the ease of gaining entry to the legal process (including reasonable filing fees and other costs, access to counsel and, if needed, an interpreter) and using court facilities effectively. The ability to obtain accurate, complete information about the judicial process and the results of individual cases is essential to accessibility.

Timeliness reflects a balance between the time required to properly obtain, present, and weigh the evidence, law and arguments, and unreasonable delay due to inefficient processes and insufficient resources. No less important is the guarantee of **certainty** - that a decision originates from established rules, principles, and precedents, and will at some point be considered 'final' whether at first instance or through an appeal process.

It is the responsibility of the presiding judicial officer of the court and other court leaders and managers to encourage understanding of these values and promote a culture that is consistent with these values. A journey towards court excellence is primarily a journey built upon a strong respect for and adherence to shared court values.

Many resources are available for a more in-depth review of this topic. Some suggested materials may be found in Annex B (Resources) under Area 1, Court Leadership.

The Framework provides a methodology for building a court's performance on the basis of the court values and their application to every area of a court's activities. There is a fundamental link between court values and the performance of a court. The Framework provides a method for courts to assess whether those values that have been identified as being important are in fact guiding the court's role and functions.

The journey to court excellence is one of continuous improvement achieved through optimal internal organization of the courts, strong leadership, clear court policies and strategies, resource management, effective and efficient court operations, high quality and reliable court (performance) data and a high level of public trust.

All of these roles and activities must be carried out at the highest level of performance for a court to be regarded as an excellent court. To simplify the process of assessment of performance and identification of areas for improvement, the Framework divides these areas of activity and roles into seven Areas of Court Excellence.

The values should be reflected in a court's approach to each of the Areas of Court Excellence and, through the process of assessment and improvement, a court can be aware of how well it is promoting and adhering to its values. It is important for courts to not only promote the values which guide court performance, but also to ensure those values are reflected in the court's processes and practices.

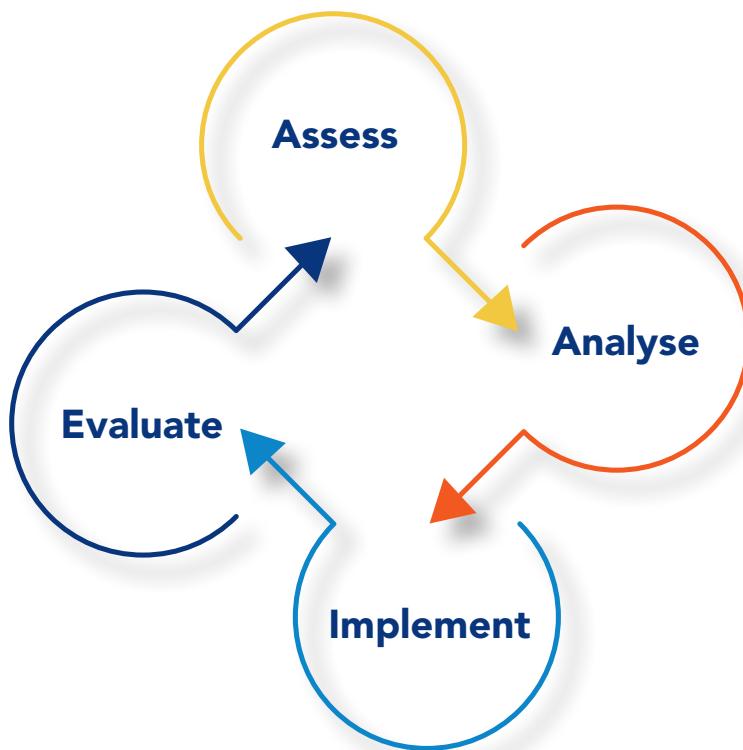
Seven Areas of Court Excellence	
Driver	Court Leadership
Systems and Enablers	Strategic Court Management Court Workforce Court Infrastructure, Proceedings and Processes
Results	Court User Engagement Affordable and Accessible Court Services Public Trust and Confidence

III IMPLEMENTING THE IFCE

Continuous Improvement Methodology

The Framework uses a continuous improvement methodology. It ensures a court is actively and continuously reviewing its performance and looking for ways to improve its performance. There are four steps in the continuous improvement cycle which are repeated each time the court is ready to undertake a fresh self-assessment to determine its progress.

Figure 2 Continuous Improvement Methodology



Step 1: Assess

First, the court undertakes a **self-assessment** using the Checklist to determine how the court has performed against the seven Areas of Court Excellence.

Practical Tip: Online Survey Tools

The purpose of the self-assessment is to allow the court to identify areas of strength and areas for improvement. To allay any potential concerns that staff may have about highlighting problems, the Checklist can be conducted anonymously using online survey tools. These tools may also collate responses, thus making it easy to conduct the self-assessment.

Step 2: Analyse

Second, an in-depth **analysis** builds upon the self-assessment to determine the areas of the court's work that are capable of improvement.

Step 3: Implement

Third, an **improvement plan** sets out details of the areas identified for improvement, the proposed actions to be taken, and the results to be achieved.

Step 4: Evaluate

Fourth, through a process of **review and refinement**, the progress of the implementation of the improvement plans is monitored.

The courts should constantly review the implementation of the improvement plans, and set quantitative and qualitative indicators to measure progress.

This four-step process is repeated when the court is ready to undertake a fresh self-assessment to determine its progress. It is recommended that court should aim to conduct a self-assessment once every two years but the timing is a matter for each court.

Periodic self-assessments allow a court to:

- identify the areas in which the court needs to make further improvements;
- determine the areas the court will focus its immediate and long-term efforts; and
- assess the progress the court has made towards needed improvements.

Assessment of Court Excellence

The first step in the journey towards court excellence involves an assessment of how the court is currently performing. The Framework adopts a self-assessment methodology, which allows a court to undertake its own assessment of its performance measured against the seven Areas of Court Excellence. This first step allows the court to identify those areas where attention may be required and to set a benchmark against which the court itself can measure its subsequent progress.

The Framework envisages a process that is participatory: **judges, administrators, and other court employees have a role to play in evaluating court services and in developing and implementing improvements.** A court's performance and reputation depends on the performance of its entire workforce and the court may wish to have a wide-representation of judges and court/administrative officers in the court's self-assessment and development of future plans.

In addition, courts are encouraged to seek the views of the court's partners, such as the legal profession/bar, public prosecutors, law enforcement agencies, and other governmental and non-governmental agencies on relevant aspects of court services and areas in need of improvement. Maintaining open lines of communication with these professional partners provides a range of new perspectives and enhances the process.

The court's path to excellence will also be advanced by open communication regarding its strategies, policies and procedures with court users and the public in general. Seeking the input of those individuals and businesses that use the court as well as the public-at-large can help to improve the functioning of the court system. Indeed, outside feedback about the court's integrity and its competence may often be the most accurate barometer of the court's quality.

The Framework is meant to aid courts in finding the appropriate means for meeting its goals. A self-initiated and transparent court review should also lend credibility to a court's legislative request for appropriate funds to update buildings and to engage additional judges.

The active involvement of court leadership is important to allay fears by staff and judges of the impact of identifying problems within the court and with performance. It needs to be emphasized that the purpose of the self-assessment evaluation is not to lay blame for problems. Rather the goal is to highlight areas for improvement and address issues identified.

In the same vein, it also bears emphasizing that courts **should not be overly concerned with the score obtained through the self-assessment exercise.** The score is not, and should not, be the end point of the Framework. What is more crucial is how areas for improvement for the court can be identified from the conduct of the self-assessment exercise, and how the court implements measures to address these areas. There is no "perfect score" that courts must achieve. The Framework is also not intended for courts to compare their scores against those of other courts. The benchmark that is of relevance here is that of the court's previous self-assessment, as this will give an indication of whether the court's measures have been effective, and whether the court has improved since the last self-assessment.

In essence, the self-assessment is a necessary first step to developing a plan to close the gap between 'what is' and 'what can be'. It will assist in determining which issues can and must be addressed in the short-term and those that require more intermediate or long-term planning.

Using the Self-Assessment Checklist

The Self-Assessment Process

Courts should seek to involve a wide representation of judges and court staff in the self-assessment process. Ahead of the self-assessment, participants should each be given a copy of the Checklist. It will also be useful to conduct a planning session to brief the participants on the methodology. Participants can take this chance to review the Checklist to identify any basic information that needs to be gathered to facilitate the process of self-assessment.

