



JULY 2020

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# **INTERNATIONAL CONSORTIUM FOR COURT EXCELLENCE**

**SPECIAL EDITION NEWSLETTER**



This newsletter presents the revised edition of the International Framework for Court Excellence (IFCE). Following a public consultation and numerous rounds of drafting and discussions, the Executive Committee (EXCO) is pleased to release a revised edition of the IFCE and share some insights to the process with ICCE members and its partners.

## A BRIEF RECAP OF THE IFCE

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The IFCE was first developed in 2008 and a second edition of the IFCE was released five years later in 2013. The second edition incorporated feedback and experience from various courts around the world that have made use of the framework. Over the years, interest in the IFCE has grown with the active promotion efforts of the ICCE and generated collaborations with other organisations that contributed ideas for refining the IFCE. Moreover, increased usage of technology and alternative dispute resolution have led to transformations in the legal landscape over the last few years.

Steadfast in its commitment to ensure that the IFCE is beneficial to consortium members and users, the ICCE embarked on a review of the second edition in 2018 with the aim to:

- Incorporate feedback received from users of the IFCE
- Inject new ideas sparked off by collaboration partners
- Reflect recent changes in the legal landscape

# BACKSTAGE SCENE: HOW THE IFCE 3RD EDITION WAS DEVELOPED

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## Public Consultation, Sep/Oct 2018

To facilitate the revision of IFCE, the ICCE conducted a public consultation in late 2018 to solicit views on various features of the framework, namely:

- The inclusion of new topics in the IFCE
- The structure and format of the IFCE
- The possibility of an external assessment by an independent assessor in addition to the current self-assessment model
- Knowledge sharing

Respondents were consulted on the above-mentioned categories and were encouraged to consider their responses to the questions against the following overarching guiding principles:

- To develop a simple and user-friendly framework
- To develop clear and unambiguous criteria statements
- To refresh topics, whilst maintaining a balance in the overall IFCE
- To have criteria statements that are principles-based and non-prescriptive
- To develop core criteria statements which will be the fundamental aspects of the IFCE and will be applied without the need for any further modification by courts.

The EXCO was heartened and encouraged to receive wide-ranging responses from the consultation process. The consultation process was extremely helpful to the review, and the EXCO has taken on board the feedback received.

The consultation paper had sought views on the possibility of having an external assessment of the courts' implementation of the IFCE, in addition to the current self-assessment model. The responses to the consultation were varied but suggested that the current self-assessment model achieves the ICCE's objectives of improving the quality of court administration. The third edition of the IFCE therefore retains the self-assessment model and there are currently no plans to introduce an external assessment.

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## **THE DRAFTING PROCESS**

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Following the consultation, the EXCO began the process of reviewing the criteria statements and drafting. As the EXCO members are based in different countries and across time zones, much of the deliberations were done online over email correspondence and conference calls. In addition, the EXCO met on two occasions in 2018 and 2019.

# DUBAI, NOVEMBER 2018

The meeting in Dubai took place shortly after the public consultation closed. This meeting took place on the sidelines of a conference titled “Court Excellence and Innovation: Today and Tomorrow”, organised by the Dubai International Financial Centre (DIFC) Courts in collaboration with the ICCE. The meeting was attended by several EXCO members in person, with others joining by tele-conference. The EXCO is grateful to ICCE EXCO member, Ms Reem Al Shihhe, Chief Operating Officer of the DIFC Courts, for generously hosting the EXCO at the offices of the Dubai Dispute Resolution Authority.

The responses from the consultation were considered alongside a first draft of the IFCE 3rd Edition at this meeting, which had been prepared by the State Courts of Singapore. In undertaking the review process, the members of the EXCO were aligned in their objectives, which were to ensure that the IFCE retains its structure and self-assessment methodology, while at the same time ensuring that the statements were refreshed to take into account recent developments in court management, and useful feedback provided from users of the IFCE. The focus of this meeting was to review the contents of the statements, with other aspects (such as scoring) to be finalised at a later stage.

This meeting proved to be a most fruitful one, as EXCO members had a detailed discussion of the draft statements and considered them thoroughly. Constructive comments were elicited, with EXCO members offering to provide additional resources for inclusion in the IFCE 3rd Edition. The EXCO also made the decision to adopt the use of a single Checklist in the IFCE 3rd Edition, as opposed to the dual options of a Questionnaire and a Checklist that were present in the IFCE 2nd Edition. This was done with a view to streamlining and simplifying the self-assessment process, to increase the user-friendliness of the framework. The EXCO further set timelines moving forward, to chart the path towards the launch of the IFCE 3rd Edition.