Based on the information gathered and their observations and judgment, every participant should consider what the court has done or has in place for each of the criteria statements in the seven Areas of Court Excellence. It is essential to consider whether the court has taken action to address the issue and evaluate the extent and success of each action taken.

To moderate the self-assessment results, several options could be considered. For courts with a larger number of participants, it may be necessary to establish a number of assessment teams but it is important that each team is well represented by judges and court administrators across levels and functions. After the members have attempted their individual assessments, they should discuss the ratings given for each criteria statement. Where the ratings given by team members for a particular statement differ, team members should discuss and agree on the appropriate rating, preferably by consensus. As members explain their scores, any suggestions for reform or change should be noted as they will be critical to developing an Improvement Plan.

Alternatively, the responses of all participants could be aggregated by totalling their scores and computing the average score per criteria statement. This may be a more efficient way of moderating the self-assessment results where it may be too time-consuming and laborious to conduct team discussions.

It is important in carrying out the self-assessment that the court asks itself whether a particular action could have been more effective or improved in some way. A distinction must be made between things done and things done well. Any claim that a particular action or area has been effectively addressed requires tangible evidence by way of measurement or other objective facts demonstrating the positive impact of the action. For the purposes of the self-assessment it is not sufficient to merely assert that particular initiatives have been successful.



Self-Assessment Scoring Guidelines

This section describes the rationale underlying the self-assessment scoring system and explains how to implement it, either by using the provided Excel Spreadsheet or with hand calculations.

The seven Areas of Court Excellence consist of a total of 84 criteria statements, of which 77 are "general statements" and 7 are "effectiveness statements". The 3rd Edition of the Framework has a simplified method, and combines the Questionnaire and the Checklist of the 2nd Edition into one holistic Checklist. In doing so, the Checklist in the 3rd Edition aims to measure the effectiveness of a court's measures by having the respondents answer an "effectiveness statement" at the end of each Area of Court Excellence.

Statement Values

For the "general statements", a score between "0" and "5" should be accorded to each statement. The scoring guideline for the "general statements" is set out below.

Table 1 Scoring Guidelines (General statements)

Don't know	(See the explanation in the next section.)	0
None	There is no approach and no deployment at all.	0
Reactive	An approach exists but it is reactive with little or no evidence of planning or implementation.	1
Defined	The direction for a planned and prevention-based approach is set. There is evidence of the approach being implemented in a few areas.	2
Integrated	A sound and effective approach is in place with evidence of prevention activities. The approach is aligned with basic organisational needs and there is evidence of implementation in some key areas.	3
Refined	A proven and well-defined approach with evidence of refinement through learning and improvement which is well integrated with organisational needs. Tangible evidence of implementation in all key areas.	4
Innovative	An exceptionally well-defined approach, which is fully integrated with organisational needs. Tangible evidence of both implementation and consistent practice at all levels and across all areas within and outside the court.	5

For the "effectiveness statements", respondents are asked to evaluate how well the court has performed in each of the seven Areas of Court Excellence. Because each statement measures the effectiveness of an entire Area of Court Excellence, the scoring system gives each of these statements twice the value of a "general statement". Accordingly, a score between "0" and "10" (in multiples of 2) should be accorded to each statement. The scoring guideline for the "effectiveness statements" is set out below.

Table 2 Scoring Guidelines (Effectiveness statements)

Don't know	(See the explanation in next section.)	0
None	No results; no improvement trends; and no targets met.	0
Limited	Poor results; some improvement trends in a few indicators; and limited publication of initiatives.	2
Fair	Performance nears benchmarks in some areas; some improvement trends; and results reported for some key indicators.	4
Good	Good performance levels (average or better) against benchmarks; improvement trends in most key indicators; and results are reported for most key indicators.	6
Very good	Very good performance levels against benchmarks in most key indicators; improvement trends are sustained in most areas; and results are reported for all key indicators.	8
Excellent	Excellent performance levels against benchmarks in all key indicators; exceptional improvement trends in all areas; and results are reported for all indicators.	10

'Don't Know' Response

In addition to the six evaluative response options, the Checklist in the 3rd Edition has a seventh response option for the "general statements" and "effectiveness statements" – "Don't Know". This option is provided to address situations where respondents are simply not aware of whether the court has addressed the criteria statement(s). In such situations, none of the six options available in the first and second editions of the Framework was an accurate reflection of their lack of knowledge, and respondents might have resorted to guesswork or provided a nil response, which would have led to an inaccurate result at the end of the self-assessment exercise.

Accordingly, where respondents of the Checklist do not know the answer to a particular criteria statement (for example, where it relates to an area that is outside their job scope), they should choose the "Don't Know" option. This will ensure that the results collected accurately reflect the court's measures and efforts in its journey to excellence.

For statistical scoring purposes, the value to be assigned to the "Don't Know" option is "0", the same as for a response of "None". If a respondent skips a question (i.e., provides no answer), it should be treated as a "Don't Know" response and given a value of "0".

Courts should collate the "None" and the "Don't Know" responses separately. The reasons behind a respondent choosing the "None" versus "Don't Know" option are different and suggest different issues to be addressed by the court. For example, if there is a high percentage of "Don't Know" responses amongst

a particular demographic of court staff, it may suggest that communication of a particular court policy to that demographic has to be improved upon. Alternatively, it may be a reflection of a feature of some court systems where the administrative role is separate from the judicial role. In contrast, a high percentage of "None" responses may indicate that measures adopted by the court in a certain area are lacking.

Implementing the Scoring Framework

The 3rd Edition includes an Excel spreadsheet to assist courts in collating responses to the Checklist and calculating their scores for each of the seven Areas of Court Excellence, as well as their overall scores.

To use the Excel spreadsheet, the values of each respondent's answers to the self-assessment checklist are entered into the worksheet titled "Entry Form". This worksheet permits entry of up to 100 respondents. Once this has been done, the Excel spreadsheet automatically collates the responses, performs the necessary calculations, and produces a printable report in the worksheet titled "Report."

The remainder of this section explains how the Excel spreadsheet works and how to replicate the calculations by hand, if needed.

Typically, multiple respondents will independently answer the self-assessment questionnaire. Thus, to obtain the court's overall score, the first step is to obtain an average rating for each statement across all respondents. To do this, you must assign a value to each respondent's answers in accordance with the values in Table A (general statements) and Table B (effectiveness statements). If a respondent skipped a question (i.e., provided no answer), it should be treated as a "Don't Know" response.

Note: if you are using the Excel sheet, you will enter "99" rather than "0" into the Entry Form for "Don't Know" responses, although the underlying program values these responses as "0" in calculating the court's score.

The assigned values are then summed across all respondents for each statement, and the sum is divided by the total number of respondents. Respondents who answered "Don't Know" (and those who did not answer the question and, as such, are treated as if they responded "Don't Know") should be included in the count of respondents.

Table A

Use for answers to all statements except 1.10, 2.14, 3.13, 4.16, 5.10, 6.12, and 7.9	
Text Answer	Value
Don't Know	0 (99 in Excel)
None	0
Reactive	1
Defined	2
Integrated	3
Refined	4
Innovative	5

Table B

Use for answers to statements 1.10, 2.14, 3.13, 4.16, 5.10, 6.12, and 7.9	
Text Answer	Value
Don't Know	0 (99 in Excel)
None	0
Limited	2
Fair	4
Good	6
Very good	8
Excellent	10

The second step is to sum the averages obtained in Step 1 across the statements within each of the seven areas to obtain your points for the area.

The third step is to divide the courts' points for each area by the maximum number of points for the area to get the area percentage score (0%-100%).

The table below shows the maximum available points for each area.

Categories		Maximum Total Points
1	Court Leadership	55
2	Strategic Court Management	75
3	Court Workforce	70
4	Court Infrastructure, Proceedings and Processes	85
5	Court User Engagement	55
6	Affordable and Accessible Court Services	65
7	Public Trust and Confidence	50

Next, take the average of the area percentages by adding them together and dividing by 7.

Finally, take this average and multiply it by 10 (if you averaged the percentages as whole numbers) or 1000 (if you averaged the percentages as decimals) to calculate the final overall score, which is out of 1000 points.

Please refer to the scoring worksheet in Annex D for additional guidance.



Banding Table

The total score provides an overall indication of the court's performance. This can be compared with the Banding Table which provides a benchmark for courts to measure its performance.

Table 3 Banding Table

Band	Score	Description
1	0-199	<p>The court has put in place approaches, but they are reactive, not systematic or not implemented.</p> <p>The effectiveness is assessed to be poor. There is limited improvement trends in a few indicators, or limited reporting of results for most key indicators / initiatives</p>
2	200-399	<p>The court has set the direction for planned approaches, which are implemented in a few areas.</p> <p>The court's performance is assessed to be nearing benchmarks in some indicators. There are improvement trends and results are reported for some key indicators.</p>
3	400-599	<p>The court has sound effective approaches in place with evidence of some innovation. The approaches are aligned with basic organisational needs and there is evidence of implementation in some key areas.</p> <p>The performance levels against the benchmarks in most key indicators is good (average or better). There are improvement trends observed in most key indicators. There are results reported in most key areas.</p>
4	600 – 799	<p>The court has proven well-defined approaches with evidence of refinement through learning, innovation and improvement. The approaches are well-integrated with organisational needs.</p> <p>There is tangible evidence of implementation in all key areas. The performance levels against the benchmarks in most key indicators is very good. The improvement trends are sustained in most areas; and the results are reported for all areas.</p>
5	800 – 1000	<p>The court has exceptionally well-defined innovative approaches with continuous refinement, which is fully integrated with organisational needs.</p> <p>There is tangible evidence of both the implementation and consistent practice at all levels and across all areas. The performance levels against the benchmarks in all key indicators is excellent. There are exceptional improvement trends in most areas and results are reported for all areas.</p>

Analysing and Identifying Areas for Improvement

Having completed the Self-Assessment Checklist, the court will have identified the areas where improvement is required. Some courts may choose to concentrate their improvement efforts in discrete areas while others may proceed with a full court review and reform. In either case, **prioritizing court issues is highly recommended. This will allow the reform process to focus on specific performance areas over a period of time.** All courts have limited resources and taking on too many reform initiatives may both delay and hamper effective development, consultation and implementation.

It is essential for court leadership to ensure the process for planning for improvement provides ample opportunity for judicial officers, court employees, and the court's professional partners to be consulted and involved.

Practical Tip: Focus Group Discussions

Courts could consider organising small focus group discussions after the scores from the self-assessment have been tabulated. Each focus group could comprise a diverse group of judges and court staff who analyse the scores together and identify areas for improvement. For a start, they could consider the criteria statements that have fared relatively less well, and consider the reasons for why this is so.

Courts should consider whether this is due to the absence of certain practices, or the lack of awareness about policies and practices that are already in place. Suggestions should also be made on how the issues may be addressed and how improvements may be made. The responses of the various focus groups should then be collated for the purposes of building an Improvement Plan (see next sub-section).

Improvement Plan

The assessment and analysis process will have identified a range of issues for the court to address. Many ideas will have arisen during the discussions around assessing particular aspects of a court's operations. The next step is to develop specific responses to those areas that require attention. During this "planning for improvement" phase, a court should focus on collaboration and consultation across the court and, where necessary, with relevant outside partners or stakeholders. This could be done by way of small focus group discussions as described previously.

The outcome of this phase is the development of an Improvement Plan which will guide the court's "improvement" activities and projects. The courts could consider drawing up a multi-year activity plan for the proposed actions to take place in phases over a longer period of time. The Plan needs to identify the relevant Area of Court Excellence, the nature of the action to be taken and the successful outcome to be achieved; steps necessary to achieve the action and outcome; who will be involved and who will be responsible for ensuring it is done; the timeframe for each action; and finally, the measure of success.

An Improvement Plan will drive activity directed to improving a court's performance and every effort should be made to ensure actions proposed are likely to assist a court in becoming more strategic, innovative, informative and responsive.

In developing an Improvement Plan the following sample questions may be useful:

- **Does the court have a vision statement and/or a mission statement expressing the court's fundamental values and purposes?** If not, this is the place to start because implementation of the Framework depends upon the court having articulated values.
- **What are the deficiencies in the court's management, operations, and services** and why do they need to be improved?
- **What issues can and must be addressed quickly and in the short-term?** What issues call for more intermediate or long-term planning?
- **What changes in policies, procedures or practices does the court plan to institute?**
- **Whose support and cooperation is most relevant in making these potential changes** (e.g. attorneys, prosecutor's office, and other government agencies)?
- **What resources will be needed in order to successfully institute those changes** (e.g. funding for additional personnel or equipment; cooperation of attorneys who practice in the court; cooperation of the other judges in the court; effective communication with other components of the judicial system)? How will the court obtain these resources? What sources of support can the court draw on?
- **What resistance to the plan or obstacles may be encountered?** How might this resistance or these obstacles best be overcome?
- **What is the time schedule for implementing the changes?**
- **How will the court evaluate the success of the changes?** What information will the court need for this evaluation? Who will collect the information and how will it be analysed? Will the assistance of an outside consultant be needed to develop measurement tools and analyse results?

A court has many tools at its disposal to improve its performance. These tools include its policies and procedures, which often may be inhibiting effective and efficient finalizing of cases. In addition, the manner in which resources are allocated, cases listed and judicial time employed can be reviewed and adjusted to improve performance.



Review and Refinement

The Framework is a process of continuous refinement and the journey to court excellence requires regular stops to assess the extent of progress being made. Quality management is often referred to as "continuous improvement" and this reflects the cyclical nature of the process. Generally, about two years after a self-assessment and the preparation of an Improvement Plan, it is useful for a court to assess its progress. This involves undertaking a fresh self-assessment and following the same process as outlined above. Courts will generally have actions which are still underway and some which are completed. It may be easier for a court to update its Improvement Plan noting progress and setting new actions and targets than to develop a whole new plan.

Each court will have its own different pathway to court excellence. The Framework is flexible and allows each court to determine its own priorities and therefore its own path to improving its performance. For most courts, the most challenging part of the journey to court excellence is at the beginning when there is a need to adopt a new way of viewing the court's performance and adopting a new culture of innovation, involvement and accountability.

More often than not, a court's initial challenge is dealing with backlogs and delays, with additional resources being seen to be the only way to address the problem. The Framework provides the methodology for a court to develop a new culture embracing innovation, collaboration and measurement to approach these problems from a different perspective. The Improvement Plan should reflect clearly a court's adoption of a new approach to problem-solving and court improvement.

Almost every court faces similar problems of limited resources and increasing workloads with judges and staff working exceptionally hard and seeing no answer but more resourcing. There is little time for planning or reviewing or for thinking of new approaches to rules and procedures. The Framework requires courts to break this perpetual cycle of "busy-ness" and to replace it with a more considered approach to streamlining procedures, dispensing with inefficient practices and engaging with staff and court users to develop innovative ways to use limited resources more efficiently. The process of continually reviewing and refining the court's approach ensures steady progress toward court excellence.

The review process must support and encourage innovation as this allows new practices to be adopted, tested and, if successful, deployed across the court. A key factor to ensuring continuous improvement is the adoption of a sound practice of measurement and analysis of a problem and importantly the impact of action taken to address that problem.

Courts may be placed under external pressure to react to what are seen as unacceptable delays or backlogs. Adoption of the Framework process provides a court with a more orderly proactive response and allows a court to design and develop its own reform agenda. Measurement of both a court's performance and the progress of its strategies and reform agenda is vital not only to improving a court's performance but also to a high level of public confidence and respect.

In deciding what needs to change, a court should have regard to resources available on the Consortium's website and the websites of the organizations which have participated in the development of the Framework.

Having identified a problem or area for improvement, a court can consider looking at approaches or initiatives that other courts have introduced to address a similar issue or area for improvement. This can save resources and time by providing ideas of what may or may not work. In the end, it is for a court itself to decide what it wishes to do and how it will measure success.

IV AREAS OF COURT EXCELLENCE

Area 1: Court Leadership	
Court Leadership	
1	Our court leaders have defined the vision, mission and core values of our courts.
2	Our court leaders communicate the vision, mission and core values to all staff and stakeholders.
3	Our court leaders communicate important information to our judges and court staff in a timely manner.
4	Our court leaders demonstrate the core values of the courts.
5	Our court leaders drive the court's performance and engage staff and key stakeholders in the process.
6	Our court leaders identify future court leaders and develop their leadership skills.
Court Culture	
7	We have developed a court culture consistent with our court values.
8	Our judges and court staff adhere to the applicable code of ethics and code of conduct.
Court Governance	
9	Our court leaders have put in place a governance system that ensures accountability and transparency in court administration.
Effectiveness	
10	Based on the measures that we have adopted: (a) Our court leaders are effective in leading our courts; (b) Our court values and culture are well-integrated in our systems and processes; (c) We have a sound and transparent governance system.