For more details of the court excellence conference, please refer to Issue 12 (February 2019) of the ICCE Newsletter.



*Members of the ICCE EXCO and Secretariat at the conference (L to R: Judge Barney Thomas, Ms Liz Richardson, Ms Reem Al Shihhe, Deputy Presiding Judge Jennifer Marie)*



*Members of the ICCE EXCO, Deputy Presiding Judge Jennifer Marie and Mr Dan Hall, presenting at the conference*



*Members of the ICCE EXCO and Secretariat (Mr Dan Hall, Deputy Presiding Judge Jennifer Marie and Ms Liz Richardson) with other attendees of the conference*

# LAS VEGAS, JULY 2019

Following the meeting in Dubai, the EXCO continued to work on the Framework. As the Framework was close to finalisation, the EXCO felt that a face-to-face meeting would be beneficial. The annual conference of the National Association of Court Management provided a timely opportunity to meet. The conference, titled "Courts and Society: Creating Public Trust Through Engagement and Innovation", took place in Las Vegas, Nevada. Similar to the first meeting in Dubai, the meeting was attended by the EXCO members in person as well as by tele-conference.

By this stage, many of the criteria statements had been agreed upon, and the discussion was focused on the scoring guidelines. The EXCO had to reconsider the scoring guidelines in light of a new feature, namely, the inclusion of a 'Do Not Know' response in the Checklist. This was something that the EXCO had been inclined to incorporate from the start of the review exercise. This had arisen from the experience of users of the IFCE, such as the District Court of New Zealand, which had modified previous versions of the IFCE to include a 'Do Not Know' response. The discussion benefited from the perspectives of Judge Philip Cooper, who explained how the District Court of New Zealand had implemented this in their recent self-assessment exercise.

One common feedback received by the EXCO from users of the IFCE was that the judges and administrators participating in the self-assessment exercise may not always be familiar with all aspects of the court's administration, due to their different roles. The option of a 'Do Not Know' response seeks to address such situations. In addition, the 'Do Not Know' response may also help to highlight other possible issues, such as the effectiveness in communicating an existing policy. For example, where a court has implemented a certain policy, but there is nonetheless a high proportion of 'Do Not Know' responses, the appropriate improvement plan might be to improve on the communication of such a policy.

One of the challenges of introducing a 'Do Not Know' response is to determine how it should be scored. Questions that arose included whether a score should be assigned to a 'Do Not Know' response, and how this would impact the overall assessment. After much internal deliberation, the EXCO agreed for a score of zero to be assigned to a 'Do Not Know' response, but courts should analyse the 'Do Not Know' responses separately and assess if there is any need for follow-up.



Another topic that was discussed at this meeting was a new set of recommendations on the use of technology in courts, which appears as an annex to the IFCE 3rd Edition. The concept behind having an annex targeted at a topical area was drawn from the NCSC's High Performing Court Framework. This allowed us to explore a wide-range of emerging topics being discussed in current literature on court administration.

Technology is widely understood to be an enabler – something that improves the daily lives of people. The use of technology in courts is not new. Over the years, courts have invested time and resources building infrastructure in courts, both in terms of external-facing systems such as case management systems or websites with information about the court and its procedures, and internal-facing systems, such as financial management. When used effectively, technology can be a powerful tool that improves efficiency, access to justice and enhances transparency. These recommendations allow the EXCO to introduce ideas that were new on the horizon: sustainability of using technology and allowing courts to start small and increase its scale over time, and the ethical dimension of using technology which stemmed from discussions on Artificial Intelligence for decision-making.

These new recommendations, which are not prescriptive or exhaustive, provide pointers for courts to have a discussion on, as well as resources for further reference. As technology continues to advance, courts will likewise adapt and evolve as well. These recommendations are especially timely in light of the recent challenges posed by COVID-19. Many judiciaries around the world have increased their adoption of court technology such as virtual hearings and online applications, to ensure that access to justice is not compromised amidst the pandemic.

# OUR PARTNERS

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One of the Consortium's strengths lies in having diverse views from the courts, tribunals and judicial-related institutions from around the world who are part of its network. The Consortium would not be what it were today without its members and partners.

Along the way, various organisations reached out to the Consortium. One such group was the United Nations Development Programme (UNDP), which was keen to explore how the IFCE self-assessment could be useful in promoting judicial integrity as part of the UNDP Judicial Integrity Network initiative. This contributed to a robust discussion about the approach towards the IFCE, which has its origins in a business excellence quality management model. Whilst wanting to preserve the basic structure of the Framework - that comprises driver, systems and enablers, and results – this was an opportunity to review the emphasis on the values on which the IFCE was based on and enhance certain areas in the IFCE. These discussions with the UNDP led to new topics being introduced into the IFCE, such as on ethics and codes of conduct, and allowing media access to reporting court proceedings to further strengthen public trust and confidence.