Explanatory Notes

Q1 to Q7

 Leadership is crucial to the success of a court. The leadership sets the vision, mission and values of a court, which are important components that guide and provide direction for the court. Setting the vision, mission, and values is an important first step. The next step focuses on communication and continuously demonstrating these values in a consistent manner. The values form the basis for decisions that are taken. Through this process of demonstrating and integrating values into the court's systems and processes, the values form the foundation and shape the court's culture.

Q8

 A code of ethics and code of conduct establishes standards of ethical conduct for both judges and court staff. The code of ethics refers to general principles that govern decision-making, whilst a code of conduct applies the code of ethics that govern actions. The code of ethics and code of conduct provide judges and court staff with guidance and certainty as to what is regarded as appropriate, and establishes a framework for regulating conduct. The court should also ensure that the code of ethics and code of conduct are disseminated within the court.

Area 2: Strategic Court Management

Development and Implementation of Strategies and Policies

1	We develop and implement short-term and long-term strategies that align with our vision, mission and core values.
2	We develop and implement judicial and court policies to support our short-term and long-term strategies.
3	We involve our judges and court staff in developing and implementing the court's strategies and policies.
4	We communicate relevant policies and monitor compliance.
5	We have a risk management plan which is communicated to relevant stakeholders.
6	We have a process for the regular review and monitoring of our strategies and policies.
7	We allocate resources (manpower and financial) efficiently and effectively to implement our strategies and policies.

Performance Setting and Measurement

8	We set timelines and service delivery standards for case management, which aim to meet and exceed court user expectations.
9	We regularly measure our performance against these timelines and service delivery standards.
10	We use performance measurement data to improve our procedures and processes.
11	We publish our performance against timelines and service delivery standards, and other benchmarks.

Knowledge Management and Analysis

12	We collect, manage, and provide our judges with information that is necessary for fair decision making.
13	We use data in our review of court processes and court user profile to deliver better services.

Effectiveness

14	Based on measures that we have adopted: (a) Our court strategies and policies are well planned and developed; (b) Our court strategies and policies are well implemented; (c) Our performance measures favourably against targets; (d) Information pertaining to the court is well managed and analysed to drive improvement.
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Explanatory Notes

Q1 to Q7

 The following is guidance on the terms that are used in the criteria statements in Area 2 - Strategic Court Management.

- *Strategies vs Policies.* Strategies are areas of focus that the court has identified to be important and necessary for the court to achieve its objectives as set out in its vision and mission. Policies are the basis for operational decision-making, and hence support the implementation of strategies. The policies must be aligned with the court's vision, mission, and values.
- *Short-term vs long-term.* The timeframe for short-term and long-term strategies will vary from court to court, as each court will have a different operating context. However, the idea is that courts consider issues both in the immediate future, as well as look further ahead and plan against a longer time horizon. This forward-looking planning will enable the court to anticipate and prepare itself for changes.

 Strategic plans should integrate with work planning efforts. Work plans set out the specific, shorter-term objectives, outputs, projects and processes. This aspect of work planning is carried out on a shorter timeframe (e.g. one to two years). To the extent that the court's organisational structure permits, work planning should be integrated with the budget planning process. As part of the planning process, courts will need to factor in the allocation of resources. The reference to the term 'resources' at Q 7 includes both manpower and financial resources.

 Resources should be allocated efficiently and effectively to ensure that there is money for prioritised court activities. In addition, funds should be managed in accordance with generally accepted accounting and financial principles for government entities.

 A strategic planning exercise may also be carried out in other situations, such as when the court is faced with a new challenge or mandate, there is a change in operating environment, or when a new team or unit is established.

 A risk management plan (Q 5) allows courts to consider and prepare for potential disruptions. Risk management may cover a wide range of risks, including political, strategic, financial, operational, technology-related, and reputational.

Q8 to Q11

 Performance measures play an important role within a strategic plan. They enable courts to determine how well they are progressing towards the objectives they have set and enables the court to focus on the right issues. For each objective, there may be several measures that indicate how well the objective is being achieved. Courts may find it useful to refer to resources such as the Global Measures of Court Performance (2nd edition, 2018).

 The experience of some courts has been to involve judges and court administrators in developing a court's strategies and policies. The advantage of doing so is that the judges and court administrators have domain expertise in their respective fields, such as in court proceedings and processes, and this helps to formulate strategies and policies that are more robust. In addition, this may lead to greater support from the judges and court administrators during implementation of the strategies and policies. Through this process, judges and court administrators will also become more familiar with administration and management issues, such as human resource matters and finance.

Area 3: Court Workforce

Workforce Management

1	We manage the workload of our judges and court staff so that cases are processed on time and to a high standard.
2	We predict and manage our workforce requirements to meet anticipated workloads.

Workforce Training and Development

3	We identify the training needs of our judges and court staff, and put in place training programmes that meet those needs.
4	We have a continuing professional development programme for our judges and court staff.
5	Our judges and court staff learn from and communicate with each other.

Workforce Engagement and Well-being

6	We develop a conducive work environment that enhances the health and well-being of judges and court staff.
7	We regularly obtain feedback from our judges and court staff.
8	Our courts encourage judges and court staff to contribute to the community.

Workforce Performance and Recognition

9	We have performance management system(s) to encourage judges and court staff to achieve high quality work.
10	We adopt a transparent and merit-based system to recognise our judges and court staff.
11	We adopt a transparent and merit-based system for the appointment and promotion of our judges and court staff.
12	We adopt a fair process for the dismissal and discipline of our judges and court staff.

Effectiveness

13	<p>Based on the measures that we have adopted:</p> <ul style="list-style-type: none">(a) We manage workload effectively and are well prepared for anticipated workload;(b) Our judges and court staff are satisfied with the training opportunities provided to them, and proactively learn from each other;(c) Our judges and court staff are committed and derive job satisfaction;(d) Our judges and court staff are satisfied with the performance management system in our court.
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Explanatory Notes

Court workforce issues are multi-faceted, and the following notes elaborate on newer concepts that have been introduced as part of recent developments in human resource practices, amongst others.

Q1 to Q2



Excellent courts have a system to allocate and manage court cases. Factors that could be taken into consideration during the planning of workforce requirements include projected caseloads and the average time needed per case. This information would allow courts to plan the number of judges and court staff that are required to meet the anticipated workload. Planning and projection of workforce needs also allows courts to respond to additional matters that may come before the courts.

Q3 to Q5



Many courts also recognise the importance of training and developing judges and court staff, and invest in training programmes and continuing professional development. As part of the career development of judges and court staff, courts can provide guidance on the training needs and career options that are available to the judges and court staff. The training options will vary from court to court. In some countries, there may be judicial training colleges that develop curriculum based on existing topics and emerging subjects. Courts may also consider conducting training in-house, such as sharing by judges and court staff. Courts that are looking to develop capabilities in the use of technology may also conduct training programmes on relevant court technologies and other related training (see also Annex A on the recommendations on the use of technology).



Specifically in the context of court-annexed tribunals, it is important that such training also includes training to tribunal members on essential legal concepts such as the rules of natural justice. Where tribunal members are not legally trained, this will promote the granting of a fair hearing to parties.

Q6 to Q8



Beyond training and development, workforce engagement and well-being plays an important role as well. One aspect of engagement involves ensuring that there are open channels of communication for judges and court staff to provide feedback on any matters of concern, such as workload, career development, and their performance. This could be done through various means such as surveys and dialogue sessions. The aim is to provide a working environment that promotes the physical, mental and emotional well-being of judges and court staff. They will also be encouraged and motivated to do well and contribute to the vision and mission of the court.



Courts may also encourage judges and court staff to contribute to the community, as part of a broader approach towards engaging the court workforce. For example, courts may allow some time to be set aside for judges and court staff to volunteer at community-based or not-for-profit organisations.

Area 4: Court Infrastructure, Proceedings and Processes

Courtrooms

- | | |
|---|---|
| 1 | We have sufficient courtrooms to permit the timely processing of cases. |
| 2 | Our courtrooms represent a trusted and protective environment for court proceedings to be held. |

Court Records

- | | |
|---|---|
| 3 | Our court records and case files (both hard copy and electronic) are complete, accurate, and easily retrievable. |
| 4 | We put in place security and data integrity measures to ensure court records and case files (both hard copy and electronic) are properly safeguarded. |
| 5 | Our reasons for decisions are clear. |

Court Proceedings and Processes

- | | |
|---|--|
| 6 | We manage cases against benchmarks to ensure that cases are processed on time and to a high standard. |
| 7 | We regularly review our processes and procedures (including the role of judges and court staff) to ensure that they are efficient. |
| 8 | We provide alternative dispute resolution services to allow court users to resolve disputes amicably and at affordable fees. |
| 9 | We explore the use of therapeutic or problem-solving approaches in suitable cases. |

Innovation

- | | |
|----|--|
| 10 | Our court innovation process is aligned with our vision, mission and core values. |
| 11 | We have a policy and procedure in place to generate, gather and screen innovative ideas. |
| 12 | We evaluate and improve the court innovation process on a regular basis. |
| 13 | We engage, train and recognise our judges and court staff for their court innovation efforts. |
| 14 | We monitor performance of other courts to identify improvements and initiatives which are suitable to our court. |
| 15 | We exchange knowledge and best practices with other courts to promote learning and innovation. |

Effectiveness

- | | |
|----|--|
| 16 | Based on the measures that we have adopted:
(a) Our court cases are disposed within a satisfactory timeframe;
(b) There is a high level of trial dates certainty;
(c) We actively implement innovative solutions that improve our court's infrastructure, proceedings and processes. |
|----|--|

Explanatory Notes

Area 4 comprises three sub-sections: (a) the physical infrastructure of the courts and court records, (b) the court proceedings and processes, and underpinning these two sub-sections is (c) court innovation that emphasises the need to continually improve existing court practices.

Q1 to Q2

 In this framework, the term "courtrooms" is used broadly and includes trial courts, chambers, and any designated venue where a court proceeding may be held.

In addition to having sufficient courtrooms to ensure that cases can be scheduled in a timely manner, court users should also feel assured in the environment where court proceedings take place. Some considerations include security systems and security screening when entering the courthouse.

Q3 to Q4

 Court records should be kept in a safe and secure location. As more courts move towards electronic filing, court records and case files will be in both a physical and electronic format. Courts should consider the safeguards that are needed to ensure the integrity of both the physical and electronic case files. For example, with regard to electronic records, this may include a policy on IT security, such as user access rights and an audit trail.

Q6 to Q7

 The processing of cases refers to the movement of a case through the court system, from the time it is first brought to court, to when it is finally disposed of. This includes any appeals arising out of a case, as decisions of the court ought to be subject to a fair and efficient appeal mechanism. Ensuring that the right to a fair and efficient appeal exists is important especially in the context of court-annexed tribunals, as such a right may not be a matter of course, unlike in traditional courts.

 In addition, there should also be processes in place to promote certainty in decision-making, particularly where court-annexed tribunals comprise tribunal members who may not be legally trained. This includes having a system to ensure that tribunal members are aware of binding precedents from higher courts, and are notified of the latest decisions from the tribunal.

Q8

 As part of case management, courts may also consider court-annexed alternative dispute resolution (ADR). ADR allows parties to work towards an amicable solution, and avoid the need to go to trial. If the matter can be resolved through ADR, parties benefit from the time savings and avoid incurring additional cost of litigation. This enables courts to provide affordable and accessible methods to resolve disputes. In some courts, technology has been introduced to assist the courts by providing an online platform for parties to resolve disputes between themselves or with the involvement of a mediator.

Q9



In some instances, courts may consider the use of therapeutic or problem-solving approaches, which seek to address the underlying issues instead of only focusing on the legal problem. Problem-solving approaches have been used in specialised problem-solving courts, such as drug courts, domestic violence courts, and mental health courts in the United States, Australia and other countries. Some features of a problem-solving approach include: a focus on particular target groups, and the use of treatment or social services. In a problem-solving approach, multiple agencies work together with the courts in the treatment and/or supervision of the offender/litigant. There may also be judicial monitoring of the offender/litigant, who returns to court for regular reviews with a judge to track their progress.



Therapeutic jurisprudence is an area of study that focuses on the impact that the law has on emotional and psychological well-being. A therapeutic jurisprudence approach considers ways that enhance the well-being of litigants by improving the procedural fairness of the court experience, such as facilitating access to treatment and services where appropriate.

Q10 to Q13



Innovation enables a court to improve its existing processes in a way that will benefit court users. Whilst innovation may take place in a wide range of areas, the process of innovation must be guided by the court's vision, mission, and core values. This is so that the innovative ideas are focused and achieve the court's objectives. Courts can support and facilitate innovation by putting in place a process that encourages and allows judges and court staff to suggest improvements to court processes. Suitable training could be provided to equip the court workforce with skills to innovate, and encourage a mindset and culture of innovation. Technology can also serve as a tool to facilitate innovation, such as how technology can be leveraged to improve existing processes. Small scale experiments and agile methods are some examples of how courts can consider when introducing new technologies. (See also Annex A for recommendations on the use of technology)

Q14



Keeping abreast of initiatives in other courts promotes a culture of mutual learning. This could be done through active participation in international seminars and conferences, which increase networks for exchange of knowledge and understanding of how courts may improve.

Area 5: Court User Engagement

Court User Feedback

1	We regularly obtain feedback to understand our court user demographic and their requirements.
2	We regularly use feedback to measure satisfaction of all court users.
3	We regularly use the feedback collected to identify areas of improvement, and improve our services to all court users.
4	We obtain feedback on whether our court users understand the court programmes and services experienced.

Communication to Court Users

5	We report publicly on changes we implement in response to the results of surveys.
6	We publish information on court procedures and fees, as well as the details of our services.
7	We regularly engage court users and the public, and our judges and court staff are actively involved in the engagement process.
8	We listen to court users and treat them with respect.
9	We ensure that all court users are treated equally.

Effectiveness

10	<p>Based on the measures that we have adopted:</p> <p>(a) There is a high level of court users' satisfaction with the court's administration of justice; (b) There is a high level of court users' satisfaction with the court's services.</p>
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Explanatory Notes

Q1 to Q7



Court user engagement is an important tool to increase public trust and confidence in the courts. Engagement methods can involve unidirectional communication, and bidirectional or multi-directional communication.



In unidirectional engagement methods, communication emphasises one direction over the other. For example, surveys typically use standardised questions to elicit information from the public, so that a court can better understand their views. Open houses and public information talks emphasise communication from the courts to the public, where court representatives present information to the public, and answer any questions the public may have.



On the other hand, bidirectional or multi-directional communication strategies involve representatives from more than one group communicating in a back and forth manner that is responsive to the information shared by the representatives from the other group(s). Examples include: deliberative discussions involving various stakeholders, citizen advisory committees, social media facilitated discussions, etc.



Courts may also consider understanding the needs of court users when deciding to use technology and during the development stage in order to gather feedback before the system is implemented. Subsequently, courts may then get user feedback on the technology that was introduced. (See also Annex A for recommendations on the use of technology.)

Q8 to Q9



Similarly, fair treatment of court users is also crucial in maintaining trust in the courts. The UK Judicial College has published an "Equal Treatment Bench Book" (February 2018, amended March 2019) with the aim that court users will be "conscious of having appeared before a fair-minded tribunal." The bench book explains that "[t]reating people fairly requires awareness and understanding of their different circumstances, so that there can be effective communication, and so that steps can be taken, where appropriate, to redress any inequality arising from difference or disadvantage." In the context of Q 9, "all court users" include the groups referred to in Area 6, Q 7, Q 9 and Q 10.

Area 6: Affordable and Accessible Court Services

Affordable Court Services

1	We regularly review court policies on court fees to ensure that court services are affordable.
2	We work with stakeholders to provide affordable court services.
3	We streamline processes to minimise costs to litigants.
4	We have a clear policy on the charging of fees.

Accessibility

5	It is easy for court users to find and access the relevant courtroom.
6	Our hours of operation make it easy for court users to carry out their business.
7	We support court users with disabilities and provide them with access to the court and court services.
8	Our website is easy to navigate, contains relevant information and is useful to users.
9	We provide information to assist litigants without representation.
10	Language interpretation services are available to court users who require it.
11	We leverage technology to make court processes more efficient and to make court services more accessible.

Effectiveness

12	Based on the measures that we have adopted: (a) The cost to the litigants is affordable; (b) There is a high level of access to justice.
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Explanatory Notes

Q1 to Q4

 It is important to ensure that court fees are affordable to all who need to seek legal redress before the courts, so that court users will not be discouraged from pursuing their case.

Q5

 As mentioned under Area 4, "courtrooms" is used broadly and includes trial courts, chambers, and any designated venue where a court proceeding may be held.