The ICCE has always regarded it as important that the IFCE stays relevant as a practical tool that courts adopt and find useful. For it to remain as such, courts must continue to reach out to the EXCO to inquire more about the IFCE and its implementation in their respective courts. The UNDP has played a role in facilitating the use of the IFCE in the ASEAN region, including organising a conference on court excellence, workshops and video-conferences with the judiciaries of Malaysia and Thailand. The EXCO welcomes these ongoing interactions with partners and stakeholders, which allows it to obtain feedback on the Framework and continually improve it.

# KEY FEATURES OF THE IFCE 3RD EDITION

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The main enhancements to the third edition of the Framework are as follows:

- Introduction of new topics, including:
  - Ethics and codes of conduct
  - Risk management
  - Use of data to deliver better court services
  - Security and data integrity of court records
  - Use of alternative dispute resolution to resolve disputes amicably and affordably
  - Use of therapeutic or problem-solving approaches in suitable cases
  
- Expansion of the Area of Court Excellence on Court Workforce

Unlike the previous edition of the IFCE which used one single category of 'Resources' to cover human, financial and physical resources, the revised edition assigns a dedicated area of court excellence to human resources. 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.

Financial and physical resources remain as important elements of court excellence and have been re-organised under Strategic Court Management (Area 2) and Court Infrastructure, Proceedings and Processes (Area 4).

- Introduction of a new segment on court technology recommendations
- 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.

➤ Simplification of the self-assessment process

Combining the advantages of both the questionnaire and checklist from the previous edition, the revised edition features a user-friendly self-assessment checklist that not only provides guidance on expectations of court performance under each Area for Court Excellence, but also allows the court to assess the effectiveness of its approach to each Area.

➤ Modifications to Scoring Methodology

The revamped scoring framework accompanying this new holistic self-assessment checklist introduces a new portion to assess the effectiveness of a court's measures. It also comes with an additional option for the respondents to provide a "Do Not Know" response.

***“This third edition of the Framework has benefited from the valuable inputs of the ICCE Members and our partners. I am confident that Courts and Tribunals will find the refreshed contents relevant in today’s operating context and that the Framework will continue to be a useful and practical tool.”***

***- Mr Dan Hall, ICCE Executive Committee Chair***

# COMING SOON

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The IFCE 3rd Edition will be available on the ICCE website ([www.courtexcellence.com](http://www.courtexcellence.com)) from July 2020. The EXCO will also be planning a webinar on the revised Framework. Further details will be released in due course.



# ACKNOWLEDGEMENTS

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The EXCO would like to thank all the courts and individuals who reached out to the Consortium during this review. Your feedback and interest in the Framework have been of great value and contributed to the improvements in this revised edition.

The EXCO wishes to also thank Ms Liz Richardson, who served on the ICCE Secretariat between 2014 and March 2020, and played an instrumental role in supporting the work of the EXCO.

# WANT TO KNOW MORE?

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The Secretariat has moved from Melbourne to Sydney. For enquiries about the Framework, please contact the Secretariat at the following address/email:

ICCE Secretariat  
Australasian Institute of Judicial Administration  
Level 12, 170 Phillip Street  
Sydney NSW 2000  
[ifce@aija.org.au](mailto:ifce@aija.org.au)

## FOUNDING MEMBERS OF THE ICCE

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[Laurence Glanfield](#)  
Deputy President  
Australasian Institute of Judicial Administration  
Level 12, 170 Phillip Street  
Sydney NSW 2000  
[l.glanfield@hotmail.com](mailto:l.glanfield@hotmail.com)



[Beth Wiggins](#)  
Director of Research Division  
Federal Judicial Center  
1 Columbus Circle, NE  
Washington, DC 20002-8003  
[bwiggins@fjc.gov](mailto:bwiggins@fjc.gov)



[Daniel J. Hall](#)  
Vice President, Court Consulting Services Division  
National Center for State Courts  
707 Seventeenth Street, Suite 2900  
Denver, Colorado 80202  
[djhall@ncsc.org](mailto:djhall@ncsc.org)



[Jennifer Marie](#)  
Deputy Presiding Judge  
State Courts of Singapore  
1 Havelock Square  
Singapore 059724  
[STATECOURTS\\_DeputyPresidingJudge@statecourts.gov.sg](mailto:STATECOURTS_DeputyPresidingJudge@statecourts.gov.sg)