Q7 to Q10

 Information should be provided in a way that is easily understood and accessible by all groups of court users. In this regard, consideration must be had to court users with disabilities (whether physical, mental, or otherwise), court users who are unrepresented, and court users who cannot understand the language of instruction of the court. Specifically, with regard to litigants without representation, examples of information that can assist this group include: guidebooks and brochures on court proceedings and procedure, witness toolkits, simplified court forms, etc. Courts can also consider setting up court-based self-help centres which provide business facilities and access to legal information to further assist court users.

Q11

 As courts gradually increase the use of technology in processes and in the delivery of court services more accessible, courts should also consider the needs of court users who may find it challenging to make use of technology. This includes court users who are unable to have access to or unable to use digital tools. (See also Annex A for recommendations on the use of technology.)

Q12 (b)

 There is no one clear and agreed definition of access to justice. As the Alberta Civil Liberties Research Centre has pointed out, it "means different things to different people. In its narrowest sense, it represents only the formal ability to appear in court. Broadly speaking, it engages the wider social context of [the] court system, and the systemic barriers faced by different members of the community" (see www.aclrc.com/what-is-access-to-justice). For the purposes of this criteria statement, a helpful reference could be the definition adopted by the Productivity Commission of Australia in their 2014 report *Access to Justice Arrangements: Overview*, Inquiry Report No. 72, Canberra, that "promoting access to justice" means "making it easier for people to resolve their disputes".

Area 7: Public Trust and Confidence

Accountability and Transparency

1	Our judgments are available to the public.
2	We permit media access to and reporting of court proceedings.
3	We respond to requests for information from court users in a timely manner.
4	We have a policy that outlines the process for making and dealing with complaints.
5	We report on complaints received and their resolution.
6	We properly account for the fees and fines collected.
7	Our accounts/expenditures are independently audited annually.
8	Our published annual report includes: (a) Performance data; (b) Details of our purpose, role and procedures; (c) Information on recent court initiatives.

Effectiveness

9	Based on the measures that we have adopted: (a) We resolve complaints received in a manner that is timely and procedurally fair; (b) There is a high level of public trust and confidence in the fair administration of justice in our courts.
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Explanatory Notes

Q1 to Q8

 It is important that courts are accountable to the people whom they serve – this ensures that the court process is transparent, and the delivery of justice is effective. This can be achieved where the public has access to court proceedings and outcomes (Q1 to Q3), complaints from the public are dealt with in a timely and procedurally fair manner (Q4 to Q5), and the administrative operations of the court are made known to the public (Q6 to Q8).

 Notwithstanding the transparency of information, courts should ensure that there are proper policies in place to govern the handling of court user data. (See also Annex A for recommendations on the use of technology.)

Q3

 Court-annexed tribunals will likely have to address frequent queries from litigants-in-person, either because the proceedings do not allow legal representation, or because parties choose to represent themselves. In such cases, the tribunal ought to provide appropriate information to the tribunal users while still maintaining the impartiality and fairness of the tribunal. This promotes access to justice.

Q9

 For the purposes of this criteria statement, a helpful reference to the definition of procedural fairness may be that proposed by the Ombudsman Western Australia. It states that procedural fairness is "concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision" (Guidelines on Procedural fairness (natural justice), Revised May 2009, retrievable from: www.ombudsman.wa.gov.au/Publications/Guidelines.htm).

V MEASUREMENT OF PERFORMANCE AND PROGRESS

A foundation stone of excellent court planning and performance is the maintenance of accurate, comprehensive and reliable information and data. This availability of data not only allows courts to assess their performance, but also to assess whether its strategies or activities for improvement are leading to positive outcomes.

A court needs to maintain both quantitative and qualitative data. The nature and complexity of the data and data collection tools required by each individual court may need to be varied or expanded to enable new initiatives to be assessed for their effectiveness. A court should have different sources for data and information, including its case management system, financial system, registry systems and surveys of court employees, attorneys and court users.

Without reliable measurement systems, courts will be unable to adequately assess how they are performing or whether their strategies or initiatives have been effective. What may appear to be a sensible solution of requiring greater pre-hearing issues disclosure could impose unacceptable costs upon parties or add further delay to case finalization. Measurement is vital to effective assessment of performance and progress.

It is important to distinguish between court performance measurement indicators (and tools) and court performance management policies and tools. Court performance measurement indicators and tools assist in the quantitative and qualitative assessment of the functioning of courts. These indicators and tools capture both internal and external aspects of a court's performance with surveys being a good example of direct user feedback on performance.

On the other hand, court performance management policies and tools are part of the toolbox of levers and court processes available to a court to use to effect change. A court will adjust these levers, procedures and policies through various strategies directed to improving court performance. Whether these changes have had a positive effect will be measured by the relevant court performance measurement indicator.

Measurement of Performance

Excellent courts systematically measure the quality as well as the efficiency and effectiveness of the services they deliver. For the evaluation of court performance, a set of key performance indicators must be used. In addition to the quantitative performance indicators, excellent courts also use qualitative indicators addressing issues such as access to the legal system; the presence or absence of physical, sound, and linguistic barriers in court facilities; the fairness of the proceedings and comprehensibility and clarity of decisions and orders; and whether courtesy and respect was shown by court staff. Data regarding these indicators can be based on structured observations, assessments of employee and court user satisfaction (through surveys), and expert review of forms, orders, and decisions.

Excellent courts use a set of key performance indicators to measure the quality, efficiency, and effectiveness of their services. Courts should, at the very least, collect and use information on the duration of proceedings and other case-related data. Excellent courts aim at shifting their data focus from simple inputs and outputs to court user satisfaction, quality of service and quality of justice.

There is a tendency to measure court performance only in quantitative terms using indicators such as the duration of the litigation process, the caseload per judge, the cost per case, or the number of pending cases. One of the classical views on the duration of the litigation process is the principle of 'justice delayed is justice denied'. Courts are said to perform poorly only if the proceedings are too lengthy. Speedy litigation processes, on the other hand, are viewed positively. Courts are considered efficient where the cost per case is low or where the clearance rates are high.

However, court performance from a quantitative perspective tends to distort the full picture, as in the example of "justice hurried" being in some cases "justice buried". It is therefore important to take qualitative aspects of the functioning of courts into account as well, since aspects that are not measured are aspects that are rarely fixed. The challenge is that it is easier to quantify efficiency than it is to measure the kind of quality justice that transcends pure efficiency. Measuring these quality aspects may require more innovative qualitative measurements, which may be more difficult and costly to obtain (such as surveys). The relative ease of measuring efficiency alone cannot be allowed to overcome the need for constant reflection on the broader quality of justice.

The Framework, by taking a 'whole of court' approach seeks to ensure these broader justice issues are also captured by measuring the quality of the court as a whole. The underlying philosophy of quality management is that while the quality of the entity may be difficult to measure, if all aspects of the entity's activities and processes are of high quality then there is strong assurance of the high quality of the entity and its outcomes. If a court is performing at a high level in all seven Areas of Court Excellence, then it is fair to conclude that the court itself is delivering a high quality of justice.

Reliance on quantitative performance results alone is not sufficient to provide a complete picture of a court's overall performance particularly the quality of its judicial decisions and court services. The Framework seeks to encourage courts to assess a wide range of aspects of the functioning of a court and to use both quantitative and qualitative measures and feedback. Not every aspect of a court's activities may be capable of measurement and a flexible approach may need to be taken to identify how best to assess the effectiveness of particular strategies, initiatives or services.

Measurement of Progress

The process of regular self-assessment will enable a court to keep a progressive score of how the court is performing under each of the seven Areas of Court Excellence as well as for the court as a whole. However, it will be necessary for courts to have a far more rigorous approach to measuring the effect of initiatives or actions it adopts to reform or improve its practices or processes. Measuring the initial state of affairs and thereby setting a benchmark is essential to determining subsequently whether the initiative or action has had an effect. Too often courts adopt a new process and later are forced to attempt to retrospectively prove it had a beneficial impact.

An Improvement Plan must contain clear measures (or targets) for each action to enable a court to later measure whether the action has been successful. Courts should avoid adopting measures which simply identify whether a particular action or step has been conducted. For example, providing management education sessions for twenty staff and measuring that this has been done says nothing of whether the sessions were valuable, of high quality or indeed addressed the purpose of raising the skills of staff in this area. Equally setting the target as a date for completion of a task alone does not ensure the task was a success.

The question should always be asked; "why are we doing this?" and a measure or indicator should be identified which reflects the desired outcome. The second question to be asked should be; "if we are successful what will success look like and what will be different?"

In many cases the measurement of the success of an initiative may well be its impact on a measure of court performance but that may not always be the case. As the Framework requires an evidence-based approach to decision making and planning, care must always be taken to identify sound measures of success.

Court Performance Measurement Indicators and Tools

At the individual court level, it is important that the data relied upon is of a high quality, reliable and the integrity of the data is guaranteed. A successful and well-managed court requires data that focuses not only on inputs, but also informs about outputs, outcomes, and the extent to which service delivery is actually achieved. Excellent courts should use court management information systems and case management systems that make it possible to monitor and evaluate the court performance regularly.

Excellent courts will use common definitions and standards for cases, duration of proceedings, backlog of cases, and other important performance information. The indicators should always strike a sound balance between quantity and quality measurements. As a result, it will be possible to compare the performance of a court over time to determine areas of progress and areas requiring additional effort.

A court may wish to develop its own measurement tools to be used in evaluating implementation of the court's plan. However, there are substantial resources available on the internet that identify in detail a wide range of performance measures currently used by courts around the world.

The Consortium has published a set of Global Measures of Court Performance (2nd edition, 2018) which may assist courts in adopting a consistent approach to performance measurement. The eleven core measures of the Global Measures are a guide for courts to consider if they are appropriate to their context. This resource is available on the Consortium website (courtexcellence.com).

VI COMMUNICATION AND REPORTING

To ensure public respect and confidence, a court must be open and transparent about its performance, strategies and its processes. In the early stages of Framework implementation, a court's performance against its targets or accepted measures may be less than desirable. It is important that courts are open about their current position but more importantly publish details of what actions they are taking to address the problems.

Unsupported requests to government for more resources are rarely successful, but where a court has adopted internal measures to improve performance and has clear data to support resource bids, success is more likely. By being transparent about its performance, engaging with its users and stakeholders and communicating its reform strategy, courts will engender greater confidence and trust in the community and its stakeholders.

A court should communicate widely to the bar, public prosecutors, law enforcement, other governmental and non-governmental agencies, and the general public its commitment to undertaking Framework implementation.

Governments, business and the community are well aware of quality management processes and a court's open commitment to continuous improvement alone will be recognized as a positive step to court excellence.

Courts are encouraged to publish the results of its evaluations and its plans for improvement. Annual Reports should also contain details of a court's role, practice and procedure and performance. Where practical, a court throughout the year should keep court users, government and the community informed of its performance and reform initiatives.

An important aspect of an Improvement Plan should be the development of a Communication Plan identifying how a court intends to inform its users and the community. The plan should include not only strategies for publishing material and information but also outline other forms of appropriate communication including:

- regular meetings with key users and legal groups
- the provision of information to the media
- assistance provided to litigants in person or disadvantaged groups
- feedback and complaint processes

Open communication about court performance and improvement strategy builds public trust and confidence.



ANNEX A RECOMMENDATIONS ON THE USE OF TECHNOLOGY

The Fourth Industrial Revolution heralds new scientific and technological developments in modern society. The real and potential benefits of technology have never been more keenly experienced in the modern workforce, not least in the court workforce and with respect to access to justice. Whether technology is eventually an enabler or a hindrance to access to justice depends on the context and manner in which it is adopted. In the context of court excellence, the core values of the courts can potentially be accentuated by technology, provided that relevant stakeholders are engaged and the ethical dimension and risks associated with technology are managed, so as to deliver the best possible results and outcomes.

Over the years, courts have gradually introduced technology into their court processes, such as submissions of softcopies of documents that were previously only in hardcopies and the use of electronic mail to send electronic files. With the advancements in technology, courts began to introduce case management systems, or systems for corporate services such as human resource, financial management and procurement. These have served to improve the administration of justice and enhance productivity and efficiency. The infrastructure that courts have invested in provides an important foundation for the provision of court services. Beyond infrastructure, technology has also transformed the way in which courts interact with court users. This can be seen through the rise in digital services such as online filing and payment modes, and access to information about the court and court processes. Technology continues to evolve rapidly and will continue to bring about significant changes and the challenge for courts is to adapt and think about the impact on existing processes.

The following recommendations are intended for courts that are interested in a more in-depth discussion on the use of technology. The recommendations are not meant to be prescriptive nor exhaustive. It is hoped that they may be used as a starting point to inform discussions and shape longer-term planning of a court. In this regard, it is envisaged that the recommendations may be used by court leaders and officers who are involved in the strategic planning of the use of technology in the courts. The Fourth Industrial Revolution is here to stay and there is impetus for courts to adopt more agile, adaptive and anticipatory¹ approaches towards technology.

Accessibility and Transparency

1. While providing digital services, we take measures to ensure that court services remain accessible to less technologically savvy court users.²
2. We adopt a consultative approach through engaging court users in the design and use of technology.³
3. We have developed policies and guidelines on data governance.⁴

¹ Adapted from "Shaping the Fourth Industrial Revolution", Klaus Schwab, Pg 227. "Governance leadership in the Fourth Industrial Revolution means exploring new, more agile, adaptive and anticipatory governance approaches."

² To complement **Area 6: Affordable and Accessible Court Services – Accessibility**, Q. 11 "We leverage technology to make court processes more efficient and to make court services more accessible." While leveraging technology, to consider the needs of court users who may find it challenging to access digital services.

³ Refer to **Area 5: Court User Engagement - Communication to Court Users**, Q. 7 "We regularly engage court users and the public, and our judges and court staff are actively involved in the engagement process." NCSC High Performance Court Inventory also refers to how the "business needs articulated by judges, managers, and staff drive the acquisition and use of technology." This recommendation focuses on understanding the needs of court users when using technology.

⁴ Refer to **Area 7: Public Trust and Confidence**. Courts should ensure that there are proper policies and controls in place to govern the handling of court user data.

Innovation

4. We make use of opportunities presented by technologies to rethink and improve our processes.⁵
5. We make use of technology to provide innovative platforms for court users to resolve disputes and/or to make more informed choices.⁶
6. We encourage small-scale experiments and adopt agile methods when exploring new technologies and processes.⁷
7. We look towards and/or collaborate with other relevant organisations to learn about best practices with respect to new technologies.⁸

Impact and Sustainability

8. We monitor the impact of technologies on the court process and regularly review its use and areas for improvement.⁹
9. In the design of technologies, we keep in view the potential to replicate, transfer and/or increase the scale of the use of technologies.

⁵ NCSC High Performance Court Inventory. “Our court takes advantage of opportunities presented by technologies to rethink and improve our processes.” Refer also to **Area 4: Court Infrastructure, Proceedings and Processes – Innovation**, Q.11 “We have a policy and procedure in place to generate, gather and screen innovative ideas.” and Q. 13 “We engage, train and recognise our judges and court staff for their court innovation efforts.” The emphasis here is technology as a tool for innovation.

⁶ Refer to **Area 4: Court Infrastructure, Proceedings and Processes - Court Proceedings and Processes, No. 8** “We provide alternative dispute resolution services to allow court users to resolve disputes amicably and at affordable fees.” Technology could provide an online platform/ medium for disputes to be resolved, amongst other services.

⁷ Modified from Singapore Smart Nation Digital Government Group, Digital Government Blueprint (DGB), Pg 16. “For technologies that are less mature, such as blockchain, we will start with small-scale experiments and find opportunities to synergise or scale-up successes.” Refer to **Area 4: Court Infrastructure, Proceedings and Processes - Innovation**, Q. 11 “We have a policy and procedure in place to generate, gather and screen innovative ideas.” Small scale experiments and agile methods are examples that courts could consider when generating innovative uses of technology.

⁸ Modified from DGB, Pg 25. “To complement the Government’s in-house capabilities, we will also proactively collaborate with industry and research institutions, especially those in emerging technologies areas.” Refer to **Area 4: Court Infrastructure, Proceedings and Processes – Innovation**, Q. 14 “We monitor performance of other courts to identify improvements and initiatives which are suitable to our court.”, and Q. 15 “We exchange knowledge and best practices with other courts to promote learning and innovation.” This recommendation emphasises learning and collaborating with other relevant organisations, besides the courts.

⁹ Some courts may have developed their IT Plans which set out key performance indicators or targets for the courts to achieve. See also modification of IFCE by Family Court of Australia (2013). “The Court’s technology infrastructure and services are supportive of the court’s business, are contemporary and responsive to community expectations for convenience and access.”

Competency

10. We have in place training and development programmes aimed at developing a digitally competent court workforce with respect to the use of new technologies.¹⁰
11. All staff have relevant cybersecurity knowledge and skills to contribute to the cyber resilience of the courts.

Ethical Dimension

12. We are aware of the real, potential and/or perceived biases and limitations of technologies and take measures to address them where necessary and relevant.
13. We take into consideration the ethical dimension of the use of technologies.¹¹



¹⁰ Modified from NCSC High Performance Court Inventory. “Court staff are well supported in training and ongoing support on the use of court information systems.” Refer to **Area 3: Court Workforce - Workforce Training and Development**, Q.3 “We identify the training needs of our judges and court staff, and put in place training programmes that meet those needs.” and No. 4 “We have a continuing professional development programme for our judges and court staff.” The emphasis that suggested here is training and development programmes with respect to the use of new technologies.

¹¹ Modified from “Shaping the Fourth Industrial Revolution”, vi. “There is an ethical imperative to be inclusive and transparent in the design of these technologies...” Also in **Area 1: Court Leadership – Court Leadership**, No. 8 “Our judges and court staff adhere to the applicable code of ethics and code of conduct.” The consideration here is the ethical use of technology.

ANNEX B RESOURCES

Area 1: Court Leadership

Council of ASEAN Chief Justices. Model Principles of Judicial Conduct. Available from: <https://cacj-aip.org/web/guest/model-principles-of-judicial-conduct>

Judicial Integrity Group. Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct (2010). Available from: https://www.unodc.org/res/ji/import/international_standards/measures_implementation/measures_implementation.pdf

United Nations Convention Against Corruption. Implementation Guide and Evaluative Framework for Article 11. (March 2015). Available from www.unodc.org.

United Nations Economic and Social Council. Resolution 2006/23 Strengthening Basic Principles of Judicial Conduct (2006). Available from: <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/documents/2006/resolution-2006-23.pdf>

United Nations Development Programme (Bangkok Regional Hub). Judicial Integrity Checklist (2018) Available from <https://www.asia-pacific.undp.org/content/rbap/en/home/programmes-and-initiatives/Judicial-integrity.html>

Area 2: Strategic Court Management

Balanced Scorecard Institute, "Strategic Planning Basics". Available from: www.balancedscorecard.org/BSC-Basics/Strategic-Planning-Basics

Global Measures of Court Performance (2018); International Consortium for Court Excellence. Available from www.courtexcellence.com

Strategy Management Institute. Available from: www.strategymanagementinstitute.com

United Nations Strategic Planning Guide for Managers. Available from United Nations HR Portal: <https://hr.un.org/materials/strategic-planning-basics-managers>

Area 3: Court Workforce

Judicial College of Victoria. Judicial Wellbeing Resources. Available from: www.judicialcollege.vic.edu.au/resources/judicial-wellbeing-resources

Area 4: Court Infrastructure, Proceedings and Processes

National Center for State Courts, Problem-solving Courts Guide Available from: <https://www.ncsc.org/Topics/Alternative-Dockets/Problem-Solving-Courts/Home.aspx>

Australasian Institute for Judicial Administration resources on problem solving courts and therapeutic jurisprudence. Available from: <https://aija.org.au/research/resources/problem-solving-courts; https://aija.org.au/research/resources/the-concept-of-therapeutic-jurisprudence>

Centre for Justice Innovation Problem-solving courts: An evidence review (December 2015). Available from: www.justiceinnovation.org

E Richardson, P Spencer and D Wexler, 'The International Framework for Court Excellence and therapeutic jurisprudence: Creating excellent court and enhancing wellbeing' (2016) 25 Journal of Judicial Administration 148.

Area 5: Court User Engagement

National Center for State Courts and University of Nebraska. Building Trust by Building Trustworthiness: A Toolkit for Public Engagements Addressing Disparities in the Courts. Available from <https://www.ncsc.org/pilots>.

UK Judicial College, Equal Treatment Bench Book. (February 2018, amended March 2019). Available from www.judiciary.gov.uk

Area 6: Affordable and Accessible Court Services

Productivity Commission of Australia, *Access to Justice Arrangements Inquiry Report No. 72* (2014) Available from www.pc.gov.au

Area 7: Public Trust and Confidence

Ombudsman Western Australia. Guidelines on Procedural fairness (natural justice), Revised April 2019, Available from: www.ombudsman.wa.gov.au/Publications/Guidelines.htm

ANNEX C IMPROVEMENT PLAN

Areas of Court Excellence	Action to be Undertaken and Expected Outcome	Steps to Achieve Action and Outcome	Responsibility/ Participants	Timing of Steps	Performance Indicator	
1	Area 1: Court Leadership	To provide organisational leadership that promotes a proactive and professional management culture, pursues innovation and is accountable and open.				
1.1	Our court leaders have defined the mission, vision and core values of our courts.	1.1.1. Statement of purpose Develop, adopt and publicise a statement describing the court's purpose	Develop statement. Adopt statement. Publicise statement.	IFCE Working Group IFCE Working Group Registrar	30 Jun 31 Jul 30 Sep	Action taken by target date. Action taken by target date. Action taken by target date.
1.2	Our court leaders communicate the mission, vision and core values to all staff and stakeholders.	1.2.1 Court users' group Continue regular meetings of the Court users' group	Hold meetings.	Judge XX	Four meetings a year	

ANNEX D MANUAL SCORE CALCULATION WORKSHEET

Calculate Each Area's Points & Score Percentage

Area 1				
	A1	B1	C1	D1
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score: A1/ (B1+C1)
1.1				
1.2				
1.3				
1.4				
1.5				
1.6				
1.7				
1.8				
1.9				
1.10				

Area Points and Percentage Score

Points (55 Maximum)	E1	Sum of Column D1	=
Area Score Percentage	F1	E1 / 55	=

Area 2				
	A2	B2	C2	D2
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A2/ (B2+C2)
2.1				
2.2				
2.3				
2.4				
2.5				
2.6				
2.7				
2.8				
2.9				
2.10				
2.11				
2.12				
2.13				
2.14				

Area Points and Percentage Score

Points (75 Maximum)	E2	Sum of Column D2	=
Area Score Percentage	F2	E2 / 75	=

Area 3				
	A3	B3	C3	D3
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A3/ (B3+C3)
3.1				
3.2				
3.3				
3.4				
3.5				
3.6				
3.7				
3.8				
3.9				
3.10				
3.11				
3.12				
3.13				
Area Points and Percentage Score				
Points (70 Maximum)		E3	Sum of Column D3	=
Area Score Percentage		F3	E3 / 70	=

Area 4				
	A4	B4	C4	D4
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A4/ (B4+C4)
4.1				
4.2				
4.3				
4.4				
4.5				
4.6				
4.7				
4.8				
4.9				
4.10				
4.11				
4.12				
4.13				
4.14				
4.15				
4.16				
Area Points and Percentage Score				
Points (85 Maximum)		E4	Sum of Column D4	=
Area Score Percentage		F4	E4 / 85	=

Area 5				
	A5	B5	C5	D5
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A5/ (B5+C5)
5.1				
5.2				
5.3				
5.4				
5.5				
5.6				
5.7				
5.8				
5.9				
5.10				

Area Points and Percentage Score

Points (55 Maximum)	E5	Sum of Column D5	=
Area Score Percentage	F5	E5 / 55	=

Area 6				
	A6	B6	C6	D6
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A6/ (B6+C6)
6.1				
6.2				
6.3				
6.4				
6.5				
6.6				
6.7				
6.8				
6.9				
6.10				
6.11				
6.12				

Area Points and Percentage Score

Points (65 Maximum)	E6	Sum of Column D6	=
Area Score Percentage	F6	E6 / 65	=

Area 7				
	A7	B7	C7	D7
Statement	Sum of Responses	Number of Responses, Excluding Don't Know	Number of Don't Know*	Average Score A7/ (B7+C7)
7.1				
7.2				
7.3				
7.4				
7.5				
7.6				
7.7				
7.8				
7.9				

Area Points and Percentage Score				
Points (50 Maximum)	E7	Sum of Column D7	=	
Area Score Percentage	F7	E7 / 50	=	

* The "Don't Know" response count includes blank/skipped questions as well as those intentionally marked "Don't Know".

Fill in Area Percentages						
F1	F2	F3	F4	F5	F6	F7
Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Area 7

Average Area Percentages & Calculate Final Score				
Average Area Percentage	G	(F1+F2+F3+F4+F5+F6+F7) / 7		=
Overall Score (Out of 1000)	H	If G > 1	G * 10	=
		If G < 1	G * 1000	=



INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE